APPROPRIATIONS

CHAPTER 1

S. B. No. 1
(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 improvement and general expense of each of the institutions hereinafter named, in the sums set forth as follows:

University of North Dakota

Salaries and wages	$ 8,942,815.00
Fees and services	761,685.00
Supplies and materials	944,350.00
Equipment	305,150.00
Total operating budget	$10,954,000.00
Less estimated income	2,846,450.00
Net operating budget	$ 8,107,550.00
Land—structures—major improvements:	
Furniture and equipment for dormitories and housing	335,000.00
Special assessments	50,000.00
Utility distribution systems	50,000.00

Plant improvement and maintenance	100,000.00
Land purchase	125,250.00
Total general fund	$ 8,767,800.00

The North Dakota State University of Agriculture and Applied Science

Salaries and wages	$ 7,423,520.00
Fees and services	780,960.00
Supplies and materials	686,125.00
Equipment	205,495.00
Total operating budget	$ 9,096,100.00
Less estimated income	2,903,075.00
Net operating budget	$ 6,193,025.00
Land—structures—major improvements:	
Laundry building and equipment	85,000.00
Instructional project equipment	75,000.00
Addition to Sudro Hall	150,000.00
Plant improvements	258,000.00
Total general fund	$ 6,761,025.00

State School of Forestry, Bottineau

Junior college division:	
Salaries and wages	$ 376,870.00
Fees and services	27,653.00
Supplies and materials	56,015.00
Equipment	14,982.00
Operating budget	$ 475,520.00
Less estimated income	85,000.00
Net junior college	$ 390,520.00
North Dakota forest service:	
Salaries and wages	280,440.00
Fees and services	29,042.00
Supplies and materials	27,497.00
Equipment	24,481.00
Operating budget	$ 361,460.00
Less estimated income	175,000.00
Net forest service	$ 186,460.00

Net appropriation (junior college and forest service)		576,980.00
Land—structures—major improvements:		
Heating plant expansion		90,000.00
Remodeling Old Main and Thatcher Hall		125,000.00
Total general fund	$	791,980.00

Normal and Industrial College, Ellendale

Salaries and wages	$	662,881.00
Fees and services		65,825.00
Supplies and materials		75,820.00
Equipment		27,030.00
Total operating budget	$	831,556.00
Less estimated income		125,300.00
Net operating budget	$	706,256.00
Land—structures—major improvements:		
Plant improvements		70,000.00
Total general fund	$	776,256.00

State School of Science, Wahpeton

Salaries and wages	$	2,134,170.00
Fees and services		138,360.00
Supplies and materials		269,560.00
Equipment		107,090.00
Total operating budget	$	2,649,180.00
Less estimated income		860,000.00
Net operating budget	$	1,789,180.00
Land—structures—major improvements:		
Special assessments		20,000.00
Plant improvements		150,000.00
Total general fund	$	1,959,180.00

Dickinson State College

Salaries and wages	$	1,316,780.00
Fees and services		143,650.00

Supplies and materials	87,890.00
Equipment	109,430.00
Total operating budget	$ 1,657,750.00
Less estimated income	424,174.00
Net operating budget	$ 1,233,576.00

Land—structures—major improvements:

Improvements to May Hall	125,000.00
Replace two boilers	200,000.00
Special assessments	12,000.00
Plant improvements	29,000.00
Total general fund	$ 1,599,576.00

Mayville State College

Salaries and wages	$ 1,065,350.00
Fees and services	94,755.00
Supplies and materials	91,330.00
Equipment	42,615.00
Total operating budget	$ 1,294,050.00
Less estimated income	354,050.00
Net operating budget	$ 940,000.00

Land—structure—major improvements:

Plant improvements and instruction projects equipment	66,000.00
Special assessments	1,000.00
Purchases of land	18,500.00
Total general fund	$ 1,025,500.00

Minot State College

Salaries and wages	$ 2,715,600.00
Fees and services	157,545.00
Supplies and materials	149,600.00
Equipment	77,350.00
Total operating budget	$ 3,100,095.00
Less estimated income	825,000.00
Net operating budget	$ 2,275,095.00

Land—structures—major improvements:	
Special assessments	10,000.00
Plant improvements	172,000.00
Total general fund	$ 2,457,095.00

Valley City State College

Salaries and wages	$ 1,428,295.00
Fees and services	141,825.00
Supplies and materials	150,450.00
Equipment	62,035.00
Total operating budget	$ 1,782,605.00
Less estimated income	498,950.00
Net operating budget	$ 1,283,655.00
Land—structures—major improvements:	
Ranum property and Cink property	55,000.00
Armory purchase	15,000.00
Plant improvements	130,000.00
Total general fund	$ 1,483,655.00
Grand total all educational institutions	$25,622,067.00

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

§ 2. **The Period During Which the Appropriations Made Herein Shall Be Available.)** Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1965, and ending June 30, 1967.

§ 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.

Note: Senate Bill No. 1 as passed by the Legislative Assembly contained a section 4 authorizing the transfer of funds between line items. This section was vetoed by the governor and thus has been deleted here, appearing in this volume under **Vetoed Measures.**

§ 5. **Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury the sum of $2,500,000.00 to the state board of higher education to be used by such board as a contingency fund for the purpose of making transfers to the respective operating funds of colleges and universities under its control as may be required for the operation and maintenance of such colleges and universities during the biennium beginning July 1, 1965, and ending June 30, 1967.

Approved in part, March 17, 1965.

CHAPTER 2

S. B. No. 2
(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 the 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 the sums set forth as follows:

Extension Division

Salaries and wages	$ 3,298,769.00
Fees and services	360,257.00
Supplies and materials	139,813.00
Equipment	48,229.00
Total operating budget	$ 3,847,068.00
Less estimated income	2,865,795.00
Total general fund	$ 981,273.00

Experiment Station—Main Station

Salaries and wages	$ 3,338,600.00
Fees and services	450,000.00
Supplies and materials	500,000.00
Equipment	178,000.00
Total operating budget	$ 4,466,600.00
Less estimated income	1,958,245.00
Subtotal	$ 2,508,355.00
Cereal technology building	300,000.00
Potato research and storage building	50,000.00
Total general fund	$ 2,858,355.00

Dickinson Experiment Station

Salaries and wages	$ 140,900.00
Fees and services	35,600.00
Supplies and materials	91,550.00
Equipment	10,827.00
Total operating budget	$ 278,877.00
Less estimated income	74,000.00
Total general fund	$ 204,877.00

Edgeley Experiment Station

Salaries and wages	$ 31,470.00
Fees and services	6,175.00
Supplies and materials	9,350.00
Equipment	5,800.00
Total operating budget	$ 52,795.00
Less estimated income	8,000.00
Total general fund	$ 44,795.00

Hettinger Experiment Station

Salaries and wages	$	31,100.00
Fees and services		8,915.00
Supplies and materials		14,300.00
Equipment		3,750.00
Total operating budget	$	58,065.00
Less estimated income		15,000.00
Total general fund	$	43,065.00

Langdon Experiment Station

Salaries and wages	$	31,720.00
Fees and services		6,310.00
Supplies and materials		6,475.00
Equipment		8,000.00
Total operating budget	$	52,505.00
Less estimated income		8,000.00
Total general fund	$	44,505.00

North Central Experiment Station

Salaries and wages	$	66,860.00
Fees and services		13,800.00
Supplies and materials		18,600.00
Equipment		10,500.00
Total operating budget	$	109,760.00
Less estimated income		70,000.00
Total general fund	$	39,760.00

Williston Experiment Station

Salaries and wages	$	53,080.00
Fees and services		16,100.00
Supplies and materials		13,720.00
Equipment		10,500.00
Total operating budget	$	93,400.00
Less estimated income		13,000.00
Total general fund	$	80,400.00

Carrington Experiment Station

Salaries and wages	$	68,300.00
Fees and services		27,750.00

Supplies and materials		33,585.00
Equipment		8,000.00
Total operating budget	$	137,635.00
Less estimated income		40,000.00
Subtotal	$	97,635.00
Service building		12,000.00
Well and sprinkling system		7,500.00
Total general fund	$	117,135.00
Grand total general fund	$	4,414,165.00

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

§ 2. **The Period During Which the Appropriations Made Herein Shall Be Available.)** Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1965, and ending June 30, 1967.

§ 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.

Note: Senate Bill No. 2 as passed by the Legislative Assembly contained a section 4 authorizing the transfer of funds between line items. This section was vetoed by the governor and thus has been deleted here, appearing in this volume under **Vetoed Measures.**

Approved in part, March 20, 1965.

CHAPTER 3

S. B. No. 3
(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 $1,794,100.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages (Including salary of superintendent, not to exceed $18,000.00 for the biennium and salary of assistant superintendent, not to exceed $16,000.00 for the biennium)	$	1,190,000.00
Fees and services	$	257,000.00
Supplies and materials		229,100.00
Equipment		118,000.00
Total	$	1,794,100.00

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 expense and reimbursement for meals while in a travel status within the state of North Dakota or while at their respective home stations. Such sum shall be paid without the presentation of receipts or other memoranda at the same time and in the same manner as salaries of members of the highway patrol are paid.

Approved March 15, 1965.

CHAPTER 4

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

STATE HISTORICAL BOARD AND STATE PARKS SERVICE

AN ACT

Making an appropriation to the state historical board for salary, clerkhire and miscellaneous expenses and maintenance of state parks.

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 $510,000.00, or so much thereof as may be necessary for salary, clerkhire and miscellaneous expenses for the state historical board and for maintenance of state parks in the sums hereinafter set forth, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

State Historical Board

Salaries and wages (Including salary of historian, not to exceed $10,000.00 for the biennium)	$	102,500.00
Fees and services		15,000.00
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
Total	$	206,500.00

State Parks Committee

Salaries and wages	$	195,000.00
Fees and services		30,000.00
Supplies and materials		50,000.00
Equipment		20,000.00
Emergency		8,500.00
Total	$	303,500.00
Grand total	$	510,000.00

Approved March 19, 1965.

CHAPTER 5

S. B. No. 5
(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 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $290,915.00 to be used as prescribed by chapter 54-34 of the North Dakota Century Code, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 123,115.00
Fees and services	63,000.00
Supplies and materials	38,000.00
Equipment	1,800.00
50% matching local funds for industrial surveys	25,000.00
Grants: North Dakota State University, Polymers and Coatings Department, College of Chemistry and Physics	40,000.00
Total	$ 290,915.00

Approved March 19, 1965.

CHAPTER 6

S. B. No. 6
(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 old age and survivor insurance system of 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 $100,980.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 81,462.00
Fees and services	15,283.00
Supplies and materials	4,235.00
Total	$100,980.00

Approved March 15, 1965.

CHAPTER 7

S. B. No. 7
(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 $338,960.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 128,525.00
Fees and services	196,985.00
Supplies and materials	13,450.00
Total	$ 338,960.00

Approved March 17, 1965.

CHAPTER 8

S. B. No. 8
(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 $45,000.00 and out of the veterans' aid fund the sum of $64,000.00, or so much thereof as may be necessary to pay salaries and other administrative expenses of the office of commissioners of veterans' affairs and the veterans' aid commission, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages (Including salary of commissioner of veterans affairs, not to exceed $14,000.00 for the biennium)	$	72,000.00
Fees and services		18,700.00
Supplies and materials		3,300.00
Emergency (in the event the veterans' administration closes the Fargo, N. Dak. office this appropriation will be available for transfer to other items of this budget upon approval of the emergency commission)		15,000.00
Total	$	109,000.00

Approved March 17, 1965.

CHAPTER 9

S. B. No. 9
(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 hereinafter named, and the sum of $113,383.59 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages (Including salary of the commandant, not to exceed $14,960.00 for the biennium)	$195,000.00
Fees and services	30,125.00
Supplies and materials	74,400.00
Equipment	3,000.00
Special assessments city of Lisbon	1,983.59
Land—structures—major improvements:	
Resealing roads	2,000.00
Total for the biennium	$306,508.59
Less estimated income	193,125.00
Total general fund	$113,383.59

Approved March 2, 1965.

CHAPTER 10

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

PUBLIC WELFARE BOARD

AN ACT

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

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

§ 1. **Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $12,900,000.00, or so much thereof as may be necessary, to be expended by the public welfare board in providing public assistance to dependent children and to needy blind and providing child welfare services and services to crippled children, also for providing assistance to the needy aged and general assistance for relief to destitute and necessitous persons, aid to permanently and totally disabled, medical aid to the aged, and for the necessary costs of administration of all of the programs above mentioned, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 481,500.00
Fees and services	111,000.00
Supplies and materials	20,900.00
Equipment	6,600.00
Grants to or for recipients	11,400,000.00
Child welfare services:	
Fees and services	450,000.00
Crippled children's services:	
Fees and services	430,000.00
Total	$12,900,000.00

Approved March 19, 1965.

CHAPTER 11

S. B. No. 11
(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
Total for the biennium	$ 200,000.00
Less federal share	100,000.00
Total general fund	$ 100,000.00

Approved March 15, 1965.

CHAPTER 12

S. B. No. 12
(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 $1,292,300.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the department of the registrar of motor vehicles, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages (Including salary of registrar, not to exceed $18,000.00 for the biennium)	$ 401,200.00
Fees and services	345,500.00*
Supplies and materials	75,600.00
Equipment	20,000.00
License plates	450,000.00
Total	$ 1,292,300.00

Approved March 17, 1965.

***Note:** Senate Bill No. 12 as introduced provided for a line item appropriation of $345,500.00 for fees and services, but the enrolled bill signed by the Governor provided for a sum of $345,000.00. No amendments were made to this line item according to the legislative journals and therefore it appears that a typographical error was made in the enrollment of Senate Bill No. 12. This error has been corrected so that the line items now equal the total appropriation.

CHAPTER 13

S. B. No. 13
(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 Miscellaneous Construction Expense.) There is hereby appropriated out of any unappropriated funds in the motor vehicle registration fund in the state treasury, the sum of $200,000.00 and out of any unappropriated funds in the state highway fund in the state treasury, the sum of $16,032,200.00, or so much thereof as may be necessary for the purpose of defraying the expenses of administration, maintenance and miscellaneous 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, 1965, and ending June 30, 1967, as follows:

Salaries and wages (Including salary of commissioner, not to exceed $30,000.00 for the biennium)	$ 9,500,000.00
Fees and services	1,025,000.00
Supplies and materials	3,884,000.00
Equipment	1,412,200.00
Land—structures—major improvements	361,000.00
Grants—benefits—claims	50,000.00
Total	$16,232,200.00

§ 2. Additional Appropriation for Construction.) In addition to the above amounts allowed for administration, maintenance and miscellaneous construction expenses, there is hereby appropriated out of any unappropriated funds in the state highway fund in the state treasury, such sums as are necessary to expend during the biennium, for highway project construction costs.

Approved February 27, 1965.

CHAPTER 14

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

SAFETY RESPONSIBILITY DIVISION OF STATE HIGHWAY DEPARTMENT

AN ACT

Making an appropriation to pay salaries and other expenses of administering the laws of the state of North Dakota, relating to nonresident service, operators' licensing, accident reporting, proof of financial responsibility, unsatisfied judgment fund, and chemical test for intoxication, implied consent.

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 highway fund in the state treasury, the sum of $423,000.00, or so much thereof as may be necessary, to the state highway commissioner, for the payment of salaries and other expenses in administering the laws of the state of North Dakota, relating to nonresident service, operators' licensing, accident reporting, proof of financial responsibility, unsatisfied judgment fund, and chemical testing for intoxication, implied consent, for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$267,000.00
Fees and services	120,500.00
Supplies and materials	32,000.00
Equipment	3,500.00
Total	$423,000.00

Approved February 27, 1965.

CHAPTER 15

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

STATE TOURIST BUREAU

AN ACT

Making an appropriation for the operation of the tourist promotion bureau and amending section 24-03-21 of the North Dakota Century Code, relating to dissemination of tourist information.

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 highway fund in the state treasury, the sum of $290,200.00, or so much thereof as may be necessary to carry out the provisions of section 24-03-21 of the North Dakota Century Code, for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$ 66,865.00
Fees and services	34,825.00
Supplies and materials	180,935.00
Equipment	7,575.00
Total	$290,200.00

§ 2. Amendment.) Section 24-03-21 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-03-21. Preparation of Road Maps—Publication of Tourist Information.) The commissioner shall prepare for general distribution, road maps of the state highway system and such other roads as he shall deem necessary; and the commissioner may provide for publication, advertising, and dissemination of information concerning highways or such other publicity matter as he shall deem advisable to promote the use of North Dakota highways and attract tourists to the state or to prolong their stay in the state.

Approved March 15, 1965.

CHAPTER 16

S. B. No. 16
(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 $739,000.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages (Including total salaries of members of the bureau, not to exceed $16,800.00 each for the biennium)	$	550,000.00
Fees and services		103,000.00
Supplies and materials		55,000.00
Equipment		21,000.00
Emergency		10,000.00
Total	$	739,000.00

Approved March 15, 1965.

CHAPTER 17

S. B. No. 17
(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 $2,197,481.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages (Including salary of commissioner not to exceed $18,400.00 for the biennium—salary of deputy commissioner, not to exceed $17,400.00 for the biennium)	$ 1,004,581.00
Fees and services	387,600.00
Supplies and materials	247,300.00
Equipment	70,000.00
Land—structures—major improvements:	
Land acquisition and dam construction	343,000.00
Grants—benefits and claims	45,000.00
Emergency	100,000.00
Total	$ 2,197,481.00

Approved March 15, 1965.

CHAPTER 18

S. B. No. 18
(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 $94,790.00 for the purpose of operating and maintaining the teachers' insurance and retirement fund, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 68,740.00
Fees and services	18,850.00
Supplies and materials	7,200.00
Total	$ 94,790.00

Approved March 15, 1965.

CHAPTER 19

S. B. No. 19
(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, 1965, and ending June 30, 1967, as follows:

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

Approved March 2, 1965.

CHAPTER 20

S. B. No. 20
(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 $157,000.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$115,000.00
Fees and services	22,300.00
Supplies and materials	11,000.00
Equipment	2,500.00
Grants—benefits—claims	1,200.00
Emergency fund	5,000.00
Total	$157,000.00

Approved March 2, 1965.

CHAPTER 21

S. B. No. 21
(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 $1,021,140.00, 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, 1965, and ending June 30, 1967, to wit:

Banking Department

Salaries and wages	$ 727,600.00
Fees and services	133,200.00
Supplies and materials	56,800.00
Equipment	55,000.00
New building project plans and cost estimates	25,000.00
Total	$ 997,600.00

Judge A. M. Christianson Project

Salaries and wages	$ 12,460.00
Fees and services	9,780.00
Supplies and materials	300.00
Emergency	1,000.00
Total	$ 23,540.00
Grand Total	$1,021,140.00

Approved March 6, 1965.

CHAPTER 22

S. B. No. 22
(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 $3,308,150.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$2,276,050.00
Fees and services	758,700.00
Supplies and materials	28,900.00
Audit fees	15,000.00
Emergency	229,500.00
Total	$3,308,150.00

Approved March 15, 1965.

CHAPTER 23

S. B. No. 23
(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 and labor, superintendent of public instruction, state tax commissioner, and three public service commissioners, in order to properly discharge their official duties, shall each of them be paid the sum of $4,000.00 for each calendar year of 1965 and 1966 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 1965 and 1966 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 $5,000.00 for each of the calendar years 1965 and 1966 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 $1,000.00 for each of the calendar years 1965 and 1966 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 $140,800.00, 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 19, 1965.

CHAPTER 24

S. B. No. 24
(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 $522,000.00 for the purpose of defraying the expenses of the maintenance and operation of the state wheat commission, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$	63,000.00
Fees and services		265,000.00
Wheat and durum quality and economic research through North Dakota experiment station		70,000.00
Supplies and materials		20,000.00
From reserve to cereal technology laboratory building with the approval of the wheat commission		100,000.00
Equipment		1,000.00
Grants—benefits and claims		3,000.00
Total	$	522,000.00

Approved March 19, 1965.

CHAPTER 25

S. B. No. 25
(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 constructing 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 $786,000.00, 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, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$ 431,000.00
Fees and services	130,000.00
Supplies and materials	175,000.00
Equipment	50,000.00
Total	$ 786,000.00

§ 2. **Appropriations 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 $570,000.00, to be available for water project contract obligations. 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 deter-

mined 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. Any appropriation in the contract fund shall remain available to the commission as a standing and continuing appropriation until expended or encumbered and shall not revert to the general fund under the provisions of section 54-27-09, as amended. All unencumbered funds in the general fund at the end of the biennium shall remain in the general fund. Any balance in the multiple purpose fund shall be transferred to the contract fund.

Approved March 15, 1965.

CHAPTER 26

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

PUBLIC HEALTH DEPARTMENT

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of $685,700.00, or so much thereof as is necessary to pay the salaries, clerkhire and all miscellaneous items and expenses of the public health department and its related agencies, and in collaboration with federal funds, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$	511,180.00
Fees and services		84,520.00
Supplies and materials		85,000.00
Equipment		5,000.00
Total	$	685,700.00

Approved March 15, 1965.

CHAPTER 27

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

HEALTH DEPARTMENT INDUSTRIAL WASTE STUDY

AN ACT

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

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

§ **1. Appropriation.)** There is hereby appropriated to the state department of health out of any moneys in the state treasury not otherwise appropriated, the sum of $35,000.00 or so much thereof as may be necessary for the purpose of conducting research and studies on methods of treating industrial wastes related to industrial development and increased processing of agricultural products resulting in high strength wastes and creating difficult pollution and treatment problems for several North Dakota municipalities, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 29,504.00
Fees and services	5,300.00
Supplies and materials	196.00
Total	$ 35,000.00

Approved March 2, 1965.

CHAPTER 28

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

BUDGET

AN ACT

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

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

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

§ 2. The Period During Which the Appropriations Made Herein Shall Be Available.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1965, and ending June 30, 1967, to wit:

§ 3. Appropriations.)

Subdivision 1.

Executive Office

Salaries and wages	$ 79,950.00
Fees and services	9,000.00
Supplies and materials	5,000.00
Equipment	3,000.00
Midwest Resources Association membership	1,620.00

Governor's contingent		8,000.00
Total	$	106,570.00

Subdivision 2.

Council of State Governments

Fees and services	$	7,200.00
Total	$	7,200.00

Subdivision 3.

Lieutenant Governor

Salaries and wages	$	3,424.00
Fees and services		2,000.00
Total	$	5,424.00

Subdivision 4.

Supreme Court

Salaries and wages (Including clerk of the supreme court salary for the biennium not to exceed $14,000.00)	$	264,948.30
Fees and services		5,000.00
Supplies and materials		2,700.00
Equipment		2,500.00
Judges' retirement		42,000.00
Total	$	317,148.30

Subdivision 5.

Supreme Court—Deficiency

Judges' retirement—retirement for Judge Morris for period 1-1-65 to 7-1-65 (to be made available immediately on passage and approval)	$	3,500.00
Total	$	3,500.00

Subdivision 6.

Supreme Court Reporter and Law Librarian

Salaries and wages (Including supreme court reporter salary for the biennium not to exceed $14,000.00)	$	15,500.00
Fees and services		1,710.00
Supplies and materials		15,650.00
Equipment		300.00
Total	$	33,160.00

Subdivision 7.

Judges of District Court

Salaries and wages	$	391,000.00
Fees and services		30,000.00
Judges' retirement		96,000.00
District judges' travel deficiency (to be made available immediately on passage and approval)		7,000.00
Total	$	524,000.00

Subdivision 8.

Secretary of State

Salaries and wages	$	130,640.00
Fees and services		18,625.00
Supplies and materials		10,000.00
Total	$	159,265.00

Subdivision 9.

Secretary of State—Public Printing

Fees and services	$	1,300.00
Supplies and materials		40,050.00
Total	$	41,350.00

Subdivision 10.

State Auditor

Salaries and wages	$	201,315.00
Fees and services		33,000.00

Supplies and materials		2,000.00
Equipment		1,500.00
Total	$	237,815.00

Subdivision 11.

State Treasurer

Salaries and wages	$	128,329.00
Fees and services		9,400.00
Supplies and materials		7,300.00
Equipment		3,000.00
Total	$	148,029.00

Subdivision 12.

Commissioner of Insurance

Salaries and wages	$	168,000.00
Fees and services		14,900.00
Supplies and materials		16,000.00
Equipment		1,000.00
Total	$	199,900.00

Subdivision 13.

State Fire Marshal

Salaries and wages (Including salaries of two deputy fire marshals, not to exceed $34,400.00 for the biennium)	$	40,000.00
Fees and services		21,000.00
Supplies and materials		3,000.00
Total	$	64,000.00

Subdivision 14.

Attorney General

Salaries and wages	$	333,600.00
Fees and services		34,500.00
Supplies and materials		8,700.00
Equipment		2,000.00
Total	$	378,800.00

Subdivision 15.

Attorney General Licensing

Salaries and wages	$ 90,000.00
Fees and services	38,800.00
Supplies and materials	3,000.00
Equipment	850.00
Total	$ 132,650.00

Subdivision 16.

State Tax Commissioner

Salaries and wages	$ 1,180,000.00
Fees and services	330,080.00
Supplies and materials	153,300.00
Equipment	47,000.00
Total	$ 1,710,380.00

Subdivision 17.

Board of Administration

Salaries and wages	$ 575,000.00
(Salaries of board members not to exceed $16,800.00 per member)	
Fees and services	325,200.00
Supplies and materials	92,500.00
Supplies and materials for governor's mansion	6,000.00
Equipment	38,195.00
Improvement governor's mansion—Intercom system, air conditioning and third furnace	12,000.00
Land, structures—major improvements	150,000.00
(Including caulking of capitol building)	
Special assessments—city of Bismarck	21,024.97
Total	$ 1,219,919.97

Subdivision 18.

Radio Communications

Salaries and wages	$ 89,900.00
Fees and services	35,000.00
Supplies and materials	27,000.00

Equipment	4,000.00
Remote control stations	17,000.00
Total	$ 172,900.00

Subdivision 19.

State Industrial Commission

Salaries and wages	$ 7,660.00
Fees and services	7,600.00
Supplies and materials	250.00
Total	$ 15,510.00

Subdivision 20.

40th Legislative Assembly

Salaries and wages	$ 152,350.00
Fees and services	221,800.00
*Emergency fees and services, 39th Legislative Assembly to be paid as provided by House Bill 891 This item of this Act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its approval.	132,720.00
Pre-session conference	25,600.00
Emergency printing, 39th Legislative Assembly	32,000.00
Supplies and materials	100,000.00
Total	$ 664,470.00

Subdivision 21.

Legislative Audit and Fiscal Review Committee

Salaries and wages	$ 3,500.00
Fees and services	8,900.00
Supplies and materials	500.00
Total	$ 12,900.00

Subdivision 22.

Legislative Research Committee

Salaries and wages	$ 118,650.00
Fees and services	73,000.00

*__Note:__ See chapter 340, 1965 S.L.

Supplies and materials	5,250.00
Equipment	1,000.00
Total	$ 197,900.00

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. Subdivision 22 is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Subdivision 23.

Department of Accounts and Purchases

Salaries and wages	$ 284,000.00
Fees and services	22,000.00
Supplies and materials	18,400.00
Equipment	4,000.00
Total	$ 328,400.00

Subdivision 24.

Department of Public Instruction

Salaries and wages	$ 489,619.00
Fees and services	104,375.00
Supplies and materials	111,400.00
Equipment	10,800.00
Grants, benefits and claims:	
Indian scholarships	12,600.00
Special education grants	675,000.00
Foundation program payments	35,850,000.00
Basis of need payments	100,000.00
Walsh County Agricultural School	21,000.00
Total	$37,374,794.00

Subdivision 25.

Department of Agriculture and Labor

Salaries and wages	$ 225,350.00
Fees and services	79,000.00

Supplies and materials		48,192.00
Equipment		5,800.00
Total	$	358,342.00

Subdivision 26.

Public Service Commission

Salaries and wages	$	400,000.00
Fees and services		97,213.00
Supplies and materials		33,430.00
Equipment		5,000.00
Total	$	535,643.00

Subdivision 27.

Public Service Commission—Utility Valuation

Services and expenses	$	20,000.00
Total	$	20,000.00

Subdivision 28.

Aeronautics Commission

Salaries and wages	$	49,700.00
Fees and services		18,000.00
Supplies and materials		8,000.00
Equipment		1,000.00
New airplane with trade in		14,000.00
Total	$	90,700.00

Subdivision 29.

State Land Commissioner

Salaries and wages (Including salary of land commissioner, not to exceed $16,800.00 for the biennium)	$	198,000.00
Fees and services		45,000.00
Supplies and materials		5,250.00
Equipment		6,400.00
Total	$	254,650.00

Subdivision 30.

State Seed Department

Salaries and wages	$	36,500.00
Fees and services		1,200.00
Supplies and materials		4,000.00
Equipment		2,500.00
Total	$	44,200.00

Subdivision 31.

Adjutant General

Salaries and wages	$	115,092.00
Fees and services		1,200.00
Supplies and materials		3,000.00
Equipment		800.00
Total	$	120,092.00

Subdivision 32.

Pardon Board

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

Subdivision 33.

Parole Office

Salaries and wages	$	133,000.00
Fees and services		44,000.00
Supplies and materials		5,000.00
Radio equipment		2,500.00
Total	$	184,500.00

Subdivision 34.

Reward for Apprehension of Criminals

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

Subdivision 35.

State Examiner

Salaries and wages (Including salary of state examiner, not to exceed $22,800.00 for the biennium plus compensation provided under section 6-07-50)	$	415,590.00
Fees and services		108,200.00
Supplies and materials		4,000.00
Equipment		3,000.00
Total	$	530,790.00

Subdivision 36.

State Securities Commissioner

Salaries and wages (Including salary of securities commissioner, not to exceed $20,000.00 for the biennium)	$	73,000.00
Fees and services		10,000.00
Supplies and materials		2,200.00
Equipment		500.00
Total	$	85,700.00

Subdivision 37.

State Board of Higher Education

Salaries and wages	$	121,600.00
Fees and services		26,025.00
Supplies and materials		4,000.00
Equipment		1,675.00
Total	$	153,300.00

Subdivision 38.

National Defense Student Loan Program

Grants—benefits and claims	$	102,000.00
Total	$	102,000.00

Subdivision 39.

Reciprocal Agreements

Grants—benefits and claims	$	73,200.00
Total	$	73,200.00

Subdivision 40.

State Aid to Junior Colleges

Junior college payments	$	830,000.00
Total	$	830,000.00

Subdivision 41.

Civil Air Patrol

Fees and services	$	10,000.00
Supplies and materials		20,000.00
Equipment		3,800.00
Total	$	33,800.00

Subdivision 42.

Coal Mine Inspector

Salaries and wages	$	19,565.00
(Including salary of coal mine inspector, not to exceed $12,000.00 for the biennium)		
Fees and services		3,000.00
Supplies and materials		4,500.00
Equipment		500.00
Total	$	27,565.00

Subdivision 43.

Emergency Commission—State Contingency Fund

State contingency fund	$	600,000.00
Total	$	600,000.00

Subdivision 44.

Veterinary Medical Examiners

Salaries and wages	$	2,000.00
Fees and services		600.00
Supplies and materials		100.00
Total	$	2,700.00

Subdivision 45.

Miscellaneous Refunds

Grants—benefits and claims	$	30,000.00
Deficiency (to be made available immediately on passage and approval)		5,000.00
Total	$	35,000.00

Subdivision 46.

Fugitives from Justice—Arrest and Return

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

Subdivision 47.

Boys' and Girls' Club Work—County Fairs

Grants—benefits and claims	$	21,200.00
Total	$	21,200.00

Subdivision 48.

Burial and Release of Institutional Inmates

Fees and services	$	500.00
Total	$	500.00

Subdivision 49.

State Laboratories Department

Salaries and wages (Including salary of director not to exceed $18,000.00 for the biennium)	$	471,530.00
Fees and services		94,420.00

Supplies and materials	35,000.00
Equipment	15,000.00
Total	$ 615,950.00

Subdivision 50.

Soil Conservation Committee and Districts

Salaries and wages	$ 27,500.00
Fees and services	41,525.00
Supplies and materials	5,175.00
Equipment	750.00
Grants: To conservation districts (Limited to $3,000.00 per district per year)	40,000.00
Total	$ 114,950.00

Subdivision 51.

State Geological Survey

Salaries and wages	$ 356,750.00
Fees and services	55,000.00
Supplies and materials	40,000.00
Equipment	20,000.00
Total	$ 471,750.00

Subdivision 52.

North Dakota Firemen's Association

Grants—benefits and claims	$ 8,000.00
Total	$ 8,000.00

Subdivision 53.

North Dakota Indian Affairs Commission

Salaries and wages	$ 11,400.00
Fees and services	2,400.00
Supplies and materials	1,200.00
Total	$ 15,000.00

Subdivision 54.

State Commission on Alcoholism

Salaries and wages	$ 55,000.00
Fees and services	19,100.00
Supplies and materials	6,700.00
Total	$ 80,800.00

Subdivision 54a.

Yellowstone-Missouri Fort Union Commission

Fees and services	$ 1,000.00
Total	$ 1,000.00
Grand total	$49,480,917.27

§ 4. **Intent, Repeal, Purpose and Construction.)** All Acts and parts of Acts that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation for any item or set of items should be held by the court, or courts, to be unconstitutional or illegal or otherwise unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

§ 5. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval on such items or subdivisions as are designated to be made available immediately on passage and approval.

Approved March 20, 1965.

CHAPTER 29

H. B. No. 502
(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 the sums hereafter specified, derived from rents, interest, or income from land, money, or property, donated or granted by the United States and allocated to the school for the blind under the terms of the Enabling Act and state Constitution and such additional unappropriated funds as may be needed, are hereby appropriated out of the general fund in the state treasury as may be necessary to pay the operation, maintenance, repairs, improvements, and general expense of the school for the blind at Grand Forks for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$196,133.00
Fees and services	26,500.00
Supplies and materials	27,700.00
Equipment	3,000.00
Land—structures—major improvements:	
Paving and curbing	4,200.00
Acoustical tile	1,800.00
Total	$259,333.00

Approved March 2, 1965.

CHAPTER 30

H. B. No. 503
(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 the sums hereafter specified, derived from rents, interest, or income from land, money, or property, donated or granted by the United States and allocated to the school for the deaf under the terms of the Enabling Act and state Constitution and such additional unappropriated funds as may be needed, are hereby appropriated out of the general fund in the state treasury as may be necessary to pay the operation, maintenance, repairs, improvements, and general expense of the state school for the deaf at Devils Lake for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$ 448,623.00
Fees and services	39,100.00
Supplies and materials	108,800.00
Equipment	10,475.00
Offset press and tape perforator with federal matching funds according to Federal Law P.L. 88-210	15,000.00
Land—structures—major improvements:	
Special assessments	10,870.00
Total	$ 632,868.00

Approved March 15, 1965.

CHAPTER 31

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

GRAFTON STATE SCHOOL

AN ACT

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

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

§ 1. Appropriation for the Grafton State School.) The sums hereafter specified, or so much thereof as may be necessary, are hereby appropriated out of any unappropriated funds in the general fund of the state treasury to pay the operation, maintenance, repairs, improvements and general expense of the Grafton state school at Grafton for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$3,245,000.00
Fees and services	180,000.00
Supplies and materials	798,000.00
Equipment	52,000.00
Land—structures—major improvements:	
Additional for new laundry building	100,000.00
Auditorium and school	350,000.00
Additional for slaughterhouse and equipment	10,000.00
New milk room and equipment	40,000.00
Repair roofs West Hall and Wylie Hall	12,000.00
Reseal roadway and parking areas	3,750.00
Total	$4,790,750.00

Approved March 2, 1965.

CHAPTER 32

H. B. No. 505
(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.) The sums hereafter specified, or so much thereof as may be necessary, are hereby appropriated out of any unappropriated funds in the general fund of the state treasury to pay the operation, maintenance, repairs, improvements and general expense of the tuberculosis sanatorium at San Haven for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$1,354,000.00
Fees and services	57,000.00
Supplies and materials	375,000.00
Equipment	50,000.00
Total	$1,836,000.00

Approved March 6, 1965.

CHAPTER 33

H. B. No. 506
(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 the sums hereafter specified, derived from rents, interest, or income from land, money, or property, donated or granted by the United States and allocated to the state hospital under the terms of the Enabling Act and state Constitution and such additional unappropriated funds as may be needed, are hereby appropriated out of the general fund in the state treasury as may be necessary to pay the operation, maintenance, repairs, improvements, and general expense of the state hospital at Jamestown for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$ 5,432,542.00
Fees and services	334,700.00
Supplies and materials	1,674,088.00
Equipment	220,000.00
Land—structures—major improvements:	
Therapeutic tank	60,000.00
Remodel medical center building, including elevator	150,000.00
Recreation area improvement and outdoor movie	11,000.00
Roof repair	10,000.00
Major improvements and repairs	90,000.00
Repair utilities distribution systems	20,000.00
Total	$ 8,002,330.00

Approved March 19, 1965.

CHAPTER 34

H. B. No. 507
(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 the sums hereafter specified, derived from rents, interest, or income from land, money, or property, donated or granted by the United States and allocated to the state industrial school under the terms of the Enabling Act and state Constitution and such additional unappropriated funds as may be needed, are hereby appropriated out of the general fund in the state treasury as may be necessary to pay the operation, maintenance, repairs, improvements, and general expense of the state industrial school at Mandan for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$ 742,300.00
Fees and services	112,194.00
Supplies and materials	200,000.00
Equipment	30,000.00
Land—structures—major improvements:	
New boiler—power house	82,000.00
Sidewalks	1,000.00
Replacement gas piping	5,000.00
Total	$ 1,172,494.00

Approved March 19, 1965.

CHAPTER 35

H. B. No. 508
(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.) The sums hereafter specified, or so much thereof as may be necessary, are hereby appropriated out of any unappropriated funds in the general fund of the state treasury to pay the operation, maintenance, repairs, improvements and general expense of the state penitentiary and state farm at Bismarck for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 926,150.00
Fees and services	232,500.00
Supplies and materials	286,750.00
Equipment	35,000.00
Land—structures—major improvements:	
Rebuild towers	25,000.00
Book salvage building	50,000.00
Land leveling for irrigation	13,000.00
Special assessments—city of Bismarck	4,222.81
Total	$1,572,622.81

Approved March 2, 1965.

CHAPTER 36

H. B. No. 509
(Committee on Appropriations)

TAG AND SIGN PLANT

AN ACT

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

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

§ 1. **Appropriation.)** There is hereby appropriated the sum of $393,350.00 out of the general fund, in the state treasury, or so much thereof as may be necessary to pay the general maintenance and operation of the tag and sign plant at the state penitentiary for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$ 25,550.00
Fees and services	12,800.00
Supplies and materials	355,000.00
Total	$393,350.00

Approved February 27, 1965.

CHAPTER 37

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

NORTH DAKOTA TWINE AND CORDAGE PLANT

AN ACT

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

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

§ 1. **Appropriation.)** There is hereby appropriated out of any moneys in the state treasury in the general fund, the sum of $983,922.00, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the North Dakota twine

and cordage plant at the state penitentiary, for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$136,622.00
Fees and services	54,100.00
Supplies and materials	756,200.00
Equipment	26,000.00
Repair twine plant buildings	6,000.00
Grants—benefits and claims	5,000.00
Total	$983,922.00

Approved February 27, 1965.

CHAPTER 38

H. B. No. 511
(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 $265,759.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$194,759.00
Fees and services	38,000.00
Supplies and materials	10,500.00
Equipment	2,500.00
Emergency	20,000.00
Total	$265,759.00

Approved February 27, 1965.

CHAPTER 39

H. B. No. 512
(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 $433,500.00, or so much thereof as may be necessary for the operation, maintenance and expenses of the state hail insurance department of the state of North Dakota, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages (Including salary of hail department manager, not to exceed $16,800.00 for the biennium)	$	167,000.00
Fees and services	$	100,000.00
Supplies and materials		12,500.00
Equipment		4,000.00
Emergency		150,000.00
Total	$	433,500.00

Approved March 15, 1965.

CHAPTER 40

H. B. No. 513
(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 $119,000.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 64,000.00
Fees and services	30,000.00
Supplies and materials	3,000.00
Equipment	5,000.00
Premium refunds	17,000.00
Total	$119,000.00

Approved February 25, 1965.

CHAPTER 41

H. B. No. 514
(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 $25,700.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 17,000.00
Fees and services	6,700.00
Supplies and materials	1,500.00
Equipment	500.00
Total	$ 25,700.00

Approved February 24, 1965.

CHAPTER 42

H. B.. No. 515
(Committee on Appropriations)

VOCATIONAL EDUCATION

AN ACT

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

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

§ **1. Appropriation.)** There is hereby appropriated out of any moneys in the state general fund, in the state treasury, not otherwise appropriated, the sum of $402,478.00, or so much thereof as may be necessary for vocational agriculture, vocational home economics, business education, trade and industrial education, as provided for in section 15-40-04 of the North Dakota Century Code, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Vocational Agriculture

Grants—benefits and claims	$160,000.00
Total	$160,000.00

Business Education

Salaries and wages	$ 5,000.00
Grants—benefits and claims	15,000.00
Total	$ 20,000.00

Vocational Home Economics

Salaries and wages	$ 24,978.00
Fees and services	5,000.00
Supplies and materials	2,500.00
Reimbursement to local school districts	150,000.00
Total	$182,478.00

Trade and Industrial

Salaries and wages	$ 34,975.00
Fees and services	4,375.00
Supplies and materials	600.00
Equipment	50.00
Total	$ 40,000.00
Grand total	$402,478.00

Approved March 8, 1965.

CHAPTER 43

H. B. No. 516
(Committee on Appropriations)

VOCATIONAL REHABILITATION DIVISION

AN ACT

Making an appropriation for salaries, and expenses of the division of vocational rehabilitation and to match federal funds for rehabilitation and to match federal funds 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 general fund in the state treasury, the sum of $437,000.00, or so much thereof as may be necessary for the vocational rehabilitation of disabled persons, to be matched with federal funds, for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$ 120,000.00
Fees and services	28,000.00
Moving to Bismarck	1,000.00
Supplies and materials	1,300.00
Emergency—case services	17,000.00

Equipment	1,500.00
Grants, benefits and claims:	
Case services	268,200.00
Total	$ 437,000.00

Approved March 19, 1965.

CHAPTER 44

H. B. No. 517
(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 $124,500.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 68,000.00
Fees and services	51,700.00
Supplies and materials	4,800.00
Total	$124,500.00

Approved February 25, 1965.

CHAPTER 45

H. B. No. 518
(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 $300,000.00, 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, 1965, and ending June 30, 1967.

§ 2. **Appropriation.)** There is hereby appropriated out of any unappropriated funds in the division of supervised correspondence study operating fund in the state treasury, the sum of $300,000.00, 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, 1965 and ending June 30, 1967, as follows:

Salaries and wages	$ 357,335.00
Fees and services	139,955.00
Supplies and materials	75,395.00
Equipment	27,315.00
Total	$ 600,000.00
Less estimated income	300,000.00
Total general fund	$ 300,000.00

§ 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 March 19, 1965.

CHAPTER 46

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

CHILDREN'S PSYCHIATRIC CLINIC

AN ACT

Making an appropriation for the purpose of paying expenses of the children's psychiatric outpatient clinic, located at Bismarck, North Dakota.

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

§ 1. **Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $150,000.00 for the purpose of paying expenses of the children's psychiatric outpatient clinic, located at Bismarck, North Dakota, administered by the mental health authority under the state department of health for the purpose of psychiatric assistance for those youths and children placed under the control of the state of North Dakota through the operation of laws of the state of North Dakota, and other residents who are referred to such clinic by an agency of the state, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$136,600.00
Fees and services	12,000.00
Supplies and materials	1,400.00
Total	$150,000.00

Approved February 24, 1965.

CHAPTER 47

H. B. No. 520
(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 $30,000.00 for the education of children who are deaf as well as blind, at any school or institution, outside the state of North Dakota, for which there are no facilities in the state, and which is under the sole supervision of the board of administration, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Fees and services	$	30,000.00
Total	$	30,000.00

Approved March 15, 1965.

CHAPTER 48

H. B. No. 521
(Committee on Appropriations)

STATE SEED DEPARTMENT

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of the seed department fund in the state treasury, the sum of $748,500.00, 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, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$460,000.00
Fees and services	200,000.00
Supplies and materials	34,000.00
Equipment	4,500.00
Emergency	50,000.00
Total	$748,500.00

Approved March 6, 1965.

CHAPTER 49

H. B. No. 522
(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 $340,901.35 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, 1965, and ending June 30, 1967.

§ 2. **Appropriation.)** There is hereby appropriated out of any unappropriated funds in the national guard operating fund in the state treasury the sum of $178,348.65, 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, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$130,605.00
Fees and services	333,070.00

Supplies and materials	45,125.00
Equipment	10,450.00
Total	$519,250.00
Less estimated income	178,348.65
Total general fund	$340,901.35

§ 3. **Appropriation.)** There is hereby reappropriated to the North Dakota national guard the sum of $163,351.94, or such balance as may remain unexpended upon the effective date of this Act, from that appropriation previously made in section 3 of chapter 28 of the 1963 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 of the state of North Dakota, chapter 45 of the 1959 Session Laws of the state of North Dakota, and subdivision 21 of section 3 of chapter 46 of the 1961 Session Laws of the state of North Dakota.

Approved March 6, 1965.

CHAPTER 50

H. B. No. 523
(Committee on Appropriations)

STATE LIBRARY COMMISSION

AN ACT

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

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

§ 1. **Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of $174,002.00, or so much thereof as may be necessary for salaries and expenses of the state library commission, as provided for in chapter 54-24 of the North Dakota Century Code, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 109,000.00
Fees and services (Includes library services)	32,000.00

Supplies and materials	33,002.00
Total	$ 174,002.00

Approved March 19, 1965.

CHAPTER 51

H. B. No. 524
(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 $70,000.00, or so much thereof as may be necessary, to pay salaries and expenses of the activities of the state bar association of North Dakota conducted in accordance with the provisions of sections 11-17-05, 27-03-05, 27-03-06, 27-07-40, 27-07-41, and 27-12-08 of the North Dakota Century Code, for the biennium starting July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$ 18,000.00
Fees and services	14,000.00
Supplies and materials	30,000.00
Grants—benefits and claims	8,000.00
Total	$ 70,000.00

Approved February 24, 1965.

CHAPTER 52

H. B. No. 526
(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, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$ 37,000.00
Fees and services	10,000.00
Supplies and materials	1,000.00
Contingent	22,000.00
Total	$ 70,000.00

Approved February 25, 1965.

CHAPTER 53

H. B. No. 527
(Committee on Appropriations)

PEACE OFFICERS' COMMISSION

AN ACT

Making an appropriation for the purpose of administering the provisions of chapter 54-50 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 $10,000.00, or so much thereof as may be

necessary, to pay the expenses of the peace officers' commission as provided in chapter 54-50 of the North Dakota Century Code, for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Fees and services	$ 8,000.00
Supplies and materials	2,000.00
Total	$ 10,000.00

Approved February 24, 1965.

CHAPTER 54

H. B. No. 528
(Committee on Appropriations)

THEODORE ROOSEVELT ROUGH RIDER AWARDS

AN ACT

Providing for Theodore Roosevelt Rough Rider Awards, selection of award recipients, and making an appropriation.

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

§ 1. **Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of $500.00, or so much thereof as may be necessary, to the governor for the purpose of procuring a supply of Theodore Roosevelt Rough Rider Awards for the purposes described in section 54-02-07, of the North Dakota Century Code, for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Grants—benefits and claims	$ 500.00
Total	$ 500.00

Approved February 24, 1965.

CHAPTER 55

H. B. No. 549
(Committee on Appropriations)

PREDATORY ANIMAL CONTROL

AN ACT

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

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 $75,750.00, or so much thereof as may be necessary for salaries and expenses for predatory animal control, to the commissioner of agriculture and labor for the biennium beginning July 1, 1965, and ending June 30, 1967, as follows:

Salaries and wages	$	41,930.00
Fees and services		16,750.00
Supplies and materials		17,070.00
Total	$	75,750.00

Approved March 10, 1965.

CHAPTER 56

S. B. No. 110
(Thompson, Luick)

TEACHERS' INSURANCE AND RETIREMENT FUND, DEFICIENCY

AN ACT

To make a deficiency appropriation to the teachers' insurance and retirement fund to pay for travel of the members of the board of trustees and the executive secretary during the 1963-65 biennium, and declaring an emergency.

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

§ 1. **Deficiency Appropriation.)** There is hereby appropriated out of any moneys in the teachers' insurance and retirement fund in the state treasury, not otherwise appropriated, the sum of $1,000.00, or so much thereof as may be necessary for the purpose of paying the deficiency in the cost of travel for the biennium beginning July 1, 1963, and ending June 30, 1965.

§ 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, 1965.

CHAPTER 57

S. B. No. 205
(Berube)

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 twenty thousand dollars, or so much thereof as may

be necessary, for the purpose of meeting the extraordinary expenses of counties in law enforcement arising by reason of the location of Indian reservations in such counties. This appropriation shall be used for extraordinary expenses of law enforcement incurred from the effective date of this Act to and including June 30, 1967, 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 by reason of federal agencies in or adjacent to said county.

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

Approved March 6, 1965.

CHAPTER 58

S. B. No. 213
(Becker, Sorlie)

NATURAL RESOURCES COUNCIL, LEGISLATIVE MEMBERS' EXPENSES

AN ACT

Making an appropriation to the legislative research committee for the payment of per diem and expenses of the natural resources council's legislative members while in the performance of their duties as members of the council.

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

§ 1. **Appropriation.)** There is hereby appropriated to the legislative research committee out of any moneys in the state treasury, not otherwise appropriated, the sum of $400.00 to be available for the payment of the per diem and expenses of

the legislative members of the natural resources council while in the performance of their duties as members of the council.

Approved March 1, 1965.

CHAPTER 59

S. B. No. 349
(Thompson, Roen, Mahoney, Saumur)

HIGHER EDUCATION, MATCHING FEDERAL FUNDS

AN ACT

Making an appropriation to the board of higher education for the purpose of matching federal funds in the construction and equipping of buildings at state institutions of higher education and providing an effective date.

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 general fund in the state treasury to the state board of higher education the sum of $2,000,000.00, or so much thereof as may be necessary, for the purpose of matching funds made available by the United States to the state of North Dakota and for the purpose of matching funds made available through private gifts and foundation grants to the institutions of higher learning of the state of North Dakota for the construction and equipping of buildings at institutions of higher education during the biennium beginning July 1, 1965, and ending June 30, 1967. The expenditure of such funds shall be conditioned upon the availability of federal funds and or private gifts or foundation grants requiring matching by the state for use in the construction of buildings at such institutions. The money appropriated by this Act shall be expended at such institutions and for such buildings as shall be determined by the board of higher education in accordance with priorities established by the board, and providing funds are available and subject to the approval of the emergency commission.

*§ 2. **Effective Date.)** The provisions of this Act shall become effective only in the event that Senate Bill No. 358 of the Thirty-ninth Legislative Assembly is not enacted into law or in the event that the provisions of Senate Bill No. 358 are ruled invalid by the supreme court of the state of North Dakota.

Approved March 19, 1965.

***Note:** See chapter 155, 1965 S.L.

CHAPTER 60

S. B. No. 364
(Committee on Delayed Bills)

LEGISLATORS' AND EMPLOYEES' COMPENSATION

AN ACT

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

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

§ 1.) There shall be paid to each member of the Thirty-ninth Legislative Assembly, in addition to the amount provided in section 54-03-20 of the North Dakota Century Code, the sum of one hundred and twenty dollars as reimbursement for his living expenses, including meals, lodging, and uncompensated travel, and other necessary expense during the legislative session and for expenses incurred in the execution of his public duties, which sum shall be paid on or before April 1, 1965. Attendance at the thirty-ninth biennial session shall be a conclusive presumption of the expenditure of such expense allowance for the purposes set forth in this section and the expense allowance shall be excluded from gross income for income tax purposes. Such sum shall be paid in the same manner as the regular per diem of the members of the legislative assembly is paid.

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

HOUSE

Donnell Haugen, chief clerk	$150.00
Richard Ista, assistant chief clerk	120.00
Ruth Smith, desk reporter	150.00
Elmer Strand, supervisor of employees	120.00
Howard Douglas Rose, bill clerk	90.00
Sam Lushenko, assistant sergeant-at-arms	60.00
Corliss Mushik, secretary to speaker	90.00
Allen Frazer, calendar clerk	90.00
Pam Billigmeier, chief steno and payroll clerk	120.00
Mrs. Frances Knoll, assistant chief steno	96.00
Veronica Schneider, stenographer	84.00

Eleanor Weber, House appropriations clerk	90.00
Bob Larson, chief comm. clerk	90.00
Jean Otteson, committee clerk	84.00
Norma Dalton, committee clerk	84.00
Enola Eck, proofreader	72.00
Mrs. Robert Shannon, proofreader	72.00
Jack Formo, enroll. and engross. clerk	84.00
Yvonne Wold, assist. enroll. and engross. clerk	84.00
Mrs. Robert Moses, postmistress	60.00
Regina Prodzinski, telephone clerk	72.00
Jane Harrison, telephone clerk	72.00
Marlys Fleck, page	66.00
Carolyn Jean Paulson, page	66.00
Gene M. LaFromboise, floor clerk	66.00
Mrs. Aaron Dalke, page	66.00
Donna Carufel, chief page	78.00
Lynn Runck, audio board operator	78.00
A. S. Brazda, mail clerk	60.00
Henry Benson, mailing room clerk	60.00
Edward Trost, bill room clerk	60.00

SENATE

Gerald L. Stair, secretary of the Senate	150.00
Dagny V. Olson, desk reporter	150.00
Arthur A. Herk, assistant secretary of Senate	120.00
Bill Campbell, bill clerk	102.00
A. E. Bradley, sergeant-at-arms	72.00
Monty Burke, superintendent of personnel	120.00
Robert G. Ellsworth, messenger to House and Governor	66.00
William Brown, page and bill book attendant	78.00
Virginia M. Monson, page	66.00
Cora Essington, chief stenographer and payroll clerk	120.00
Joan Nelson, stenographer	84.00
Donna Heisler, floor leader's clerk	84.00
Jan McKinney, secretary to president	90.00
Lois Scherr, committee clerk	84.00
Ruby Herr, committee clerk	84.00
Ann Tillotson, committee clerk	84.00
Karen Ronning, appropriation committee clerk	90.00
Fred Krause, Jr., chief mail room clerk	78.00
Wilhelm Urlacher, mail room clerk	60.00
Viola Deforest, postmistress	72.00
Robert Hultberg, bill book attendant	66.00
William Auch, bill book attendant	66.00
Martin Kilwein, bill room attendant	60.00
Jacob Albrecht, doorkeeper	60.00

Vonny Mushik, enr. and engr. clerk	84.00
G. R. Gilbreath, enr. and engr. clerk	84.00
Carrie Murdoch, proofreader	72.00
Esther Smedshammer, proofreader	60.00
Hazel Ludemann, asst. telephone attendant	72.00
Celia Fowler, telephone attendant	72.00
C. W. Leifur, calendar clerk	90.00

§ 3.) The expenses and expenditures herein authorized shall be chargeable by the director of the department of accounts and purchases to and payable from any remaining balances of appropriations for the Thirty-ninth Legislative Assembly.

§ 4.) Upon approval of vouchers by the state board of administration, the director of the department of accounts and purchases shall be authorized to pay uncompensated expenses of additional janitorial service performed for the legislative assembly from any remaining balances of appropriations for the Thirty-ninth Legislative Assembly.

§ 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 19, 1965.

CHAPTER 61

H. B. No. 584
(Rundle, Rustan)

PREDATORY ANIMAL CONTROL, DEFICIENCY

AN ACT

Making an appropriation to the North Dakota department of agriculture and labor for predatory animal control from February 1, 1965, through June 30, 1965, and paying outstanding accounts, 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 twenty-four thousand, nine hundred and four dollars or so much thereof as may be necessary, for the purpose of predatory animal control from February 1, 1965, through June 30, 1965, and including payment of five hundred and twenty-four dollars for bills incurred but unpaid prior to the issuance of the temporary injunction prohibiting expendi-

tures of predatory animal funds granted by the state emergency commission in 1963, to wit:

Salaries—8 mammal control agents	$ 14,480.00
Operation of vehicles by mammal control agents—8 vehicles @ $125.00 per month (average)	5,000.00
Mammal control subsistence expenses—8 agents @ $40.00 per month (average)	1,600.00
Plane and pilot hire for plane hunting—250 hours @ $12.00 per hour	3,000.00
Long distance telephone and telegraph expense	300.00
Outstanding accounts (Incurred prior to "freeze" on emergency funds)	524.00
Total funds required	$ 24,904.00

§ 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 10, 1965.

CHAPTER 62

H. B. No. 705
(Bloom, Vogel, Olafson)

MANPOWER DEVELOPMENT ACT, MATCHING

AN ACT

Making an appropriation to the North Dakota state board of vocational education and the North Dakota unemployment compensation division to match federal funds expended by the United States on costs of programs under the Manpower Development and Training Act, as amended, to the extent required therein, and providing for continued participation in programs thereunder.

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

§ 1. **Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of $50,000.00, or so much thereof as may be necessary, to the North Dakota state board of vocational education in the amount of $25,000.00, and to the North Dakota state unemployment compensation division in the amount of $25,000.00, for the biennium beginning July 1, 1965 and ending June 30, 1967, to match amounts expended by the United

States, for training allowances and instructional costs of programs under the Manpower Development and Training Act of 1962, as amended, to the extent required therein, and in order to continue to participate in programs under the Manpower Development and Training Act of 1962 (42 U.S.C. 2571-2620), the North Dakota state board of vocational education is authorized to expend funds for instructional costs, the North Dakota unemployment compensation division is authorized to expend funds for training allowances, and the North Dakota state board of vocational education, the North Dakota state employment service and the North Dakota state unemployment compensation division are each authorized to administer manpower development and training programs, to execute on behalf of this state agreements or contracts with the appropriate federal agencies containing such provisions as may be necessary or desirable to enable this state to participate in such programs, and within their respective areas to expend all funds made available for the purpose of such programs by this state or local subdivisions thereof or by the Federal Government, to supervise the expenditure of such funds and the conduct of such programs by other public and private agencies in this state, and to make such reports and certifications as are called for, and otherwise to cooperate with the Federal Government and its departments and agencies in the administration of such programs.

Approved March 15, 1965.

CHAPTER 63

H. B. No. 713
(Wagner)

NATIONAL GUARD, BISMARCK, SPECIAL ASSESSMENTS

AN ACT

Making an appropriation for the purpose of paying special assessments for public improvements at the national guard property at Bismarck, North Dakota, levied against the state of North Dakota by the city of Bismarck 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 the state treasury the sum of two thousand two hundred dollars and forty-two cents ($2,200.42) not otherwise appropriated, for the purpose of paying the city of Bismarck special assessments levied against the northeast quarter of section

thirty-one, township one hundred thirty-nine, range eighty, Burleigh County, North Dakota, property owned by the state of North Dakota used by the national guard for the following public improvements:

Storm sewer extensions, Improvement District No. 127, Coulee Road-East Highland Acres Road to Hillcrest Avenue
Total drainage area 3,887,279 square feet
Total cost $21,337.00
Cost per square foot $ .5488929
Part of NE¼ of section 31-139-80—
229,500 square feet $1,259.71
Street Improvement District No. 91
Part of NE¼ of section 31-139-80
Seal cost:
College Drive—Divide to Schafer Street
Schafer Street—College Drive to Edwards Drive
Edwards Drive—Schafer Street to Armory..... $ 940.71

§ 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 10, 1965.

CHAPTER 64

H. B. No. 715
(Solberg)

OUTDOOR RECREATION AGENCY

AN ACT

Making an appropriation to the state outdoor recreation agency for funding the planning, acquisition and development of outdoor recreation areas and activities, 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 outdoor recreation fund out of any moneys in the state treasury, not otherwise appropriated, the sum of $500,000.00 to be available to the state outdoor recreation agency, in conformity with such rules and regulations as it may prescribe, for use in coordinating and encouraging the planning, acquisition and development of the state's outdoor recreation areas and activities. Any moneys received by the state outdoor

recreation fund shall be deposited with the state treasurer and are hereby appropriated out of the state treasury and shall be credited to the state outdoor recreation fund. 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 outdoor recreation fund in the state treasury. All moneys appropriated to the state outdoor recreation fund shall remain available to the state outdoor recreation agency as a standing and continuing appropriation until expended and shall not revert to the general fund under the provisions of section 54-27-09, as amended.

§ 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, 1965.

CHAPTER 65

H. B. No. 720
(Whittlesey, Stockman, Froeschle, Hilleboe, Aamoth, Gengler,)
(Duncan, Powers (Cass), Olienyk)

HIGHER EDUCATION, LAND REPLACEMENT

AN ACT

Making an appropriation to the state board of higher education for the purpose of purchasing land to replace land taken for highway purposes.

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

§ 1. **Appropriation.)** There is hereby appropriated out of the institutional income account of the agricultural experiment station, North Dakota state university, such sums as may be received in consideration for the conveyance of land conveyed to the state highway department for right-of-way purposes pursuant to the provisions of chapter 359 of the 1963 Session Laws, said sums to be used by the board for the purchase of land to replace the land conveyed away pursuant to chapter 359.

Approved March 6, 1965.

CHAPTER 66

H. B. No. 733

(Solberg, Haugland, Powers (Cass), Poling, Shablow, Staven,)
(Linderman, Hauf, Connolly, Wentz, Reimers, Loerch, Wastvedt,)
(Erickson (Ward), Bowles, Knudsen, Kvasager, Frank, Wilkie,)
(Anderson, Davis, Mueller, Collette, Tough, Olson, Obie, Bloom,)
(Hickle, Gudajtes, Hertz, Shorma, Wagner, Stockman, Christensen,)
(Rosendahl, Gengler, Glaspey, Aamoth, Dick, Burk)

PEACE GARDEN ARTS BUILDING

AN ACT

Making an appropriation for the purpose of construction of a fine arts building at the International Peace Garden.

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 $25,000.00, or so much thereof as may be necessary, for the purpose of constructing a fine arts building at the International Peace Garden to provide suitable facilities for the art school and expanded music activities of the International Music Camp, for the biennium beginning July 1, 1965, and ending June 30, 1967.

Approved March 6, 1965.

CHAPTER 67

H. B. No. 776
(Meschke, Haugland, Stockman, Obie, Streibel, Poling,)
(Christensen, Rosendahl, Wagner, Borstad, Hauf, Schoenwald,)
(Erickson (Ward), Hoffner, Dick, Williamson, Mueller,)
(Connolly, Anderson, Sanstead)

STATE FAIR ASSOCIATION

AN ACT

For an appropriation to implement 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 $25,000.00, or so much thereof as may be necessary, to the North Dakota state fair association for the purpose of carrying out the provisions of law in regard to the establishment and operation of a state fair. The appropriation herein provided shall be transferred to the operating fund of the state fair association in the state treasury, and shall not revert to the general fund as provided in section 54-27-09.

§ 2. **Legislative Intent.)** It is declared to be the intent of the legislative assembly that the appropriation herein provided shall be for the purpose of implementing a state fair and providing initial operating capital. It is the further intent of the legislative assembly that such state fair 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.

§ 3. **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 section 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 17, 1965.

CHAPTER 68

H. B. No. 831
(Hauf)

SCHOLARSHIP REVOLVING FUND

AN ACT

To transfer certain funds from the state scholarship fund reserve to the board of higher education for national student defense loans.

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

§ 1.) There is hereby appropriated and transferred from the state scholarship revolving fund reserve pursuant to section 15-62-05 the sum of $61,395.00 to the board of higher education to be used for the purposes of federal fund matching for national defense student loan funds. Upon the effective date of this Act, the industrial commission shall effectuate such transfer to the state treasury to the credit of the state board of higher education.

Approved March 10, 1965.

AERONAUTICS

CHAPTER 69

S. B. No. 219
(Holand)

AIRCRAFT REGISTRATION FEES

AN ACT

To amend and reenact sections 2-05-11 and 2-05-18 of the North Dakota Century Code, relating to aircraft registration fees and aerial spraying license fees, creating a fund within the state treasury in which such fees are to be deposited, and providing for distribution of such fees and an effective date.

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

§ 1. **Amendment.)** Section 2-05-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-05-11. Aircraft Registration—Fees.) Every aircraft operating within this state for more than thirty days shall be registered with the commission for each year in which the aircraft is operated within this state, subject to rules and regulations established by the commission. The commission shall charge for each such registration, and for each annual renewal thereof, the following fees:

Gross Weight in Pounds	License Fees
0 to 1,000	$ 15.00
1,001 to 1,500	18.75
1,501 to 2,000	22.50
2,001 to 2,500	30.00
2,501 to 3,000	37.50
3,001 to 3,500	45.00
3,501 to 4,000	52.50
4,001 to 5,000	60.00
5,001 to 6,000	75.00
6,001 to 7,000	90.00
7,001 to 8,000	105.00
8,001 to 9,000	120.00
9,001 to 10,000	135.00
10,001 to 15,000	150.00
15,001 to 20,000	225.00
20,001 to 30,000	300.00
30,001 to 40,000	450.00

40,001 to 50,000	600.00
50,001 to 75,000	750.00
75,001 to 100,000	1,125.00
100,001 and over	1,500.00

The above fees to be reduced ten percent each year after the initial registration until the fee reaches a figure equal to fifty percent of the original registration fee, which shall be the fee each year thereafter. All weights shall be based upon the maximum permissible take-off weight. The above registration fee shall be in lieu of personal property taxes upon such aircraft. There is hereby created an aeronautics distribution fund within the treasury of the state of North Dakota. All fees received from the provisions of this section shall be deposited in the aeronautics distribution fund. Seventy-five percent of the fees so collected and deposited in the aeronautics distribution fund shall be distributed by the state treasurer on vouchers prepared by the commission to the treasurer of the county of the registrant's residence or if the registrant is not a resident of North Dakota then to the treasurer of the county in which is located the airport at which the registrant's aircraft is based and the county treasurer shall pay such remittances over to the municipality operating an airport within said county; provided that if there is more than one publicly owned and operated airport within said county, that the said moneys shall be prorated between said public airports on the same ratio that the assessed value of each municipality operating an airport shall bear to the total assessed value of all municipalities operating airports within said county; and if there are no publicly owned or operated airports in said county, said remittances so paid to the county treasurer shall be held and retained by said treasurer in a separate fund to be used in the future for airport purposes.

The remaining twenty-five percent shall be transferred to the state general fund. The distribution of the fees in the aeronautics fund as hereinbefore provided shall be accomplished at the end of each calendar year.

§ 2. **Amendment.)** Section 2-05-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-05-18. License for Aerial Spraying—Regulations—Penalties.) No person shall engage in aerial spraying without first obtaining a license for each aircraft used in such activities as provided in this section. Application shall be made for such license to the North Dakota aeronautics commission upon forms provided by the commission for such purpose. Upon the payment of a license fee of fifteen dollars for each aircraft to

be licensed, and upon compliance with such reasonable rules and regulations as may be promulgated by the aeronautics commission for the safety and protection of persons and property, the commission shall issue a license for such aircraft to be used in aerial spraying. Persons engaged in private spraying shall be required to pay same fee for the use of aircraft for this purpose, and shall comply with all rules and regulations promulgated by the commission for aerial spraying. The license and fees provided in this section shall be in addition to any other license or registration required by law, and the proceeds shall be deposited in the aeronautics distribution fund. One-half of the proceeds shall be distributed by the state treasurer from the aeronautics distribution fund to the county treasurer upon vouchers prepared by the commission, to be divided equally to approved publicly owned or operated airfields in said county. The remaining fifty percent shall be transferred to the state general fund.

Any person violating any provision of this section or rules or regulations promulgated under the authority of this section shall be punished by a fine of not exceeding one hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment.

§ 3. **Effective Date.)** The provisions of this Act shall become effective January 1, 1966.

Approved March 17, 1965.

CHAPTER 70

S. B. No. 159
(Becker, Dahlund, Trenbeath, Berube, Witteman)

AERONAUTICS COMMISSION POWERS

AN ACT

To amend and reenact section 2-06-01.1 of the 1963 Supplement to the North Dakota Century Code, relating to the airport authority powers of the North Dakota aeronautics commission, the operation of airports and establishing charges, and making an appropriation.

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

§ 1. **Amendment.)** Section 2-06-01.1 of the Airport Authorities Act of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-01.1. Aeronautics Commission May Exercise Powers of Airport Authority—Exceptions.) The North Dakota aeronautics commission shall have all powers of an airport authority as defined in this chapter, except powers to certify or levy taxes or issue bonds, for the purpose of constructing and operating a public airport near the International Peace Garden and for constructing and operating such other public airports or landing fields near international border ports of entry as the aeronautics commission may determine to be in the public interest.

§ 2. **Airport Operation and Income.)** The aeronautics commission shall have operational control of airports constructed under the provisions of section 2-06-01.1 and may provide for the imposition of landing fees, granting of fuel and service concessions, or the lease of portions of the premises for other related airport services or for purposes not inconsistent with the use of the premises for airport purposes. All income from the operation of such airports shall be deposited in the state treasury in a special operating fund to be known as the airport operating fund. All expenditures from such fund shall be within the limits of legislative appropriations and shall be made upon vouchers, signed and approved by the director of the aeronautics commission. Upon approval of such vouchers by the state auditing board, warrant-checks for such expenditures shall be prepared by the department of accounts and purchases.

§ 3. **Appropriation.)** There is hereby appropriated and may be expended from the airport operating fund by the aeronautics commission for the purpose of operating and improving airports constructed and operated in accordance with section 2-06-01.1, the sum of $4,000.00 or so much thereof as may be necessary, during the biennium beginning July 1, 1965, and ending June 30, 1967.

Approved March 20, 1965.

CHAPTER 71

S. B.. No. 169
(Roen, Thompson, Redlin, Ringsak, Kisse, Van Horn, Ruemmele)

WEATHER MODIFICATION

AN ACT

Relating to weather control and artificial modification thereof; designating an authority for licensing and registration of controllers; fixing fees; declaration of the state's sovereign right to use of moisture contained in clouds; providing for intergovernmental cooperation; permitting counties to levy a tax for weather modification activities; fixing penalties; acceptance and expenditure of funds or grants by the authority and exclusion of the state of North Dakota and any county of any liability in connection therewith, and creating subsection 19 of section 58-03-07 of the North Dakota Century Code, relating to powers of township electors.

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

§ 1. **Declaration of Purposes.)** In order that the state may share to the fullest extent in the benefits already gained through fundamental research and investigation on new and improved means for predicting, influencing and controlling the weather, for the best interest, general welfare, health and safety of all the people of the state, and to provide proper safeguards in applying the measures for use in connection therewith in order to protect life and property, it is deemed necessary and hereby declared that the state of North Dakota claims its sovereign right to use the moisture contained in the clouds and atmosphere within the sovereign state boundaries.

§ 2. **Definitions.)** As used herein, unless the context or subject matter otherwise requires:

1. "Weather modification" means and extends to the control, alteration, amelioration of weather elements including man-caused changes in the natural precipitation process, hail suppression or modification and alteration of other weather phenomena including temperature, wind direction and velocity, and the initiating, increasing, decreasing and otherwise modifying by artificial methods of precipitation in the form of rain, snow, hail, mist or fog through cloud seeding, electrification or by other means to provide immediate practical benefits;

2. "Initiating precipitation" refers to the process of causing precipitation from clouds that could not otherwise, or inducing precipitation significantly earlier than would have occurred naturally;

3. "Increasing precipitation" refers to the activation of any process which will actually result in greater amounts of moisture reaching the ground in any area from a cloud or cloud system than would have occurred naturally;

4. "Hail suppression" refers to the activation of any process which will reduce, modify, suppress, eliminate or soften hail formed in clouds or storms;

5. "Person" means any person, firm, association, organization, partnership, company, corporation, private or public, county, city, trust or other public agencies;

6. "Controller" refers to any licensee duly authorized in this state to engage in weather modification activities; and

7. "Issuing authority" means the North Dakota aeronautics commission which in the exercise of the powers granted herein, shall have all of the powers of an administrative agency as defined in chapter 28-32.

§ 3. **License Required.)** It shall be unlawful for any person to engage in activities for weather modification except under and in accordance with a license granted by the issuing authority who shall prescribe, promulgate and enforce such rules and regulations and require such reports by any licensee and anyone contracting with any licensee as may be deemed proper and necessary to govern the same. Such license shall expire on December 31 of each year and shall be revocable at any time prior to such date, for cause if, after holding a hearing pursuant to due notice thereon, the issuing authority shall so determine.

§ 4. **Registration and License Fee.)** Any person desiring to cause or attempt weather modification shall make application to the issuing authority in writing, on forms supplied for this purpose by the issuing authority. Any person issued a license shall comply with rules, regulations and standards that may be promulgated by the issuing authority and pay a fee of ten dollars and he shall then become a registered licensed controller. All license fees received under this Act shall be paid into the general fund of the state treasury. Before issuing a license to any person for the purpose of weather modification, the issuing authority shall determine that the applicant has in force North Dakota workmen's compensation insurance coverage for any employees as required by law, and if the applicant purposes to utilize aircraft and employ pilots, that the aircraft and pilots are registered with the North Dakota aeronautics commission, as required by law.

§ 5. **Duties of Issuing Authority.)** The issuing authority shall determine the procedures, requirements, conditions, qualifications and professional standards under which licenses to conduct weather modification operations may be issued and shall cooperate with the federal government, its agents and contractors, and with other states and North Dakota state agencies, and with counties, in the conduct of weather modification research, experiments, studies and operations, and the issuing authority shall have the power to hold hearings, administer oaths, take and record testimony, subpoena witnesses, and make findings, orders, and determinations which shall have the force and effect of law and which shall be subject to review by courts of this state in the manner provided by chapter 28-32 of the North Dakota Century Code.

§ 6. **County Levy for Weather Modification — Hearing.)** The board of county commissioners of any county, after a public hearing upon the subject has been held pursuant to notice published twice in the official newspaper of the county, the last publication of which is at least ten days prior to the hearing date, and after approval by the electorate of the county voting upon the question of the authorization of such levy at any special, primary or general countywide election, may levy and collect annually a tax of not to exceed two mills upon the net taxable valuation of the property in the county for a "weather modification" fund which tax may be levied in excess of the mill limit fixed by law for taxes for general county purposes. Such fund shall be used only for weather modification activities within the county including research and investigation or in conjunction with any other county or counties, and with federal, state, or other public agencies, or any private person or organization. The tax levy approved at any election shall authorize such levy for a period of five years after the date of the election, but such tax levy authority may be extended for similar five-year periods upon approval of the electorate in the same manner as the original levy was approved.

§ 7. **County Budget May Be Waived for First Appropriation—Conditions.)** The provisions of chapter 11-23 of the North Dakota Century Code shall not apply to appropriations made under the provisions of this chapter, provided, however, that only after the approval by the electorate of the mill levy provided in section 6 and only for the initial or first appropriation of said "weather modification" activities, such county commissioners may, at their discretion, appropriate from moneys not otherwise appropriated in the general fund, such moneys as are necessary for carrying out the provisions of this Act, provided that said appropriation shall not exceed an amount equal

to two mill levy upon the net taxable valuation of the property in said county.

§ 8. **Bids Required—When.)** Whenever any county shall undertake to contract with any licensed controller in an amount in excess of ten thousand dollars in any one year, the board of county commissioners shall advertise for proposals for such weather modification activities and in its proceedings with respect to bids therefor, shall substantially follow the manner and form required by the laws of this state for the purchase of supplies by such counties. The board of county commissioners shall enter into no contract or agreement for weather modification services except with a licensed controller as required in this Act, except for the purpose of gathering technical information, making studies or surveys, the county may enter into a contract or agreement with any state agency or with any state chartered university, college or institution of higher learning, or with federal agencies not so licensed.

§ 9. **Performance Bond Required.)** Before any county shall contract with any licensed controller, it shall require the controller to furnish a surety bond for the faithful performance of the contract in such amount as determined by the board of county commissioners, conditioned that the licensee and his agents will in all respects faithfully perform all weather modification contracts undertaken in such county and will comply with all provisions of this Act and the contract entered into by such county and the licensee.

§ 10. **Liability.)** Nothing in this Act shall be construed to impose or accept any liability or responsibility on the part of the state of North Dakota or any of its agencies, or any state officials or state employees or county commissioners or county employees, for any weather modification activities of any person or licensed controller as defined in this Act.

§ 11. **Issuing Authority May Receive and Expend Funds.)** The issuing authority is hereby authorized to receive and accept for in the name of the state any and all funds which may be offered or become available from federal grants or appropriations, private gifts, donations or bequests, or funds from any other source, except license fees, and to expend said funds for the expense of administering this Act, and for the encouragement of experimentation in weather modification by the North Dakota state university or any other appropriate state, county, or public agency in this state either by direct grant, by contract, or by other means.

All federal grants, federal appropriations, private gifts, donations or bequests, or funds from any other source, except license fees, received by the issuing authority shall be paid

over to the state treasurer, who shall credit same to a special fund in the state treasury known as the "State Weather Modification Fund". All proceeds deposited by the state treasurer in the state weather modification fund 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 paying for the expense of administration of this Act and for the encouragement of experimentation in weather modification by the North Dakota state university or any other appropriate state, county, or public agency in this state by direct grant, by contract, or by other means.

§ **12. Aeronautics Commission—Compensation—Expenses.)** Each member of the North Dakota aeronautics commission shall receive the same compensation that is paid for other aeronautics commission duties for each day actually and necessarily engaged in performance of official duties in connection with the administration of this Act, and commission members and employees shall be reimbursed for actual and necessary expenses incurred in carrying out their official duties in the same manner and at the same rates as provided by law for state employees.

§ **13. Penalty.)** Any person contracting for or conducting any weather modification activity without being licensed in accordance with the provisions of this Act or otherwise violating the provisions thereof shall be guilty of a misdemeanor and upon conviction 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 thirty days, or by both such fine and imprisonment.

§ **14. Amendment.)** Section 58-03-07 is hereby amended by creating subsection 19 thereto to read as follows:

19. To authorize the expenditure of township funds for weather modification activities.

Approved March 19, 1965.

AGRICULTURE

CHAPTER 72

S. B. No. 162
(Hernett, Chesrown)

MULTICOUNTY FAIR ASSOCIATIONS

AN ACT

To authorize multicounty fair associations and tax levies or expenditures for such purpose.

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

§ 1. **Multicounty Fairs — Organized When — Aiding.)** A county fair association may be organized in two or more counties having taxable realty and personalty of an assessed valuation of not less than one and one-half million dollars. The executive officers and directors shall be residents of the counties. The association may apply to the boards of county commissioners of the counties for a grant to aid in the erection of suitable buildings and other improvements to accommodate its patrons and exhibits, and to pay premiums and expenses that may be awarded on such exhibits at any fair. An application for the grant shall be in writing and shall state the incorporation of the association, the names and places of residence of all its executive officers, and the ownership of real property in one of the counties sufficient in area for the purpose of its fair and the value of at least twenty-five hundred dollars. If the boards of county commissioners shall be satisfied that the statements in the application are true and that the association intends in good faith to hold a fair within one of the counties annually for the exhibition of agricultural, horticultural, mechanical, and manufactured products of the county, and of such articles as are usually exhibited at fairs, it may levy for the first year's grant of aid a tax which shall not exceed one-half of one mill on all taxable property within the county, and the same shall be collected as other taxes are collected. If the tax is levied, the boards of county commissioners shall pay to the secretary of the association, not later than July thirty-first thereafter, the amount of tax levied and shall take the receipt of the association therefor. A multicounty fair association authorized by this section and the boards of county commissioners of such counties, may do all the things allowed by law that a county fair association organized under section 4-02-26 may do.

Approved March 4, 1965.

CHAPTER 73

H. B. No. 620

(Sanstead, Wentz, Wilkie, Leer, Haugland, Kvasager, Meschke,)
(Rivinius, Strand, Johnson (Barnes), Harrison, Schoenwald,)
(Glaspey, Christensen, Elkin, Olienyk, Wastvedt, Dornacker,)
(Erickson (Ward), Welder, Bruner, Lang, Boustead, Bier,)
(Ganser, Rustan, Opedahl, Rieger, Backes, Gietzen, Meyer,)
(Williamson, Belquist, Frank, Borstad, Montplaisir, Olson,)
(Stenhjem, Loerch, Erickson (Mountrail), Johnson (Slope)

STATE FAIR ASSOCIATION

AN ACT

To provide for a North Dakota state fair association for the purpose of conducting a state fair at Minot, establishing the organizational structure of such association, meetings of such association, establishing an operating fund in the state treasury, procedures of operation, making certain acts misdemeanors, prescribing an annual report; to create section 4-02-36, and amend sections 4-02-02, 4-02-03, 4-02-04, 4-02-05, 4-02-06, 4-02-09, 4-02-11, 4-02-15, 4-02-17, and 4-02-18 of the North Dakota Century Code, to eliminate provisions applicable to a state fair association, and to repeal section 4-02-16 of the North Dakota Century Code, relating to state fairs to be held in the cities of Grand Forks and Fargo.

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

§ 1. State Fair Association.) A state fair association, to be known as the North Dakota State Fair Association, is hereby created for the purpose of conducting an annual North Dakota state fair and for the purpose of exhibiting at such fair the agricultural, stock-breeding, horticultural, mining, mechanical, industrial, and other products and resources of this state. The North Dakota state fair shall be held at Minot, North Dakota, at a site to be selected by the state fair association. No other fair shall be designated as, nor shall any other fair call itself, the state fair.

§ 2. Organization of State Fair Association—Initial Members.) For the purpose of organizing the state fair association three residents from each county in the state shall compose the initial membership in the state fair association. One member shall be selected by the county fair board, one member by the board of county commissioners, and one member by the county agent of each county. In cases where a county does not have a county agent or county fair board, the board of county commissioners shall select the resident that either the county agent, or county fair board, would normally have been entitled to select as a member of the state fair association. Within

thirty days after the effective date of this Act the names of the persons selected to serve as the initial members of the state fair association shall be forwarded to the commissioner of agriculture and labor by the agencies making such selection. The commissioner of agriculture and labor shall compile a list of all such members and forward a copy to each member. Within three months of their selection the initial members of the state fair association shall meet at a time and place agreed upon by them for the purpose of adopting bylaws, electing a temporary board of directors for one-year terms or until successors are chosen and qualified, and generally organizing the state fair association pursuant to the provisions of this Act. The initial members of the state fair association shall serve one-year terms of office, or until successors are chosen and qualified, but this provision shall not prohibit such initial members from succeeding themselves as regular members of the fair association pursuant to the provisions of this Act. The initial members and the board of directors selected therefrom shall have all the powers, and be subject to all the laws, as is provided in this Act, except that the board of directors shall serve only one-year terms of office. The first annual meeting of the state fair association shall be held at the call of the initial board of directors. A permanent board of directors, elected pursuant to the provisions of this Act, shall be selected at the first annual meeting and new or additional members of the association shall be received into the state fair association according to the provisions of this Act. The state fair association shall initiate plans at the first annual meeting for the purpose of conducting a state fair in the year 1966.

§ 3. **Permanent Members of State Fair Association.)** The state fair association, after the expiration of the term of the initial members, shall have a membership selected in the following manner:

1. Three members to be chosen annually from each of the counties of the state, such members to be residents of such county, with one member to be selected by the county fair board, one member by the board of county commissioners, and one member by the county agent;

2. Such individuals who, by reason of eminent services in agriculture, horticulture, or in the arts and sciences connected therewith, or of long and faithful service in the association, or of benefits conferred upon it, may, by two-thirds vote of the directors at any annual meeting, be elected as honorary members; and

3. Members elected by societies, corporations, or associations as determined in the association bylaws, except

that a majority of the members shall always be selected in accordance with subsection 1 of this section.

The terms of all members, except honorary members, shall be for a one-year term or until the succeeding annual meeting after such members have qualified as members, except that each member shall hold office until his successor is chosen and qualified and a member who is a director shall remain a member until his term of office as director is terminated. Honorary members shall continue as such for life. The election and selection of members shall be made and certified to the state fair association on or before each annual meeting. Each member shall be entitled to one vote on each matter submitted to a vote of the members, except honorary members shall not vote. Any member may resign his membership by filing a written resignation with the secretary of the association but memberships shall not be transferable or assignable. The board of directors, by affirmative vote of the majority of all members of the board, may suspend or expel a member for cause.

§ 4. Meetings—Time and Place—Notice.) 1. The annual meeting of the members of the state fair association shall be held as provided in the bylaws of the association. Such meeting shall be held for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the election of directors shall not be held on the day designated for any annual meeting or at any adjournment thereof, the board of directors shall cause the election to be held at a special meeting of the members as soon thereafter as may be convenient. The failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the association.

2. A special meeting of the members may be held at any time upon the call of the president or by order of the board of directors, and it shall be the duty of the president to call such a meeting whenever requested to do so by ten percent of the members of the association.

3. The board of directors may designate any place within the state as the place of meeting for any annual meeting or for any special meeting called by the board of directors.

4. Written or printed notice stating the place, day, and hour of any meeting of members shall be delivered either personally or by mail to each member entitled to vote at such meeting, not less than ten, nor more than fifty, days before the date of such meeting by, or at the direction of, the president or the secretary or the officers or persons calling the meeting. In case of a special meeting, or when required by

law or the bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of the meeting shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the association, with postage thereon prepaid.

§ 5. **Compensation of Members.)** Members shall not receive any fixed salary for their services, but, by resolution of the board of directors, per diem payments not exceeding ten dollars per day, or expense money not to exceed in amount the mileage and travel expenses allowed employees and officials of the state by law, may be allowed for attendance at each regular or special meeting. The board of directors shall have the power, in its discretion, to contract for and pay to members rendering unusual or special services to the association, special compensation appropriate to the value of such services.

§ 6. **Board of Directors—Meetings—Notice.)** The affairs of the state fair association shall be managed by its board of directors, which shall consist of nine members unless changed by an amendment to the association bylaws, except that a decrease in the number of directors shall not affect the term of any incumbent director. Each director shall hold office for a term of three years, and until his successor shall have been elected and qualified. The terms of the directors elected at the first annual meeting shall be staggered so that three directors shall be elected annually thereafter. The directors shall be members of the state fair association and residents of the state.

§ 7. **Annual Meeting—Directors to Call Special Meetings.)** A regular annual meeting of the board of directors shall be held without other notice than that provided for the annual meeting of the state fair association, immediately after and at the same place as the annual meeting of the association. The board of directors may provide by resolution the time and place for the holding of additional regular meetings of the board without other notice than such resolution. Special meetings of the board of directors may be called by the president whenever he deems it necessary or upon the written request of two of the directors. The president shall fix the time and place for the holding of any special meeting of the board of directors.

Notice of any special meeting of the board shall be given at least three days previously thereto by written notice delivered personally or sent by mail or telegram to each director at his address as shown by the records of the association. If

mailed, such notice shall be deemed to be delivered when the same is deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted, nor the purpose of any regular or special meeting of the board of directors, need be specified in the notice or waiver of notice of such meeting.

§ 8. **Quorum to Transact Business.)** A majority of the board of directors shall constitute a quorum for the transaction of business at any meeting of the board, but if less than a majority of the directors are present at such meeting, a majority of those present may adjourn the meeting from time to time without further notice. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors unless the act of a greater number is required by law or by the bylaws.

§ 9. **Vacancies and Compensation of Board Members.)** Any vacancy occurring on the board of directors shall be filled by the board of directors for the unexpired term of the vacancy. The board of directors shall not receive any salary for their services, but, by resolution of the board, per diem payments of ten dollars and travel expenses not exceeding such amounts as allowed other state officials and employees, may be allowed for attendance at each regular or special meeting of the board or members. The board of directors shall have the power, in its discretion, to contract for and to pay directors rendering unusual or exceptional services to the association, special compensation appropriate to the value of such services.

§ 10. **Officers—Removal—Vacancies.)** The officers of the association shall be a president, vice president, secretary, treasurer, and such other officers as may be created by the board of directors from time to time. All officers of the association shall perform such duties as may be prescribed by law or by the board of directors. Any two or more offices may be held by the same person except the offices of president and secretary. The president, vice president, secretary, and treasurer shall be elected annually by the board of directors, and any other offices created by the board may be filled by appointment at any meeting of the board. Each elected officer shall

hold office until his successor shall have been duly elected and qualified. Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer, whenever in their judgment the best interests of the association shall be served thereby. The removal of any officer shall be without prejudice to the contractual rights, if any, of the officer. Election or appointment of an officer or agent shall not of itself create contractual rights. Vacancies in any office because of death, resignation, removal, disqualification, or otherwise may be filled by the board of directors for the unexpired portion of the term.

§ 11. **Officers—Duties.)** 1. The president shall be the principal executive officer of the association and shall, in general, supervise and control all of the business and affairs of the association and shall preside at all meetings of the members and of the board of directors. He may sign, with the secretary, or any other proper officer of the association authorized by the board of directors, any deeds, mortgages, bonds, contracts, or other instruments which the board of directors has authorized to be executed, except in cases where the signing and direction thereof shall be expressly delegated by the board of directors or by the bylaws or by law to some other officer or agent of the association, and, in general, he shall perform all duties incident to the office of president and such other duties as may be prescribed by the board of directors from time to time.

2. In the absence of the president or in the event of his inability or refusal to act, the vice president, or in the event there be more than one vice president through appointment by the board, the vice presidents in the order of their election, shall perform the duties of the president and when so acting shall have all the power of and be subject to all the restrictions upon the president. Any vice president shall perform such other duties as from time to time may be assigned to him by the president or by the board of directors.

3. If required by the board of directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the board shall determine. He shall have charge of and custody of and be responsible for all funds and securities of the association received, and give receipts for moneys due and payable to the association from any source whatsoever, and deposit and manage all moneys as prescribed by this Act. He shall perform all the duties incident to the office of the treasurer and such other duties as from time to time the board of directors may delegate to him.

4. The secretary shall keep the minutes of the meetings of the members and of the board of directors in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of the bylaws or as required by law; be custodian of the association records; keep a register of the post office address of each member which shall be furnished to the secretary by such member; and, in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the board of directors.

5. Any other officers created by the board of directors may be required to give bonds for the faithful discharge of their duties in such sum and with such sureties as the board of directors may determine, and shall perform such duties as may be assigned to them by the treasurer, secretary, president, or board of directors.

§ 12. Director's Liability Limited.) The individual members of the board of directors of the state fair association shall not be liable for the negligence of any person, firm, or corporation staging any show, race, or other amusement at the state fair, nor for the negligence of any person employed by them.

§ 13. Bylaws, Rules, Regulations.) The state fair association may make all bylaws, ordinances, rules, and regulations, not inconsistent with law, which it may deem necessary or proper in carrying out the provisions of this Act and for the government of the grounds on which the state fair is to be held, and for all fairs to be held thereon, and for the protection, health, safety, and comfort of the public. Such bylaws, ordinances, rules, and regulations shall be in effect from the time of filing with the secretary of the association.

§ 14. Appointment of Necessary Employees.) The president or any other person delegated such authority by the board of directors, shall appoint and employ such deputies and other subordinates, and such contractors, architects, builders, clerks, accountants and other experts, and agents and servants as required to carry out the functions of the state fair association. Salaries and other compensation shall be set by the president and board of directors and any expenses incurred in the performance of employment shall be reimbursed in the same manner and for the same amounts as is provided for officials and employees of the state.

§ 15. State Fair Operating Fund — Maintained in State Treasury — Expenditures.) A special fund for the North Dakota state fair association to be known as the State Fair Operating Fund shall be maintained in the state treasury,

and all income, fees, rents, interest, moneys which may be appropriated by the legislative assembly from time to time, and any other moneys, from whatever source derived by the state fair association, shall be placed in such fund for the use of the North Dakota state fair association; provided, however, that moneys which may be appropriated by the legislative assembly shall only be transferred from the general fund appropriation, and placed in the state fair operating fund by the state treasurer, upon order of the director of the department of accounts and purchases whenever the balance in such fund falls so low as to require supplementation. Any moneys or income in the state fair operating fund shall not revert or be canceled according to the provisions of section 54-27-09. All expenditures of the state fair association from the state fair operating fund shall be made upon vouchers signed by the secretary, or other person authorized by the board of directors, and approved by the state auditing board, upon warrant-checks prepared by the department of accounts and purchases. The directors of the North Dakota state fair association may, not more than fifteen days in advance of the opening of any state fair, submit to the state auditing board a proposed budget of expenditures for operating the state fair, together with a signed voucher or vouchers for the withdrawal from the state fair operating fund of the total amount of the proposed expenditures. Upon approval of such proposed budget of expenditures by the state auditing board, the director of accounts and purchases shall prepare and issue a warrant-check or checks in such approved amount payable to the state fair association. Such warrant-checks shall be deposited to the account of the North Dakota state fair association in the Bank of North Dakota, and shall be subject to being withdrawn by check for the payment of prizes and costs of operation of the state fair. Not later than sixty days after the closing day of the state fair, the association shall file with the state auditing board a detailed and itemized statement of expenditures together with copies of all checks issued, and shall immediately close such account at the Bank of North Dakota and transfer any remaining balance to the state treasurer for deposit in the state fair operating fund. The treasurer, or other officer delegated such authority by the board, shall remit monthly all income, fees, rents, interest, or other moneys received by the state fair association, to the state treasurer who shall credit the same to the state fair operating fund and such moneys credited to the fund are hereby appropriated as a standing appropriation for the purposes provided in this Act.

§ 16. Organization Under Corporation Laws—Real Property Transactions—Contracts.) The state fair association shall possess all the rights, privileges, and liabilities pertaining to

corporations under the corporation laws of this state except as may be limited or specified by this Act. The association may purchase, hold, lease, exchange, trade, or sell real estate for the purpose of promoting and conducting a state fair. Buildings and real estate controlled by the state fair association may be leased, sub-leased, rented, or used for purposes other than the conducting of the fair during such times when the property is not needed for fair purposes. The state fair association may contract in its own name, but as an agency of the state, and shall make all of its purchases pursuant to the purchasing laws of the state through the department of accounts and purchases, except as may be exempted therefrom by the director of the department of accounts and purchases as provided by law.

§ 17. Name in Which Business Conducted and Titles Taken —Execution of Written Instruments.) All business of the association shall be conducted under the name of "North Dakota State Fair Association". Title to property obtained in regard to the operation of the association shall be obtained and conveyed in the name of the state of North Dakota, doing business as the North Dakota state fair association. Written instruments shall be executed in the name of the state of North Dakota.

§ 18. State Auditor to Examine Records and Accounts of State Fair Association.) It shall be the duty of the state auditor to annually examine the records and accounts of the North Dakota state fair association and to report thereon to the governor and to the legislative audit and fiscal review committee.

§ 19. Attorney General to Act as Legal Adviser.) The attorney general shall appoint an assistant attorney general or a special assistant attorney general to provide legal assistance to the state fair association. The appointment shall be revocable at the pleasure of the attorney general. The provisions of this section shall not prohibit the state fair association from employing any other attorney to carry out the legal functions of the association or provide additional legal services, other than those provided through the office of the attorney general, necessary for the proper administration of the state fair association.

§ 20. Law Enforcement — Arrangements with Local Law Enforcement Agencies.) The state fair association shall make arrangements with local law enforcement agencies for the provision of law enforcement personnel. For the purpose of enforcing any state and local laws, rules, regulations, bylaws, and ordinances of the state fair association, negotiations may

be entered into with local law enforcement agencies for the use of such law enforcement personnel or the deputizing of employees of the state fair association. The cost of providing such law enforcement personnel shall be the responsibility of the state fair association, except in the case of law enforcement officials who are functioning in their normal capacity as agents of the state or its political subdivisions. Law enforcement personnel shall wear appropriate badges of office while acting as such.

§ 21. Service of Process.) In any action or proceeding upon a claim arising out of the conducting of the state fair, service of process may be made as provided for in section 53-05-04.

§ 22. Exhibition Date of Fair To Be Filed.) The secretary or other officer delegated such duty shall file with the commissioner of agriculture and labor, on or before May first of each year, the dates on which the state fair will be held.

§ 23. Regulation and Licensing.) The state fair association shall regulate all shows, exhibitions, performances, establishments, and privileges carried on during the state fair and to such end shall supervise and ensure that such enterprises are properly licensed according to local and state laws. The state fair association may license any enterprises not required to be licensed by state or local laws, and shall be charged with the responsibility of seeing that all state and local laws and all rules and regulations of the fair association are complied with by such shows, exhibitions, performances, establishments, or those granted fair privileges.

§ 24. Unlawful Acts.) Any person who shall trespass on, enter, or attempt to enter the grounds upon which the state fair is being held, by jumping, climbing, or passing through any enclosure, or in any manner, except through the gates provided therefor, or who shall enter such gates or other reserved enclosure, without authority of the board of directors or its authorized officers, or who shall obtain permission to enter the grounds by impersonating another, or by any misrepresentation or false pretense, or who shall be found lurking, lying in wait, or concealed in any building, on the immediate vicinity thereof, with intent to steal, or commit other offenses or mischief, shall be guilty of a misdemeanor.

§ 25. Nonliability of State for Debts—Exception.) The state shall not be liable for any of the debts or liabilities of the state fair association except as appropriations are made therefor from time to time by the legislative assembly and transferred to the state fair operating fund.

§ 26. **Annual Report.)** The secretary or other officer charged with such duty, shall compile an annual report of the proceedings of the state fair association and its financial condition for the preceding fiscal year. Such report shall be prepared so as to be available for the annual meeting. A copy of such report shall be filed in the office of the commissioner of agriculture and labor who shall include it, in whole or in part, in his biennial report to the governor and the secretary of state.

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

4-02-02. Director's Liability Limited.) The individual members of the board of directors of any fair association shall not be liable for the negligence of any person, firm, or corporation staging any show, race, or other amusement at any county or municipal fair, nor for the negligence of any person employed by the board of directors or the association conducting such fair.

§ 28. **Amendment.)** Section 4-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-03. Debts—Limitation of Amount.) A fair association shall not contract debts or liabilities in excess of the money in the treasury at the time of the contract, except that debts or liabilities may be contracted for in a sum not to exceed two thousand five hundred dollars when this sum is reasonably expected from the receipts of a fair or exposition to be held in the immediate future. The fair association also may contract a debt not to exceed ten thousand dollars for the purchase of real property or for permanent improvements on real property owned by the association if the debt is secured by mortgage on the real property of the association. The directors voting for any debt contracted or incurred in violation of this section shall be liable personally thereon.

§ 29. **Amendment.)** Section 4-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-04. Income and Expenses—Membership in Association and Terms Thereof.) An agricultural fair association shall not be conducted for profit and shall have no capital stock. The bylaws of the association shall provide for charges to the public for admission to the grounds, fees for concessions, charges to exhibitors, and rental of the association's property, and the amounts thereof shall not be greater than is sufficient

to discharge the association's debts for real estate and improvements thereon, to defray the current expenses of fairs, to carry on the business of the association, and to create a sinking fund in an amount not exceeding five thousand dollars. The method of acquiring membership in the association, and the term of such membership, shall be provided in the association's bylaws.

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

4-02-05. Real Property—District Associations—Limitations on Holding.) Any district fair association may purchase, hold, or lease any quantity of land, with the buildings and improvements erected thereon, and may sell, lease, or otherwise dispose of the same at pleasure. The real estate shall be held for the purpose of erecting buildings and making other improvements thereon, to promote and encourage agriculture, horticulture, mechanics, manufactures, stock raising, and general domestic industry.

§ 31. **Amendment.)** Section 4-02-06 of 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 and labor, 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.

§ 32. **Amendment.)** Section 4-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-09. Fairs—Location at Grand Forks and Fargo.) A fair or exposition shall be held biennially at or near the city of Grand Forks in the state of North Dakota during each odd numbered year, and biennially at or near the city of Fargo in the state of North Dakota during each even numbered year, subject to the conditions contained in this chapter. The location of such fairs as provided in this chapter shall be permanent.

§ 33. Amendment.) Section 4-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-11. Premises—Custody and Control.) The care, custody, management, and control of the premises upon which the fairs held at Grand Forks and Fargo are located shall be vested in the North Dakota Fair Association for Grand Forks and the North Dakota Fair Association for Fargo, respectively, and the general offices shall be located and maintained upon the fair grounds or at some suitable place in the respective cities. Each association shall keep its records in its offices.

§ 34. Amendment.) Section 4-02-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-15. Association May Lease Property.) Nothing contained in this chapter shall prohibit either the Grand Forks or Fargo fair association from leasing its grounds and buildings for agricultural and stock exhibits.

§ 35. Amendment.) Section 4-02-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-17. District Fairs—Location.) A district fair shall be held annually by a Missouri Slope Agriculture and Fair Association at the city of Mandan, and a fair may be held or arranged or contracted for by the Northwest Agricultural Livestock and Fair Association at the city of Minot. The respective fairs are subject to the conditions prescribed in this chapter. Location of the district fairs named is to be permanent.

§ 36. Amendment.) Section 4-02-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-18. Premises of District Fairs—Custody and Control.) The care, custody, management, and control of the premises upon which the respective district fairs are located shall be vested in the Missouri Slope Agriculture and Fair Association for Mandan, and the Northwest Agricultural Livestock and Fair Association for Minot, respectively, and the general offices shall be located upon the fair grounds or at some suitable place in the respective cities. Each association shall keep its records in its offices. Nothing in this section shall prevent the Northwest Agricultural Livestock and Fair Association from making any necessary arrangements with the state fair association of the fair grounds located at Minot for the conducting of a state fair by the state fair association.

§ 37.) Section 4-02-36 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-02-36. Chapter Not Applicable to State Fair Association.) The provisions of this chapter shall not be applicable to the holding of the state fair and shall not apply to the North Dakota state fair association.

§ 38. **Repeal.)** Section 4-02-16 of the North Dakota Century Code is hereby repealed.

Approved March 10, 1965.

CHAPTER 74

H. B. No. 770
(Christensen, Leer, Belquist, Rivinius, Poling, Davis, Miller)

COUNTY EXTENSION FINANCING

AN ACT

To amend and reenact sections 4-08-09 and 4-08-15 of the North Dakota Century Code, to authorize the board of county commissioners to budget funds from the county general fund in addition to the funds derived from the one mill levy authorized for county extension purposes.

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

§ 1. **Amendment.)** Section 4-08-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-08-09. Budgeting for County Agent.) When the board of county commissioners is authorized to make a levy for the employment of a county agent, it shall provide a budget which shall stipulate the salary of the agent, field and office expenses, and allowance for clerical hire. After mutually agreeing upon a budget and after deducting the amount of funds contributed from federal and state funds, the board shall proceed to make a levy or appropriate funds out of the county general fund or both as it may deem necessary to cover the county's share of the budget. Until the office of county agent shall be discontinued, a similar budget shall be agreed upon and annually such levy and appropriation shall be made by the board.

§ 2. **Amendment.)** Section 4-08-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-08-15. One Mill Levy—Appropriation from County General Fund—Both Authorized.) The board of county commissioners of any county of this state in which a levy for county agent work has been voted on and approved by the people as provided for in sections 4-08-01 and 4-08-03 of this code, may levy not to exceed an amount necessary for such purpose, as provided in section 4-08-09 of this code, which amount shall not exceed one mill upon the taxable valuation of property in the county, and which levy shall not be restricted by the county tax levy limitation prescribed by law. If it shall determine that the amount derived from the authorized one mill levy will not be sufficient for such purpose the board may appropriate in addition thereto funds out of the county general fund to cover such deficiency.

Approved March 2, 1965.

CHAPTER 75

H. B. No. 728
(Reimers, Duncan, Ganser, Dornacker, Powers (Cass), Hilleboe)

BONDING SEED DEALERS

AN ACT

To provide for the bonding of seed dealers and for the establishment of grain standards.

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

§ 1. Repurchase Contracts—Bonding Requirement for Nonresident Seed Dealers.) Any nonresident person or his agent shall pay an annual license fee of twenty-five dollars to the state seed commissioner before engaging in the business of selling any agricultural grain or grass seed or entering into any contract with a purchaser whereby he agrees to purchase or retains an option to purchase the grain or grass seed or feed grain produced. Such license shall be renewable annually on January 1 of each year. In addition, at the time of making application for such license, the applicant shall furnish a corporate surety bond to be approved by the commissioner in the penal sum of ten thousand dollars running to the state of North Dakota for the use and benefit of any such purchaser of seed or seller under a repurchase contract or option, who may have a cause of action against any seller or repurchaser who fails to comply with the terms of the purchase or repurchase contract. All fees collected under this section shall be disposed of in the manner provided in section 4-09-20.

§ 2. Grain Standards.) The state seed commissioner may establish standards for all grain for which there are no standards adopted or enacted by the Government of the United States.

Approved March 19, 1965.

CHAPTER 76

H. B. No. 604
(Christensen, Winge, Ivesdal, Krenz, Hickle)

SOIL CONSERVATION DISTRICTS

AN ACT

To amend and reenact section 4-22-22, subsection 13 of section 4-22-26, and 4-22-44 of the North Dakota Century Code, relating to the expenses of supervisors; the borrowing of funds by districts through the pledging of its income, the payment of liabilities, and the disposal of property when terminating the affairs of the district.

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

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

4-22-22. Supervisors — Terms of Office — Vacancies — Removal—Expenses.) The election at which a board of supervisors of a soil conservation district is first elected, after organization of such district, shall be considered the first regular election of the district regardless of when the election was held. The term of supervisors elected at such first regular election shall be determined as follows: The elected supervisor having received the lowest number of votes shall hold office until the first Tuesday in April following such first election; the elected supervisor receiving the next highest number of votes shall hold office until the first Tuesday in April of the second year following such first election; and the supervisor having received the largest number of votes shall hold office until the first Tuesday in April of the third year following the year in which such first election was held. The successor of a supervisor elected at a regular election held after such first election shall hold office for a term of three years until his successor is duly elected and qualified except where a supervisor is elected to fill the unexpired term of a supervisor whose office has become vacant.

District supervisors whose terms of office expired as of January 1, 1953, or whose terms of office expired prior thereto and who are holding office by reason of the circumstance that no district election has been held, shall hold office until the first Tuesday in April, 1954, and until their successors are duly elected and qualified. The offices of supervisors whose terms have been thus extended under the provisions of this section shall be filled at the regular district elections in March of 1954. The term of office of the elected supervisor receiving the lowest number of votes for such office shall expire the first Tuesday in April, 1955; the supervisor having received next to the highest number of votes, shall hold office until the first Tuesday in April, 1956; and the term of office of the supervisor having received the largest number of votes shall expire as of the first Tuesday in April, 1957. A supervisor, shall, however, hold office until his successor has been elected and qualified. After 1954 a soil conservation district supervisor elected at a district regular election for a full term shall hold office for three years and until his successor is elected and has qualified. In case the office of any supervisor shall, for any reason, become vacant, the remaining members of the board of supervisors shall, with the advice and consent of the state committee, fill the vacancy by appointment. In the event that vacancies shall occur in the office of two supervisors the remaining supervisor and the state committee shall fill the vacancy; and in case the offices of all the supervisors of a district shall become vacant the state committee shall fill the vacancies by appointment. A supervisor appointed to fill a vacancy shall hold office until the first Tuesday in April of the year following the first regular district election held after such appointment was made. A supervisor elected to fill a vacancy shall serve the balance of the unexpired term in which the vacancy occurred.

Any supervisor of a soil conservation district may after notice given and hearing held in accordance with the Administrative Practices Act of this state, be removed from office by the state committee.

The supervisors of soil conservation districts shall receive no compensation for their services other than travel and subsistence expenses necessarily incurred in attending district, state, or other meetings approved by the state soil conservation committee, which expenses shall be paid from appropriations available to the state committee. All other expenses including travel incurred by district supervisors while transacting district business and not specifically authorized by the state soil conservation committee shall be paid from district funds.

§ 2. **Amendment.)** Subsection 13 of section 4-22-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. To make and execute contracts and other instruments necessary or convenient to the exercise of its powers; to borrow funds and pledge all or any part of any income from the district's facilities, equipment, and operations for the repayment thereof;

§ 3. **Amendment.)** Section 4-22-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-44. Termination of Affairs of District — Disposal of Property—Certificate of Dissolution.) Upon receipt from the committee of its certification that it has determined that the continued operation of the district is not administratively practicable and feasible, the supervisors shall proceed to terminate the affairs of the district. The supervisors of the district may dispose of all or part of any property belonging to the district at public auction and shall use the proceeds of such sale to pay any liabilities. The balance of any funds and undisposed property shall become the property of the county or counties such district is a part of as directed by the supervisors. The supervisors thereupon shall file an application, duly verified, with the secretary of state for the discontinuance of the district, and shall transmit with such application the certificate of the committee setting forth its determination that the continued operation of the district is not administratively practicable and feasible. The application shall recite what property, if any, of the district has been disposed of, the liabilities paid, and the property or proceeds paid over as provided herein and shall set forth a full accounting of such properties and the proceeds of the sale thereof. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Approved March 2, 1965.

CHAPTER 77

S. B. No. 332
(Dahlund, Tuff, Larson, Forkner, Nelson)

INTERSTATE PEST CONTROL COMPACT

AN ACT

To provide for an interstate compact for pest control assuring a high degree of cooperation between states for the purpose of reducing the multi-billion dollar loss each year from the depredations of pests, providing for its administration, and making an appropriation.

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

§ 1. Enactment of Interstate Compact on Pest Control.) The Interstate Compact on Pest Control is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

Article I. Findings.) The party states find that:

1. In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately seven billion dollars from the depredations of pests is virtually certain to continue, if not to increase.

2. Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

3. The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.

4. While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an insurance fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance

with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

Article II. Definitions.) As used in this compact, unless the context clearly requires a different construction:

1. "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

2. "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.

3. "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision 2 of this article.

4. "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.

5. "Insurance fund" means the pest control insurance fund established pursuant to this compact.

6. "Governing board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

7. "Executive committee" means the committee established pursuant to Article V-5 of this compact.

Article III. The Insurance Fund.) There is hereby established the pest control insurance fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The insurance fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the insurance fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

Article IV. The Insurance Fund—Internal Operation and Management.)

1. The insurance fund shall be administered by a governing board and executive committee as hereinafter provided. The actions of the governing board and executive committee pursuant to this compact shall be deemed the actions of the insurance fund.

2. The members of the governing board shall be entitled to one vote each on such board. No action of the governing board shall be binding unless taken at a meeting at which a majority of the total number of votes on the governing board are cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

3. The insurance fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

4. The governing board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not succeed himself. The governing board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the governing board. The governing board shall make provision for the bonding of such of the officers and employees of the insurance fund as may be appropriate.

5. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board in its bylaws shall provide for the personnel policies and programs of the insurance fund.

6. The insurance fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

7. The insurance fund 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 or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the governing board pursuant to this paragraph or services borrowed pursuant to paragraph 6 of this Article shall be reported in the annual report of the insurance fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender.

8. The governing board shall adopt bylaws for the conduct of the business of the insurance fund and shall have the power to amend and rescind these bylaws. The insurance fund 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.

9. The insurance fund annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. The insurance fund may make such additional reports as it may deem desirable.

10. In addition to the powers and duties specifically authorized and imposed, the insurance fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

Article V. Compact and Insurance Fund Administration.)

1. In each party states there shall be a compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

   a. Assist in the coordination of activities pursuant to the compact in his state; and

   b. Represent his state on the governing board of the insurance fund.

2. 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 governing board of the insurance fund by not to exceed three 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, but no such representative shall have a vote on the governing board or on the executive committee thereof.

3. The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the insurance fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of moneys from the insurance fund. Additional meetings of the governing board shall be held on call of the chairman, the executive committee, or a majority of the membership of the governing board.

4. At such times as it may be meeting, the governing board shall pass upon applications for assistance from the insurance fund and authorize disbursements therefrom. When the governing board is not in session, the executive committee thereof shall act as agent of the governing board, with full authority to act for it in passing upon such applications.

5. The executive committee shall be composed of the chairman of the governing board and four additional members of the governing board chosen by it so that there shall be one member representing each of four geographic groupings of party states. The governing board shall make such geographic groupings. If there is representation of the United States on the governing board, one such representative may meet with the executive committee. The chairman of the governing board shall be chairman of the executive committee. No action of the executive committee shall be binding unless taken at a meeting at which at least four members of such committee are present and vote in favor thereof. Necessary expenses of each of the five members of the executive committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the governing board, shall be charges against the insurance fund.

Article VI. Assistance and Reimbursement.)

1. Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

   a. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.

b. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

2. Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the insurance fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys made available from the insurance fund expeditiously and efficiently to assist in affording the protection requested.

3. In order to apply for expenditures from the insurance fund, a requesting state shall submit the following in writing:

   a. A detailed statement of the circumstances which occasion the request for the invoking of the compact.

   b. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state.

   c. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefor, in connection with the eradication, control, or prevention of introduction of the pest concerned.

   d. Proof that the expenditures being made or budgeted as detailed in item c do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in item c constitutes a normal level of pest control activity.

e. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the insurance fund in one year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.

f. Such other information as the governing board may require consistent with the provisions of this compact.

4. The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the insurance fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

5. Upon the submission as required by paragraph 3 of this Article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board or the executive committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the governing board or executive committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

6. A requesting state which is dissatisfied with a determination of the executive committee shall upon notice in writing given within twenty days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the governing board. Determinations of the executive committee shall be reviewable only by the governing board at one of its regular meetings, or at a special meeting held in such manner as the governing board may authorize.

7. Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the insurance fund, either at the time or times

when such state incurs expenditures on account of such measures, or as reimbursement for the expenses incurred and chargeable to the insurance fund. The governing board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

8. Before authorizing the expenditure of moneys from the insurance fund pursuant to an application of a requesting state, the insurance fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

9. The insurance fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the insurance fund, cooperating federal agencies, states and any other entities concerned.

Article VII. Advisory and Technical Committees.) The governing board 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 such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the governing board or executive committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the insurance fund being considered by such board or committee and the board or committee may receive and consider the same: provided that any participant in a meeting of the governing board or executive committee held pursuant to Article VI-4 of the compact shall be entitled to know the substances of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof, or, if made thereafter, no later than the time at which the governing board or executive committee makes its disposition of the application.

Article VIII. Relations with Nonparty Jurisdictions.)

1. A party state may make application for assistance from the insurance fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a

pest within a party state, except as provided in this Article.

2. At or in connection with any meeting of the governing board or executive committee held pursuant to Article VI-4 of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the governing board or executive committee may provide. A nonparty state shall not be entitled to review of any determination made by the executive committee.

3. The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The governing board or executive committee may set any conditions which it deems appropriate with respect to the expenditure of moneys from the insurance fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.

Article IX. Finance.)

1. The insurance fund shall submit to the executive head or designated officer or officers of each party state a budget for the insurance fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

2. Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the insurance fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

3. The financial assets of the insurance fund shall be maintained in two accounts to be designated respectively as the "operating account" and the "claims account". The operating account shall consist only of those assets necessary for the administration of the insurance fund during the next ensuing two-year period. The claims account shall contain all moneys not included in the operating account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the insurance fund for a period of three years. At any time when the claims account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the governing board shall reduce its budget requests on a pro rata basis in such manner as to keep the claims account within such maximum limit. Any moneys in the claims account by virtue of conditional donations, grants or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such moneys are available to meet demands arising out of claims.

4. The insurance fund shall not pledge the credit of any party state. The insurance fund may meet any of its obligations in whole or in part with moneys available to it under Article IV-7 of this compact, provided that the governing board takes specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the insurance fund makes use of moneys available to it under Article IV-7 hereof, the insurance fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

5. The insurance fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the insurance fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the insurance fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the insurance fund.

6. The accounts of the insurance fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the insurance fund.

Article X. Entry into Force and Withdrawal.)

1. This compact shall enter into force when enacted into law by any five or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

2. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads 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 XI. 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 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 herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

§ 2.) Consistent with law and within available appropriations, the departments, agencies, and officers of this state may cooperate with the insurance fund established by the Pest Control Compact.

§ 3.) Pursuant to subdivision 8 of Article IV of the compact, copies of bylaws and amendments thereto shall be filed with the governor and the commissioner of agriculture and labor.

§ 4.) The compact administrator for this state shall be the commissioner of agriculture and labor. The duties of the compact administrator shall be deemed a regular part of the duties of his office.

§ 5.) Within the meaning of subdivision 2 of Article VI or subdivision 1 of Article VIII, a request or application for assistance from the insurance fund may be made by the governor and the commissioner of agriculture and labor, when-

ever in their judgment the conditions qualifying this state for such assistance exist and it would be in the best interest of this state to make such request.

§ 6.) The notices provided for by subdivision 4 of Article VI of the compact shall be delivered, under the terms of the compact, to the governor and the commissioner of agriculture and labor.

§ 7.) The department, agency, or officer expending or becoming liable for an expenditure on account of a control or an eradication program undertaken or intensified pursuant to the compact shall have credited to an operating fund in the state treasury the amount or amounts of any payments made to this state to defray the cost of such program, or any part thereof, or as reimbursement thereof.

§ 8. **Title.)** As used in the compact, with reference to this state, the term "executive head" shall mean the governor.

§ 9. **Appropriation.)** There is hereby appropriated from any unexpended funds provided in the Grasshopper Control Act, as provided by chapter 80 of the 1957 Session Laws, the sum of $29,000 for the purposes of this Act, for the period beginning July 1, 1965, and ending June 30, 1967.

§ 10. **Effective Date.)** The effective date of this Act shall be January 1, 1966, except that it shall not become effective until the compact is ratified by ten or more states, at least one of which is a state bordering North Dakota.

Approved March 15, 1965.

ALCOHOLIC BEVERAGES

CHAPTER 78

H. B. No. 734
(Staven, Ruddy, Obie, Schoenwald)

ALCOHOLIC BEVERAGE SALES

AN ACT

To amend and reenact section 5-01-13 of the North Dakota Century Code, relating to the prohibition of the consumption as well as the sale or gift of alcoholic beverages on licensed premises on certain days.

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

§ 1. **Amendment.)** Section 5-01-13 of 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 while the polls are open or within one hour thereafter is guilty of a misdemeanor.

Approved March 2, 1965.

CHAPTER 79

H. B. No. 769
(Gengler, Frank, Miller, Harrison)

ALCOHOLIC BEVERAGE TAX EXEMPTION

AN ACT

To amend and reenact section 5-03-06 of the North Dakota Century Code, relating to exemptions from taxes on alcoholic beverages.

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

§ 1. **Amendment.)** Section 5-03-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-06. Exemption from Tax.) The taxes levied by this chapter shall not apply to one wine gallon or less of alcoholic beverages brought into North Dakota from foreign countries by any one person for his personal use and not for resale and which was in his personal possession at the time of his entry.

Approved March 5, 1965.

CHAPTER 80

S. B. No. 335
(Ringsak, Kautzmann)

ALCOHOLIC BEVERAGE LICENSEE QUALIFICATIONS

AN ACT

To amend and reenact subsection 2 of section 5-05-03 of the North Dakota Century Code, relating to the qualifications required for a license to sell alcoholic beverages.

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

§ 1. **Amendment.)** Subsection 2 of section 5-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Applicant shall not have been convicted of a felony, or of pandering or of keeping or maintaining a house of prostitution.

Approved March 20, 1965.

CHAPTER 81

S. B. No. 331
(Kautzmann, Ringsak, Reichert)

ALCOHOLIC BEVERAGE CONTROL

AN ACT

To amend and reenact sections 5-05-14, 54-12-12, 5-01-25 and to repeal section 5-02-09 of the North Dakota Century Code, relating to hours when the sale or consumption of alcoholic beverages is prohibited and fees and mileage for witnesses subpoenaed for liquor hearings and salary limits for the state inspector, his deputies, and the chief clerk, and possession, attempted purchase, and purchase of alcoholic beverages by minors.

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

§ 1. **Amendment.)** Section 5-05-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-05-14. Witnesses—Subpoena—Fees.) The attorney general or other employee of his office authorized herein to conduct any hearing shall have the power to subpoena witnesses, to compel their attendance, and to administer oaths. Such witness shall receive the same fees and mileage as a witness in a civil case in the district court, such fees and expenses to be paid by the state treasurer on voucher duly approved by the attorney general.

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

54-12-12. Licensing Department—Inspectors—Powers and Duties.) The attorney general shall be authorized to appoint a state inspector, four deputy inspectors and investigators, and a chief clerk who shall be bookkeeper and stenographer, and such other clerks and deputies as may be necessary for the proper administration of the licensing department. All of whom shall hold office during the pleasure of the attorney general, and all of whom shall give bond to the state of North Dakota in the sum of five thousand dollars. Such bond to be issued in the state bonding fund, conditioned for the faithful performance of their duties and the accounting for the license fees collected by them. The attorney general shall fix their salaries within limits as provided by the legislative assembly. The chief clerk under the direction of the attorney general shall have charge of the office, including the receiving and

disbursement of all money. The state inspector under the direction of the attorney general shall have charge of the inspections, investigations, and law enforcements and shall direct the work of the deputy inspectors and investigators, and each inspector and investigator shall possess all the powers of police officers anywhere in the state, shall have authority to visit and inspect any of the places herein mentioned, and as police officers to make arrests for violation of any laws of this state and shall be authorized to investigate and conduct investigations of any immoral or corrupt practices or violation of laws of this state and places being conducted contrary to law or Constitution of this state.

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

5-01-25. Minors—Possession, Attempted Purchase, or Purchase Unlawful.) It shall be unlawful for any person under the age of twenty-one years to purchase, attempt to purchase, or have in his or her possession any alcoholic beverage.

§ 4. **Repeal.)** Section 5-02-09 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1965.

BANKS AND BANKING

CHAPTER 82

S. B. No. 285
(George, Mahoney)

STATE EXAMINER'S FEES

AN ACT

To amend and reenact sections 6-01-17 and 6-09-29 of the North Dakota Century Code, relating to fees charged by the state examiner.

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

§ 1. Amendment.) Section 6-01-17 of 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: one and one-half hundredths of one percent of the gross amount of the assets up to ten million dollars plus seventy and one-half thousandths of one percent of the gross amount of the assets in excess of ten million dollars 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 one hundred and fifty dollars and not more than one thousand five hundred 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.

§ 2. Amendment.) Section 6-09-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-29. State Examiners to Make Examinations and Reports.) The state examiner, personally or through deputy examiners, shall visit the banking department of the Bank of North Dakota at least once annually, and shall inspect and verify the assets in its possession and under its control with sufficient thoroughness to ascertain with reasonable certainty whether the valuations are carried correctly on its books. He shall investigate its methods of operation and accounting. He shall report the results of each such examination and investigation to the industrial commission as soon as practicable, and shall furnish one copy to the legislative assembly at its next ensuing session upon request. 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.

Approved March 15, 1965.

CHAPTER 83

S. B. No. 352
(Kjos, Ringsak)

MUNICIPAL AUDITS

AN ACT

To amend and reenact sections 6-01-21.2 of the North Dakota Century Code, relating to auditing municipalities.

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

§ 1. **Amendment.)** Section 6-01-21.2 of the 1963 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 500 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 500 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 stated examiner until such irregularities, procedures or illegal actions are corrected, and fees for such examinations, so resumed, shall be paid in accordance with this section.

Fees for the examinations provided for in this section shall be charged by the state examiner at the rate of twenty-five dollars per day for the time used by himself or other persons designated by him in supervising, filing and corresponding in connection with such reports of examination, and for time used by each deputy examiner or other person or persons in

making such examinations and otherwise preparing and typing the reports of examinations herein provided for. Fee for an extra day shall be charged for each person who may be required to travel to participate in the examinations in this section provided, and all fees for the examinations herein provided shall be paid by the subdivision examined to the state treasurer and by him credited to the general fund of the state.

Approved March 15, 1965.

CHAPTER 84

S. B. No. 287
(George, Mahoney)

BANK STANDARDS

AN ACT

To amend and reenact sections 6-02-01 and 6-05-01 of the 1963 Supplement to the North Dakota Century Code, and section 6-03-11 of the North Dakota Century Code, relating to organization, mergers and powers of banks and trust companies.

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

§ 1. Amendment.) Section 6-02-01 of the 1963 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 chapters 6-04 or 6-05, excepting only national banking corporations and the Bank of North Dakota, shall make use of or display in connection with its business, in signs, letterheads, advertising, or in any other way, such words as "bank", "banker", "banking", "savings bank", or any other word or words of like import, nor shall any person or concern do or perform anything in the nature of the business of a bank or savings bank until and unless such business is regularly organized or authorized under this chapter or chapters 6-04 or 6-05. If any firm or corporation organized prior to July 1, 1931, shall have been granted a charter permitting it to use any word, words or title contrary to the intent of this section, and by reason of its rights under such charter the provisions of this section may not be enforced against it during the life of such charter, no renewal charter shall be

granted to such person, firm, or corporation permitting the continuance of the use of such word, words, or title contrary to or in violation of this section. Any person, firm, or corporation which, by reason of an existing charter right under any law or statute in effect prior to July 1, 1931, may be held by the courts not to be affected by this section and which therefore refuses to comply with the provisions hereof, during the period of noncompliance, prominently and continuously, shall display in plain, legible, and clearly discernible lettering on all of its signs, stationery, circulars, and advertising, and in all of its printed or written matter the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE STATE BANK EXAMINER", and such language shall be displayed as prominently thereon as is other matter therein. Any person, firm, company, copartnership, or corporation, domestic or foreign, violating any provision of this section shall forfeit to the state one hundred dollars for every day or part thereof during which such violation continues. In an action brought by the state examiner or any aggrieved person, the court may issue an injunction restraining any such person, firm, company, copartnership, or corporation from further using such words, terms, or phrases in violation of this section or from further transacting business in such way or manner as to lead the public to believe that its business is in whole or in part of the nature of a bank or savings bank, or that it is under the supervision of the state banking board or the state examiner. Any trust company duly granted a charter to engage in banking business upon compliance with this chapter, shall be subject to the state banking board in its banking operations as is the case for other chartered banks, and all the laws relating to banks in this title are thereafter applicable. Any trust company 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.

§ 2. **Amendment.)** Section 6-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-11. Conversion, Consolidation, or Merger.) Any two or more banking institutions as defined in section 6-01-02 upon making application to the state banking board and upon notice and a hearing as provided by sections 6-02-05 and 6-02-06 may consolidate or merge if authorized by the board into one banking institution under the charter of either existing banking institution on such terms and conditions as lawfully may be agreed upon by a majority of the board of directors of each banking institution proposing to consolidate or merge. Before becoming final, such consolidation or merger must be ratified and confirmed by the vote of the shareholders of each such banking institution owning at least two-thirds of its capital stock outstanding, at a meeting to be held on the call of the directors. Notice of such meeting and of the purpose thereof must be given to each shareholder of record by registered or certified mail at least ten days prior to the meeting. The shareholders may unanimously waive such notice and may consent to such meeting and consolidation or merger in writing. The capital stock and surplus of such consolidated banking institution shall not be less than that required under this title for the organization of a banking institution of the class of the largest consolidating banking institution. Immediately after the consolidation or merger a full report thereof including a statement of the assets and liabilities of the consolidated banking institution shall be made to the state examiner by the surviving banking institution. Any banking institution may without approval by any state authority convert into or merge or consolidate with a national banking association as provided by federal law.

§ 3. **Amendment.)** Section 6-05-01 of the 1963 Supplement to the North Dakota Century Code, is hereby amended and reenacted to read as follows:

6-05-01. Who May Form—Corporation Has Perpetual Existence.) Any number of persons, not less than nine, at least three of whom must be residents of this state, may associate themselves and form a corporation for the purpose of transacting business as an annuity, safe deposit, surety, and trust company. Its existence shall be perpetual.

At the time and place stated, and through any sources of information at its command, the board diligently shall inquire whether the place where such company is proposed to be located is in need of a further annuity, safe deposit, surety and trust company, whether the proposed institution is adapted

to the filling of such need, and whether the proposed incorporators are possessed of such character, integrity, reputation, and financial standing as shown by a detailed financial statement to be furnished by them, that their connection with the company will be beneficial to the public welfare of the community in which such company is proposed to be established. The board shall hear any reasons advanced by the applicants why they should be permitted to organize the proposed institution, and any reasons advanced by any person why such institution should not be permitted to be organized. At the termination of such hearing, the board shall make a brief statement in writing of its conclusions, and if it finds that the proposed institution should not be permitted to organize, it shall state briefly the reasons why. A copy of such conclusions either shall be endorsed upon or attached to the organization certificate, together with the refusal or grant of permission to the proposed incorporators to present the said organization certificate to the secretary of state. A determination in favor of such organization must be joined in by all the members of the board.

Any banking association organized under chapter 6-02 shall be entitled to transact business as a trust company upon making application to the state banking board for a hearing as provided for in this section. 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 a trust company upon its showing full compliance with the provisions of sections 6-05-03, 6-05-04 and 6-05-05 except the capital stock of the banking association shall not be required to be divided in shares of one hundred dollars each as provided by section 6-05-03. The provisions of sections 6-05-06 and 6-05-07 shall not be applicable to banking associations granted authority to engage in the business of a trust company by the state banking board. Thereafter such banking association shall be subject to the jurisdiction of the state banking board as to its trust company operations the same as trust companies organized under chapter 6-05.

Approved March 17, 1965.

CHAPTER 85

S. B. No. 283
(George, Mahoney)

BANK CAPITALIZATION

AN ACT

To amend and reenact sections 6-02-03, 6-02-06, 6-03-07 and 6-03-25 of the North Dakota Century Code, relating to hearing by board, investment in banking facility, and approval of increase or decrease by stockholders.

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

§ 1. **Amendment.)** Section 6-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-02-03. Capital Stock and Surplus Required.) The capital stock of any banking association shall be not less than fifty thousand dollars. In addition to such capital requirements there shall be subscribed and paid in at the time of organization a surplus of not less than twenty-five thousand dollars. The state banking board may require such additional capital, surplus and undivided profits as it may determine necessary to properly serve the area and to protect the public interest. All of the capital stock and surplus of every association shall be paid in before it shall be authorized to commence business, and evidence of such payment either in actual money or a deposit in a previously approved correspondent bank must be furnished to the state examiner before the certificate of authority may be delivered to it. The board may require such insurance on deposits as it may deem necessary to properly protect the public interest.

§ 2. **Amendment.)** Section 6-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-02-06. Hearing by Board—Conclusions.) At the time and place stated, and through any sources of information at its command, the board diligently shall inquire whether the place where such banking association is proposed to be located is in need of further banking facilities, whether the proposed association is adapted to the filling of such need, and whether the proposed incorporators are possessed of such character, integrity, reputation, and financial standing as shown by a detailed financial statement to be furnished by them, that their connection with the banking association will be beneficial

to the public welfare of the community in which such bank is proposed to be established. The state banking board shall inquire into the qualifications of the management of the proposed bank. Qualifications of management shall include adequate experience, as determined by the board, with financial institutions or other approved related experience. Prior to such hearing, the applicants shall pay to the board such sum as it may designate not exceeding five hundred dollars to defray the cost of investigation and hearing by the board. The board shall hear any reasons advanced by the applicants why they should be permitted to organize the proposed association, and any reasons advanced by any person why such association should not be permitted to be organized. At the termination of such hearing, the board shall make a brief statement in writing of its conclusions, and if it finds that the proposed association should not be permitted to organize, it shall state briefly the reasons why. A copy of such conclusions either shall be endorsed upon or attached to the organization certificate, together with the refusal or grant of permission to the proposed incorporators to present the said organization certificate to the secretary of state. A determination in favor of such organization must be joined in by all the members of the board.

§ 3. **Amendment.)** Section 6-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-07. Investment in Banking Facility, Furniture, and Fixtures, Limitation.) No state banking association shall invest in a banking facility and in furniture and fixtures used in such banking facility, an amount which will exceed the amount of the capital stock of such bank without the approval of the state banking board.

§ 4. **Amendment.)** Section 6-03-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-25. Approval of Increase or Reduction by Stockholders —Notice of Stockholders' Meeting.) An increase or reduction of the capital stock of any association shall not be valid unless approved by the stockholders of the association at a meeting called for that purpose. Notice of the time and place of the meeting stating its object and the amount to which it is proposed to increase or reduce the capital stock of the association must be served personally or by registered or by certified mail on each stockholder of the association at least thirty days prior to the time set for such meeting. Such notice must be given to stockholders whose places of residence are unknown

or who are not residents of this state by publication of the notice at least once prior to the meeting, in a legal newspaper of the county wherein the principal office of the association is situated. A vote in favor of an increase in capital stock shall not be effective until the proceedings of the meeting showing the names of all of the stockholders voting for the increase and the amount of stock owned by each have been entered upon the records of the association.

Approved March 17, 1965.

CHAPTER 86

S. B. No. 195
(George)

REAL ESTATE LOAN LIMITATIONS

AN ACT

To amend section 6-03-05, relating to loans on real estate.

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

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

6-03-05. Loans on Real Estate—Regulation—Limitation—Amortized Loans Provided For.) No association shall own or carry among its assets at any one time loans dependent primarily upon real estate security in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of sixty-six and two-thirds percent of the amount of its time and savings deposits, whichever is the greater, and then only first mortgages constituting first liens upon such real estate. Before any such loan is made the board of directors shall appoint from among its members a committee which shall make actual inspection of the security offered and shall appraise both the land and the improvements thereon, if any, and shall report to the board of directors, in writing, the results of the appraisal together with any other facts relating to such proposed loan and proposed security as will best enable the board to determine if the loan shall be granted. Such written report shall be made a permanent record in the bank's files and shall be made available to the state examiner. No director shall act as an appraiser of his own

property nor of property offered as security for loans the poceeds of which are to be used for his benefit. No unamortized loan secured by realty may be made for a period exceeding five years in an amount exceeding fifty percent of the appraised value of the real estate offered as security.

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

Approved March 6, 1965.

CHAPTER 87

S. B. No. 211
(Kautzmann)

BANK RESERVE REQUIREMENTS

AN ACT

To amend and reenact section 6-03-37 of the North Dakota Century Code, relating to bank reserves, and providing a penalty.

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

§ 1. **Amendment.)** Section 6-03-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-37. Reserve Funds Required—Disposition Thereof.) Every banking association shall have on hand at all times in available funds an amount which shall equal ten percent of its demand deposits and amounts due to other banks, plus five percent of its time deposits. Such reserve funds may consist of cash on hand or of balances due to the association from the Bank of North Dakota, or good solvent state or national banks or trust companies, approved by the state examiner for such purposes and located in such commercial centers as will facilitate the purposes of banking exchanges. The state examiner, whenever he deems it necessary or expedient to do so, may require such banking association, on fifteen days' notice in writing, to increase such reserve requirements to not more than twenty percent of its demand deposits and not more

than ten percent of its time deposits. Cash items shall not be included in computing reserve, and no association shall carry as cash, or as cash items, any paper or other matter except legitimate bank exchange which will be cleared on the same or the next succeeding day. Whenever its available funds within the meaning of this section shall be below the requirements hereinbefore stated, an association shall not make any dividend of its profits until the required proportion between the aggregate amount of the deposits and its lawful money reserve has been restored.

If on any one day, such reserve shall not meet the requirements it shall not constitute a deficiency or violation for the purposes of this section provided that the average reserve for the period starting on Thursday of the same calendar week and ending on the second Wednesday following, shall equal or exceed the minimum requirements.

The state examiner must notify any association whose money reserve shall be below the amount required to be kept on hand to make good such reserve, and if such association shall fail to do so for a period of thirty days after such notice, the state banking board may impose a penalty of not less than one hundred dollars or an amount equal to seven percent per annum based on the average deficiency for the period of deficiency, whichever is greater, which shall be collected in the same manner as other penalties prescribed in this title.

The state banking board may suspend for a period not exceeding thirty days, and from time to time renew such suspension for periods not exceeding fifteen days, any reserve requirement specified in this section.

Approved March 10, 1965.

CHAPTER 88

S. B. No. 196
(George)

BANK LOAN LIMITATIONS

AN ACT

To amend and reenact section 6-03-59 of the North Dakota Century Code, relating to limitations on bank loans.

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

§ 1. **Amendment.)** Section 6-03-59 of the North Dakota Century Code as amended is hereby amended and reenacted to read as follows:

6-03-59. Loan—Limitation to One Person or Concern.) The total liability of any person, corporation, company, or firm to any state banking association shall not exceed at any time twenty-five percent of the unimpaired capital and surplus of such association. The liability of a firm shall include the liabilities of the several members thereof for money borrowed and on paper purchased by the association upon which they are liable as makers, and the head of a family and all the dependent members thereof shall be regarded as one person. The discount of bills of exchange drawn in good faith against actual existing values, loans secured by bills of lading drawn against produce in transit, and loans secured by bonded warehouse receipts or elevator storage tickets covering produce actually in storage shall not be considered as money borrowed if all paper relating to such transactions is made payable to, and such paper and the security therefor remains in the possession and control of the association until the advance or debt is paid. An association may discount commercial or business paper actually owned by the person negotiating it without such discounting being deemed an addition to any loan made to the negotiator.

Approved March 10, 1965.

CHAPTER 89

S. B. No. 142
(Torgerson, Beck, Ringsak)

JOINT BANK ACCOUNTS

AN ACT

To amend and reenact section 6-03-66 of the North Dakota Century Code, relating to joint bank accounts.

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

§ **1. Amendment.)** Section 6-03-66 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-66. Deposit in Two or More Names—to Whom Paid.) When a deposit has been made with any banking association in the name of two or more persons, payable to one or more of the depositors or payable to the survivor or survivors, such deposit, or any part thereof, or any interest or dividend thereon, may be paid to said person or persons whether the others be living or not. The receipt or acquittance of the person or persons so paid shall be a valid and sufficient release and discharge to such banking association for any payment so made.

Approved March 10, 1965.

CHAPTER 90

S. B. No. 123
(Urdahl, Kelly, Solberg, Thompson, Rait)

CREDIT UNION BOARD POWERS

AN ACT

To create sections 6-06-36 and 6-06-37; to amend subsection 5 of section 6-06-02, subsection 7 of section 6-06-07, sections 6-06-08, 6-06-10, 6-06-14, 6-06-21, 6-06-21.1, and 6-06-26; and to repeal sections 6-06-22, 6-06-23, 6-06-24, and 6-06-25 of the North Dakota Century Code, relating to the powers and duties of the state credit union board; mergers of credit unions; the maximum amount of money which can be loaned without security; reserve funds, and the general operation of such credit unions.

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

§ **1.)** Section 6-06-36 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-06-36. Merger.) Any credit union chartered under this Act or under Act of Congress may merge under rules and regulations established by the state credit union board.

§ **2.)** Section 6-06-37 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-06-37. Rules and Regulations.) The state credit union board shall prescribe rules and regulations regarding the merger, consolidation and dissolution of corporations organized under this Act and Acts of Congress.

§ **3. Amendment.)** Subsection 5 of section 6-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The examiner shall notify the applicants and the state credit union board of his decision, and if it is favorable, the board shall instruct the secretary of state to issue a charter, which shall be by him attached to the duplicate certificate of organization and returned, together with the duplicate bylaws, to the applicants upon payment of a filing fee of five dollars to the secretary of state; and

§ **4. Amendment.)** Subsection 7 of section 6-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Subject to such regulations as the state credit union board may prescribe, insurance obtained under title 1 of the National Housing Act shall be deemed adequate security;

§ **5. Amendment.)** Section 6-06-08 of 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—Fee.) 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 forty dollars per examiner day, except that the minimum fee for the examination of a credit union shall be twenty-five dollars.

§ **6. Amendment.)** Section 6-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-10. General and Special Meetings—Notice—Quorum—Voting Privileges.) General and special meetings may be held in the manner and for the purposes indicated in the bylaws of

the credit union. Ten days before any regular or special meeting written notice thereof shall be mailed to each member, and, in the case of a special meeting, the notice shall state clearly the purpose of the meeting and what matters will be considered thereat. The members present at a general or special meeting shall constitute a quorum for the transaction of the business of the credit union. At all meetings, a member shall have but a single vote, whatever his share holdings. There shall be no voting by proxy, but any firm, society, or corporation having a membership in the credit union may cast its vote by one person upon presentation by him to the credit union of written authority from such firm, society, or corporation.

§ 7. **Amendment.)** Section 6-06-14 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-14. Loans—How Made—Security—Meetings and Duties of Credit Committee.) The credit committee shall have general supervision over all loans to members, and shall meet as often as may be necessary to perform its duties and at least once each month. Notice must be given to each member of the committee before any meeting is held. All applications for a loan shall be made on a form approved by the committee and shall set forth the purpose for which the loan is desired, the security, if any, which is offered, and such other data as the committee may require. No loan in excess of seven hundred and fifty dollars shall be made without adequate security and security, under this section, shall include an assignment of shares or deposits, an endorsement made on the note by a responsible person, and such other security as the committee in its discretion may deem adequate. No loan shall be made unless it is approved by a majority of the entire committee and by all members of the committee who are present at the meeting at which the application is considered; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans up to the unsecured limit, or in excess of such limit if such excess is fully secured by unpledged shares. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer.

§ 8. Amendment.) Section 6-06-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-21. Reserve Fund — Amount Required and How Raised.) Every credit union shall maintain a reserve fund to be used as a reserve against bad loans and other losses. Such fund shall not be distributed except upon liquidation. All entrance fees and fines shall be paid into such reserve fund, and in addition thereto, each credit union, annually, until such time as its reserve fund shall equal ten percent of its paid-in capital and surplus, shall transfer twenty percent of its net earnings to such reserve fund. Thereafter, there shall be added annually to the reserve fund at the end of each fiscal year, such percentage of the gross earnings of the credit union as shall be required to maintain its reserve fund at ten percent of its paid-in capital and surplus.

§ 9. Amendment.) Section 6-06-21.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-21.1. Amount and Manner of Establishing Special Reserves for Delinquent Loans and Investments.) Whenever the reserve, required by section 6-06-21 of this code, shall be inadequate for bad loans or investments, a special reserve for delinquent loans and investments shall be established. The amount of such reserve shall be determined by the state credit union board. The state credit union board is hereby granted the authority to adopt such rules and regulations as it deems advisable for the establishment of special reserves for delinquent loans and investments.

§ 10. Amendment.) Section 6-06-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-26. Dividends.) Annually or semiannually a credit union, upon action by its board of directors, may declare a dividend to be paid from the remaining net earnings. Such dividends shall be paid on all paid-up shares outstanding at the end of the period for which the dividend is declared. Shares which become fully paid up during each dividend period and are outstanding at the close of the period shall be entitled to a proportional part of such dividends. Dividend credit for a month may be accrued on shares which are or become fully paid up during the first ten days of that month, except that the members may fix the maximum rate of dividends which shall be paid annually or semiannually. Such dividend, not to exceed six percent in any case, must be paid from the net earnings of the credit union, after establishing a special

reserve for delinquent loans if required by the state credit union board. Annually or semiannually, a credit union, upon action of its board of directors, may authorize an interest refund to members of record at the close of business the last day of any dividend period in proportion to the interest paid during that dividend period. Interest refunds may be made to borrowers only after provision has been made or a special reserve for delinquent loans if required by the state credit union board.

§ 11. **Repeal.)** Sections 6-06-22, 6-06-23, 6-06-24, and 6-06-25 of the North Dakota Century Code are hereby repealed.

Approved March 10, 1965.

CHAPTER 91

H. B. No. 869
(Meschke)

LIMITATION OF ACTIONS AGAINST BANKS

AN ACT

To amend and reenact section 6-08-24 of the North Dakota Century Code, relating to retention of bank records and limitation of actions on accounts and claims.

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

§ 1. **Amendment.)** Section 6-08-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-08-24. Actions on Accounts and Claims Limited.) No depositor or other creditor shall commence an action against a bank on any account or claim of any kind after the expiration of the six year period provided for in section 6-08-23, unless such depositor or creditor shall have, within such six year period, made demand in writing on such bank requesting a settlement or adjustment of such claim; provided, however, that ledger sheets showing unpaid balances in favor of depositors shall not be destroyed unless a photographic copy is retained in accordance with section 31-08-01.1, and nothing in sections 6-08-23 and 6-08-24 shall be construed as limiting the time when actions may be brought to recover such balances.

Approved March 15, 1965.

CHAPTER 92

H. B. No. 806
(Burk)

LOANS TO GENERAL FUND

AN ACT

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

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 three hundred and fifty thousand dollars from the accumulated profits of the state mill and elevator association.

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

§ 3. **Loans to General Fund Authorized.)** Upon application by the state treasurer and the director of the department of accounts and purchases, the state industrial commission may direct the Bank of North Dakota to make loans in amounts at no time exceeding the total sum of five million dollars to the state general fund, for periods of time not exceeding nine months in duration, at such rates of interest as the industrial commission may prescribe, for the purpose of making money available to meet legislative appropriations from the general fund during periods of seasonally low tax collections or periods in which high withdrawals or expenditures occur.

Approved March 17, 1965.

BUILDING AND LOAN ASSOCIATIONS

CHAPTER 93

H. B. No. 795
(Haugland, Whittlesey, Meschke, Boustead)

LOAN LIMITATIONS

AN ACT

To amend and reenact section 7-04-13 of the North Dakota Century Code to permit savings and loan associations to make share loans up to one hundred percent.

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

§ 1. **Amendment.)** Section 7-04-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-04-13. Loans to Members.) Loans may be made to members on notes secured by mortgages which shall be a first lien on improved real property. Such loans shall not exceed seventy-five percent of the cash value of such property and shall be payable in shares of the association or by periodical installments, provided, however, that, as to percentage of loan to value, such percentage as is permitted for federal chartered associations shall also be legal, for loan purposes, for any federally insured state-chartered association in the territory in which such state association is authorized to operate, any provision herein contained notwithstanding. When an association holds a mortgage on real property which is a first and prior lien thereon, the association may increase its loan thereon and secure the same by a second or subsequent mortgage payable in installments. A prior lien or encumbrance on real property, upon which the association holds a subsequent mortgage or encumbrance, may be sold, transferred, or assigned, but the aggregate amount of such outstanding and unsatisfied prior liens or encumbrances so sold, transferred, or assigned shall not exceed ten percent of the association's assets at any one time and shall not in any event exceed the amount of its reserve fund. The total indebtedness of a member to the association, less the amount of dues paid on the shares pledged for a loan, shall not exceed seventy-five percent of the cash value of the real property securing the loan. An association may permit members to secure the repayment of loans by giving the association a straight note and mortgage on real property for a

fixed period, but in such event the amount of the loan shall not exceed fifty percent of the cash value of the property, and the loan must be approved by the board of directors prior to the granting thereof. No association shall make straight loans on real property in excess of ten percent of the assets of the association, and neither fines nor penalties may be collected on a straight note and mortgage. Loans may be made on the mutual plan or on the definite contract plan. Loans made on the mutual plan shall be accompanied by a pledge of shares having a matured or par value equal to the face of the loan, and shall become due and payable upon the date of maturity of the stock of the borrowing member pledged as collateral security to such loan, but the payments made by the borrower upon the shares so pledged shall not be considered as payments upon the principal of the loan. Definite contract loans shall be repayable in a definite number of equal periodical installments to be set out in the note or obligation, each in an amount sufficient so that the aggregate of all will repay the principal of the loan, together with the interest on the unpaid periodical balances, within the time and at the rate agreed upon. Upon the pledge as collateral security of shares of such association, loans may be made to shareholders in an amount up to one hundred percent of the withdrawal value of shares pledged.

Approved March 2, 1965.

CHAPTER 94

H. B. No. 900
(Jungroth)

EXAMINATION FEES

AN ACT

To amend and reenact section 7-05-01 of the North Dakota Century Code changing the examination fee for examination of building and loan or savings and loan associations.

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

§ 1. **Amendment.)** Section 7-05-01 of 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 twenty 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 seventy-five dollars. The maximum fee shall not be more than one thousand five hundred 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 March 15, 1965.

CORPORATIONS

CHAPTER 95

H. B. No. 779
(Miller, Meschke, Whittlesey)

SECURITIES REGULATION

AN ACT

To amend and reenact subsection 7 of section 10-04-05, subsection 9 of section 10-04-06 and subsection 1 of section 10-04-07.1 of the 1963 Supplement to the North Dakota Century Code, relating to the supervision of issue and sale of securities.

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

§ **1. Amendment.)** Subsection 7 of section 10-04-05 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Any note, draft, bill of exchange or bankers' acceptance, which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, is not the subject of a public offering, has at the time of issuance a definite maturity (after all days of grace, if any) of not exceeding one year, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security;

§ **2. Amendment.)** Subsection 9 of section 10-04-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. The sale of preorganization subscriptions for shares of stock of a corporation prior to the incorporation thereof is exempt provided each of the four following conditions are met:

   1. The number of persons solicited does not exceed fifteen people, or the amount raised by such subscription does not exceed twenty-five thousand dollars in the aggregate;

   2. Such solicitation or sale is evidenced by a written agreement;

3. No commission or other remuneration is given, or promised, directly or indirectly, for or in connection with the sale of such securities;

4. No payment in any form is made by any subscriber, and no consideration is received, directly or indirectly, by any person from the purchasers of such securities until, either:

   a. Registration by qualification of such securities, or registration of the securities provided for in the preorganization subscription, is made under section 10-04-08 of the North Dakota Century Code; or

   b. Until articles of incorporation are filed with the secretary of state, and the corporation has held its first organizational meeting.

§ 3. Amendment.) Subsection 1 of section 10-04-07.1 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Securities that have been outstanding and in the hands of the public for not less than one year as a result of prior original registration in North Dakota or through securities and exchange commission registration, by the issuer, or by the underwriter on behalf of an issuer, shall be entitled to registration by announcement in the manner and subject to the conditions provided by this section.

In addition to the foregoing, stock (having equal voting rights with other classes) of life insurance companies may also qualify for registration under this section provided the company has been in continuous operation for twenty years immediately preceding the date of filing for registration and provided further that in addition to supplying the information required by subdivisions a through c of subsection 2 of this section the applicant can supply all of the following:

a. A balance sheet and an earnings statement showing statutory net earnings after all dividends (returned premiums) to policyholders and after all expenses including state and federal income taxes for the fiscal period ended not more than twelve months prior to the filing date upon which either an unqualified or a qualified opinion has been expressed by a certified public accountant: provided, however, that any qualification of opinion relates only to generally accepted principles of accounting which may have been modified to meet the reporting requirements of the various state insurance departments; and

b. Such balance sheet separates the surplus account into its component parts and shows a positive balance in the accumulated unrestricted retained earnings account (on statutory basis); and

c. Earnings statements for the four fiscal years immediately preceding the beginning date of the earnings statement required in subdivision a of this subsection prepared by the same certified public accountant showing statutory net earnings after the deductions enumerated in subdivision a of this subsection for each fiscal year; provided, however, that these statements need not be accompanied by an unqualified or a qualified opinion of the certified public accountant unless such certified public accountant did actually perform an audit of the company for any year or years covered by the earnings statements in which case the requirements of subdivision a of this subsection apply for the year or years so audited; and

d. A statement prepared by a certified public accountant or actuary showing a net gain in insurance in force for each of the last five fiscal years.

Approved March 15, 1965.

CHAPTER 96

H.B. No. 777
(Miller, Meschke, Whittlesey)

SECURITIES REGULATION

AN ACT

To amend and reenact sections 10-04-07, 10-04-08, and subsection 6 of section 10-04-10 of the North Dakota Century Code, relating to the supervision of issue and sale of securities.

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

§ 1. **Amendment.)** Section 10-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-07. Registration by Description.) The following securities shall be entitled to registration by description in the manner provided in this section. Securities of an issuer which:

1. Has been in continuous operation for not less than three years; and
2. Has shown, during the period of not less than three years and not more than five years next prior to the date of registration under this section, average annual net earnings after deducting all prior charges, including state and federal income taxes, except charges upon securities to be retired out of the proceeds of sale, as follows:
   a. In the case of interest bearing securities, not less than one and one-half times the annual interest charges on such securities and on all other outstanding interest bearing securities of equal rank;
   b. In the case of securities having a specified dividend rate, not less than one and one-half times the annual dividend requirements on such securities and on all outstanding securities of equal rank;
   c. In the case of securities wherein no dividend rate is specified, not less than five percent on all outstanding securities of equal rank, together with the amount of such securities then offered for sale, based upon the maximum price at which such securities are to be offered for sale. The ownership by an issuer of more than fifty percent of the outstanding voting stock of a corporation shall be construed as the proportionate ownership of such corporation and shall permit the inclusion of earnings of such corporation applicable to the payment of dividends upon the stock so owned in the earnings of the issuer of the securities being registered by description.
3. Securities entitled to registration by description shall be registered by filing with the commissioner by the issuer or by a registered dealer of:
   a. A registration statement in a form prescribed by the commissioner, signed by the person filing such statement and containing the following information:
      (1) Name and address of person filing statement;
      (2) Name and business address of issuer, and address of issuer's principal office in this state, if any;
      (3) Title of securities being registered and total amount of securities to be offered;
      (4) Amount of securities to be offered in this state, price at which securities are to be offered for

sale to the public, and amount of registration fee, computed as hereinafter provided in subsection 5; and

(5) A brief statement of the facts which show that the securities are entitled to be registered by description;

b. Payment of the required registration fee; and

c. If the person who is registering the securities is not domiciled in this state and is not a corporation organized or authorized to transact business under the laws of this state, a consent to service of process conforming to the requirements of section 10-04-14. Such filing with the commissioner, which may be made either by delivery in the office of the commissioner or by posting by registered or certified mail properly addressed to the commissioner, shall constitute the registration of securities by description and such registration shall become effective as of the time of such filing. Upon such registration by description, securities may be sold in this state by the registered dealer.

4. Upon the receipt of a registration statement, payment of the registration fee, and, if required, a consent to service of process, the commissioner shall record the registration by description of the securities described therein in the register of securities. Such registration shall be effective for a period of one year and may be renewed for additional periods of one year, if the securities are entitled to registration under this section at the time of renewal, by a new filing under this section together with the payment of the renewal fee;

5. For the registration of securities by description there shall be paid to the commissioner a registration fee of one-twentieth of one percent of the aggregate offering price of the securities which are to be sold in this state, but in no case shall such registration fee be less than fifty dollars or more than five hundred dollars. For the renewal of the registration of securities by description there shall be paid to the commissioner a renewal fee of fifty dollars; and

6. If at any time, in the opinion of the commissioner, the information in a registration statement filed with him is insufficient to establish the fact that the securities described therein are entitled to registration by description under this section, he may by order require

the person who filed such statement to file such further information as may in his judgment be necessary to establish the fact that such securities are entitled to registration under this section.

§ 2. Amendment.) Section 10-04-08 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-08. Registration by Qualification.) Securities required to be registered by qualification under this chapter before they may be sold in this state shall be registered as provided in this section. Application for registration of securities by qualification shall be made by the issuer of the securities or by a registered dealer by filing in the office of the commissioner:

1. An application for registration which shall be made in writing or on forms prescribed by the commissioner and which shall contain the following information and be accompanied by the following documents:

   a. With respect to the applicant or issuer and any significant subsidiary: its name, address, and form of organization; the state of foreign jurisdiction and date of its organization; the general character and location of its business; a general description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;

   b. With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him as of a specified date within thirty days of the filing of the application for registration; the amount of the securities covered by the registration statement to which he has indicated his intention to subscribe; and a description of any material interest in any transaction with the issuer or any subsidiary effected within the past three years or proposed to be effected;

   c. With respect to persons covered by subsection 1b of this section: the remuneration paid during the past twelve months and estimated to be paid during the next twelve months, directly or indirectly, by the issuer to all those persons in the aggregate;

d. With respect to any person owning of record, or beneficially if known, ten percent or more of the outstanding shares of any class of equity security of the issuer: the information specified in subsection 1b of this section other than his occupation;

e. With respect to every promoter if the issuer was organized within the past three years: the information specified in subsection 1b of this section, any amount paid to him within that period or intended to be paid to him, and the consideration for any such payment;

f. With respect to any person on whose behalf any part of the offering is to be made in a non-issuer distribution: his name and address; the amount of securities of the issuer held by him as of the date of the filing of the application for registration; a description of any material interest in any transaction with the issuer or any subsidiary effected within the past three years or proposed to be effected; and a statement of his reasons for making the offering;

g. The title, kind, classes, and amount of securities to be offered in this state; the proposed offering price to the public or the method by which it is to be computed; any variation therefrom at which any proportion of the offering is to be made to any person or class of persons other than the underwriters, with a specification of any such person or class; the basis upon which the offering is to be made if otherwise than for cash; the maximum amount of commission or other form of remuneration to be paid in cash or otherwise, directly or indirectly, for or in connection with the sale or offering for sale of such securities; the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering, or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges and a statement as to what person or corporation shall be responsible for payment of the same; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement pur-

suant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;

h. The estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the amounts of any funds to be raised from other sources to achieve the purposes stated; the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property, including good will, otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons who have received commissions in connection with the acquisition, and the amounts of any such commissions and any other expense in connection with the acquisition;

i. A description of each and every stock option or other security option outstanding, or to be created in connection with the offering, including the price at which such options may be exercised together with the amount of any such options held or to be held by every person;

j. The capitalization and long-term debt of the issuer and any subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration for which the issuer or any subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities;

k. The dates of, parties to, and general effect concisely stated of, every management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the application for registration or was made within the past two years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer is a party and which affects its business or assets;

l. A detailed statement showing the items of cash, property, services, patents, goodwill and any other consideration for which any securities of the issuer

have been within two years or are to be issued in payment;

m. A copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering;

n. A specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered;

o. A balance sheet of the issuer as of a date within four months prior to the filing of the registration statement; a profit and loss statement and analysis of surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessors' existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if the business were the registrant;

p. Other states in which it is proposed to offer the securities for sale to the public; other states in which the securities are eligible for sale to the public; states which have refused, by order or otherwise, to render the securities eligible for sale to the public or have revoked or suspended the right to sell the securities, or in which an application for qualification has been withdrawn; and, if application has been made to register the securities under the Federal Securities Act of 1933, the date upon which the application to register the securities was first filed, and a statement as to whether registration under that Act is effective, and if so, the effective date; and

q. Such additional information as the commissioner requires by rule or order or may subsequently request.

2. a. Payment of a filing fee of fifteen dollars per application and a registration fee for each security or class of security to be registered as follows:

One-tenth of one percent of the first $750,000 of the aggregate offering price of each security or class of security to be registered;

One-twentieth of one percent on any amount in excess of $750,000 of the aggregate offering price of each security or class of security to be registered; but,

in no event shall such registration fee be less than fifty dollars for each security or class of security to be registered. If the application for registration is denied such registration fee less the actual cost to the state of processing and investigating as determined by the commissioner shall be returned to the applicant.

b. (1) Open-end management companies, mutual funds, investment trusts, unit investment trusts, contractual plans and face amount certificates will pay a filing fee of fifteen dollars and a registration fee computed as follows: One-tenth of one percent of the first $250,000 of dollar value, at offering prices, or maturity value of face amount certificates, plus one-twentieth of one percent of the next $500,000 of dollar value, at offering price or maturity value of face amount certificates, plus one-fortieth of one percent of the remaining dollar value at offering price or maturity value of face amount certificates.

(2) Provided, also that on application to register more than $250,000, the commissioner may prescribe a maximum amount of securities to be registered at any time by any such issuer described in paragraph (1) of subdivision 2b of this section.

Provided, further, that any applicant wishing to register additional securities under this same paragraph before the expiration of one year from the date of the registration certificate may do so at the same reduced fee as if the additional shares had been included in the other registration of that year, registration year and not calendar year.

(3) Provided, further, that those issuers of several classes of such securities may not combine the registration of several classes for the purpose of benefiting from the graduated scale of fees.

3. If the applicant is not domiciled in this state and is not a corporation organized or authorized to transact business under the laws of this state, a consent to

service of process conforming to the requirements of section 10-04-14 of this chapter.

4. The commissioner may by rule or order require as a part of the application for registration under this section that a prospectus containing any designated part of the information specified in subsection 1 of this section be submitted to the commissioner and the same prospectus shall be sent or given to each person to whom a sale or offer of sale is made. The commissioner may by rule or otherwise permit the omission of any item of information or document from any application for registration. In all cases in which an application is filed to register securities and a registration statement covering the same securities has been filed with the Federal Securities and Exchange Commission a copy of the registration statement so filed shall be accepted by the commissioner in lieu of the information specified in paragraphs a. through q. of subsection 1, except that it shall be accompanied by a statement of the amount of such securities to be offered in this state. All of the statements, exhibits, or documents of every kind required under this section shall be certified by the applicant or the issuer or any person having knowledge of the facts. An applicant may, with the consent of the commissioner, amend or withdraw an application and any or all statements, exhibits, or documents filed therewith under this section at any time prior to the registration or prior to any offering and sale of the securities sought to be registered or the entry of an order denying the registration of such securities but in no event shall the registration fee be returned.

Additional amounts of securities registered under this section may, with the consent of the commissioner, be registered by payment of the proper registration fee, which shall be computed as provided in subsection 2 of this section as a separate fee for each additional amount registered, and upon providing the commissioner with any additional information which he may request.

Registration under this section shall be effective for a period of one year and may be renewed for additional periods of one year by filing, by a date not later than fifteen days prior to the expiration of a registration, a balance sheet and a profit and loss statement of the issuer as of a date not more than ninety days prior to the date of filing, together with the payment of a renewal fee of fifty dollars, and upon providing the commissioner with any additional information which he may request.

§ 3. **Amendment.)** Subsection 6 of section 10-04-10 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. **Fees.** The fee, which must accompany the application, for registration and for each annual renewal thereof shall be:

   a. For each dealer employing five or less salesmen in this state ..... $ 75.00

   b. For each dealer employing more than five, but not more than fifteen salesmen in this state $100.00

   c. For each dealer employing more than fifteen salesmen, but not more than thirty salesmen, in this state $150.00

   d. For each dealer employing more than thirty salesmen in this state $200.00

   e. For each salesman
      Uniform examination ..... $ 10.00
      State law examination ..... $ 5.00
      Registration fee ..... $ 12.50
      Renewal fee ..... $ 7.50
   f. For each investment counsel ..... $ 25.00

   An application to register as a dealer, salesman or investment counsel may, with the consent of the commissioner, be withdrawn upon written application, but in no event shall any registration fees be returned.

Approved March 15, 1965.

CHAPTER 97

S. B. No. 41
(Hernett, Holand, Kisse)
(From LRC Study)

ELECTRIC COOPERATIVE EXCISE TAX EXEMPTION

AN ACT

To repeal section 10-13-07 of the North Dakota Century Code, relating to fees and excise taxes payable by electric cooperatives.

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

§ **1. Repeal.)** Section 10-13-07 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1965.

COUNTIES

CHAPTER 98

S. B. No. 45
(Longmire, Kautzmann, Solberg, Morgan, Forkner)
(From LRC Study)

COUNTY CONSOLIDATION

AN ACT

To create and enact chapter 11-05.1 and sections 11-05-11.1, 11-08-02.1, and 11-09-10.1, and to amend and reenact sections 11-05-01, 11-05-02, 11-05-04, 11-05-05, 11-05-19, 11-08-02, 11-08-05, subsection 4 of section 11-08-06, sections 11-09-01, 11-09-02, 11-09-03, 11-09-05, 11-09-07, 11-09-08, 11-09-09, 11-09-10, 11-09-11, 11-09-12, 11-09-13, 11-09-15, 11-09-16, 11-09-17, 11-09-18, 11-09-19, 11-09-20, 11-09-21, 11-09-22, 11-09-23, 11-09-24, 11-09-25, 11-09-26, 11-09-27, 11-09-29, 11-09-30, 11-09-31, 11-09-32, 11-09-33, 11-09-34, 11-09-35, 11-09-38, 11-09-39, 11-09-40, 11-09-42, 11-09-43, 11-09-44, 11-09-45, 11-09-46, 11-09-47, and 11-09-48 of the North Dakota Century Code, relating to a county consolidation committee, county consolidation and county office consolidation, and to repeal sections 11-05-15, 11-09-06, and 11-09-28 of the North Dakota Century Code, relating to county offices.

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

§ 1.) Chapter 11-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHAPTER 11-05.1

COUNTY CONSOLIDATION COMMITTEE

11-05.1-01. County Consolidation Committee — Creation — Membership — Dissolution.) The board of county commissioners of any county may upon its own motion create a county consolidation committee and shall be required to create such committee whenever twenty percent of the qualified electors of a county, as determined by the vote cast for the office of governor at the last general election, shall petition the board of county commissioners to create such committee. The members of the committee shall be appointed by the board of county commissioners and shall consist of one resident of each incorporated city or village in the county and one additional resident of each county commissioner's district, plus not more than three additional members at large as shall be determined by the board of county commissioners. Vacancies upon the committee shall be filled in the same

manner as members are originally appointed. The committee shall have at least one hundred twenty days in which to consider the question and file its final report but after one hundred twenty days the committee may be discharged by motion of the board of county commissioners. The word "committee" when used in this chapter shall mean the county consolidation committee.

11-05.1-02. Chairman—Secretary—Quorum.) The committee shall select its own chairman and shall appoint one of its members as secretary. A majority of the committee shall constitute a quorum and a majority of such quorum may act upon all matters properly before the committee.

11-05.1-03. Powers and Duties.) The committee shall have the following powers and duties:

1. To study or prepare a plan to consolidate the county with one or more adjoining counties or study and propose an alternative form of county government as authorized by law;
2. To hold meetings and hold public hearings to consider proposals which may be submitted by electors of the county or adjoining counties or obtain public views upon plans prepared by the committee; and
3. To publish once in one or more newspapers having general circulation in the county one week in advance the date and times of public hearings.

11-05.1-04. Approval of Consolidation Plan.) If the committee shall approve a consolidation plan it shall submit a report and a map showing the boundaries of the proposed county consolidation to the board of county commissioners of the county and of each affected adjoining county. Such reports may also be made available to all interested persons. When such reports and maps have been received by the respective boards of county commissioners, the board of county commissioners of the county to be consolidated and the board of county commissioners of all affected adjoining counties shall act pursuant to sections 11-05-04 through 11-05-27.

11-05.1-05. Approval of New County Government Plan.) If the committee shall recommend a new form of county government among the optional plans provided by law, they shall submit a report of their findings to the board of county commissioners. If the plan submitted by the committee is the consolidated office form of government, the board of county commissioners shall proceed as provided in chapter 11-08 or if the plan is that of county managership form then the board

of county commissioners shall proceed as provided in chapter 11-09.

11-05.1-06. Expenses.) Each member of the committee shall receive from the county his actual and necessary expenses incurred by him in attending scheduled meetings and in performance of his official duties in the same manner and amounts as members of the board of county commissioners, but shall receive no salary or compensation for services performed. All expenses of the committee shall be paid from county funds after approval of such expenses by the board of county commissioners in the same manner as other general county expenses.

§ 2. Amendment.) Section 11-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-01. Definition of Terms.) Throughout this chapter, a county which has created a plan for consolidation with another county or counties pursuant to chapter 11-05.1 shall be called the "petitioning county". The county with which the petitioning county asks to be consolidated shall be called the "adjoining county".

§ 3. Amendment.) Section 11-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-02. Board of County Commissioners to Submit Consolidation Plan to Electorate.) Whenever a county consolidation plan is submitted to a board of county commissioners pursuant to chapter 11-05.1, the board of county commissioners shall submit the question of consolidation to the qualified electors of the county at the next primary election in the manner hereinafter provided.

§ 4. Amendment.) Section 11-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-04. Notice of Election — How Given.) The county auditor of each of the counties affected shall give notice of the election by publishing once each week for at least two consecutive weeks prior to the election in the official newspaper of his county a notice giving the date of the primary election, the hours during which the polls will be opened, a reference to the notice of the primary election for a statement of the places where the election will be held, and the names of the counties affected by the petitions. The notice shall state also that the proposition to be voted upon will be:

Shall the county of.....(name of the petitioning county) be consolidated and annexed to the county of.....(name of the adjoining county);

or if the plans which have been filed ask that the territory be consolidated with and annexed to more than one county:

Shall that part of the county of.....(name of the petitioning county) described as.....(description of portion of petitioning county to be annexed as described in the plan) be consolidated with and annexed to the county of.....(name of the adjoining county).

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

11-05-05. Form of Ballot.) The ballots used at an election held under the provisions of this chapter shall be in substantially the following form:

Shall the county of.....(name of the petitioning county) be consolidated with and annexed to the county of.....(name of the adjoining county);

or if the plans which have been filed ask that the territory within the petitioning county be consolidated with and annexed to more than one county, in substantially the following form:

Shall that part of the county of.....(name of the petitioning county) described as.....(description of portion of petitioning county to be annexed as described in the plan) be consolidated with and annexed to the county of.....(name of the adjoining county).

Below the question submitted in either case, there shall be printed:

Yes..... ☐
No ..... ☐

§ 6.) Section 11-05-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

11-05-11.1. Arbitration of Disagreement.) In the event a majority of each board of county commissioners of the petitioning and adjoining counties cannot effect an equalization of the property, funds on hand, and debts of such counties, the chairman of the board of commissioners of the petitioning county shall immediately notify the governor of such disagreement. The governor shall appoint a three-member arbitration board to hear and decide the disagreement, all decisions made

by a majority of the members of the arbitration board shall be final and binding on each respective board of county commissioners.

§ 7. Amendment.) Section 11-05-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05-19. Members of Board of County Commissioners of Petitioning County to Meet with Board of Adjoining County—Expiration of Terms of Officers of Petitioning County.) Each member of the board of county commissioners of the petitioning county whose term of office does not expire on or before the first day of January following the governor's proclamation shall act, during the remainder of his term of office, at all meetings with the board of county commissioners of the adjoining county to which the greater portion of the territory of the commissioner's district has been annexed. A member of the board of county commissioners of the petitioning county so acting shall have no voice or vote on any question pertaining to matters arising within the territory included in the adjoining county prior to the consolidation, but as to questions pertaining to the territory formerly included in the petitioning county he shall be permitted to act and vote with the board of county commissioners of the adjoining county. The terms of all other county officers of the petitioning county, both elected and appointed, shall expire, unless such officers' terms have previously expired, on the first day of January following the governor's proclamation.

§ 8. Amendment.) Section 11-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-02. Board of County Commissioners to Submit Plan to Electorate.) Whenever a county consolidated office form of government plan is submitted to a board of county commissioners pursuant to chapter 11-05.1, the board of county commissioners shall submit the question of adopting such plan to the qualified electors of the county at the next primary election in the manner hereinafter provided.

§ 9.) Section 11-08-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

11-08-02.1. Board of County Commissioners May Submit Plan.) The question of the adoption of a consolidated office form of government may be submitted as provided by this chapter by the board of county commissioners notwithstanding the provisions of chapter 11-05.1 by a resolution adopted by

the affirmative vote of not less than two-thirds of the entire board.

§ 10. Amendment.) Section 11-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-08-05. Vote Required—Change Effective When—When Elective Officers Retired.) If fifty-five percent of the votes cast on the question of the adoption of the county consolidated form of government are in favor thereof, it shall go into effect on the first day of January next succeeding such election. All elected officers shall continue in office until their successors have been appointed pursuant to the provisions of this chapter.

§ 11. Amendment.) Subsection 4 of section 11-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. One county treasurer, except such office with its attendant powers and duties may be combined with and conferred upon the county auditor by the board of county commissioners but no added compensation shall be paid the county auditor in said capacity;

§ 12. Amendment.) Section 11-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-01. County Manager Government — Forms.) Any county in this state is authorized to adopt one of the following county manager forms of government:

1. Short form of county managership with the office of county manager to be an appointed office;
2. County manager form with the office of county manager to be an appointed office;
3. Short form of county managership with the office of county manager to be an elected office;
4. County manager form with the office of county manager to be an elected office.

The procedure for adopting any one of these forms of government shall be as is provided in this chapter. Unless otherwise expressly indicated, the provisions of this chapter shall apply to all the forms of county managership.

§ 13. Amendment.) Section 11-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-02. Board of County Commissioners to Submit Plan to Electorate.) Whenever a county managership form of government plan as provided by this chapter is submitted to a board of county commissioners pursuant to chapter 11-05.1, the board of county commissioners shall submit the question of adopting such plan to the qualified electors of the county at the next primary election in the manner hereinafter provided.

§ 14. Amendment.) Section 11-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-03. Board of County Commissioners May Submit Plan.) The question of the adoption of any county manager form of government may be submitted notwithstanding the provisions of chapter 11-05.1 by the board of county commissioners by a resolution adopted by the affirmative vote of not less than two-thirds of the entire board. Such resolution shall clearly designate which form of government shall be submitted.

§ 15. Amendment.) Section 11-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-05. Ballot for Submitting Question of the Adoption of One of the County Manager Forms of Government.) The ballot to be used at an election on the question of the adoption of one of the county manager forms of government shall be in substantially the following form:

Shall.....county (name the county) adopt the ..... (name one of the plans given in section 11-09-01)?

Yes..... ☐
No ..... ☐

§ 16. Amendment.) Section 11-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-07. Vote Required—When Form of Government Goes Into Effect—When Official in Office Retired.) If fifty-five percent of the votes cast on the question of adoption of a county manager form of government are in favor thereof, it shall go into effect on the first day of January next succeeding such election or on a later date as may be designated in the plan or resolution. All elected officials then in office whose positions will no longer be filled by popular election shall be retired on the effective date.

§ 17. **Amendment.)** Section 11-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-08. Board of County Commissioners—Election—Term of Office—Vacancies.) In a county adopting any form of county managership, the board of county commissioners shall consist of three or five members as is provided by general statute. Members of the board of county commissioners holding office when any form of county managership goes into effect shall continue in office until the expiration of their terms. Thereafter, county commissioners shall be elected in the manner provided by general statute.

§ 18. **Amendment.)** Section 11-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-09. Powers of Board of County Commissioners—Failure of Witness to Obey Order of Board Is a Misdemeanor.) The board of county commissioners of a county which has adopted any form of county managership shall be the policy-determining body of the county and shall have the following powers:

1. To exercise all of the powers of the county as a body politic and corporate in the manner provided in this chapter;
2. To levy taxes and to appropriate county funds;
3. To inquire into the official conduct of any officer or office under its control and to investigate the accounts, disbursements, bills, and receipts of any county officer. For these purposes, it may subpoena witnesses, administer oaths, and require the production of books, papers, and other evidence. If a witness fails or refuses to obey any lawful order of the board, he shall be deemed guilty of a misdemeanor;
4. To preserve order in its sessions and enforce obedience for this purpose by fines not exceeding five dollars or by imprisonment in the county jail for not more than twenty-four hours.

§ 19. **Amendment.)** Section 11-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-10. Appointment of County Manager — Tenure of Office — Compensation.) The county manager, in a county which has adopted either of the appointed forms of county

managership, shall be appointed by the board of county commissioners. He shall be appointed with regard to merit only, and he need not be a resident of the county at the time of his appointment. No member of the board shall be chosen county manager during the time for which he is elected nor shall the managerial powers be given to a person who at the same time is filling an elective office. The manager shall not be appointed for a definite tenure but shall be removable at the pleasure of the board. He shall devote his full time to his work. His compensation shall be fixed by the board. In the absence or disability of the manager, the board may designate some responsible person to perform the duties of the office.

§ 20.) Section 11-09-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

11-09-10.1. Election of County Manager—Tenure of Office —Compensation—Vacancy—Removal—Recall.) The board of county commissioners in a county which has adopted either of the elected forms of county managership shall appoint a temporary county manager until a person shall be elected to such office at the next general election following the effective date of said form of government. The person so elected shall take office on the first day of January following the general election and serve for a term of four years. The compensation for the office shall be fixed by the board of county commissioners. A vacancy in the office of county manager shall be determined and filled pursuant to chapter 44-02. The elected county manager shall be subject to removal and recall as provided by general law for other elected county officials.

§ 21. Amendment.) Section 11-09-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-11. Manager and Officers Attend Meetings of Board of County Commissioners.) The county manager, and in a county adopting a county manager form of government, the directors of all departments, and all other officers of the county, shall be entitled to be present at all sessions of the board of county commissioners. The manager shall have the right to present his views on all matters coming before the board, and the directors and other officers, whether elective or appointive, shall be entitled to present their views relating to their respective departments or offices.

§ 22. Amendment.) Section 11-09-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-12. Powers and Duties of County Manager.) The county manager of any county adopting any form of county managership shall:

1. Serve as the administrative head of the county government and be responsible to the board of county commissioners for the proper administration of all the affairs of the county which the board has authority to control;
2. Supervise the collection of all revenues;
3. Guard adequately all expenditures and secure proper accounting of all funds;
4. Look after the physical property of the county and exercise general supervision over all county institutions and agencies;
5. With the approval of the board of county commissioners, coordinate the various activities of the county and unify the management of its affairs;
6. Execute and enforce all resolutions and orders of the board of county commissioners and see that all laws of the state required to be enforced through the board or other county officers subject to its control are faithfully executed;
7. Attend all meetings of the board of county commissioners and recommend such actions as he may deem expedient;
8. Appoint all officers and employees in the administrative service of the county except as otherwise provided in this chapter, and such employees may be employed on a part-time basis and may be transferred among the different departments;
9. With the approval of the board of county commissioners, fix the compensation of all officers, both elective and appointive, and of all employees whom he or a subordinate appoints;
10. Have the power to remove such officers, agents, or employees as he may appoint, and report every appointment or removal to the next meeting of the board of county commissioners;
11. Prepare and submit the annual budget and execute the budget in accordance with the resolutions and appropriations made by the board of county commissioners;

12. Make regular monthly reports to the board of county commissioners in regard to matters of administration, and keep the board fully advised as to the financial condition of the county;

13. Examine regularly the books and papers of every officer and department of the county and report to the board of county commissioners the condition in which he finds them, and he may order an audit of any office at any time;

14. Perform such other duties as may be required of him by the board of county commissioners.

§ 23. Amendment.) Section 11-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-13. Removal of an Appointed County Manager.) If the board of county commissioners of a county which has adopted either of the appointed forms of county managership determines to remove the manager, he shall be given, if he so demands, a written statement of the reasons alleged for the proposed removal and a right to a hearing thereon at a public meeting of the board prior to the date on which his final removal shall take effect. Prior to and during the hearing, the board may suspend the manager from office, but the period of suspension shall be limited to thirty days. The action of the board in suspending or removing the manager shall not be subject to review.

§ 24. Amendment.) Section 11-09-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-15. Administrative Activities Assigned to Departments in County Adopting County Manager Form of Government.) In a county which has adopted a county manager form of government, the county manager shall distribute the administrative activities among the following departments:

1. Department of finance;

2. Department of public works;

3. Department of public welfare.

The board of county commissioners may establish additional departments. Upon recommendation of the county manager, any activity which is unassigned by this chapter shall be assigned by the board to an appropriate department and any activity so assigned may be reassigned to another department.

§ **25. Amendment.)** Section 11-09-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-16. Directors of Departments Appointed.) The county manager in a county adopting a county manager form of government shall appoint a director for each department provided for or authorized by section 11-09-15. With the consent of the board of county commissioners, the manager may act as the director of one or more departments or appoint one director for two or more departments.

§ **26. Amendment.)** Section 11-09-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-17. Auditor—Who to Act.) Except as otherwise provided in this chapter, in counties adopting a short form of county managership, the functions imposed on the county auditor by general statute shall be performed by or under the direction of the county manager, and in counties adopting a county manager form of government, by the director of finance.

§ **27. Amendment.)** Section 11-09-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-18. State's Attorney — Appointment — Powers — Duties.) The county manager of a county adopting any form of county managership, with the approval of the board of county commissioners, may appoint a state's attorney to serve as legal adviser to the board of county commissioners and to himself, to act as counsel for the county in any suit instituted by or against it, and to perform such other duties as may be prescribed by the board of county commissioners or which are imposed on state's attorneys by general statute. In a county adopting a short form of county managership, the county manager, with the approval of the board of county commissioners, from time to time or on an annual basis, may appoint the state's attorney of an adjoining county to perform such duties as are required of a state's attorney. The compensation of the state's attorney of an adjoining county shall be that agreed upon by the person so appointed, the county manager, and the boards of county commissioners of the two counties affected.

§ **28. Amendment.)** Section 11-09-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-19. Sheriff — Election — Appointment — Duties — Powers.) The sheriff of a county adopting a county manager form of government shall be elected in the manner prescribed by general statutes and shall perform the duties and be subject to the restrictions contained in the general statutes. In a county adopting a short form of county managership, the county manager shall appoint one or more police officers who shall perform all police duties imposed on the sheriff by general statutes. All other duties imposed on the sheriff shall be performed by or under the direction of the county manager. The county manager, from time to time or on an annual basis, may contract with an adjoining county and its sheriff to obtain the services of such sheriff, and the compensation of such officer shall be such as shall be agreed upon by the sheriff, the county manager, and the boards of county commissioners of the counties affected.

§ 29. Amendment.) Section 11-09-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-20. Treasurer — Who to Perform Functions.) The functions imposed on county treasurers by general statutes shall be performed by or under the direction of:

1. The county manager in a county adopting a short form of county managership;

2. The director of finance in a county adopting a county manager form of government,

and each of such officers shall act as tax collector and county treasurer or shall appoint and have supervision over the person performing such duties.

§ 30. Amendment.) Section 11-09-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-21. Designation of Depository in Lieu of Appointment of Treasurer.) In a county adopting any form of county managership, the board of county commissioners, in lieu of the appointment of a treasurer, may select and designate annually, by ordinance or recorded resolution, some bank or trust company as an official treasury for the funds of the county. Any bank or trust company serving as depository for county funds shall be subject to such requirements as to security therefor and interest thereon as are provided by general statutes for public depositories. All interest on moneys so deposited shall accrue to the benefit of the county.

§ 31. **Amendment.)** Section 11-09-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-22. County Judge — Election — Duties.) In counties adopting any form of county managership, the county judge shall be elected in the manner and method prescribed by general statute. He shall perform the functions imposed on the office by general statute.

§ 32. **Amendment.)** Section 11-09-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-23. Clerk of the District Court—Who Shall Act.) In counties adopting any form of county managership, the functions imposed on the clerk of the district court by general statute shall be performed by the county judge except as otherwise provided in this chapter.

§ 33. **Amendment.)** Section 11-09-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-24. County Superintendent of Schools — Election — Duties.) In counties adopting any form of county managership, the county superintendent of schools shall be elected in the manner prescribed by general statute. He shall perform the functions imposed on the office by general statute.

§ 34. **Amendment.)** Section 11-09-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-25. Register of Deeds — Who to Act.) In counties adopting a short form of county managership, the functions imposed on the register of deeds shall be performed, except as otherwise provided in this chapter, by or under the direction of the county manager. In counties adopting a county manager form of government, such functions, except as otherwise provided in this chapter, shall be performed by or under the direction of the director of finance.

§ 35. **Amendment.)** Section 11-09-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-26. Constable — Office Abolished — Who to Perform Duties.) In counties adopting any form of county managership, the office of county constable shall be abolished. In counties adopting a short form of county managership, the functions of that office shall be performed by the police

officer or officers appointed by the manager or by the sheriff of an adjoining county employed as provided in section 11-09-19. In counties adopting a county manager form of government, the functions of the office of county constable shall be performed by the sheriff.

§ 36. Amendment.) Section 11-09-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-27. Coroner — Office Abolished — Who to Perform Duties.) In counties adopting any form of county managership, the office of coroner shall be abolished. The functions of that office shall be performed by the county manager in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by the sheriff. If there is a conflict or inconsistency between the functions of the coroner and the sheriff, the duties of the coroner shall be performed by the state's attorney.

§ 37. Amendment.) Section 11-09-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-29. Public Administrator—Office Abolished—Who to Perform Duties.) In counties adopting any form of county managership, the office of public administrator shall be abolished. The functions of that office shall be performed by the county manager in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by a suitable person appointed by the county judge. Any person so appointed shall receive compensation at the rate allowed the administrator of an estate.

§ 38. Amendment.) Section 11-09-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-30. Surveyor — Office Abolished — Who to Perform Duties.) In counties adopting any form of county managership, the office of county surveyor shall be abolished. The functions of that office shall be performed by or under the direction of the county manager in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by the director of public works unless otherwise specified in this chapter.

§ 39. Amendment.) Section 11-09-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-31. When Not Clear Who Is to Exercise Power, Board of County Commissioners Designate Officer.) Whenever there is doubt as to what officer of a county adopting any form of county managership shall exercise a power or perform a duty conferred upon or required of the county, or any officer thereof, by general law, such power shall be exercised or duty performed by such officer as shall be designated by ordinance or resolution of the board of county commissioners.

§ 40. Amendment.) Section 11-09-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-32. Appointment of Subordinates—Terms of Office.) The manager in a county which has adopted a county manager form of government may authorize the head of a department or office responsible to him to appoint subordinates in such department or office. All appointments shall be made on the basis of ability, training, and experience of the appointees. Appointments shall be without definite terms unless for temporary service not to exceed sixty days.

§ 41. Amendment.) Section 11-09-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-33. Removal of Subordinate Officers and Employees.) Any officer or employee appointed by the manager of a county adopting any form of county managership, or upon his authorization, may be laid off, suspended, or removed from office or employment by the manager, and, in a county adopting a county manager form of government, by the officer or head of the department in which such officer or employee is employed.

§ 42. Amendment.) Section 11-09-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-34. Bonds of County Officers.) Before entering upon the duties of his office, the county manager of a county adopting any form of county managership shall furnish the county a bond in the penal sum of not less than ten thousand dollars. In counties adopting a county manager form of government, the director of finance shall furnish a bond in the penal sum of ten thousand dollars and if the county manager serves as the director of finance, he shall furnish a bond in the amount of twenty thousand dollars. The board of county commissioners may fix bonds in excess of these amounts and may require bonds of other county officers.

§ 43. Amendment.) Section 11-09-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-35. Schedule of Compensation.) The county manager of a county adopting any form of county managership shall establish a schedule of compensation for officers and employees which shall provide uniform compensation for like service. The schedule may establish a minimum and maximum for any class, and an increase in compensation within the limits provided by any class may be granted at any time by the county manager or other appointing authority upon the basis of efficiency and seniority records.

§ 44. Amendment.) Section 11-09-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-38. Board of County Commissioners Not to Interfere in Appointment or Removals—Penalty.) In a county which has adopted any form of county managership, neither the board of county commissioners nor any of its committees or members shall direct or request the appointment or removal of any person by the county manager or any of his subordinates nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the county. Except for the purpose of inquiry or in an emergency, the board of county commissioners and its members shall deal with that portion of the administrative service over which the county manager is responsible solely through the manager. Neither the board of county commissioners nor its members shall give orders to any subordinate of the county, either publicly or privately. Any member of the board of county commissioners who violates any provision of this section shall be guilty of a misdemeanor and, in addition to the penalty prescribed for such an offense, shall forfeit his office.

§ 45. Amendment.) Section 11-09-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-39. Preparation and Submission of the Budget.) On or before the sixth day of July of each year, the county manager of a county which has adopted any form of county managership shall prepare and submit to the board of county commissioners a budget presenting a financial plan for the conduct of the affairs of the county for the ensuing year. The budget shall be set up in the manner prescribed by general statute and shall be published prior to the date of its adoption

by the board of county commissioners. Published notices and hearings shall be in accordance with the general statutes.

§ 46. Amendment.) Section 11-09-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-40. Finances—Administration.) The county manager in a county adopting a short form of county managership and the director of finance in a county adopting a county manager form of government shall have charge of the administration of the financial affairs of the county including:

1. The budget;
2. The assessment of property for taxation;
3. The collection of taxes, license fees, and other county revenues;
4. The custody of all public funds belonging to or handled by the county;
5. The control over the expenditure of the county;
6. The disbursement of county funds;
7. The purchase, storage, and distribution of all supplies, materials, equipment, and contractual services needed by any department, office, or other using agency of the county;
8. The keeping and supervision of all accounts;
9. Such other duties as the board of county commissioners by ordinance or resolution may require.

§ 47. Amendment.) Section 11-09-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-42. Reports of Financial Officer to Board of County Commissioners.) The county manager in counties adopting a short form of county managership and the director of finance in counties adopting a county manager form of government shall be charged with the keeping of all general books of financial and budgetary control for all departments and offices of the county. Reports shall be made to him daily, or as often as he may require, showing the receipt of all moneys and the disposition thereof. The county manager, or in counties adopting a county manager form of government, the director of finance through the county manager, each month shall submit to the board of county commissioners a summary statement of revenues and expenses for the preceding month, detailed as

to the appropriations and funds in such manner as to show the exact financial condition of the county and of each department and division thereof. Such officer shall submit once a year, or more often if the board of county commissioners requires it, a complete financial statement showing the assets and liabilities of the county.

§ 48. Amendment.) Section 11-09-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-43. Books of Officers, Manager, Director of Finance Audited.) The board of county commissioners of a county adopting any form of county managership shall require an annual audit of the books of every county officer who handles public funds to be made by an accountant who is not a regular officer or employee of the county and who is thoroughly qualified by training and experience. Any audit service provided by the state, whether at the expense of the state or the county, shall satisfy the requirements of this section. Either the board of county commissioners or the county manager, at any time, may order an examination or audit of the accounts of any officer or department of the county government. Upon the death, resignation, removal, or expiration of the term of office of any officer of the county, the county manager, or the director of finance in a county adopting a county manager form of government, shall cause to be made an audit and investigation of the accounts of such officer and shall report the result thereof to the board of county commissioners or if the audit is made by the director of finance, to the county manager and the board of county commissioners. In case of the death, resignation, or removal of the county manager or the director of finance, the board of county commissioners shall cause an audit of his accounts to be made. If, as a result of any such audit, an officer is found indebted to the county, the board of county commissioners shall proceed to collect such indebtedness forthwith.

§ 49. Amendment.) Section 11-09-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-44. Purchasing Agent—Powers and Duties—Supplies Purchased on Bids—Sale of Supplies.) The county manager of a county adopting a short form of county managership or the director of finance of a county adopting a county manager form of government shall act as purchasing agent or shall appoint and have supervision over this official. The purchasing agent shall make all purchases for the county in the manner provided by the board of county commissioners. He may

make transfers of supplies, materials, and equipment between departments and offices, and may sell any surplus supplies, materials, or equipment and make such other sales as are authorized by the board of county commissioners. With the approval of the board, he may establish suitable specifications or standards for all supplies, materials, and equipment to be purchased by the county and may inspect all deliveries to determine their compliance with such specifications and standards. He shall have charge of such storerooms and warehouses of the county as the board of county commissioners may provide. Before making any purchase or sale, the purchasing agent shall invite competitive bidding under such rules and regulations as the board of county commissioners may establish by ordinance or resolution. The purchasing agent shall not furnish any supplies, materials, equipment, or contractual services to any department or office except upon receipt of a properly approved requisition and unless there is an unencumbered appropriation balance sufficient to pay for the same.

§ **50. Amendment.)** Section 11-09-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-45. Public Works — Who in Charge — Duties.) The county manager in counties adopting a short form of county managership and the director of public works in counties adopting a county manager form of government shall have charge of the construction and maintenance of county roads and bridges, county drains and other public works, public buildings, storerooms, warehouses, and such equipment and supplies as the board of county commissioners may authorize. He shall perform such other duties as the board may prescribe.

§ **51. Amendment.)** Section 11-09-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-46. Public Welfare—Who in Charge—Duties.) The county manager in counties adopting a short form of county managership and the director of public welfare in counties adopting a county manager form of government shall have charge of hospitals, charitable and correctional institutions, parks and playgrounds, public health, and the relief and welfare activities imposed upon counties by general statutes. He shall perform such other duties relating to public welfare as the board of county commissioners may prescribe.

§ **52. Amendment.)** Section 11-09-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-47. Interest in Contracts by Officers and Employees Prohibited.) No member of the board of county commissioners or other officer or employee of a county which has adopted any form of county managership, and no person receiving a salary or compensation from funds appropriated by the county, shall be interested, directly or indirectly, in any contract to which the county is a party, either as principal, surety, or otherwise. No such officer or employee or his partner, agent, servant, employee, or the firm of which he is a member, shall purchase from or sell to the county any real or personal property, nor shall he be interested, directly or indirectly, in any work or service to be performed for the county or in its behalf. Any contract made in violation of the provisions of this section shall be void.

§ 53. Amendment.) Section 11-09-48 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-09-48. Election as to Retention of Plan.) At any time after any form of county managership has been in force in a county for a period of four years, the board of county commissioners may submit, and, when petitioned to do so at least ninety days before a primary election by at least twenty-five percent of the qualified electors of the county as determined by the total number of votes cast for the office of governor at the last general election, shall submit to the electors at a primary election the question of whether or not the county manager plan in force shall be retained. If fifty-five percent of the legal votes cast on such question at the primary election shall be against retaining such plan, it shall cease to be operative on the first Monday in January next succeeding the primary election, and the county shall revert to the plan of government in force prior to the adoption of the county managership. Thereafter, the provisions of this chapter shall not be applicable in such county until after another compliance with its terms. When the petition has been filed, candidates for all county offices required under the plan in force prior to the adoption of the county managership may file nominating petitions. If fifty-five percent of the legal votes cast on the question are against retaining the county manager plan, the candidates nominated at the primary election shall be voted upon at the general election, and officers shall be elected in accordance with the general election laws. The terms of office of all officers elected as provided in this section shall commence on the first Monday in January next succeeding the primary election.

§ 54. Repeal.) Sections 11-05-15, 11-09-06, and 11-09-28 of the North Dakota Century Code are hereby repealed.

Approved March 6, 1965.

CHAPTER 99

H. B. No. 677
(Aamoth, Stockman, Streibel)

COUNTY OFFICERS' SALARIES

AN ACT

To amend and reenact subsections 2 and 3 of section 11-10-10 of the 1963 Supplement to the North Dakota Century Code, relating to the salaries of county officers.

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

§ 1. Amendment.) Subsections 2 and 3 of section 11-10-10 of the 1963 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The county auditor, county treasurer, sheriff, county superintendent of schools, register of deeds, county judge, state's attorney, and clerk of the district court each shall receive the following annual salary, payable monthly, for official services rendered:

   a. Four thousand eight hundred dollars in counties having a population not exceeding eight thousand;

   b. Five thousand dollars in counties having a population exceeding eight thousand population plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof, but not to exceed the total sum of six thousand two hundred dollars, and provided, however, that in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision;

   c. In counties having a population in excess of thirty thousand the sum of seven thousand dollars.

   In counties having a county court of increased jurisdiction the salaries of the judges of county courts of increased jurisdiction shall be as set out in section 27-08-08. The county commissioners may in their discretion compensate the county superintendent of schools by an amount not to exceed two hundred fifty dollars per year, which shall be in addition to any other compensation received by the county superintendent, for

duties performed by the county superintendent of schools in school district reorganization within the county. The county superintendent of schools shall receive for any trips necessarily made within his county in the performance of school district reorganization duties the same mileage as he receives under the provisions of section 11-10-15. Provided that the board of county commissioners of any county may by resolution increase the salaries of county officials or official provided for in this section by an amount of not to exceed ten percent of the amount herein provided.

3. Each county commissioner shall be allowed the sum of ten 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 eight 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 subvoucher 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 actual 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, two thousand one hundred dollars; in counties having a population of over eight thousand and less than fifteen thousand, two thousand five hundred dollars; and in counties having a population of over fifteen thousand, three thousand 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 17, 1965.

CHAPTER 100

S. B. No. 210
(Larson)

UNEXPENDED COUNTY FUNDS

AN ACT

To provide for the disposition of unexpended and unencumbered county taxes levied for a specific purpose.

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

§ 1. Disposition of Unexpended and Unencumbered County Taxes Levied for a Specific Purpose.) If any county shall levy a tax for a specific purpose and the moneys collected are not expended or encumbered within two years after their collection the board of county commissioners may deposit such taxes in the county general fund or authorize their expenditure by any political subdivision having authority to carry out the purpose for which the taxes were originally levied.

Approved March 6, 1965.

CHAPTER 101

H. B. No. 772
(Breum, Winge, Haugland, Elkin)

COUNTY HISTORICAL SOCIETIES

AN ACT

To create and enact section 11-11-53.1 and to amend and reenact section 11-11-53 of the North Dakota Century Code, relating to historical artifacts given to county historical societies and authorizing a levy for county historical purposes.

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

§ 1. Amendment.) Section 11-11-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-53. Appropriation for Historical Works — Authorization of Mill Levy—Approval of State Historical Society and Attorney General.) 1. The board of county commissioners of any county may appropriate out of the general fund of the county such sum, not exceeding five thousand dollars annually, as it may deem advisable, to be paid to the historical society of such county and used for the promotion of historical work within the borders of such county, including the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on historical work in such county.

2. The board of county commissioners is hereby authorized to levy a tax, in addition to all levies now authorized by law, of not exceeding one-quarter of one mill for the promotion of historical works within the borders of such county and in general defray the expense of carrying on historical work in the county including, but not limited to, the maintenance of any historical room or building, and furthering the work of the historical society of such county.

3. The appropriation and levy authorized by this section shall not be used to defray any expenses of a county historical society until such society is incorporated under the laws of this state as a nonprofit corporation, is affiliated with and has its articles of incorporation and bylaws approved by the North Dakota state historical society and the attorney general, and has contracted with the board of county commissioners in regard to the manner in which such funds received will be expended and the services to be provided; provided, however,

that historical societies which qualified for county funds under the provisions of subsection 1 of this section prior to the effective date of this Act, shall not be required to have its articles of incorporation and bylaws approved by the attorney general to receive funds under the provisions of subsection 1 of this section.

§ 2.) Section 11-11-53.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

11-11-53.1. Donation of Historical Artifacts.) Any historical object or artifact given, donated, or otherwise acquired by a county historical society shall revert to the state historical society if such local society should cease to function, exist, or no longer operate, unless the donor of such object or artifact should attach other conditions to the gift or artifact. If the county historical society should terminate its operations or should find that it no longer needs a historical object or an artifact, such society may give or trade such object or artifact to any other county historical society.

Approved March 1, 1965.

CHAPTER 102

H. B. No. 841
(Meschke, Schoenwald, Ruddy, Haugland, Erickson (Ward),)
(Williamson, Myhre)

COUNTY SHERIFFS' FEES

AN ACT

To amend and reenact section 11-15-07 of the North Dakota Century Code, relating to county fees.

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

§ 1. **Amendment.)** Section 11-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-07. County Fees.) The sheriff shall charge and collect the following fees on behalf of the county:

1. For serving a capias with commitment of bail and return, two dollars;
2. For serving a summons, warrant of attachment, order of replevin, injunctional order, citation, or other mesne

process and making a return thereon, one dollar and fifty cents, and for service on each defendant besides the first, one dollar;

3. For making a copy of a summons or order of attachment, one dollar;

4. For making a copy of an injunctional order, one dollar;

5. For serving a subpoena on a witness, each person, one dollar and fifty cents;

6. For taking and filing a bond in claim and delivery or any other undertaking to be furnished to and approved by the sheriff, one dollar;

7. For making a copy of any process, bond, or paper, other than as is herein provided, for each ten words, one cent;

8. For levying a writ of execution and making a return thereof, two dollars and fifty cents;

9. For levying a writ of possession with the aid of the county, three dollars and fifty cents;

10. For levying a writ of possession without the aid of the county, five dollars;

11. For serving a notice of motion or other notice or order of the court, one dollar and fifty cents;

12. For executing a writ of habeas corpus and making a return thereon, one dollar and fifty cents;

13. For serving a writ of restitution and making a return thereon, one dollar and fifty cents;

14. For calling an inquest to appraise any goods and chattels which he may be required to have appraised, one dollar, and each appraiser shall receive ten dollars to be taxed as costs;

15. For advertising a sale in a newspaper, in addition to the publisher's fees, one dollar and fifty cents;

16. For advertising in writing for the sale of personal property, one dollar and fifty cents;

17. For executing a writ or order of partition, two dollars;

18. For making a deed to land sold on execution or pursuant to an order of sale, two dollars;

19. For issuing a certificate of redemption when property has been redeemed from a sale under execution or upon the foreclosure of a mortgage, two dollars;

20. For selling real or personal property under foreclosure of any lien or mortgage by advertisement, three dollars;

21. For boarding prisoners, a sum to be determined by the county commissioners, by resolution in advance, which sum shall in no case exceed two dollars and fifty cents per day;

22. For issuing permit or license to carry pistol or revolver, one dollar.

Approved March 19, 1965.

CRIMES AND PUNISHMENTS

CHAPTER 103

S. B. No. 88
(Jurgensen)

INTERRACIAL COHABITATION, REPEAL

AN ACT

To repeal section 12-22-13 of the North Dakota Century Code, relating to Negro man and white woman or white man and Negro woman occupying same room.

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

§ 1. Repeal.) Section 12-22-13 of the North Dakota Century Code is hereby repealed.

Approved February 26, 1965.

CHAPTER 104

S. B. No. 297
(Forkner, Kelly, Beck, Becker, Reichert, Lips, Lashkowitz)

EXTORTION

AN ACT

To amend and reenact section 12-37-07 of the North Dakota Century Code, relating to the punishment for an attempt to extort money or property.

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

§ 1. Amendment.) Section 12-37-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-37-07. Attempts to Extort Money or Property—Punishment.) Every person who unsuccessfully attempts by means of any verbal threat such as is specified in section 12-37-02, to extort money or other property from another, shall be

punished by imprisonment in the penitentiary for not less than one year nor more than five years, or in a county jail for not more than one year.

Approved March 15, 1965.

CHAPTER 105

H. B. No. 872
(Borstad, Erickson (Mountrail))

TRADING SURPLUS FOODS

AN ACT

Prohibiting sale, trading in or bartering of surplus federal food or other commodities, prohibiting purchase or exchange of such surplus federal food or other commodities, making violation hereof a misdemeanor and providing penalties therefor.

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

§ 1. Prohibition of Sale, Trading in, Barter, Purchase or Exchange of Surplus Federal Food or Other Commodities—Violation a Misdemeanor—Penalties.) Any person who knowingly makes any unauthorized disposition of any federal food or other commodity donated under any program of the federal government, by selling, trading in or bartering such federal food or other commodity, and any unauthorized person who knowingly receives such food or other commodity donated under any program of the federal government by purchase, exchange or other means, and converts same to his own use, is guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Approved March 10, 1965.

CHAPTER 106

S. B. No. 271
(Robinson, Solberg)

WILLFUL TRESPASS

AN ACT

To define willful trespass upon land, providing a penalty, and to repeal section 12-41-12 of the North Dakota Century Code.

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

§ 1. Trespasses Upon Lands Enumerated—Misdemeanor.) Any person who willfully commits any trespass by either:

1. Willfully opening, tearing down or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar or fence of another and willfully leaving it open without the permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice relative to trespassing;
2. Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of such land, his agent or by the person in lawful possession;
3. Entering cultivated or enclosed lands where signs forbidding trespass are displayed at intervals not less than four to the mile along exterior boundaries;
4. Entering any privately owned lands described in subsection 3, without the permission of the owner of such land, his agent or of the person in lawful possession and
   a. Refusing or failing to leave such lands immediately upon being requested by the owner of such land, his agent or by the person in lawful possession to leave such land;
   b. Tearing down, mutilating or destroying any signs, signboard, or notice forbidding entry on such lands; or
   c. Removing, injuring, unlocking or tampering with any lock on any gate on or leading into such lands;

is guilty of a misdemeanor.

§ 2. Repeal.) Section 12-41-12 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1965.

CHAPTER 107

S. B. No. 235
(Lips)

PRISON INDUSTRIES

AN ACT

To authorize the board of administration to establish and engage in such new prison industries as the board deems necessary, and of greatest benefit to, and in the best interest of the state of North Dakota, the state penitentiary, and the North Dakota state farm.

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

§ 1. The Board May Establish and Engage in New Prison Industries.) The warden of the state penitentiary under the direction and with the approval of the board of administration, or its successor board is authorized to establish, and engage in such new prison industries as said board deems necessary, and which are of greatest benefit to and in the best interest of the state of North Dakota, the state penitentiary, the North Dakota state farm, and the inmates of said institutions.

§ 2.) The board and the warden shall make all rules and regulations and do all things necessary or incidental to the establishing and maintaining of such industries including the manufacture, sale, or distribution of the produce or products therefrom, and, so far as is compatible with the efficient operation of the industry, shall use the inmates and employees of the penitentiary as laborers in such industries. The provisions of this section are in addition, and subject to statutes governing other specific industries.

Approved March 6, 1965.

CHAPTER 108

S. B. No. 62
(Lips)

PENITENTIARY TANNERY AND COFFINS, REPEAL

AN ACT

To repeal sections 12-48-08, 12-48-09, and 12-48-10 of the North Dakota Century Code, and section 12-48-11 of the 1963 Supplement to the North Dakota Century Code, relating to the penitentiary tannery, and the manufacture, marking, and sale of coffins at the penitentiary.

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

§ **1. Repeal.)** Sections 12-48-08, 12-48-09, 12-48-10, and 12-48-11 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1965.

CHAPTER 109

H. B. No. 553
(Jungroth)

APPEALS FROM SUSPENDED SENTENCE

AN ACT

To create and enact section 12-53-20 of the North Dakota Century Code, relating to criminal appeals.

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

§ **1.)** Section 12-53-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-53-20. Nothing in this chapter shall be construed as precluding the defendant in a criminal action from appealing to the supreme court under the provisions of chapter 29-28.

Approved March 6, 1965.

CHAPTER 110

S. B. No. 52
(Reichert, Longmire)
(From LRC Study)

TRANSFER OF MENTALLY ILL PRISONERS

AN ACT

To create sections 12-55-11.1 and 12-59-13.1 and to amend and reenact sections 12-30-12, 12-47-27, 12-47-28, 12-53-07, 12-59-07, and 12-59-13 of the North Dakota Century Code, relating to a definition of commutation; parole; indeterminate sentence; and transfer of mentally ill to state hospital.

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

§ 1. Amendment.) Section 12-30-12 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-30-12. Psychiatric Treatment.) The warden may cause any person convicted under the provisions of this chapter to be given psychiatric treatment or to be transferred to the state hospital for diagnosis and disposition according to such conditions as may be prescribed by the warden after consultation with the prison psychiatrist or psychologist.

§ 2. Amendment.) Section 12-47-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-27. Transfer of Penitentiary Inmate to State Hospital —Written Order by Warden.) Whenever the warden of the penitentiary believes that a person confined in the penitentiary has become mentally ill during his confinement he may require such person to be given a psychiatric evaluation or transfer such person to the state hospital for such evaluation. If it is found from the evaluation that such person is mentally ill such person shall be confined and treated in the state hospital upon a written order by the warden.

§ 3. Amendment.) Section 12-47-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-28. Copy of Written Order by Warden Delivered to Superintendent of State Hospital—Superintendent to Receive Inmate—Filing of Receipt.) The warden of the penitentiary shall deliver to the superintendent of the state hospital, with

any person transferred thereto as provided in section 12-47-27, a correct copy of the written order of the warden directing such transfer. The superintendent of the state hospital shall receive such person into the hospital upon the presentation of such order and shall deliver to the warden a certificate acknowledging the receipt of such person and of the original order. The certificate of the superintendent of the state hospital shall be retained by the warden and filed in his office.

§ 4. Amendment.) Section 12-53-07 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-53-07. Duty of Clerk of Court When Felony Sentence Is Suspended—Release of Defendant—Statistical Data.) Whenever the court shall make its order that the sentence imposed upon a person convicted of a felony shall be suspended and such person placed on probation as provided in this chapter, it shall be the immediate duty of the clerk of the court in which the judgment is entered to make full copies of the judgment of the court with the order for the suspension of the execution of the sentence thereunder and the reasons assigned by the court for such suspension, and to certify the same to the clerk of the parole board. Upon the entry in the records of the court of an order for such suspension and probation, the defendant shall be released from custody as soon as the requirements of the parole board have been met properly and fully. It shall also be the duty of the clerk of court, upon the disposition of any criminal case, to transmit to the parole board statistical data, in accordance with regulations issued by the board, regarding all defendants whether found guilty or discharged.

§ 5.) Section 12-55-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-55-11.1. Commutation—Definition of.) A commutation of sentence is the change of the punishment to which a person is sentenced to a less severe punishment.

§ 6. Amendment.) Section 12-59-07 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-59-07. Requirements Precedent to Parole.) No parole shall be granted to any person confined in the penitentiary unless:

1. He has maintained a good record at the penitentiary for a reasonable period prior to his application for a parole and the board is convinced that the applicant will conform to all the rules and regulations adopted by said board; or

2. A detainer has been lodged by another authority.

§ 7. **Amendment.)** Section 12-59-13 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-59-13. Indeterminate Sentence—Release of Prisoner to Parole.) No person serving an indeterminate sentence shall be released from the penitentiary merely because the minimum term of his sentence has expired, but his imprisonment shall continue until the expiration of the maximum term unless he is paroled from the institution by the board. The board may determine and fix the date when an inmate imprisoned under an indeterminate sentence may be paroled, which date, in the discretion of the parole board, may precede the date any minimum sentence may be served under an indeterminate sentence.

§ 8.) Section 12-59-13.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-59-13.1. Indeterminate Sentence — Board to Determine Maximum Sentence.) When a person has been imprisoned under an indeterminate sentence the parole board shall prior to the expiration of the minimum term of such sentence fix and determine the maximum sentence to be served by such person. The term set by the parole board shall not be less than the minimum nor more than the maximum sentence imposed upon such person.

Approved March 15, 1965.

CHAPTER 111

S. B. No. 274
(Reichert, Longmire)

CRIMINAL IDENTIFICATION BUREAU

AN ACT

To create a bureau of the state government to be designated as the bureau of criminal identification and apprehension, to specify its organization, duties and responsibilities to correlate same with existent agencies and existent law, and to provide for additional functions of same as a consumer fraud bureau.

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

§ 1. Bureau Created.) A bureau of the state government, under the attorney general, is hereby created and is designated as the bureau of criminal identification and apprehension hereinafter referred to as the bureau.

§ 2. Board of Managers—Selection of Members—Qualifications.) There shall be a board of managers of the bureau, consisting of four members, the attorney general, by virtue of his office, and three members appointed by the governor. One of the appointed members shall be a chief of police of a city, one a sheriff, and one a state's attorney.

§ 3. Terms of Office—Filling of Vacancies.) All appointments shall be for terms of two years. If the term of any member of the board expires, as the chief of police, sheriff, or state's attorney, he shall cease to be a member of the board. The governor shall fill all vacancies in the board by the appointment of the same kind of an officer as was his predecessor. Vacancies shall be filled by appointment for the unexpired term.

§ 4. Duty of Board.) The board of managers shall advise the attorney general and the superintendent of criminal identification with respect to the operation and conduct of the bureau.

§ 5. Salaries.) The members of the board of managers shall serve without compensation. Each member shall receive his necessary traveling expenses while attending meetings of the board.

§ 6. Attorney General—Duties.) The attorney general shall have the responsibility of and shall exercise absolute control and management of the bureau. The attorney general shall be president of the board.

§ 7. **Appointment of Chief, Investigators and Employees.)** 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. **Furnishing of Equipment.)** The attorney general shall provide the bureau with necessary furniture, fixtures, apparatus, appurtenances, appliances, materials and equipment as he deems necessary for the collection, filing and preservation of all records required by law to be filed with the bureau or which he may authorize or require to procure respecting the identification and investigation of criminals, the investigation of crime and detection of the perpetrators thereof and identification and information concerning stolen, lost, found, pledged or pawned property.

§ 9. **Powers and Duties of the Bureau.)** The duties and responsibilities of the bureau shall be:

1. To cooperate with and assist the criminal bureau of the department of justice at Washington, D. C. and similar departments in other states in establishing and carrying on a complete system of criminal identification;

2. To cooperate with and assist all judges, state's attorneys, sheriffs, chiefs of police, and all other law enforcement officers of this or any other state and of the federal government in establishing such system of criminal identification;

3. To file for record the fingerprint impressions of every person confined in any penitentiary or jail when such person is suspected of having committed a felony or of being a fugitive from justice, and to file such other information as they may receive from the law enforcement officers of this or any other state, or from the federal government;

4. To assist the sheriffs and other peace officers in establishing a system for the apprehension of criminals and detection of crime;

5. When called upon by any state's attorney, sheriff, police officer, marshal and other peace officers, the superintendent, chief of the bureau and their investigators may assist, aid, and cooperate in the investigation, apprehension, arrest, detention and conviction of all persons believed to be guilty of committing any felony within the state;

6. To perform such other duties in the investigation, detection, apprehension, prosecution or suppression of crimes as may be assigned by the attorney general in the performance of his duties;

7. To provide assistance from time to time, in conducting police schools under chapter 54-50 of the North Dakota Century Code at convenient centers in the state for training peace officers in their powers and duties, and in the use of approved methods for detection, identification, and apprehension of criminals and to require attendance at such police schools;

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.

§ 10. Powers of Investigators.) For the purpose of carrying out the provisions of this chapter, the investigators shall have all the powers conferred by law upon any peace officer of this state.

§ 11. Authorization of Attorney General for Investigations.) No investigation of the acts or conduct of any state agency or state official shall be investigated or made through or by the bureau or any employee thereof, without the authorization of the attorney general particularly specifying the office, department or person to be investigated and the scope and purposes of the investigation.

§ 12. Fingerprints, Photographs, Description of Persons Arrested for Felony To Be Procured and Filed.) The chief of the bureau shall procure and file for record in the offices of the bureau all the plates, fingerprints, photographs, outline pictures, descriptions, information, and measurements which can be procured of all persons who have been or shall be arrested for any felony under the laws of this or any other state, or of the United States, and of all well known and habitual criminals. The person in charge of any state penal institution and every state's attorney, sheriff, chief of police, or other police officer shall furnish any such material to the superintendent upon his request.

§ 13. Enforcement Officers to Send Fingerprints and Descriptions of Felons to the Bureau—Report of the Bureau to Arresting Officer.) All state's attorneys, sheriffs, chiefs of police, and other law enforcement officers shall take the fingerprints of any person arrested on a felony charge and of every person who, in the judgment of the arresting officer, is

wanted on a felony charge or who, the arresting officer has reason to believe, is a fugitive from justice. Copies of such fingerprints in duplicate shall be transmitted to the superintendent within twenty-four hours after an arrested person is taken into custody, together with a description of and all available information respecting the arrested person. The chief of the bureau shall compare the fingerprints and descriptions received by him with those already on file in his office, and if he finds that the person arrested has a criminal record or is a fugitive from justice, he immediately shall inform the arresting officer of his findings together with the name or names under which such person has been previously arrested, and shall forward a carbon copy of his report to the state's attorney of the county in which the arrest was made. All state's attorneys, sheriffs, chiefs of police, and other law enforcement officers, shall report to the bureau all complaints signed, warrants issued, and records of convictions and sentences for all offenses involving no-account, insufficient funds, and false and fraudulent checks.

§ 14. **Officer May Send Fingerprints of Persons Having Certain Property in Possession.)** A sheriff may take and forward to the chief of the bureau the fingerprints of any person who has in his possession at the time of his arrest goods or property reasonably believed to have been stolen, or in whose possession is found a burglary outfit, tools, keys, or explosives believed by the sheriff to be intended for unlawful use, or who is carrying a concealed or deadly weapon without lawful authority, or who is in possession of any ink, dye, paper, or other articles useable in the making of counterfeit money, or who has in his possession any tools or equipment used in defacing or changing the numbers on motor vehicles, or who is believed to have been previously incarcerated in any state or federal penitentiary.

§ 15. **Court to Ascertain Criminal Record of Defendant—Furnish Information of Offense to the Bureau.)** The judge of the district court of the county in which a defendant is to be sentenced, or the state's attorney or sheriff thereof, shall ascertain the criminal record of every defendant convicted of a felony before sentence is passed on said defendant. The state's attorneys and sheriffs, upon the request of the chief of the bureau or the attorney general, shall furnish to the chief of the bureau a statement of facts relative to the commission or alleged commission of all felonies within their respective counties upon such blanks or in such form as may be requested by the chief of the bureau or the attorney general.

§ 16. **Violation of Chapter—Misdemeanor.)** The neglect or refusal of any officer to make any report, or to do or perform

any act required to be made or performed by him in any provision of this chapter shall constitute a misdemeanor, and such officer shall be punished by a fine of not less than five dollars nor more than twenty-five dollars. Such neglect or refusal also shall constitute nonfeasance in office and shall subject the officer to removal from office.

§ 17. Duty to Furnish Information.) The chief of the bureau shall furnish, upon application, all information pertaining to the identification of any person, a plate, photograph, outline picture, description, measurement, or any data of which person there is a record in the office of the bureau.

The information shall be furnished to all peace officers of the state, to the United States officers or officers of other states, territories, or possessions of the United States, or peace officers of other countries duly authorized to receive the same, upon application in writing accompanied by a certificate signed by the officer, stating that the information applied for is necessary in the interest of the due administration of the laws, and not for the purpose of assisting a private citizen in carrying on his personal interests or in maliciously or uselessly harassing, degrading or humiliating any person.

§ 18. Report of Arrested Person's Transfer or Release, or of Disposition of Case.) In any case in which a sheriff, police department or other law enforcement agency makes an arrest and transmits a report of the arrest to the bureau of criminal identification and investigation or to the Federal Bureau of Investigation, it shall be the duty of such law enforcement agency to furnish a report to such bureaus whenever the arrested person is transferred to the custody of another agency or is released without having a complaint or accusation filed with a court.

When a complaint or accusation has been filed with a court against such an arrested person, the law enforcement agency having primary jurisdiction to investigate the offense alleged therein shall receive the disposition of that case from the appropriate court and shall transmit a report of such disposition to the same bureaus to which arrest data has been furnished.

§ 19. Superintendent to Make Rules and Regulations.) The superintendent with the approval of the attorney general, pursuant to the Administrative Practices Act, shall make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary and proper for the efficient performance of the bureau's duties. Such rules and regulations shall be printed and forwarded to each state's attorney, sheriff, constable, marshal, or other peace

officer, and each of said officers shall assist the superintendent in the performance of his duties by complying with such rules and regulations.

§ 20. Money Collected Paid Into General Fund.) All moneys collected or received, including all rewards for the apprehension or conviction of any criminal earned or collected by the superintendent, the chief of the bureau, his assistants, or any employee of his office, shall be paid into the general fund of the state.

§ 21.) The bureau shall work and cooperate with the commission on peace officers' standards and training as heretofore established in the fields specified in section 54-50-02 of the 1963 Supplement to the North Dakota Century Code and in such other related fields as said commission and the bureau may deem feasible.

§ 22. Bureau to Act as a Consumer Fraud Bureau and to Cooperate with Other Agencies in Detection, Investigation, and Enforcement of Laws and Regulations with Regard to Consumer Fraud.) The bureau shall also act as a consumer fraud bureau with regard to the use or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, and shall make full investigation of such activities, maintain adequate facilities for filing reports, examining persons and merchandise in regard thereto, storing impounded books, records, accounts, papers and samples of merchandise relating to same. The bureau shall further cooperate with other governmental agencies, national, state or local, and with all peace officers of the state in regard thereto.

§ 23. Repeal.) Chapter 12-58 of the North Dakota Century Code and all amendments thereto are hereby repealed.

Approved March 15, 1965.

DOMESTIC RELATIONS AND PERSONS

CHAPTER 112

S. B. No. 307
(Lashkowitz, Mahoney)

SOLEMNIZATION OF MARRIAGE CEREMONY

AN ACT

To amend and reenact section 14-03-09 of the North Dakota Century Code, authorizing a local Spiritual Assembly of the Baha'i faith, organized or possessing a certificate of authority pursuant to the North Dakota Nonprofit Corporation Act, to solemnize marriages.

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

§ 1. Amendment.) Section 14-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-09. Who May Solemnize Marriages.) Marriages may be solemnized by all judges of courts of record and by all county justices within their respective jurisdictions, by ordained ministers of the gospel and priests of every church, by ministers of the gospel licensed by regular church bodies or denominations and serving as pastors of churches, by the Society of Friends or Quakers according to the form used in its meetings, and by a local Spiritual Assembly of the Baha'i faith according to the usage of the community, organized or possessing a certificate of authority pursuant to the North Dakota Nonprofit Corporation Act.

Approved March 15, 1965.

CHAPTER 113

H. B. No. 661
(Hauf)

SEROLOGICAL TEST FEES

AN ACT

To amend and reenact section 14-03-13 of the North Dakota Century Code, relating to fees collected by county judges for serological tests performed in this state prior to the issuance of a marriage license.

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

§ 1. Amendment.) Section 14-03-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-13. "Standard Serological Test" Defined.) A standard serological test shall be a laboratory test for syphilis approved by the state officer and shall be performed by the state department of health, or by any other state public health laboratory approved by the state health officer. The county judge shall collect a fee of not to exceed fifty cents for each serological test performed in this state, which shall be paid by him into the state treasury on the first day of July. State public health laboratories outside of the state of North Dakota which have been approved by the state health officer shall make their own arrangements as to the amount and manner of collecting their fees for the service.

Approved March 2, 1965.

CHAPTER 114

S. B. No. 128
(Longmire)

CAUSES FOR DIVORCE

AN ACT

To amend and reenact section 14-05-03 of the North Dakota Century Code, relating to the causes for divorce.

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

§ 1. Amendment.) Section 14-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-05-03. Causes for Divorce.) Divorces may be granted for any of the following causes:

1. Adultery;
2. Extreme cruelty;
3. Willful desertion;
4. Willful neglect;
5. Habitual intemperance;
6. Conviction of felony; or
7. Insanity for a period of five years, the insane person having been an inmate of an institution for such period, and affected with any psychosis. No divorce shall be granted because of insanity until after a thorough examination of such insane person by three physicians who are recognized authorities on mental diseases, one of which physicians shall be the superintendent of the state hospital for the insane, or the chief medical officer of a veterans' administration hospital or government institution within or without the state of North Dakota, the other two physicians to be appointed by the court before whom the action is pending, all of whom shall agree that such insane person is incurable. No divorce shall be granted to any person whose husband or wife is an inmate of an institution, except a United States Government hospital or institution, in any other than the state of North Dakota, unless the person applying for such divorce shall have been a resident of the state of North Dakota for at least five years.

Approved March 6, 1965.

CHAPTER 115

S. B. No. 48
(Longmire, Kautzmann, Solberg, Morgan, Forkner)
(From LRC Study)

ALIMONY AND CHILD SUPPORT PAYMENTS

AN ACT

To provide for the making of child support or alimony combined with child support payments through the clerk of court, specifying the duties of the clerk of court, the issuance of contempt citations, the cooperation of the county welfare board in enforcing support payments, allowing support recipients to enforce payments through the clerk of court, providing that the remedies herein provided shall be in addition to existing remedies, and to create subsection 15 of section 11-16-01 of the North Dakota Century Code, to provide that the state's attorney shall assist the district court in enforcing support payments.

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

§ 1. Support Payments — Payment to Court — Procedures Upon Failure to Pay.) In any action wherein a court decrees that payments for child support or alimony combined with child support be made, the court may provide in its decree that such payments be paid to the clerk of court in lieu of making such payments directly to the recipient. In such cases the clerk of court shall maintain records listing the amount of such payments, the date when such payments shall be made, the names and addresses of the parties subject to such decree, and any other information deemed necessary for the proper administration of such decree. The parties subject to the decree shall immediately inform the clerk of court of any change of address or change of any other condition which may affect the proper administration of this Act. Where there is failure to make the payments as required, the clerk of court shall send notice of the arrears by registered or certified mail to be delivered only to such person ordered to make the support or alimony payments. Upon proof of receipt of such notice, the clerk of court shall, if payment of the entire arrearage has not been made to the clerk after ten days from the date of proof of such receipt of such notice, request the district judge of the judicial district, on a form provided by such judge, to issue a citation for contempt of court against such person who has failed to make such payments and the citation shall be served on such person as provided by the rules of civil procedure, provided:

1. The clerk of court has received from the attorney of record for the recipient of the support payment, a written consent to proceed as set out in this Act; or

2. The clerk of court has received from the recipient of such payment ordered, or if the recipient is a child of the person ordered to make payments, then the person who is to receive such payment for the care and support of the child, a written consent to proceed as set out in this Act.

§ 2. Notification and Duties of County Welfare Board.) The clerk of court shall inform the county welfare board of the county wherein the recipient of a support payment made pursuant to section 1 of this Act resides for welfare purposes of the fact that a support decree has been made affecting the parties in question and that support payments are being received. The recipient's county welfare board shall notify the clerk of the court making a support decree in all cases where application is made for welfare assistance by a recipient entitled to support payments pursuant to such decree. In such cases the clerk of court immediately upon such notification by the county welfare board and without the necessity of complying with the provisions of subsections 1 and 2 of section 1 of this Act shall initiate the procedures set forth in section 1 of this Act.

§ 3. Aid of Court Available to Recipients of Support.) Any person entitled to child support payments pursuant to a court decree may initiate the proceedings set forth in section 1 of this Act upon notification of the clerk of the court having jurisdiction in such case if there is a written, signed agreement between the original party litigants to the court action concerning the payment of such support payments which has been incorporated or referred to within the court decree, or an order of the court providing for such payments in a manner other than through the clerk of court, and the recipient, in giving the clerk of court a written consent to proceed under the provisions of section 1 of this Act, files with the court an affidavit of failure by the ordered party to pay such support. In such case the written consent of the attorney of record required by subsection 1 of section 1 of this Act may be waived by the court.

§ 4. Remedies Additional to Those Existing.) The remedies provided for in this Act are in addition to and not in substitution for any other remedies provided for by law.

§ 5.) Subsection 15 of section 11-16-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

15. Assist the district court in behalf of the recipient of payments for child support or alimony combined with child support in all proceedings instituted to enforce compliance with a decree or order of the court requiring such payments.

Approved March 15, 1965.

EDUCATION

CHAPTER 116

H. B. No. 815
(Erickson (Ward), Shorma)

EDUCATION STUDY

AN ACT

To provide for a study of school districts and school district organization within North Dakota by the legislative research committee and making an appropriation.

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

§ 1.) In order to assure the establishment or re-establishment of sound administrative units and promote sound and improved local educational systems, the legislative research committee shall study the requirements, standards, procedures, and laws governing school districts in North Dakota as they relate to a comprehensive state educational program, comprehensive local educational programs, assessed valuations, problems of low-populated areas, rising educational costs and financial ability of districts to meet requirements and potential educational needs.

In this study consideration shall be given to terrain, roads, trading centers, population centers, and any and all other factors relating to needs of education in the coming years.

In order to conduct this study, the legislative research committee is authorized to consult and consider other state agencies and departments, local and county agencies and officials, and private individuals.

Be it further provided that the legislative research committee shall have authority to consult and employ agencies, organizations and individuals in and out of the state of North Dakota which engage in the conduction of such surveys and submit its report, findings and recommendations to the Fortieth Legislative Assembly.

§ 2. Appropriation.) There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of $20,000.00 to the legislative research committee for the biennium beginning July 1, 1965, and ending June 30, 1967, for the use of the legislative research committee for the

sole purpose of matching on an equal basis funds which may be made available by the United States Government or any private corporation or foundation. If such federal or private matching funds shall not be made available by June 30, 1967, for the study herein authorized the moneys to be appropriated from the state treasury shall revert to the general fund.

Approved March 8, 1965.

CHAPTER 117

H. B. No. 577
(Fossum, Rosendahl, Froeschle, Montplaisir, Haugland, Sanstead,)
(Kvasager, Larsen, Dornacker, Olienyk, Winge, Haugen,)
(Johnson (Barnes), Gengler)

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 at institutions of higher learning in this state.

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

§ 1.) In accordance with the provisions of chapter 15-55 of the North Dakota Century Code, the state board of higher education is hereby authorized and empowered to issue and sell tax-exempt bonds for the purpose of constructing or purchasing revenue-producing buildings at institutions of higher learning in this state under the jurisdiction of the board, at such maximum amounts, at such locations, and for such purposes as is hereinafter provided:

1. University of North Dakota, Grand Forks, North Dakota
   a. Student dormitories and food service (including Wesley College dorms) ... $3,500,000
   b. Married student housing ... 1,000,000
   c. Parking lots ... 350,000
2. North Dakota State University, Fargo, North Dakota
   a. Student dormitories ... 4,000,000
   b. Dining facilities ... 1,000,000

c. Married student housing	1,000,000
d. Parking lots and access drives	200,000
3. Minot State College, Minot, North Dakota	
a. Student dormitories	1,360,000
b. Addition to student union	600,000
4. State School of Science, Wahpeton, North Dakota	
a. Student dormitory	600,000
b. Food service building and addition to student union	650,000
c. Parking lots	75,000
5. Valley City State College, Valley City, North Dakota	
a. Student dormitory	600,000
6. Dickinson State College, Dickinson, North Dakota	
a. Student dormitory	600,000
b. Addition to student union	250,000
7. Mayville State College, Mayville, North Dakota	
a. Student dormitories	800,000
b. Parking lots	45,000
8. State School of Forestry, Bottineau, North Dakota	
a. Student dormitory	300,000
b. Student union	100,000
c. Dining hall addition	30,000

The bonds authorized by this Act for the construction or purchase 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, purchase and equipment of the buildings and facilities authorized in section 1. Any unexpended proceeds from the sale of the bonds shall be placed in sinking funds for the retirement of the bonds authorized in section 1.

Approved March 17, 1965.

CHAPTER 118

H. B. No. 564
(Froeschle, Hilleboe, Duncan, Myhre, Whittlesey, Aamoth, Powers,)
(Montplaisir, Bergman)

LITTLE COUNTRY THEATER

AN ACT

To provide for the erection of a "Little Country Theater" building on the campus of the North Dakota state university of agriculture and applied science.

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

§ 1.) The state board of higher education is hereby authorized to provide for the erection upon the campus of the North Dakota state university of agriculture and applied science a building to house a "Little Country Theater" and to provide offices, classroom space, and a lecture auditorium for speech, sciences, and related subjects, the cost thereof to be paid from public and private donations and grants and net receipts from student activities not otherwise allocated, now on hand and hereafter available, at the North Dakota state university of agriculture and applied science.

Approved February 16, 1965.

CHAPTER 119

H. B. No. 949
(Committee on Delayed Bills)

LAWRENCE WELK HONORARY DEGREE

AN ACT

Relating to conferring an honorary degree upon Lawrence Welk by a North Dakota institution of higher learning, and declaring an emergency.

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

§ 1.) Whereas, Lawrence Welk has been recognized as one of the outstanding natives of the state of North Dakota, having achieved international prominence in the field of music and entertainment; and

Whereas, all actions of Lawrence Welk have reflected credit upon his native state of North Dakota, and it is the desire of this state and its citizens to properly recognize his achievements;

§ 2.) The state board of higher education of the state of North Dakota is hereby urged to select an institution of higher education of this state to confer an appropriate honorary doctorate degree upon Lawrence Welk.

§ 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 17, 1965.

CHAPTER 120

S. B. No. 30
(Lips, Van Horn)
(Recommended by Legislative Audit and Fiscal Review Committee)

HIGHER EDUCATION FISCAL PROCEDURE

AN ACT

To amend and reenact sections 15-03-03, 15-10-12, 15-10-25, 54-27-10, and 54-27-11 of the North Dakota Century Code, relating to the depositing of public moneys in the state treasury and the procedures for the payment from appropriations and funds of state higher educational institutions, and to repeal sections 15-10-26 and 15-10-27 of the North Dakota Century Code, relating thereto.

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

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

15-03-03. State Treasurer to Have Custody of Certain School Funds.) The state treasurer shall be the custodian of all funds arising from the sale or leasing of any lands granted to any institution of higher education, and such funds shall be deposited with him. He shall keep a separate fund for each institution of higher education to which a land grant has been made, exclusive of institutional funds which may be subject to the order of the president as hereinafter specified. All funds in the hands of the state treasurer shall be kept by him in separate accounts on behalf of the several institutions and

such funds shall be used exclusively for the benefit of the institution to which they belong.

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

15-10-12. Board May Accept Gifts and Bequests — State Treasurer to Have Custody of School Funds.) The state board of higher education may receive donations, gifts, grants, and bequests offered or tendered to or for the benefit of any institution of higher education under its control or subject to its administration, and all moneys coming into the hands of the board as donations, gifts, grants, and bequests shall be used for the specific purpose for which they are donated or given. A special operating fund, for each institution of higher education under the control of the board or subject to its administration, shall be maintained within the state treasury and all institutional income and institutional collections of public funds of each institution, except institutional funds received as donations, gifts, grants, and bequests, shall be placed in such special fund for the use of the institution for which such money was raised. All rent, interest, or income from land, money, or property, donated or granted by the United States and allocated to specific institutions of higher learning under the terms of the Enabling Act and the state Constitution shall be deposited in such special operating fund of each institution and expended in accordance with the provisions of section 159 of the Constitution. The director of accounts and purchases shall direct the state treasurer to transfer to the appropriate institutional special operating fund from each institutional general fund appropriation each month during the first twenty months of each biennium a sum equal to one-twentieth of such biennial general fund appropriation; provided, however, appropriations for buildings, plant improvements, and other special projects shall not be subject to the monthly transfer limitation provided in this Act. All such transfers shall be subject to proration in the same manner as other appropriations are prorated in the event insufficient funds are available to meet expenditures from the general fund. Any balance remaining in a special operating fund at the end of a biennium shall not be subject to section 54-27-09. Sinking funds for the payment of interest and principal of institutional revenue bonds shall be deposited pursuant to section 15-55-06.

§ 3. Amendment.) Section 15-10-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-25. Audit of Monthly Statements of Expenditures and Payroll—Abstracts of Statement — Where Filed — Payment.)

When the monthly statement of expenditures and the payroll of an institution have been audited by the state board of higher education and found to be correct, the approved statement shall be returned to the institution, and the designated officer of such institution shall prepare an abstract, in quadruplicate, each month, or at such other times as the board may require, for such educational institution, showing the name and amount due each claimant, and the fund from which the payment shall be made. The abstract shall be submitted to the department of accounts and purchases and a warrant-check shall be prepared for the total amount claimed in the abstract against each fund. The funds disbursed shall be deposited in the Bank of North Dakota to the credit of the appropriate institution and shall be subject to individual checks by such institution. One copy of the abstract shall be kept on file in the office of the state board of higher education, one copy shall be retained by the officer making the abstract, and one copy shall be filed with the treasurer of the institution.

Mileage and travel expense payments for employees of institutions of higher learning shall be made upon the submission of vouchers for the approval of the state auditing board. The department of accounts and purchases shall prepare warrant-checks drawn on the state treasurer against the appropriate fund for such mileage and travel expense payments, which payments shall not exceed the amounts allowed for other state officials and employees.

§ 4. **Amendment.)** Section 54-27-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-10. Appropriations — When Available.) Seventy-five percent of the total of all appropriations and of each separate item thereof made by the legislative assembly for the maintenance of any state institution except institutions under the jurisdiction and supervision of the state board of higher education, department, board, commission, or bureau for the biennium, shall become available on the first day of July next succeeding the enactment by the legislative assembly. The remaining twenty-five percent of any such appropriation shall be available only at the beginning of the fourth quarter of the biennium. No state institution, department, board, commission, or bureau for which an appropriation is made shall disburse more than seventy-five percent of the appropriation during the first eighteen months of the biennium nor incur any expense or liability which shall be discharged from such appropriation or for which such appropriation shall become available. The term "maintenance" shall not apply to nor include moneys appropriated for the payment of the cost of any

buildings or equipment or for making improvements and repairs to buildings and grounds, or any other special appropriations exempted from the operation of this section by the Act making such appropriation.

§ 5. Amendment.) Section 54-27-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***54-27-11. Appropriation — Record Kept by Department of Accounts and Purchases and Treasurer — Duties and Limitations of Department of Accounts and Purchases and Treasurer as to Appropriation.)** The department of accounts and purchases and state treasurer each shall keep a record in their office showing:

1. The total amount appropriated for maintenance for each state officer or agency, and of each separate item thereof;
2. The amount equal to seventy-five and twenty-five percent of the total appropriated and each separate item thereof; and
3. The amount disbursed and the balance on hand.

The department of accounts and purchases shall not issue any warrant during the first eighteen months of each biennium in excess of the seventy-five percent of any item appropriated for maintenance of any state official or state agency in the executive branch of government nor shall the state treasurer pay such warrant. The duties and limitations imposed upon the department of accounts and purchases and state treasurer shall apply only to the total amount appropriated for the biennium but not to separate items appropriated for maintenance for all institutions under the jurisdiction and supervision of the board of administration. The board shall keep a record showing the amount, equal to seventy-five and twenty-five percent, respectively, of the total amount and of each separate item appropriated for maintenance for all such institutions under its control and shall be responsible for the enforcement of the restrictions upon the disbursement of all moneys appropriated to such institutions for maintenance purposes.

§ 6. Repeal.) Sections 15-10-26 and 15-10-27 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1965.

***Note:** Section 54-27-11 was also amended by section 83, chapter 203, 1965 S.L.

CHAPTER 121

S. B. No. 292
(Robinson)

INVESTMENT OF SCHOOL LAND FUNDS

AN ACT

To amend and reenact subsection 5 of section 15-03-04 of the North Dakota Century Code, relating to the investment of school funds by the board of university and school lands.

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

§ 1. Amendment.) Subsection 5 of section 15-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. 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 any subdivision on which the same may be loaned, such value to be determined by the board of appraisal of school lands.

Approved March 1, 1965.

CHAPTER 122

H. B. No. 544
(Fossum, Hoffner, Reimers, Streibel)
(From LRC Study)

NONRESIDENT TUITION FEES

AN ACT

To amend and reenact section 15-10-18 of the North Dakota Century Code, prescribing a method of determining nonresident tuition at state institutions of higher education.

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

§ 1. Amendment.) Section 15-10-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-18. Tuition of Nonresidents at Schools Under Control of State Board of Higher Education.) At all state institutions of higher education, tuition shall be charged and collected from each nonresident student in such amount as shall be determined by the state board of higher education. The amount on the undergraduate level shall not be less than the average nonresident tuition charged for the preceding fall registration by similar state supported institutions in the states bordering upon North Dakota. The foregoing requirements may be varied by specific reciprocal interstate agreement.

Approved March 19, 1965.

CHAPTER 123

H. B. No. 543
(Fossum, Hoffner, Reimers, Streibel)
(From LRC Study)

NONRESIDENT STUDENT DEFINED

AN ACT

To amend and reenact section 15-10-19 of the 1963 Supplement to the North Dakota Century Code, defining the term "nonresident" for the purposes of tuition at state institutions of higher education.

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

§ 1. Amendment.) Section 15-10-19 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-19. Nonresident Student for Tuition Purposes Defined —Exceptions.) A nonresident student is defined as follows:

1. A student less than twenty-one years of age whose parents, custodial parent or guardian resides in another state, a territory, or a foreign country, or whose parents, custodial parent or guardian has resided within this state for a period of less than twelve months immediately prior to the date of his registration;
2. A student of the age of twenty-one years or over who resides outside of this state; or
3. A student of the age of twenty-one years or over who has moved into and become a resident of this state within a period of twelve months immediately prior to the date of registration, and after reaching the age of twenty-one.

Military personnel assigned to a military installation in this state and their dependents, dependents of instructors who live in this state and teach in any institution of higher learning in this state and the spouse of a resident of this state, are excluded from the foregoing provisions, and shall be regarded as residents of this state for purposes of tuition, whether such dependents are over or under twenty-one years of age.

Approved March 8, 1965.

CHAPTER 124

H. B. No. 542
(Fossum, Hoffner, Reimers, Streibel)
(From LRC Study)

HIGHER EDUCATION FACILITIES COMMISSION

AN ACT

To create a higher education facilities commission and providing for its membership, powers, duties, and compensation, and providing for the allocation and expenditure of funds.

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

§ 1. Higher Education Facilities Commission—Membership—Appointment—Term—Vacancies.) There shall be a Higher Education Facilities Commission hereinafter referred to as the commission. The commission shall consist of the members of the state board of higher education and three additional members to be appointed by the governor by and with the consent of the senate. Of the appointed members, one shall be selected to represent the junior colleges operated by school districts, and two shall be selected to represent private colleges in this state. The appointed members of the commission shall be appointed by the governor for a term of three years, staggered so the term of one appointed member expires each year. Vacancies shall be filled in the same manner as the original appointment, except that vacancies occurring for other than the expiration of a term shall be filled by appointment for only the remainder of the term of the member causing the vacancy.

§ 2. Powers and Duties.) The powers and duties of the commission shall be:

1. To prepare and administer a state plan for higher education facilities which shall be the state plan submitted

to the commissioner of education, the federal department of health, education, and welfare, or any agency successor thereto, in connection with the participation of this state in programs authorized by the federal "Higher Education Facilities Act of 1963" (P.L. 88-204), together with any amendments or supplements thereto;

2. To provide for administrative hearings to every applicant for funds authorized under the "Higher Education Facilities Act of 1963" (P.L. 88-204), together with any amendments or supplements thereto, in regard to the priority assigned to such application for funds by said commission or to any other determination of the state commission adversely affecting the applicant;

3. To apply for, receive, administer, expend, and account for such federal moneys necessary for its own administrative expenses as authorized by the federal "Higher Education Facilities Act of 1963" (P.L. 88-204), together with any amendments thereto;

4. To apply for, receive, administer, expend, and account for such federal moneys which may be granted or loaned to this state pursuant to the federal "Higher Education Facilities Act of 1963" (P.L. 88-204), together with any amendments thereto; and

5. To determine its own organization, and do such other things as may be necessary and incidental in the administration of this Act.

§ 3. Federal Money Received by Commission—Where Deposited—How Appropriated—How Expended.) Federal money received by the commission shall be deposited in the state treasury in a special fund to be known as the Higher Education Facilities Fund and there is hereby appropriated annually the sum necessary, but within the sum allocated by the federal Act, for the payment of administrative expenses and other expenditures authorized under the federal Act. All expenditures from this fund shall be paid by warrant-check prepared by the department of accounts and purchases upon vouchers submitted by the commission and approved by the state auditing board.

§ 4. Compensation of Commission Members — Travel Expenses.) All members of the commission shall receive ten dollars per day for the performance of their duties under this Act, including the attendance at regular and special meetings of the commission. 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 travel in the performance of their duties. The amounts herein specified shall be the only compensation allowable and shall be payable from the higher education facilities fund.

Approved March 15, 1965.

CHAPTER 125

S. B. No. 336
(Mahoney, Roen)

SUPERVISION AND AID TO JUNIOR COLLEGES

AN ACT

To amend and reenact sections 15-18-04, 15-18-07, 15-18-08, and 15-18-09 of the North Dakota Century Code, relating to supervision and aid to junior colleges.

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

§ 1. Amendment.) Section 15-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-04. Supervision of Junior Colleges.) The state board of higher education shall prepare and publish from time to time academic standards for junior colleges, provide for their inspection, and recommend for accrediting such academic courses of study offered by them as may meet the standards prescribed. The state board for vocational education shall perform the same functions as to trade courses offered by junior colleges and shall prepare and publish from time to time vocational standards for junior colleges, provide for their inspection, and make recommendations for accrediting such vocational courses offered by them as may meet the standards prescribed.

§ 2. Amendment.) Section 15-18-07 of the 1963 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 stand-

***Note:** Section 15-18-07 was also amended by section 1, chapter 126, 1965 S.L.

ards prescribed in section 15-18-08, out of funds appropriated for this purpose, the sum of two hundred dollars which shall be paid immediately preceding October first of each year, for every student in attendance during the two full semesters or fall, winter and spring quarters. In addition, the sum of one hundred dollars shall be paid immediately preceding October first of each year for every student in attendance during the two full semesters or fall, winter and spring quarters at a junior college or educational center, provided the school district, city or county shall levy taxes of not less than four mills for the support of such junior college or educational center in accordance with the provisions of sections 15-18-03, 15-18-04.2 or 15-18-05. For the purpose of this section, a "student" shall mean a person enrolled and in attendance, exclusive of temporary absences, in a junior college or educational center operated by a state-supported institution of higher education for a period of not less than thirty days, and carrying a course of study of not less than twelve class hours 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.

§ 3. **Amendment.)** Section 15-18-08 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-08. Standards for State Aid.) No school district maintaining a junior college or educational center operated by a state-supported institution of higher education shall be eligible to receive payments as provided in section 15-18-07 unless it maintains an enrollment at all times during all semesters or quarters for which payment is made of not less than one hundred "students" as defined in section 15-18-07 and meets either such academic standards as shall be prescribed by the state board of higher education, or the trade standards as shall be prescribed by the state board for vocational education. The state board of higher education shall provide for an annual inspection of each junior college or educational center operated by a state-supported institution of higher education to deter-

mine compliance with prescribed academic standards; and the state board for vocational education shall provide for an annual inspection of each junior college or educational center operated by a state-supported institution of higher education to determine compliance with prescribed trade standards.

§ 4. Amendment.) Section 15-18-09 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-09. Method of Payment.) On or before July fifteenth of each year, the dean or chief administrative officer of each junior college or educational center operated by a state-supported institution of higher education or the superintendent of each school district claiming state aid payments under section 15-18-07, shall file with the commissioner of higher education a verified statement containing the name and residence of each student enrolled in academic courses for whom payments are claimed, together with a listing of each course of study and the number of class hours for which such student was enrolled and in attendance, exclusive of temporary absences, during each week of the period of which payment is claimed; and such dean, officer, or superintendent shall file with the state director for vocational education a verified statement containing the name and residence of each student enrolled in trade courses for whom payments are claimed, together with a listing of each course of study and the number of class hours for which such student was enrolled and in attendance, exclusive of temporary absences, during each week of the period of which payment is claimed. Such other information shall be submitted as may be requested by the state board of higher education or the state board for vocational education. The state board of higher education and the state board for vocational education shall consider all claims submitted for payment from each school district, and on or before September fifteenth of each year shall forward to the state auditor a certified list of all school districts entitled to payments under section 15-18-07, together with the amount of the approved payments. The state auditor shall immediately issue a warrant to each school district entitled to payment in accordance with the certified statements submitted by the state board of higher education and the state board for vocational education. The decision of the state board of higher education, or the state board for vocational education, as the case may be, in regard to all claims for payment shall be final.

Approved March 6, 1965.

CHAPTER 126

S. B. No. 71
(Lips, Mahoney, Solberg)

STATE AID TO JUNIOR COLLEGES

AN ACT

To amend and reenact section 15-18-07 of the North Dakota Century Code as amended, relating to state aid for junior colleges.

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

§ **1. Amendment.)** Section 15-18-07 of the North Dakota Century Code as amended is hereby amended and reenacted to read as follows:

***15-18-07. State Aid for Junior Colleges or Educational Centers.)** There shall be paid to each school district maintaining a junior college or educational center operated by a state-supported institution of higher education meeting the standards prescribed in section 15-18-08, out of funds appropriated for this purpose, the sum of two hundred dollars which shall be paid immediately preceding October first of each year, for every student in attendance during the two full semesters or fall, winter and spring quarters. In addition, the sum of one hundred 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 semes-

***Note:** Section 15-18-07 was also amended by section 2, chapter 125, 1965 S.L.

ter, but less than two complete semesters or three complete quarters shall entitle the school district to receive proportionate payments based upon the number of weeks the student is enrolled and in attendance, exclusive of temporary absences, bears to the total weeks in the two complete semesters or three quarters. Such calculations shall exclude weeks of regular vacation time.

Approved March 19, 1965.

CHAPTER 127

S. B. No. 53
(Strinden, Beck, Longmire)
(From LRC Study)

SUPERVISED CORRESPONDENCE STUDY

AN ACT

To amend and reenact sections 15-19-01, 15-19-02, 15-19-03, 15-19-04, and 15-19-06 of the North Dakota Century Code, providing that the state high school correspondence program shall be known as the division of supervised correspondence study, relating to curriculum, administration, enrollment procedure, and budget preparation of the division of supervised correspondence study, and repealing sections 15-19-05, and 15-19-07 of the North Dakota Century Code, relating to adult classes established under the correspondence school program and fees to be deposited in the general fund.

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

§ 1. **Amendment.)** Section 15-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-01. High School Correspondence Courses—Establishment—Enrollment of Pupils—Courses of Instruction.) The state shall provide correspondence courses through the division of supervised correspondence study under the following provisions:

1. A complete high school curriculum by correspondence which has been specifically determined by the state board of public school education as proper and suitable for instruction under correspondence methods, such determination and approval to be made not less than once in each school year, shall be maintained upon the campus of one of the state institutions of higher education by the state board of public school education;

2. Unless specifically excused in writing upon the course application forms by the superintendent or an administrator of the school approving the enrollment application, all pupils under the age of sixteen taking advantage of the provisions of this chapter shall be required to attend their local district schools and to study their correspondence lessons under the supervision of a local supervisor. If not required to attend their local schools, their work may be done at such place as may be designated by the state director in accordance with the rules of the state board of public school education. If in attendance at a local school pupils shall be supplied with desk space in their respective school without charge, and they shall attend school regularly, and shall be under the same disciplinary supervision of the teachers as the other school pupils;

3. The high school correspondence work shall be completed in accordance with the rules and regulations established by the state board of public school education.

4. Correspondence pupils shall pay for books and materials used by them, postage required to mail reports to the division, and such other fees as may be prescribed by the board of public school education.

§ 2. **Amendment.)** Section 15-19-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-02. Administration—Director of Division of Supervised Correspondence Study—Appointments and Duties.) The program of and all activities related to the division of supervised correspondence study shall be the responsibility of and under the supervision of the state board of public school education acting through the superintendent of public instruction. The state director of the division of supervised correspondence study shall be appointed by the state board of public school education acting through the office of the superintendent of public instruction. The director, under the supervision of the superintendent of public instruction shall carry out his responsibilities in the administration of the division of supervised correspondence study in the manner approved by the state board of public school education. The board shall determine the director's qualifications and fix his compensation within limits of legislative appropriations. The director may be discharged at the will of a majority of the state board of public school education. The director shall be responsible to and carry out all policies and directives of the state board of public school education in the administration of

the program of the division of supervised correspondence study.

§ 3. Amendment.) Section 15-19-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-03. Duty of Superintendents of Schools—Authorization of Enrollments.) All applications for enrollment of persons under the age of sixteen years shall be approved by the superintendent or an administrator of a school in the district prior to acceptance of enrollment by the division of supervised correspondence study. All applications for enrollment of persons under the age of sixteen not residing in a high school district shall be approved by the county superintendent of schools prior to the acceptance of such enrollment.

§ 4. Amendment.) Section 15-19-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-04. Duty of Teachers, County and State Officers, and Institutions.) The state board of public school education and the superintendent or a member of the department of public instruction designated by him shall approve the content of courses offered, requirements for certification of teachers, credits granted for each course, and all other things necessary to integrate the correspondence program into other high school programs administered or supervised by the department of public instruction. The state board of public school education and the superintendent of public instruction shall insure that the program shall in no way compete with the public schools of this state for the enrollment of students, encourage students to leave the public schools, or duplicate the facilities of the public schools through offering high school correspondence courses to students having access to such courses in the public schools.

§ 5. Amendment.) Section 15-19-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-06. Special Operating Fund—Deposit of Collections—Transfers from General Fund Appropriations—Administrative Operational Fund—Preparation of Budget.) A special operating fund for the division of supervised correspondence study shall be maintained within the state treasury and all income and fees collected by the division of supervised correspondence study from any source shall be remitted monthly by the director to the state treasurer and credited to such special operating fund. All expenditures from such fund shall be

within the limits of legislative appropriations and shall be made upon vouchers, signed and approved by the superintendent of public instruction. Upon approval of such vouchers by the state auditing board, warrant-checks shall be prepared by the department of accounts and purchases. The state treasurer shall make periodic transfers upon order of the director of the department of accounts and purchases from the division of supervised correspondence study general fund appropriation to such special operating fund whenever its balance falls so low as to require supplementation.

The state board of public school education may, if it deems advisable, establish an administrative operational fund, of not to exceed ten thousand dollars, out of the special operating fund for the division of supervised correspondence study. The administrative operational fund so established shall be deposited in the Bank of North Dakota and may be drawn upon by the state director of the division of supervised correspondence study for the payment of necessary expenses in the administration and operation of the division of supervised correspondence study within the limits and regulations prescribed by the board of public school education. The director shall submit a full, minute, and itemized statement of every expenditure made during the month to the board in accordance with such rules and regulations as the board may prescribe and thereafter the board may, in its discretion, periodically authorize additional transfers to the administrative operational fund, but the balance in such fund shall never exceed ten thousand dollars, and any unencumbered balance therein at the end of any biennium shall revert to the state treasury. The administrative operational fund may not be used to pay salaries or expenses of the director. The board shall determine the amount of the bond to be posted by the director.

The director shall prepare the budget request of the division of supervised correspondence study for submission to the state budget board. The budget request shall be approved by the state board of public school education prior to its submission for consideration by the director of the budget.

§ 6. Repeal.) Sections 15-19-05 and 15-19-07 of the North Dakota Century Code are hereby repealed.

Approved March 17, 1965.

CHAPTER 128

S. B. No. 151
(Reichert)

VOCATIONAL SCHOOL DISTRICTS

AN ACT

To authorize vocational educational school districts to be established by a county or counties and authorizing a county three-mill levy for maintaining such school districts.

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

§ 1. Vocational Schools Authorized — Mill Levy.) Any county or counties within this state may, upon resolution of the board or boards of county commissioners of such county or counties, establish and maintain a school for the purpose of providing vocational education. For the purpose of maintaining such vocational school, the county or counties may levy a tax of not to exceed three mills upon all taxable property within such county or counties. Such levy shall be in addition to any other mill levies authorized by law, if approved by a majority voting at a countywide special, primary, or general election, and after sufficient public hearings have been held thereon.

§ 2. Board Membership—Powers and Duties.) The school board of a vocational school district shall consist of not to exceed seven members, elected from geographical districts which shall be as nearly equal in population as is practicable at the same time and for the same terms as are other county officials. The boundaries of the geographical districts shall be determined by the board of county commissioners or, in the case of several counties combining to form a district, by the boards of county commissioners sitting jointly. The board or boards of county commissioners, as the case may be, shall also appoint the members of the original school board who shall serve until the next regular election of county officials. The provisions of section 15-28-02 shall not apply to a school board elected or appointed in accordance with this section. Such school board shall possess all of the powers granted to a public school board by section 15-29-08 or any other provision of law, insofar as such powers are consistent with the provisions of this Act.

§ 3. Specific Powers—Tuition Payments—Bond Issues.) The school board is specifically authorized to accept on behalf of the district any real or personal property available for distri-

bution by the United States or any of its departments or agencies, and also to accept any federal grants which may be made available in the field of vocational education. It may accept enrollment and set the amount of tuition for students residing outside of the district, provided that the amount of tuition so set shall not exceed the difference between the average cost per student for educating a student in the district and the payment, if any, received by the district from a county equalization fund on behalf of such student. Payments from the county equalization fund of the student's county of residence on behalf of each student attending a vocational school shall be made to the vocational school of attendance at the same rate as paid for high school students. A vocational school district shall be deemed a municipality within the meaning of section 21-03-01.

§ 4. **Curriculum—General Powers and Duties.)** The curriculum offered students by a vocational school shall be as determined by the school board, provided that such curriculum shall be submitted annually to the state board of vocational education for approval, and only an approved curriculum shall be offered. The provisions of title 15 of this code as applicable to a public school district shall also apply to a district created pursuant to this Act insofar as such provisions are consistent with this Act.

Approved March 15, 1965.

CHAPTER 129

H. B. No. 928
(Coles, Boustead, Brown, Lang)

BOARD OF PUBLIC SCHOOL EDUCATION POWERS

AN ACT

To amend and reenact section 15-21-19 of the North Dakota Century Code, relating to the power of the state board of public school education.

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

§ 1. **Amendment.)** Section 15-21-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-21-19. Power of State Board of Public School Education.) In addition to its other powers, the state board of public

school education shall have the power, in its sound discretion, to authorize any school district to acquire sites, construct buildings, and operate schools, to discontinue such schools and liquidate the assets thereof, outside its district boundaries if the school district is affected by the impact of federal activities in its area, or if anticipated increased enrollments make it necessary, and if consent is first obtained from the school district within which the school is to be located.

Approved March 8, 1965.

CHAPTER 130

H. B. No. 942
(Bier, Bloom, Johnson (Barnes), Leer)

SCHOOL DISTRICT DISSOLUTIONS

AN ACT

To amend and reenact sections 15-22-21 and 15-22-22 of the 1963 Supplement to the North Dakota Century Code, relating to the mandatory dissolution and annexation of school districts, notices of hearings, and effective dates of orders.

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

§ 1. Amendment.) Section 15-22-21 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-22-21. Dissolution of School Districts—Duty of County Superintendent.) The county superintendent of schools shall notify the county committee for the reorganization of school districts:

1. When any school district within the county has had its assessed valuation reduced to an amount which will no longer enable the district to raise sufficient funds to carry on normal school operations, or

2. When any school district within the county has not operated a school for the immediately preceding two years providing fifty percent of the pupils from such school district are not attending school in another state, or

3. Of the existence of territory not organized into a school district. Upon receipt of such notice, the county committee shall forthwith give notice of hearing to dissolve

the school district or attach the unorganized territory to other districts in the manner provided in section 15-53-21 and shall after approval by the state board of public school education, provide for its attachment to one or more adjoining school districts effective July 1 next following approval by the state board of public school education. Qualified electors residing in the attached territory shall be entitled to vote and hold office in the school district to the same extent as all other qualified electors residing therein, and such territory shall be part of the school district as fully in every respect as if it had been included in the district when organized. Nothing herein shall prevent the district from providing for the education of such children to the extent that its current budget in the judgment of the school board will permit, or shall relieve the district from any existing responsibility for the education of children attending its schools before the effective date of the order. Nothing herein shall change the effect of any election held within the school district pursuant to chapter 15-48 before the effective date of the order. This section applies to all school districts in the state including the board of education of the city of Fargo and the district under its jurisdiction for school purposes.

§ 2. **Amendment.)** Section 15-22-22 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-22-22. Notice of Hearing—Order of Attachment—Joint County Action.) The county superintendent of schools upon order of the county committee for the reorganization of school districts shall notify the clerk of each school district adjoining any district which is to be dissolved pursuant to section 15-22-21 and any unorganized territory recommended for attachment as therein provided, that a hearing will be held and the time and the place of the hearing by the county reorganization committee, for the purpose of determining to which school district or districts the dissolved or unorganized territory will be attached. Upon or after such hearing the county committee for the reorganization of school districts, shall by resolution order the district dissolved and its territory attached, or the unorganized territory attached, to one or more adjoining school districts in such manner as will, in its judgment, provide the best educational opportunities for pupils of the public schools and the wisest use of public funds for the support of the public school system in such school districts and attached territory. The order shall become effective July

1 following the date of the order or resolution and after approval by the state board of public school education, as provided in section 15-22-21. If any of such adjoining districts is situated wholly or partly in a county other than that which included the district to be dissolved or the unorganized territory affected, any order attaching territory to such adjoining school district shall become effective only upon the adoption of a concurring resolution by the county committee for the reorganization of school districts of the other county in which it is situated. Sections 15-22-21 and 15-22-22 of the North Dakota Century Code as amended shall apply to and govern the rights and obligations of all persons affected by any order of dissolution or attachment entered in conformity with the provisions of those sections prior to such amendment and prior to the effective date of sections 15-22-21 and 15-22-22, as well as any order entered on or after such effective date.

Approved March 17, 1965.

CHAPTER 131

S. B. No. 289
(Beck, Strinden)

NONRESIDENT STUDENT TRANSPORTATION

AN ACT

To provide that nonresident parents or guardians making tuition payments for students attending a school district may enter into an agreement with such school district for the transportation of such students.

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

§ 1. Transportation of Nonresident Students—Agreement.) Notwithstanding the provisions of section 15-34-05, a school district may in its discretion provide school bus transportation as herein provided to nonresident students whose parents or guardians have previously entered into an agreement for the payment of tuition costs for such students. The parents or guardians of such nonresident students shall pay the school bus transportation costs as determined by the school board of the receiving district. Costs shall not exceed average per pupil cost of transportation.

Approved March 6, 1965.

CHAPTER 132

S. B. No. 80
(Strinden, Nelson, Roen, Thompson, Beck)

STATE TRANSPORTATION AID

AN ACT

To amend and reenact section 15-34-24 of the 1963 Supplement to the North Dakota Century Code, relating to transportation payments to school districts.

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

§ 1. **Amendment.)** Section 15-34-24 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-24. Aid for Transportation.) There shall be paid from the county equalization fund to each school district providing school bus transportation in contract school buses or in district owned and operated school buses a sum equal to seven cents per mile for school buses having a capacity of up to nineteen pupils and fourteen cents per mile for school buses having a capacity of twenty or more pupils. Such payments shall be made only to school districts operating school buses in accordance with the laws of this state relating to standards for school buses, and to the qualifications of school bus drivers. Certification as to the compliance with the laws of this state in regard to school buses and their drivers shall be made in such manner and in such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section.

Approved March 17, 1965.

CHAPTER 133

H. B. No. 578
(Johnson (Barnes), Haugen)

SCHOOL DISTRICT ANNEXATIONS

AN ACT

To amend and reenact sections 15-27-06 and 15-53-26 of the 1963 Supplement to the North Dakota Century Code, relating to school district annexation proceedings.

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

§ 1. Amendment.) Section 15-27-06 of the 1963 Supplement to 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 section 57-02-01 (7) 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.

§ 2. Amendment.) Section 15-53-26 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-26. Annexation of Remaining Portions of Reorganized District to Other Districts.) When a portion of any public school district has become a part of a reorganized school district under this chapter and a portion of the public school district is not included in the reorganized district, such remaining portion, having a net taxable assessed valuation as defined in section 57-02-01 (7) of less than one hundred thousand dollars for each teacher employed in the remaining territory, shall become a part of a school district adjacent thereto in the following manner:

1. The county school district reorganization committee shall, within forty-five days after the reorganized district has been approved by the voters, order a hearing for the purpose of determining to which district or districts said remaining territory shall be annexed;

2. The hearing shall be held in a designated schoolhouse or a designated place located in the remaining territory and notice of the time and place of the hearing shall be given by publication in the official county newspaper at least fourteen days before the date of the hearing. Within ten days after the hearing, the county committee shall make an order annexing the territory to adjacent school district or districts; and

3. The decision of the county committee shall be subject to review by the state school district reorganization committee upon petition by a majority of the electors residing in said territory.

Approved March 15, 1965.

CHAPTER 134

H. B. No. 634
(Hertz, Gietzen, Meyer)

EFFECTIVE DATE OF REORGANIZATION

AN ACT

To amend and reenact sections 15-27-07 and 15-53-21 of the 1963 Supplement to the North Dakota Century Code, relating to the effective date of attachment or detachment of territory attached or detached from a public school district and to the holding of a public hearing for the voluntary proposal for organization or alteration of school districts.

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

§ **1. Amendment.)** Section 15-27-07 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-27-07. Effective Date of Attachment or Detachment—Equalization—Voting Places.) If territory is annexed to a school district or detached therefrom, under the provisions of this chapter, the change in boundaries shall become effective the next July first after the final approval by the state committee unless another effective date is provided for by the county committee or in the petition, and all the assets and liabilities of the district involved shall be equalized as provided in section 15-47-19. If territory is attached to an existing school district, the electors in such attached territory shall vote on school matters at the nearest polling place in the district to which it is attached.

§ 2. Amendment.) Section 15-53-21 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-21. Voluntary Proposals for Organization or Alteration of School Districts.) Proposals for the organization of a new school district, for the consolidation of two or more districts, or for the alteration of the boundaries of established school districts, by any of the means provided for by law, must be submitted by the county committee and county superintendent to the state committee for final approval:

1. After a hearing on petitions is held by the county committee, or
2. After action is taken by the county committee in cases where no petition is required, or
3. For approval before proposals are submitted to the vote of the electors,

as the law may require in each case. Such proposals shall be approved by the county committee and county superintendent and approved by the state committee if in the judgment of said committees they constitute an acceptable part of a comprehensive program for the reorganization of the school districts of the county.

Approved March 15, 1965.

CHAPTER 135

H. B. No. 699
(Bloom)

SCHOOL CENSUS

AN ACT

To amend and reenact subsection 16 of section 15-29-08 of the 1963 Supplement to the North Dakota Century Code, relating to the biennial school census.

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

§ 1. Amendment.) Subsection 16 of section 15-29-08 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16. To cause an enumeration to be made, between the first and thirtieth days of June in each odd numbered year, of all persons under twenty-one years of age within the school district, and to return the same to the county superintendent of schools.

Approved March 15, 1965.

CHAPTER 136

H. B. No. 716
(Bloom, Loerch)

SCHOOL BOARD POWERS

AN ACT

To create and enact subsection 18 of section 15-29-08 of the North Dakota Century Code, as amended by the 1963 Session Laws, relating to group insurance for teachers.

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

§ 1.) Subsection 18 of section 15-29-08 of the North Dakota Century Code, as amended by the 1963 Session Laws, is hereby created and enacted to read as follows:

18. To participate in group insurance plans and to pay all or part of premiums thereof.

Approved March 15, 1965.

CHAPTER 137

H. B. No. 714
(Fossum)

SCHOOL TREASURER'S BOND

AN ACT

To amend and reenact section 15-29-11 of the 1963 Supplement to the North Dakota Century Code, relating to the bond of school district treasurers.

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

§ 1. Amendment.) Section 15-29-11 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-11. Treasurer's Bond.) The treasurer of each school district shall furnish to the school district a bond conditioned that he will honestly and faithfully discharge the duties of his office and that he shall safely keep and render a true account of all funds and property that shall come into his hands as such treasurer and pay and deliver the same according to law. Such bond shall be in an amount to be fixed by the school board but shall be not less than twenty-five percent of the maximum amount of money that shall be subject to the treasurer's control at any one time.

Approved March 15, 1965.

CHAPTER 138

S. B. No. 139
(Urdahl, Trenbeath)

TEACHER CERTIFICATION

AN ACT

To amend and reenact section 15-36-01 of the North Dakota Century Code, relating to teachers' certificates and to amend and reenact section 15-36-04 of the North Dakota Century Code, relating to second grade professional certificates.

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

§ 1. Amendment.) Section 15-36-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-36-01. Teachers' Certificates—Grades.) The superintendent of public instruction shall issue two regular grades of certificates, namely:

1. The second grade professional certificate; and
2. The first grade professional certificate.

Certificates shall be issued only to persons of good moral character who fulfill all the requirements specified by law and by the rules and regulations of the superintendent of public instruction. Be it further provided that on and after July 1, 1969 the superintendent of public instruction shall issue one regular certificate, namely the first grade professional certificate.

§ 2. Amendment.) Section 15-36-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-36-04. Second Grade Professional Certificate—Diploma from State Schools and from Schools Outside of State.) A second grade professional certificate shall be issued:

1. To a graduate of the standard course of the North Dakota normal school or teachers' college who is eighteen years of age or over and who holds the diploma granted to graduates of such course. Such certificates shall be valid for three years from the date of issue of the diploma;
2. To a graduate eighteen years of age or over who holds a diploma from an institution the curriculum of which

is the equivalent of the standard curriculum of the state normal schools or teachers' colleges. The diploma held must evidence the completion of at least a two-year course or sixteen semester hours of professional preparation for teaching. Such certificate shall be valid for three years after the date of issue.

The holder of a second grade professional certificate shall be entitled to a second grade certificate valid for life, upon the completion of eighteen months of successful teaching experience in this state after receiving the certificate and the filing of evidence thereof in the office of the superintendent of public instruction on blanks furnished for that purpose. A second grade professional certificate shall qualify the holder to teach in any of the elementary grades of the public schools of the state. Be it further provided that on and after July 1, 1969 the superintendent of public instruction shall thereafter discontinue issuing second grade professional certificates.

Approved March 15, 1965.

CHAPTER 139

S. B. No. 272
(Urdahl, Lips, Berube, Sinner, Jurgensen)

TEACHERS' PROFESSIONAL RESPONSIBILITIES

AN ACT

Relating to responsibilities of the teaching profession; providing for a professional practices commission and for codes of ethics and standards, complaints, and reprimands; and to amend and reenact sections 15-36-15 and 15-36-16 of the North Dakota Century Code, relating to the revocation of teachers' certificates by the superintendent of public instruction.

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

§ 1. Responsibilities of the Teaching Profession.) The legislative assembly hereby declares the profession of teaching in the public schools of this state to be a profession affected by high public interest, and that it is in the best interest of the state that such profession be recognized and that it accept its professional responsibilities in the development and promotion of high standards of ethics, conduct, and professional performance and practices. For the purposes of this Act, the "profession of teaching" or "teaching profession" shall mean persons engaged in teaching in the public schools and persons

providing related administrative, supervisory, or other services in the public schools requiring certification from the department of public instruction.

§ 2. **Teachers' Professional Practices Commission.)** There is hereby created a Teachers' Professional Practices Commission consisting of nine members, a majority of which shall be classroom teachers, appointed by the governor from a list of nominees submitted by the North Dakota education association. The list of nominees shall include at least three nominees for each position upon the commission. The term of office of members of the commission shall be three years commencing on July 1 of the year of appointment, except that original appointments shall be for staggered terms of one, two, and three years in order that the terms of three members of the commission shall expire each year thereafter. Vacancies shall be filled for an unexpired term in the same manner as original appointments. No person shall serve for more than two consecutive terms as a member of the commission.

The commission shall annually select a chairman, vice chairman, and secretary. Meetings shall be held after ten days' notice to all members at the call of the chairman or upon request in writing of a majority of the commission. A majority shall constitute a quorum and a majority of such quorum shall have authority to act upon any matter properly before the commission. It shall adopt its own rules of order and procedure not inconsistent with this Act and shall hold meetings pursuant to the provisions of this Act on days not in conflict with regular school attendance.

No member of the commission shall receive any compensation or expense allowance from the state for his service upon the commission, but the North Dakota education association may pay the expenses of such members in carrying out their duties as members of the commission.

§ 3. **Duties of Commission and Superintendent of Public Instruction.)** It shall be the duty of the commission to develop and revise, consistent with state law, professional codes or standards relating to ethics, conduct, and professional performance and practices of persons engaged in the profession of teaching in the public schools. In the development of such professional codes and standards, the commission shall solicit the assistance of members of the teaching profession and representatives of school administrators, school board officers, and other interested citizens. The commission shall recommend such professional codes and standards as it may approve to the superintendent of public instruction, who after a hearing thereon may, consistent with state law, approve or revise such

codes and standards as he deems proper and in the best interest of the public and the profession, and thereafter shall promulgate such approved or revised codes and standards as regulations in accordance with chapter 28-32.

§ 4. Complaints Against Teachers.) The commission shall accept and investigate complaints against any member of the teaching profession engaged in teaching in the public schools in regard to violation of regulations promulgated in accordance with section 3 of this Act or otherwise pertaining to his personal or professional conduct or performance, or such investigation may be made upon its own motion. Following such investigation the commission may dismiss such complaint as unfounded, issue a written warning and reprimand, or, following an opportunity for such teacher to informally appear before the commission, file a formal complaint with the superintendent of public instruction requesting the suspension for a period of time or revocation of the teachers' certificate of the teacher involved and stating the reasons therefor. The commission shall make the results of its investigation fully available to the superintendent of public instruction in such cases. Upon receipt of such formal complaint, the superintendent of public instruction shall proceed as provided in sections 15-36-16 and 15-36-17 and in accordance with section 15-36-15.

§ 5. Amendment.) Section 15-36-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-36-15. Revocation of Teachers' Certificates—Grounds—Effect.) The superintendent of public instruction shall suspend for a period of time, or revoke and annul any teachers' certificate granted in this state upon any or all of the following grounds:

1. For any cause which would have authorized or required him to refuse to grant the certificate if the facts were known at the time when the certificate was granted;
2. For incompetency, immorality, intemperance, or cruelty of the certificate holder;
3. For the commission, by the certificate holder, of a crime as defined in the laws of this state, or of the United States;
4. For the refusal by the certificate holder to perform his duty as a teacher or for his general neglect of the work of the school;
5. For the breach, by the certificate holder, of his contract with any school district;

6. Serious violation or a series of violations of the professional codes and standards promulgated in accordance with law.

The revocation of a certificate shall terminate the employment of the holder of such certificate in the school in which he is employed when the certificate is revoked, but the teacher shall be paid to the time he received notice of the revocation. Appeals from any order of revocation may be taken to the district court of Burleigh County as provided by chapter 28-32.

§ **6. Amendment.)** Section 15-36-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-36-16. Proceedings to Revoke Certificate.) The superintendent of public instruction may upon his own motion, or upon the receipt of a formal complaint by the teachers' professional practices commission alleging grounds for the revocation or suspension for a period of time of any person's teachers' certificate shall, make such preliminary investigation as he may deem necessary, and if it shall appear probable that such grounds exist, he shall proceed with proceedings in accordance with chapter 28-32. Upon the completion of such proceedings if the superintendent of public instruction shall find that grounds for revocation or suspension for a period of time do exist, he shall issue his order in the manner provided in chapter 28-32 to revoke the teachers' certificate of such person as provided in section 15-36-15.

Approved March 6, 1965.

CHAPTER 140

H. B. No. 636
(Montplaisir, Sanstead, Larsen (Grand Forks), Harrison)

"TEACHER" DEFINED

AN ACT

To amend and reenact subsection 1 of section 15-39-01 of the North Dakota Century Code, relating to the definition of a teacher.

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

§ **1. Amendment.)** Subsection 1 of section 15-39-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Teacher" shall include:

   a. All persons employed in teaching in any state institution or by any school board or other governing body of any school district of this state;

   b. All superintendents and assistant superintendents employed in any state institution or in the school system of any school district in this state;

   c. All principals, assistant principals, and special teachers in any state institution or in the school system of any school district in this state;

   d. The superintendent of public instruction and all county superintendents of schools and their assistants;

   e. All supervisors of instruction;

   f. All state school inspectors and supervisors;

   g. Every person engaged as president, dean, school librarian, or registrar of any state institution;

   h. The secretary of the North Dakota education association and any assistants to the secretary holding at least a first grade professional certificate;

   i. The commissioner of higher education;

   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.

Approved March 6, 1965.

CHAPTER 141

S. B. No. 147
(Lips)

TEACHERS' RETIREMENT CREDITS

AN ACT

To amend and reenact sections 15-39-15 and 15-39-36 of the North Dakota Century Code, relating to out-of-state teachers and counting military service as teaching service.

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

§ 1. **Amendment.)** Section 15-39-15 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-15. Teacher Coming from School Not Included in Provisions of Chapter to Pay Back Assessments.) Any teacher who comes from a school or educational institution supported by public taxation out of North Dakota and becomes a teacher in a public school or state institution within North Dakota may elect to have not to exceed seven years out-of-state teaching accredited in North Dakota provided he declares his request to the board of trustees of this fund for such out-of-state credit within the first year after he begins teaching in North Dakota or within one year of the time when such out-of-state teaching combined with teaching within North Dakota shall aggregate twenty-five years, provided that out-of-state teaching time shall not exceed seven years. Every such teacher shall be advised of the provisions of this section by the school board in writing at the time of employment, and a copy of such notice with written acknowledgment thereof, shall be filed with the teachers' insurance and retirement fund board. Before receiving any retirement annuity, he shall pay assessments to the fund for the number of years out-of-state teaching he elects based upon his first annual salary in a public school or state institution in this state, or, if he has taught in North Dakota previously, upon his first salary in the state after his resumption of teaching in this state. After July 1, 1949, assessment payments on out-of-state teaching shall be doubled. The rate of interest shall be six percent, the same interest as required of North Dakota teachers having delinquent assessments within the state.

§ 2. **Amendment.)** Section 15-39-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-36. Military Service in National Emergency Counted as Teaching Service.) A teacher who has been granted an honorable discharge from the United States armed forces for services rendered during a national emergency, if he was engaged in the occupation of teaching in North Dakota at the time of entering the service, or who had been engaged in teaching in North Dakota prior to such time but was attending an institution of higher learning for the purpose of improving himself in such profession at the time of entry into the armed services, shall be entitled to have the time of such service counted as teaching service under the provisions of this chapter, upon the payment of the assessments which would have been collected from him if he had continued as a teacher during the time of such service. Such back assessments for military service and teaching time must be paid within one year of the time when such military service combined with teaching within North Dakota shall aggregate twenty-five years, provided that:

1. The period of military service included shall not exceed seven years; and
2. A period of not less than the last five years of teaching must have been within the state of North Dakota; and
3. Payment of back assessments for years of teaching shall include simple interest at a rate of six percent per annum, provided that no interest shall be charged on assessments for time spent in the military service.

Approved March 15, 1965.

CHAPTER 142

S. B. No. 342
(Roen, Strinden, Lips, Mutch)

TEACHERS' RETIREMENT ELIGIBILITY

AN ACT

To amend and reenact section 15-39-27 of the North Dakota Century Code, and to create and enact subsection 5 of section 15-39-28 of the North Dakota Century Code, relating to the eligibility to participate in the teachers' insurance and retirement fund and retirement annuities.

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

§ 1. Amendment.) Section 15-39-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-27. Eligibility to Participate in Fund.) Any teacher who is employed as such in a public school or state institution and who has complied with the provisions of this chapter may retire and receive the annuity provided for in section 15-39-28 in the following cases:

1. After a period or periods aggregating twenty-five years of service as a teacher, of which eighteen years, including the last five years, of teaching shall have been spent in public schools or state institutions of this state, if such teacher shall have paid into the fund all of the assessments required under the provisions of this chapter. If a teacher shall retire before attaining the age of fifty-five years, eligibility for the retirement annuity shall be deferred until the age of fifty-five years is attained.
2. After a period or periods aggregating fifteen years of service as a teacher in the public schools or state institutions of this state, when such teacher suffers from total disability, such total disability to be determined by the board after an examination of such teacher has been made by two physicians appointed by the board. The annuity is payable, during the period of such total disability, only if such teacher shall have paid into the fund all of the assessments required under the provisions of this chapter. Said annuity is payable only during the period of such disability. The fees of such physicians shall be paid by the applicant. Payment of the annuity based upon such disability shall commence the first

month following the determination of the disability by the board and the payment of any deficiency in assessments as provided in this section, regardless of the age of the teacher at such time. Payment of the annuity shall continue for and during such period of disability and terminate with the month following recovery from such disability. The board shall ascertain by inspections annually or as often as necessary to determine the disability status of an annuitant.

3. A teacher who has met all requirements for an annuity, except that of actual retirement from teaching, but continues to teach shall have the right to select option one or option two, as described in section 15-39-29, and to name a beneficiary to receive, in the event of the teacher's death, the reduced retirement allowance as provided in sections 15-39-28 and 15-39-29. A written designation of the choice of option and beneficiary must be filed with the board of trustees of this fund in order for such choices to be effective. A teacher may make alterations in such choice of options at any time before retirement. If a continuing teacher who has duly registered such choices with the board should die before retiring from teaching, he shall be considered to have retired on the date of his death, and his designated beneficiary, if living, shall receive the retirement allowance for life as provided by the terms of the option previously selected by the teacher. The reduced retirement allowance shall be computed on the ages of teacher and beneficiary as of the date of death of the teacher. Should a continuing teacher later retire voluntarily before death, then sections 15-39-28 and 15-39-29 shall apply directly except that any previously registered choice of option and beneficiary shall continue in full force and effect and may not be changed.

4. After a period aggregating ten years of service as a teacher in the public schools or state institutions of this state, a teacher who has attained the age of fifty-five years shall be eligible to receive an annuity ratably reduced in proportion to the number of years thereof.

If an applicant for annuities under either subsection 1 or subsection 2 or subsection 4 of this section has not paid into the fund assessments equal to the amounts required to be paid under section 15-39-14, he shall pay any deficiency into the fund before receiving the annuity.

§ 2.) Subsection 5 of section 15-39-28 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. If said teacher shall have retired and applied for an annuity under the provisions of section 15-39-27, subsection 4, he shall receive as an annuity a sum equal to two percent of the total earnings in salaries for the years of teaching service for which assessments were paid. Said annuity, however, shall not be less than three hundred dollars in any one year, subject to all the provisions of this chapter.

Approved March 6, 1965.

CHAPTER 143

S. B. No. 298
(Lashkowitz, Luick, Jurgensen)

TEACHERS' RETIREMENT MINIMUM

AN ACT

To amend and reenact section 15-39-28.1 of the 1963 Supplement to the North Dakota Century Code, establishing a minimum retirement annuity for certain members of the teachers' insurance and retirement fund.

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

§ 1. **Amendment.)** Section 15-39-28.1 of the 1963 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.

Approved March 19, 1965.

CHAPTER 144

S. B. No. 95
(Sinner, Strinden, Roen, Forkner, Berube)

TEACHERS' RETIREMENT PAYMENTS

AN ACT

To amend and reenact section 15-39-32 of the North Dakota Century Code, relating to teachers' insurance and retirement fund annuity payments.

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

§ 1. Amendment.) Section 15-39-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-32. Annuities Payable Monthly.) The state treasurer shall pay the annuities monthly upon the warrants prepared and issued by the department of accounts and purchases and signed by the state auditor upon the certificates of the president or the secretary of the board.

Approved February 26, 1965.

CHAPTER 145

S. B. No. 150
(Lips, Nelson, Trenbeath, Hernett, Kjos, Robinson, Roen, Kisse)

STATE PER PUPIL PAYMENTS

AN ACT

To amend and reenact section 15-40-12 and 15-40-26 of the North Dakota Century Code and sections 15-40-14 and 15-40-24 of the North Dakota Century Code as amended by the 1963 Supplement, relating to high school and elementary per pupil payments respectively.

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

§ 1. Amendment.) Section 15-40-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-12. Declaration of Legislative Intent.) It is the intent of the legislative assembly to support elementary and secon-

dary education in this state from state and county funds at fifty percent of the educational cost per pupil per year, as adjusted by other provisions of law, exclusive of the cost of physical facilities, transportation and current indebtedness. One hundred seventy-six dollars is determined to be fifty percent of such per pupil cost.

§ 2. Amendment.) Section 15-40-14 of the 1963 Supplement to the North Dakota Century Code, is hereby amended and reenacted to read as follows:

15-40-14. Payments from County Equalization Fund—Amount—Student Attending School in Foreign State.) There shall be paid from the county equalization fund to all school districts operating high schools, to school districts contracting to educate high school pupils in a federal Indian school, all county agricultural and training schools, the state school for the blind, the state school for the deaf and state training school, that amount of money resulting from multiplying the factor 1.32 times the educational cost per pupil as provided in section 15-40-12 from each high school pupil in average daily membership in such schools each year. However no payment shall be made for Indian pupils in districts in which the school facilities are being provided, maintained and staffed wholly or in part by the federal government for the education of the Indian pupils. Such payments shall not be made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only certificated teachers have been employed, teachers have been paid not less than the minimum legal salaries, and the other standards prescribed by this chapter have been met. Districts that did not maintain high schools during the year of 1954-1955 shall not be eligible for payments unless they have a minimum enrollment of twenty-five pupils if four years of high school work are offered, a minimum enrollment of twenty pupils if three years of high school work are offered, a minimum enrollment of fifteen pupils if two years of high school work are offered, and a minimum enrollment of ten pupils if one year of high school work is offered. A student who lives within twenty miles of another state or in a county bordering on another state and in a school district which has no high school, or which does have a high school and the attendance has been authorized in accordance with the provisions of section 15-40-17, with the approval of the county superintendent of schools, may attend a four year public high school in an adjoining state and payments from the county equalization fund shall be paid to the district in which the high school which he attends is located in the amount provided for in this section. For purposes of this chapter "average daily membership" shall mean the total days all

students in a given school are in attendance, including legal school holidays and days set aside for a North Dakota education association convention, plus the total days all students are absent, divided by one hundred eighty days. School districts educating children of agricultural migratory workers during the months of June, July, and August shall not be restricted to payments for a one hundred eighty day school term.

§ 3. Amendment.) Section 15-40-24 of the 1963 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 1.32 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 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 1.1 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 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 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 pupils.

§ 4. **Amendment.)** Section 15-40-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***15-40-26. Credit for Tuition Paid by District of Residence or Parent or Guardian.)** A credit equal to the per pupil payments as provided in section 15-40-24 shall be allowed against tuition charged by the district in which an elementary pupil is enrolled in all cases where the tuition for such pupil is paid by the district in which the pupil resides or where the tuition is paid by the pupil's parent or guardian. An elementary student who lives in a county in this state bordering on another state and who, because of more convenient roads, distances or other circumstances, has the recommendation of the county superintendent of schools to attend a public school in an adjoining state, may attend such public school. The home county shall pay the school district in such neighboring state an amount equal to the per pupil payments as provided in section 15-40-24 toward the elementary tuition for such pupils. Such elementary students attending public schools in a foreign state shall be counted in the county from which they come in calculating the obligations of said county. The payment of such foreign elementary tuition shall be paid by the home county.

Approved March 19, 1965.

***Note:** Section 15-40-26 was also amended by section 4, chapter 146, 1965 S.L. The wording of the two amendments is identical.

CHAPTER 146

S. B. No. 54
(Strinden, Berube, Beck, Longmire)
(From LRC Study)

NONRESIDENT SCHOOL PUPILS

AN ACT

To create and enact section 15-40-17.1 of the North Dakota Century Code, and to amend and reenact subsections 3 and 14 of section 15-29-08 and sections 15-40-17 and 15-40-26 of the North Dakota Century Code, relating to the admission of nonresident pupils in the public schools and payment of tuition for nonresident pupils.

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

§ 1. Amendment.) Subsections 3 and 14 of section 15-29-08 of the 1963 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. To send pupils into another school district when, because of shorter distances and other conveniences, it is to the best interests of the school district to do so, and in such instances the board may pay the tuition of such pupils to the district to which they are sent. The school board may make arrangements for the education of pupils in a federal Indian school and contract with the superintendent of the Indian agency for the payment of tuition for these pupils. The board may arrange, and when petitioned to do so by a majority of electors of the district shall arrange, with the school boards of other districts to send to such other districts pupils who can be taught conveniently therein, and for the payment of their tuition and for furnishing and paying for their transportation to and from the schools in such other districts. The admitting districts shall receive pupils only when schools of the admitting districts will not be injured or overcrowded and the board of the sending district and the board or boards of the receiving district or districts have entered into an agreement governing the attendance of such pupils as may be enrolled or when tuition will be paid by a parent or guardian in the manner provided in subsection 14 of this section. The school district in which a child resides at the time any court order or act of a juvenile commissioner or any other lawful authority which shall have been issued requiring such child to stay for any prescribed period at a foster home or a home maintained by any nonprofit

corporation, shall be construed to be the residence district of such child for purposes of applying this subsection or section 15-40-17 relating to tuition payments, whenever such child shall attend any public school. Such residence district shall be liable for tuition in the amount provided in such sections upon claim by the district in which such child is attending school.

14. To admit to the schools of the district pupils from other districts when it can be done without injuring or overcrowding the schools, and to make regulations for the admission of such pupils. The board may make proper and necessary rules for the assignment and distribution of pupils to and among the schools in the district and for their transfer from one school to another. When an elementary pupil is admitted from another district, credit on his tuition shall be given by the district admitting him to the extent of school taxes paid in the admitting district by the parent or guardian of the admitted pupil. If the attendance of an elementary pupil from another district is necessitated by shorter distance or other reasons of convenience, approval or disapproval shall be given by a three-member committee consisting of the county judge, state's attorney, and the county superintendent of schools within fifteen days after consulting the school boards of both districts concerned, and the balance of the tuition, after credit for taxes paid and the credit allowed for county equalization fund payments according to the provisions of section 15-40-26, shall be paid by the district from which the pupil is admitted, but the whole amount of the tuition shall not exceed the average cost of elementary education per child in the county. Such cost shall include expenditures from the general and sinking and interest funds and annual receipts of the building fund. Districts not complying with the decision of the committee herein provided shall forfeit their county equalization payments to the schools receiving the pupils. The board may admit pupils residing in unorganized territory adjacent to the district to the schools in the district and may arrange with the parents or guardians of such pupils for the payment of tuition. The admission of nonresident high school students shall be governed by the provisions of chapter 15-40.

A school board may admit elementary pupils from other districts to its schools when it can be done without injury or overcrowding the schools even if such pupils have not received approval from the school board of their residence or from the three-member county

committee provided the parent or guardian pays the tuition of each pupil, which tuition shall be equal to the actual per pupil cost of educating an elementary pupil in the admitting district for the previous school year, calculated in the same manner as provided in section 15-40-17.1, except that such calculations shall be based on elementary school costs. 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 of the admitting district shall execute a contract in writing with the parent or guardian requiring any balance of the tuition to be paid in cash on or before the first day of the second semester.

§ 2. Amendment.) Section 15-40-17 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-17. High School Payments Are Exclusive—Exception.) No school district shall charge or collect from any nonresident high school student, his parents or guardian, or the district of his residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident high school students. However, a high school district shall charge tuition for nonresident high school students. The whole amount of such tuition, except as hereinafter provided, shall be paid by the district from which the pupil is admitted and shall equal the average cost of high school education per child in the county less payments from county equalization funds and from the state under this chapter. Such costs shall include expenditures from the general and sinking and interest funds, and receipts from the building fund. Credit on tuition charges shall be given by the admitting district to the extent of school taxes paid to the admitting district by the parent or guardian of the admitted student. In the event any district not providing high school education should fail or refuse to pay the tuition charges, the admitting district shall notify the county superintendent of schools of the county of residence of the student and the state superintendent of public instruction of such fact, and upon verification by the county superintendent of schools that such tuition payments are due the admitting district, all county equalization fund payments and payments from the state under this chapter to the district of residence of the student shall be withheld until the tuition due the admitting district has been fully paid.

The parent or guardian of any student who is a resident of a district providing a high school education may apply to the school board of the school district of residence of the student for approval of the payment of tuition charges to another

school district for attendance of the student at the high school in such other school district. If the school board of the district of residence shall approve such application, it shall pay the tuition charges in accordance with the application as approved. In the event such application shall be disapproved, the parent or guardian of the child may appeal the question to the county superintendent of schools, and a committee consisting of the county judge, state's attorney, and the county superintendent of schools shall within fifteen days consult with the school boards of the districts concerned and with the parent or guardian of the student concerned and render a decision in regard to the tuition charges. If the committee shall find the attendance of the student in question is necessitated by shorter distance, previous attendance in another high school, inadequacy of curriculum considering the educational needs of the particular student, or other reasons of convenience it may approve the payment of such tuition charges. The school district of residence of the student shall thereafter be required to pay such tuition charges, and upon notification by the admitting district of the failure of the district of residence to pay such tuition charges, all county equalization payments and payments from the state under this chapter to the district of residence shall be withheld in the same manner as provided in this section in the case of a district not providing a high school education. If the committee shall find that the attendance of the student at a high school outside the district is not necessitated by shorter distance, previous attendance in another high school, inadequacy of curriculum considering the educational needs of the particular student, or other reasons of convenience, the district of residence shall not be required to pay such tuition charges. The decision of the committee may be appealed to the state board of public school education, and the decision of such board shall be binding upon all parties. The school board of any school district approving the payment of high school tuition charges or required to make such payments under the provisions of this section may levy an amount sufficient to pay tuition charges which levy shall not be subject to any mill levy limitations prescribed by law. This chapter, however, shall not affect the right of a school district to charge and collect such tuition as may be fixed by agreement from students who are not residents of this state.

§ 3.) Section 15-40-17.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-40-17.1. Payment of Tuition by Parents of Nonresident Students.) 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 the second semester.

§ 4. Amendment.) Section 15-40-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***15-40-26. Credit for Tuition Paid by District of Residence or Parent or Guardian.)** A credit equal to the per pupil payments as provided in section 15-40-24 shall be allowed against tuition charged by the district in which an elementary pupil is enrolled in all cases where the tuition for such pupil is paid by the district in which the pupil resides or where the tuition is paid by the pupil's parent or guardian. An elementary student who lives in a county in this state bordering on another state and who, because of more convenient roads, distances or other circumstances, has the recommendation of the county superintendent of schools to attend a public school in an adjoining state, may attend such public school. The home county shall pay the school district in such neighboring state an amount equal to the per pupil payments as provided in section 15-40-24 toward the elementary tuition for such pupils. Such elementary students attending public schools in a foreign state shall be counted in the county from which they come in calculating the obligations of said county. The payment of such foreign elementary tuition shall be paid by the home county.

Approved March 15, 1965.

***Note:** Section 15-40-26 was also amended by section 4, chapter 145, 1965 S.L. The wording of the two amendments is identical.

CHAPTER 147

H. B. No. 700
(Bloom, Bier, Bowman)

PUPILS ATTENDING SCHOOL OUT-OF-STATE

AN ACT

To amend and reenact section 15-40-15 of the North Dakota Century Code as amended by the 1961 Supplement, relating to pupils residing in annexed or reorganized districts attending school in a bordering state.

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

§ 1. Amendment.) Section 15-40-15 of the 1961 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. Be it further provided that students from areas historically

attending school 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.

Approved March 15, 1965.

CHAPTER 148

H. B. No. 579
(Johnson (Barnes), Olafson, Powers (Barnes), Hertz)

DISTRIBUTION OF STATE SCHOOL AID

AN ACT

To amend and reenact section 15-40-19 of the 1963 Supplement to the North Dakota Century Code, relating to the distribution of payments to the county equalization fund by the department of accounts and purchases.

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

§ 1. Amendment.) Section 15-40-19 of the 1963 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 October fifteenth of each year. Upon receiving the certifications of the county 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 October 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 October fifteenth payment in order to constitute fifty percent of the sum found to be due under the provisions of this chapter on December first and the balance on March first.

Approved February 22, 1965.

CHAPTER 149

H. B. No. 558
(Hoffner, Borstad)

COUNTY AGRICULTURAL SCHOOLS, DISCONTINUANCE

AN ACT

Relating to the disposition of facilities of county agricultural and training schools.

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

§ 1. County Agricultural and Training Schools—Discontinuance—Disposal of Assets.) Upon the filing with the board of county commissioners of any county having a population of less than ten thousand persons according to the latest federal decennial census, of a petition containing the signatures of qualified electors of the county at least equal in number to fifteen percent of the vote cast for governor at the most recent general election, calling for the disposal of the assets of a county agricultural and training school, the board of commissioners may consider such petition at its next regular meeting. If the board shall decide in favor of disposing of such assets, the question of such disposal shall be submitted to the electors of the county at the next general election or at a special election called by the board for such purpose. If a special election is ordered, it shall be held in the same manner and upon the notice prescribed by law for other elections. The published and posted notice of the election shall state its object and the reason for disposal of such assets. If a majority of electors voting upon the question favor the disposal of such assets, the board of county commissioners may proceed to dispose of all of the physical assets, real and personal, in such manner as may be in the best interest of the county and any public school district interested in purchasing the same.

Approved March 2, 1965.

CHAPTER 150

H. B. No. 575
(Johnson (Barnes), Froeschle)

KINDERGARTENS

AN ACT

To amend and reenact sections 15-45-02 and 15-45-03 of the North Dakota Century Code, relating to kindergartens.

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

§ 1. Amendment.) Section 15-45-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-02. Kindergarten Curriculum — Rules and Regulations.) The school board shall establish a curriculum for kindergarten and such other rules and regulations governing the kindergartens as it may deem best, and shall govern them, so far as practicable, in the manner and by the officers provided by law for the government of other public schools.

§ 2. Amendment.) Section 15-45-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-03. Kindergarten Teachers—Qualifications.) Kindergarten teachers shall hold valid certificates issued by the superintendent of public instruction entitling them to teach in the elementary schools of this state. Training must include special courses in kindergarten education at approved institutions of higher learning.

Approved February 25, 1965.

CHAPTER 151

H. B. No. 644
(Vogel, Larsen (Grand Forks), Loerch, Hardmeyer)

TEACHERS' SICK LEAVE

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.) 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 twenty days.

Approved March 8, 1965.

CHAPTER 152

S. B. No. 119
(Mahoney, Morgan)

MEDICAL CENTER LOANS

AN ACT

To amend and reenact section 15-52-20 of the 1963 Supplement to the North Dakota Century Code, relating to loan conditions applicable to loans by the medical center loan fund board.

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

§ 1. **Amendment.)** Section 15-52-20 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-20. Loan Conditions.) Loans granted by the board under the terms of sections 15-52-10 through 15-52-28 are to be

upon the condition that the full amount thereof shall be repaid to the board in cash with six percent interest annually from the date of each payment by the board pursuant to a loan agreement, the repayment to be in yearly installments on a schedule set by the board and the first installment becoming due and payable one year from the date on which the applicant completes his internship if a medical student or one year from the date of graduation from a dental school if a dental student. If prior approval is obtained from the board such first installment shall not become due and payable until one year from the date on which the applicant completes additional residency or other advanced study or military service of not more than three years' duration. In the case of applicants who have agreed to enter medical or dental practice in a North Dakota municipality of five thousand population or less which is either without a qualified physician or dentist or in need of additional medical or dental personnel, each year of actual practice in such municipality shall be equivalent to repayment of one-fifth of the unpaid balance of the loan and of one-fifth of the accrued interest thereon. The term "practice" under the agreement and repayment provisions of this chapter includes employment in the state of North Dakota as a medical intern.

Approved February 26, 1965.

CHAPTER 153

S. B. No. 228
(Sinner)

SCHOOL REORGANIZATION ELECTIONS

AN ACT

To amend and reenact section 15-53-14.1 of the North Dakota Century Code, as amended by the Session Laws of 1963, relating to elections for consolidating or reorganizing two or more reorganized school districts.

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

§ 1. Amendment.) Section 15-53-14.1 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-14.1. Elections for Consolidating or Reorganizing Two or More Reorganized School Districts.) Notwithstanding the provisions of section 15-53-14, whenever reorganization pro-

ceedings are had for the purpose of consolidating or otherwise affecting two or more school districts previously reorganized under the provisions of chapter 15-53, each of such reorganized school districts shall vote as a separate unit and such reorganization proceedings shall be adopted only when approved by all voting units.

Approved March 17, 1965.

CHAPTER 154

H. B. No. 940
(Unruh, Tweten)

REFUNDING REVENUE BONDS

AN ACT

To create and enact section 15-55-02.1 of the North Dakota Century Code, providing authorization for and limitations on issuing refunding bonds by the state board of higher education and to amend and reenact section 15-55-14 of the North Dakota Century Code, relating to constructing, operating and financing revenue producing buildings at higher education institutions.

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

§ 1.) Section 15-55-02.1 of the North Dakota Century Code is hereby created and enacted 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 (15) 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 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 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 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 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 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.

§ 2. Amendment.) Section 15-55-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-14. Rental Income from Unencumbered Revenue Producing Buildings 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 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 so financed or into a fund for repair or replacement of the building, its equipment and furnishings, the rental or income from revenue producing buildings 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 by fire, tornado, cyclone, or other cause, the proceeds from insurance on such revenue producing buildings 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, its equipment and furnishings.

3. The rental income from said revenue producing buildings and the proceeds of insurance thereon may be irrepealably 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, 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 or income from the revenue producing buildings, 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 for such educational institution and not to any other institution.

Approved March 15, 1965.

CHAPTER 155

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

HIGHER EDUCATION FACILITIES BONDS

AN ACT

To provide for the issuance by the state of bonds to finance the construction and equipping of buildings and facilities at state-supported institutions of higher education backed by the full faith and credit of the state, providing for their payment, and appropriating the proceeds of such bonds for such purposes, and declaring an emergency.

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

§ 1. Declaration and Finding of Public Purpose.) The legislative assembly of the state of North Dakota hereby declares and finds that it is and has been its purpose in preparing and adopting the provisions of this Act to promote the advancement of the citizens of this state through making available more adequate facilities for higher education in the state of North Dakota, thereby promoting the economic welfare of the citizens of the state and the economic progress of the state.

§ 2. State of North Dakota General Obligation Bonds—Higher Education Facilities Series—Bond Purpose.) An issue of general obligation bonds of the state, to be designated as State of North Dakota Bonds, Higher Education Facilities Series, in the amount of ten million dollars, is hereby authorized under the authority of section 182 of the Constitution, for the sole purpose of providing and equipping facilities at the state-supported institutions of higher education. As used

in this Act, the term "facilities" shall mean and include buildings used for classroom, library, laboratory, workshop, administration and maintenance purposes, and landscaping, furnishings, and equipment associated therewith.

§ 3. **Preparation of Bonds.)** The preparation, handling, issuance, sale, and delivery of bonds under this Act shall be supervised and controlled by the industrial commission, which shall issue and sell them upon request of the board of higher education in such manner, in such number of series, in such form and denominations, bearing interest at such rate or rates, maturing on such dates, either without option of prior redemption or subject to prepayment upon such notice and at such times and prices, payable at such bank or banks, within or without the state, with such provisions for registration, conversion and exchange and for the issuance of notes in anticipation of the sale and delivery of definitive bonds, and in accordance with such further regulations as the board of higher education shall request subject to the limitations contained in this Act; provided, however, that bonds in not more than the sum of five million dollars shall be issued and sold during the biennium beginning July 1, 1965, and ending June 30, 1967, and the balance of the issue as authorized by section 2 of this Act shall be issued and sold as provided in this section and Act. The bonds of each series shall mature in order of serial numbers, and the first installment of principal thereof shall fall due not more than three years and the last installment not more than twenty years from the date of the bonds, and no installment of principal of the series maturing in any year shall be less than one-third of the amount of the largest installment maturing in any subsequent year after two years from the issue date, except that the amount of such installments of principal may be fixed in such manner that the increase thereof from year to year approximately equals the decrease from year to year in the interest on the bonds remaining unpaid. The bonds shall be executed by the governor and by the state treasurer under the great seal of the state of North Dakota and shall be attested by the secretary of state, and any coupons attached thereto shall be executed by the signatures of the same officers. The signatures of all officers on the coupons and the seal and the signatures of all but one officer on the face of each bond may be printed, lithographed, stamped, or engraved thereon. The state auditor and secretary of state shall also endorse and sign on each bond a certificate showing that the bond is issued pursuant to law and is within the debt limit. Interest on each bond shall cease at maturity, or on a prior date upon which the bond shall have been called for prepayment and redemption in accordance with its terms, unless the holder shall then present the same for payment and

payment is refused. The industrial commission upon request of the board of higher education shall have power also to issue bonds of the state to refund bonds issued hereunder at any time on such terms and under such conditions as to it may seem proper, and as are consistent with the provisions of the bonds refunded or are consented to by the holders of such bonds.

§ 4. Sale and Delivery of Bonds—Deposit of Proceeds.) The industrial commission shall act as agent of the state for the negotiation, sale, and delivery of all bonds issued under this Act. Such bonds shall be sold from time to time at the request of the board of higher education for cash at not less than par and accrued interest to the best advantage of the state. In offering such bonds for sale the industrial commission shall reserve the right to reject any or all bids therefor. All of the proceeds of the bonds shall be received by the industrial commission and by it placed in a separate fund in the state treasury to be used only for the purpose for which such bonds are issued.

§ 5. Bonds Tax Exempt.) All bonds issued under the provisions of this Act and interest thereon shall be exempt from taxation.

§ 6. Bonds a General Obligation of the State of North Dakota.) Upon receipt of payment therefor, the industrial commission shall deliver to each purchaser of bonds issued under this Act the bonds purchased by him, and upon delivery of such bonds the full faith and credit and unlimited taxing resources of the state of North Dakota shall stand pledged for the punctual full payment of each and all of such bonds and the interest thereon to the lawful holder and owner thereof as bonds and coupons become due and are presented for payment.

§ 7. Facility Fee—Board to Set Amount.) The board of higher education shall set a facility fee to be charged annually to each student at the time of his registration at an institution under the control of the board. Such fee shall be in an amount to be determined by the board, and the total of all such fees charged shall be in an amount sufficient to pay not less than fifty percent of the interest and principal of such bonds as such principal and interest become due in the following year and to and including July 1 in the year thereafter. All amounts collected under this section shall be deposited in the educational building fund which is hereby created.

§ 8. Transfers from General Fund.) On the first day of each month commencing with the first month after any bonds are issued under authority of this Act and until all such bonds

are retired, the state treasurer shall transfer the amount of forty thousand dollars from the state general fund to the educational building fund, except that during the biennium beginning July 1, 1965, and ending June 30, 1967, such transfer shall be in the amount of twenty thousand dollars each month.

§ 9. Appropriation.) There is hereby appropriated from the educational building fund all funds required for the payment of interest and principal of all bonds issued and sold under this Act as such principal and interest become due, and this appropriation and any taxes and other provisions for payment of said bonds and interest shall not be repealed or discontinued until the said bonds and interest shall have been paid.

§ 10. Educational Building Fund.) All moneys transferred in accordance with sections 7 and 8 of this Act shall be placed in the educational building fund. This fund shall be maintained by the state treasurer and shall be used and disbursed for the following purposes:

1. To provide for the payment and security of the principal and interest due on any bonds issued under the provisions of this Act. For this purpose the treasurer shall transfer from the educational building fund to the sinking fund as provided for in section 11 of this Act, whenever necessary, so much of the moneys in the educational building fund then on hand as may be required, or all thereof if necessary, to produce a balance in the sinking 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.

2. To finance the construction, reconstruction, and betterment of buildings and the provision of equipment therefor at state institutions of higher learning as may be authorized from time to time by the legislative assembly, provided that no disbursement for such purpose shall be made at any time when the balance in the sinking fund is less than specified in subsection 1 of this section.

§ 11. Sinking Fund.) The sinking fund for the payment of bonds issued under this Act, together with interest thereon, shall be established and maintained in the office of the state treasurer who shall be its official custodian and shall at all times maintain adequate books and records thereof. The state treasurer shall make reports of the condition of the sinking fund to the board of higher education on its request. Any

taxes levied and all sums appropriated and transferred under the provisions of sections 10, 12, and 13 of this Act for payment of such bonds and interest shall be deposited in the sinking fund and shall be disbursed by the state treasurer solely for the payment of the bonds and interest thereon directly or through a paying agent to be designated by him.

§ 12. Transfer from Bond Proceeds Fund and Tax Levy for Deficiency.) If on December 1 of any year the balance in the sinking fund is less than the sum necessary to pay principal and interest upon such bonds due during the succeeding twelve months, a sum sufficient to pay such amounts shall be transferred from the special fund in the state treasury in which the proceeds of the bonds have been deposited and if after the transfer the balance in the sinking fund is still less than the sum necessary to pay principal and interest on such bonds due during the succeeding twelve months, the state treasurer shall immediately inform the members of the state board of equalization who shall forthwith meet and proceed to levy a tax upon the aggregate net assessed value of the taxable property within the state in such amount as is required to make up such deficiency.

§ 13. Transfer of Balance.) Upon the retirement of all general obligation bonds issued hereunder and the interest thereon any unexpended balance in the sinking fund created by this Act shall be transferred by the state treasurer to the educational building fund.

§ 14. Certificates of Indebtedness Against Uncollected Taxes.) If at any time the balance in the sinking fund for an issue of bonds under this Act is not sufficient to pay maturing bonds and interest punctually when due, or when the sinking fund is threatened with a deficit, the state treasurer may borrow sufficient funds upon certificates of indebtedness of the state of North Dakota to cover payment of principal or interest or both so as to cure or forestall default. Such certificates may be issued in anticipation of collection of taxes, shall be signed by the governor and state treasurer, shall mature not more than three years from date of issue and shall bear interest at a rate to be determined by the state treasurer. They shall be retired from tax collections and shall be eligible for purchase by the state of North Dakota and its several agencies and departments and the trust funds thereof.

§ 15. Investment of Funds.) The proceeds of bonds and moneys in the sinking fund for bonds issued under this Act shall be deposited in the Bank of North Dakota at interest or invested in direct obligations of the United States, as directed by the state investment board.

§ **16. Protection of Purchaser.)** The purchaser of bonds issued under this Act shall not be obliged to see to the application of the purchase price thereof but shall be protected fully in paying for such bonds by the receipt of the board of higher education or of its agent delivering such bonds as herein provided.

§ **17. Mortgage—Delivery to Escrow Agent.)** At the time of the execution of the bonds authorized by this Act, there shall be executed a mortgage upon state-owned enterprises and industries as authorized by section 182 of the Constitution to secure the payment of bonds and interest thereon, which property now has a value in excess of the requirements of section 182 of the Constitution. Such mortagage shall be executed by the governor and attested to by the secretary of state and shall be deposited with a trustee to be selected by the industrial commission, to be held by such trustee to secure the prompt payment of bonds and interest thereon until all bonds are retired.

§ **18. Limitation of Action.)** No action shall be brought or maintained in any court of this state questioning the validity of any bonds issued under this Act or of any tax levied for such bonds unless such action shall have been commenced within thirty days after the adoption of the resolution of the industrial commission awarding sale of such bonds.

*§ **19. Appropriation of Proceeds.)** The proceeds of any and all bonds sold pursuant to the provisions of this Act are hereby appropriated to the state board of higher education for use in the construction and equipping of facilities authorized by this Act at state institutions of higher education as determined by the board and in accordance with such schedule of priorities as may be prescribed by such board.

§ **20. 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 17, 1965.

***Note:** See chapter 59, 1965 S.L.

CHAPTER 156

H. B. No. 572
(Brown, Lang, Boustead, Wagner)

STATE SURPLUS PROPERTY

AN ACT

To create and enact section 15-61-05 of the North Dakota Century Code, relating to the disposition of surplus property of state departments, agencies, or institutions.

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

§ 1.) Section 15-61-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-61-05. Disposition of State Surplus Property.) Whenever any department, agency, or institution of the state of North Dakota has in its possession property which is surplus, and it appears to the head of such department, agency, or institution that such surplus property may be used by any other department, agency, or institution of the state or any political subdivision of the state, he shall inform the director of the department of accounts and purchases, which department shall then proceed to dispose of said property in the following manner:

1. By transferring it to other state departments, institutions, or agencies without cost, except for transportation expenses which shall be paid by the receiving agency; or
2. If not disposed of under subsection 1, then by sale either on sealed bids reserving the right to reject all bids, or by negotiation at fair value if such method is deemed more feasible; or
3. If not disposed of under subsections 1 or 2, title to the property shall be transferred to the surplus property director, who shall dispose of it by transferring it to political subdivisions without cost, except for transportation expenses.

All proceeds of property sold under authority of this section shall be deposited in the general fund. This section shall not be construed as prohibiting the exchange of items as a part of the purchase price of new items by any department, agency, or institution nor shall this section be applicable to equipment disposed of pursuant to section 24-03-15.

Approved March 15, 1965.

ELECTIONS

CHAPTER 157

H. B. No. 585
(Brown, Jungroth)

SEPTEMBER PRIMARY ELECTION

AN ACT

To amend and reenact sections 16-04-01, 16-04-11, 16-06-04, *16-05-03, *16-05-04, *16-05-05, 16-13-15, 16-13-20, 16-13-36, 16-17-01, 16-17-10, 16-17-16, and 16-17-17 of the North Dakota Century Code, relating to the date of the primary election, time of notice to county auditors, county party committee organization meetings, state central committee meetings, precinct committeemen meetings, and party conventions, and declaring legislative intent.

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

§ 1. **Legislative Intent.)** It is hereby declared to be the intention of the legislative assembly in changing the date of the primary election from the last Tuesday in June to the first Tuesday in September that by such change the cost to the individual candidate and party organizations of the conduct of campaigns, the time required away from the usual vocation of the individual candidate, and the imposition of campaign material upon the public through audio and visual media will all be reduced, to the benefit of all citizens, parties, and the state.

§ 2. **Amendment.)** Section 16-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

****16-04-01. Primary Election — When Held — Nomination of Candidates — Nomination for Special Elections.)** On the first Tuesday in September of every year in which a general election occurs, there shall be held in the various voting precincts of this state, in lieu of party caucuses and conventions, a primary election for the nomination of candidates for the following offices to be voted for at the ensuing general elec-

*__Note:__ Sections 16-05-03, 16-05-04, and 16-05-05 referred to in the title of chapter 157 were deleted from House Bill No. 585 by amendment during the legislative session. The designation of such sections in the title, therefore, appears to be in error.

**__Note:__ This section was also amended by section 8, chapter 225, 1965 S.L.

tion: representatives in Congress, state officers, county officers, district assessors, and the following officers on the years of their regular election: judges of the supreme court and district court, members of the legislative assembly, county commissioners, and United States senators. In special elections the nominations for the officers enumerated in this section shall be made as provided in this title.

§ 3. Amendment.) Section 16-04-11 of 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 county auditor to whom such notice is delivered shall cause notice of the same to be given as is provided in section 16-06-02.

§ 4. Amendment.) Section 16-06-04 of 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.) Between the first day of October and the first day of November 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 county auditor to whom such notice is delivered shall cause notice of the same to be given as is provided in section 16-06-02.

§ 5. Amendment.) Section 16-13-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-15. Time of County Canvassing Board Meeting—Oath Required.) As soon as the returns are received by the county auditor, but not later than five days after each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass such returns.

§ 6. Amendment.) Section 16-13-20 of 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.) Except as other-

wise provided in section 16-13-22, 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.

§ 7. Amendment.) Section 16-13-36 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

§ 8. Amendment.) Section 16-17-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-01. Election of Precinct Committeemen.) At the party primary election commencing with the year 1966, and each fourth year thereafter, there shall be elected as hereinafter provided by the qualified electors of each political party from each voting precinct, committeemen to represent such political party.

§ 9. Amendment.) Section 16-17-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-10. Meeting of County Committee — Organization.) The county committee of each party shall meet at a place designated by the county auditor at the county seat at any hour between the hours of two o'clock p.m. and eight o'clock p.m. on the third Monday in September following the primary election. The exact hour shall be set by the existing county committee chairman. The county committee shall organize by:

1. Selecting a chairman, a vice chairman, a secretary, and a treasurer;
2. Adopting rules and modes of procedure not in conflict with law; and
3. Selecting an executive committee consisting of from five to eleven persons chosen from the county committee. The chairman and secretary of the county committee shall be members of the executive committee.

In counties having more than one legislative district, each legislative district is entitled to representation on the county executive committee apportioned in the ratio which the number of precinct committeemen each legislative district may have bears to the total number of precinct committeemen in the county, and shall be selected by the precinct committeemen from each legislative district meeting separately.

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

16-17-16. Meeting of Precinct Committeemen of County to Elect Delegates to State Party Convention—Proxies.) Prior to the second Monday in June in each presidential election year upon the call of the chairman, the precinct committeemen of each county shall meet at the county seat to elect delegates to a state party convention to be held as provided in this chapter. One delegate shall be elected for each three hundred votes or majority fraction thereof cast in such county at the last preceding presidential election for the candidates for presidential electors of such party, but every county shall be entitled to at least one delegate. Delegates shall be electors of their county. If any delegate shall be unable to attend such convention, he shall designate in writing an alternate to attend and represent and act for him. In counties having more than one legislative district, the precinct committeemen from each legislative district, meeting separately, shall elect delegates to the state party convention. One delegate shall be elected for each three hundred votes, or major fraction thereof, cast in said legislative district at the last preceding presidential election for the candidates for presidential electors of such party, but each legislative district shall be entitled to at least one delegate.

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

16-17-17. When State Party Convention Held.) The state party conventions shall be held in each presidential year prior

to the fifteenth day of July of such year at such place and at such time as shall be designated by the party state central committee.

Approved March 19, 1965.

CHAPTER 158

S. B. No. 100
(Lips, Urdahl)

BALLOT ARRANGEMENT

AN ACT

To amend and reenact section 16-04-17 of the North Dakota Century Code, relating to the arrangement of names on ballots and voting machines.

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

§ 1. Amendment.) Section 16-04-17 of 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 placed upon the sample ballots prepared by the secretary of state for the state and district offices, and by the county auditor for the 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 accordingly. This process shall be continued from one precinct to another and for as many names as are involved.

Approved February 26, 1965.

CHAPTER 159

H. B. No. 576
(Rustan, Stockman)

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.

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

§ 1. New Sections.) 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 are hereby created and enacted to read as follows:

16-16-17. Eligibility of New Residents to Vote.) Each citizen of the United States who, immediately prior to his removal to this state, was a citizen of another state and who has been a resident of this state for less than one year prior to a presidential election is entitled to vote for presidential and vice-presidential electors at that election, but for no other offices, if

1. He otherwise possesses the substantive qualifications to vote in this state, except requirement of residence, and
2. He complies with the provisions of sections 16-16-17 to 16-16-27, both inclusive.

16-16-18. Application for Presidential Ballot by New Residents.) A person desiring to qualify to vote for presidential and vice-presidential electors is not required to register but, not less than ten days in advance of the election, shall make an application in the form of an affidavit executed in duplicate in the presence of the county auditor substantially as follows:

State of North Dakota)
) ss.
County of.....)

I,....., do solemnly swear that:

1. I am a citizen of the United States.

2. Before becoming a resident of this state, I resided at.....street, in the (town) (township) (village) (city) of....., county of..... in the state of.....

3. On the day of the next presidential election, I shall be at least twenty-one years of age. I have been a resident of this state since the.....day of....., 19....., now residing at.....street, in the (town) (township) (village) (city) of....., county of.....in the state of North Dakota.

4. I have resided in North Dakota for less than one year. I believe I am entitled under the laws of this state to vote at the presidential election to be held on the .....day of November, 19.....

5. I hereby make application for a presidential and vice-presidential ballot. I have not voted and will not vote otherwise than by this ballot at that election.

Signed.....
(Applicant)

Subscribed and sworn to before me this.....day of ....., 19.....

Signed.....
(Title and name of officer authorized to administer oaths)

16-16-19. Mailing Duplicate Application.) The county auditor shall immediately mail to the appropriate official of the state in which the applicant last resided the duplicate of the application.

16-16-20. Filing and Indexing Information from Other States.) The county auditor shall file each duplicate application or other official information received by him from another state indicating that a former resident of this state has made application to vote at a presidential election in another state and shall maintain an alphabetical index thereof, for a period of four months after the election.

16-16-21. Delivery of Ballot to Applicant.) If satisfied that the application is proper and that the applicant is qualified to

vote at the presidential election, the county auditor shall deliver to the applicant a ballot for presidential and vice-presidential electors not sooner than thirty days nor later than one day prior to the next presidential election.

16-16-22. Voting by New Residents.) 1. The applicant, upon receiving the ballot for presidential and vice-presidential electors shall mark forthwith the ballot in the presence of the county auditor but in a manner that the official cannot know how the ballot is marked. He shall then fold the ballot in the county auditor's presence so as to conceal the markings, and deposit and seal it in an envelope furnished by the county auditor.

2. The voter shall enclose the envelope containing the ballot in a carrier envelope which shall be securely sealed. There shall be imprinted on the outside of the carrier envelope a statement substantially as follows:

Certification of New Resident Voter

I have qualified as a new resident voter in this state to vote for presidential and vice-presidential electors. I have not applied nor do I intend to apply for an absentee voter's ballot from the state from which I have removed. I have not voted and I will not vote otherwise than by this ballot.

Dated..... .....
Witness..... (Signature of Voter)
(County Auditor)

The voter shall sign the certification upon the carrier envelope as set forth above, and shall then deliver the sealed carrier envelope to the county auditor, who shall keep the carrier envelope in his office until delivered by him to the inspector of elections of the precinct in which the applicant resides.

16-16-23. List of Applicants Open for Public Inspection.) The county auditor shall keep open to public inspection a list of all persons who have applied to vote as new residents with their names, addresses and application dates.

16-16-24. Delivery and Deposit of Ballots.) 1. The county auditors shall prepare and deliver the ballots for new residents to the inspectors of elections in the manner prescribed by law for absentee ballots. The ballots shall be processed in accordance therewith.

2. The inspector of elections shall record the new resident voter's name with a notation designating him as a new resident voting for presidential and vice-presidential electors only.

16-16-25. Penalties.) Any person willfully making a false statement of affidavit in qualifying to vote as a new resident in a presidential election shall be guilty of a misdemeanor. Any public official who willfully refuses or neglects to perform any of the duties prescribed by this chapter or who violates any of its provisions shall be guilty of a misdemeanor.

16-16-26. Application of Other Statutes.) Except as provided in this chapter, the provisions of law relating to absentee ballots apply also to the casting and counting of ballots of new residents, the furnishing of election supplies, ballots, canvassing of ballots, and making proper returns of the results of the election.

16-16-27. Definition of State.) As used in this chapter "state" includes the District of Columbia.

*§ 2. **Referral to Electorate—Effective Date.)** Pursuant to section 122 of the Constitution of North Dakota, the secretary of state shall place this Act upon the ballot for the approval or disapproval of the electors of this state at the general election in 1966, and such Act if approved shall become effective thirty days after such election.

Approved March 8, 1965.

*Note: See chapter 487, 1965 S.L.

CHAPTER 160

H. B. No. 654
(Wagner, Jungroth, Meschke, Brown)

ABSENT VOTERS' BALLOTS

AN ACT

To amend and reenact sections 15-47-06, 16-18-01, 16-18-02, 16-18-03, 16-18-04, 16-18-05, 16-18-06, 16-18-07, 16-18-09, 16-18-11, 16-18-12, 16-18-13, 16-18-14, 16-18-15, 16-18-16, 16-18-19, and 40-21-13 of the North Dakota Century Code, relating to the use of absent voters' ballots in general, primary, and special state elections and in city, village, and school elections and providing a penalty.

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

§ 1. Amendment.) Section 15-47-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-06. Election Procedure in All School Districts—Canvass of Boards—Tie Vote—Absent Voters.) An election in a public school district, except as otherwise provided in this title, shall be conducted and the votes shall be canvassed in the manner provided by the laws of this state for the election of county officers. Immediately after the polls are closed, the judges shall proceed to count and canvass the votes for each office and the person receiving the highest number of votes for an office shall be declared elected. If the election results in a tie, the clerk of the district immediately, and in writing, shall notify the candidates between whom the tie exists, and within three days after the election, and at a time agreed upon by said candidates, the election shall be decided in the presence of the judges and clerks of election in a manner agreed upon by said candidates. A record of the proceedings shall be made in the records of the clerk of the district. Returns shall be made to the school board showing the number of votes cast for each person for any office, and such returns shall be signed by the judges and clerks of election and filed with the clerk of the district within two days thereafter. The school board shall canvass all election returns and shall declare the result of any election within three days thereafter, and the result of the election shall be entered upon the records of the board. The person receiving the highest number of votes for each office in the district shall be declared elected. Absent voters' ballots may be used in any school district election in accordance with the provisions of chapter 16-18.

§ 2. Amendment.) Section 16-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-01. Absent Voter—Who May Vote.) Any qualified elector of this state, who is absent from the county in which he is an elector, or who by reason of physical disability, or who is 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 any general, special or primary state election, or at any city, village, or school election, may vote an absent voters' ballot at any such election as hereinafter provided.

Whenever the words "In the military or naval service or the merchant marine of the United States" or "In the armed forces" or "In the military service" are used in this chapter, they shall include the following:

(1) Members of the armed forces while in the active service and their spouses and dependents.

(2) Members of the merchant marine of the United States, and their spouses and dependents.

(3) Civilian employees of the United States in all categories 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, whether or not the employee is subject to the civil service laws and the United States Classification Act of 1949, and whether or not paid from funds appropriated by the Congress.

(4) Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents.

§ 3. **Amendment.)** Section 16-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-02. Elector May Vote Before Leaving County—Returning to County Before Election—Voting in Person.) Any qualified elector of this state who is present in his county after the official voters' ballots of such county or any city, village, or school district within such county have been printed, and who has reason to believe that he will be absent from such county on election day as provided in section 16-18-01, as it may be amended, may vote before he leaves his county in the same manner as an absent voter. Any elector having marked his absent voters' ballot under the provisions of this section who shall return to his precinct before or on election day may vote in person if his ballot has not been deposited in the ballot box.

§ 4. **Amendment.)** Section 16-18-03 of 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 elections, for all other special elections when such special elections for state and county offices are held at the same time as a general or primary election, and for all city, village, and school elections, there shall be prepared or printed for each precinct official ballots to be known as absent voters' ballots. Such ballots shall be prepared or printed in the same form and shall be of the same size, color, and texture as the regular official ballots.

§ 5. **Amendment.)** Section 16-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-04. When Ballots Furnished Proper Officials.) It shall be the duty of the secretary of state, county auditor, or any other officer by law required to prepare any general, special, or primary state election ballots, to prepare and have printed and delivered to the county auditor at least twenty days prior to the holding of any general, special, or primary state election, a sufficient number of absent voter ballots provided for by law for the use of all voters likely to be absent from such county on the day of such election. In city, village, or school elections it shall be the duty of the auditor or clerk of the city or village, the clerk of the school district, or any other officer by law required to prepare any city, village, or school election ballots, to prepare or have printed and available for distribution to the public at least fourteen days prior to the holding of any city, village, or school election, a sufficient number of absent voter ballots provided for by law for the use of all voters likely to be absent on the day of such election from the county within which such city, village, or school district is situated.

§ 6. Amendment.) Section 16-18-05 of 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 such 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 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 village or the clerk of the school district, as the case may be, for an official absent voters' ballot to be voted at such election.

§ 7. Amendment.) Section 16-18-06 of 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, village, 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 village 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 if the application be made for a primary election ballot such application shall also give the name of the political party with which the applicant is affiliated.

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 hospital 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.

§ 8. **Amendment.)** Section 16-18-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-07. Delivering Application Blank for Ballot.) The officers specified in section 16-18-05, upon request, shall send an application blank for an absent voters' ballot to an absent voter by mail, or they may deliver such application blank to such voter upon a personal application made at his office.

§ 9. **Amendment.)** Section 16-18-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-09. Delivering Ballots — Envelope Accompanying — Affidavit on Envelope — Inability of Elector to Sign Name.) Upon receipt of an application for an absent voters' ballot properly filled out and duly signed, or as soon thereafter as the official absent voters' ballot for the precinct in which the applicant resides has been prepared or printed, the county auditor, auditor, or clerk of the city or village, or clerk of the school district, as the case may be, shall send to such absent voter by mail, postage prepaid, one official absent voters' ballot. If there is more than one absent voters' ballot to be voted by an elector of such precinct, one of each kind shall be sent 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 absent voter's ballot, and upon the other side, a printed affidavit in substantially the following form:

State of.....
} ss.
County of.....

I, ..., do solemnly swear that I am a resident of the township of ....., or the village 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.

.....

Subscribed and sworn to before me this..... day of..... 19.....; and I hereby certify that the affiant exhibited the enclosed ballots to me unmarked, that he then, in my presence and in the presence of no other person, and in such manner that I could not see his vote, marked such ballot, and enclosed and sealed the same in this envelope. That the affiant was not solicited or advised by me to vote for or against any candidate or measure.

.....

.....

If such absent voter is unable to sign his name, he shall make his mark (X) and the officer taking such affidavit shall sign

such voter's name, and shall state in his certificate the reason for such signature.

§ 10. Amendment.) Section 16-18-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-11. Absent Voters' Ballots Sent to Military Personnel Without Application.) It shall be the duty of the officers specified in section 16-18-05, as soon as possible after the printing of the ballots for any primary, special, or general state election or any city, village, or school election to send such absent voter ballot to all military personnel on active duty when requested in the manner provided in section 16-18-09.

§ 11. Amendment.) Section 16-18-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-12. County Auditor to Keep Register of Names of Persons in Service and All Other Qualified Electors.) In order to facilitate compliance with the provisions of section 16-18-11, the county auditor of each county in this state shall prepare, keep, and maintain a general register of the names of all persons within his county who are engaged in the military or naval service of the United States, and a further register of all such persons who are qualified to vote in his county at a general election.

§ 12. Amendment.) Section 16-18-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-13. Marking and Return of Ballots.) The affidavit provided for in section 16-18-09 may be made by such elector before any commissioned officer in the active service of the armed forces of the United States and any member of the merchant marine of the United States designated for this purpose by the Secretary of Commerce of the United States to administer and attest such oaths as are required by the laws of this state. Such affidavit need not have any venue. A person in the military or naval service shall mark the ballot in the presence of such officer, and no other person, in the manner provided in section 16-18-10 and shall be returned in accordance with the provisions of section 16-18-10.

§ 13. Amendment.) Section 16-18-14 of 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 village, or clerk of the 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 shall proceed in the manner as provided in section 16-18-15. 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 all other respects 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.

§ 14. **Amendment.)** Section 16-18-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-15. Care and Custody of Ballot.) Upon receipt of the envelope containing the absent voters' ballot, the proper officer forthwith shall enclose the same, unopened, together with the written application of such absent voter, in a larger envelope which shall be sealed securely and shall be endorsed with the name of the proper voting precinct, the name and official title of such officer, and the words "This envelope contains an absent voters' ballot and must be opened only on election day at the polls while the same are open." Such officer shall keep the envelope safely in his office until it is delivered by him as provided in this chapter.

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

16-18-16. Submitting Ballot to Inspector of Elections.) If the envelope containing the absent voters' ballot is received by the county auditor, auditor or clerk of the city or village, or clerk of the school district, as the case may be, prior to his delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, after having been enclosed with the application in an envelope as required by section 16-18-15, shall be enclosed in such package and delivered therewith to the inspector of such precinct. If the official ballots for such precinct shall have been delivered to such inspector of elections at the time of the receipt by the proper officer of such absent voters' ballot, then such officer forthwith

shall mail the same postage prepaid to such inspector of elections or otherwise shall deliver it to such inspector.

§ 16. Amendment.) Section 16-18-19 of 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 or village, 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, or if any officer taking any affidavit provided for in this chapter shall make any false statement in his certificate attached thereto, 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.

§ 17. Amendment.) Section 40-21-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-13. Municipal Elections To Be Governed by Rules Applicable to County Elections—Absent Voting.) The manner of conducting, voting at, keeping poll lists, and canvassing votes at municipal elections, and contests of the results of such elections shall be governed, as nearly as possible and except as otherwise provided in this chapter, by the laws of this state applicable to elections and contests in the case of county officers. Absent voters' ballots may be used in municipal elections in accordance with the provisions of chapter 16-18, as amended.

Approved March 15, 1965.

CHAPTER 161

H. B. No. 580
(Brown)

PUBLICITY PAMPHLET, REPEAL

AN ACT

To repeal chapter 16-19 of the North Dakota Century Code, relating to the publication by the state of North Dakota of a publicity pamphlet prior to any statewide election.

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

§ 1. Repeal.) Chapter 16-19 of the North Dakota Century Code is hereby repealed.

Approved February 6, 1965.

CHAPTER 162

S. B. No. 33
(Reichert, Longmire, Sinner)
(From LRC Study)

INITIATIVE AND REFERENDUM

AN ACT

To provide for the procedure, conditions, manner, and form for submitting measures to a vote of the electorate through use of the initiative and referendum, providing penalties for fraudulent acts and violations in connection therewith; and to repeal section 16-01-11 of the North Dakota Century Code, providing penalties for fraudulent signing of petitions, and providing an effective date.

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

§ 1. Initiative Petitions—Signatures—Filing.) Any measure, as provided in section 25 of the Constitution, may be submitted to a vote of the electorate upon the filing of petitions with the secretary of state at least ninety days prior to any statewide primary or general election containing the signatures of qualified electors of the state equal in number to eight percent of the total vote cast for the office of governor at the preceding general election.

§ 2. Referendum Petitions — Signatures — Filing.) Any measure, as provided in section 25 of the Constitution, passed

by the legislative asembly, other than measures or portions of measures appropriating public funds, may be referred to a vote of the electorate upon the filing with the secretary of state not later than one hundred and twenty days after the adjournment of the session of the legislative assembly at which such measure was adopted, of petitions containing the signatures of qualified electors of the state equal in number to five percent of the total vote cast for the office of governor at the preceding general election. In a like manner, any item, section, part, or parts of a measure may be referred, and disapproval of such item, section, part, or parts shall have no effect upon the remaining item, section, part, or parts if such item, section, part, or parts can, by themselves, be given effect. The certification to the governor by the secretary of state as to the sufficiency of the number of signatures on a referral petition shall, except in the case of an emergency measure, be effective to suspend operation of the referred measure or item, section, part, or parts thereof pending a determination by vote of the electorate. When the secretary of state makes a proclamation as to the sufficiency or nonsufficiency of any petition and such proclamation has been challenged by a person pursuant to section 9 of this Act, such challenge shall suspend the operation of the referred measure of item, section, part, or parts thereof until such challenge has been determined as prescribed by law.

§ 3. **Petitions to Contain Warning—Committee for Petitioners.)** Each petition for the initiation or referral of any measure shall contain, one and one-half inches from the top of the front sheet thereof the word "WARNING", under which shall be printed in eight point type, single leaded, the following:

> It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or knowingly sign his name more than once for the same measure, or to sign such petition when he knows he is not a legal voter.

In addition, the petition shall bear the names and post office addresses of at least five qualified electors of the state, who shall constitute the "committee for the petitioners" and who shall represent and act for the petitioners.

§ 4. **Form of Initiative Petition.)** An initiative petition shall be printed on 8½ inch by 14 inch paper, shall set forth the full text of the proposed measure and, following the material prescribed by section 3, shall be in substantially the following form:

"INITIATIVE PETITION

To the Honorable, Secretary of State:

We the undersigned citizens and qualified electors of the state of North Dakota, respectfully demand that the following proposed law, to wit:

(Here insert complete text)

shall be submitted to the legal voters of the state of North Dakota for their approval or rejection at the..... election to be held on the.....day of....., 19....., and each for himself certifies: I have personally signed this petition; I am a qualified elector of the above-named county and the state of North Dakota; my post office address is correctly written after my name."

§ 5. Form of Referendum Petition.) A referendum petition shall be printed on 8½ inch by 14 inch paper and may set forth the full text of the measure sought to be referred or may identify the same by bill number and title of the measure; however, if the referendum is against less than the entire measure, the item, section, part, or parts sought to be referred shall be set forth in full. Following the material prescribed by section 3, the petition shall be in substantially the following form:

"REFERENDUM PETITION

To the Honorable....., Secretary of State:
We the undersigned citizens and qualified electors of the state of North Dakota, respectfully order that Senate (or House) Bill No. ....., to wit:

(Here insert title or title and text)

passed by the.....Legislative Assembly of the state of North Dakota, be referred to the legal voters of the state of North Dakota for their approval or rejection at the ..... election to be held on the .....day of....., 19....., or at such earlier date as the governor may, by proclamation specify; and each for himself certifies: I have personally signed this petition; I am a qualified elector of the above-named county and the state of North Dakota; my post office address is correctly written after my name."

§ 6. Petitions—Signature Lines—Signers To Be Residents of One County Only.) Following the material required by section 4 or 5 of this Act, there shall be not less than twenty-five nor more than fifty numbered horizontal lines, divided vertically into four columns with the left-hand column being

for the date, the second for the signature, the third for the post office address, and the fourth, being one inch in width, headed "Leave Blank". The signatures of qualified electors of only one county shall appear on each individual petition. The name of the county in which each petition is circulated shall clearly appear in the upper right-hand corner on each petition, and any signatures of persons other than residents of such county shall be void.

§ 7. **Verification of Petitions.)** Each petition containing signatures shall be verified immediately following the last signature line by the person who circulated such petition by affidavit in substantially the following form:

"State of North Dakota)
) ss.
County of.....)

I,....., being first duly sworn, say: That I know that every person whose name is listed on the petition actually signed the foregoing petition and I believe that each has stated his or her name and post office address correctly.

Signed .....
Post office address.....
Telephone number .....

Subscribed and sworn to before me this.....
day of....., 19.....

(SEAL) Notary Public,.....County,
North Dakota
My commission expires:....."

After executing the above affidavit, the person circulating such petition or the committee for the petitioners or their agent shall deliver it to the county auditor of the county in which it was circulated who shall promptly proceed to spot check the names of persons listed thereon to determine if those names included in the spot check appear to be electors of the county and that such names as signed appear to be the actual signatures of said electors. Such petitions shall, under the supervision of the county auditor, be available for examination by any citizen.

The county auditor shall not retain in his possession any petitions for a longer period than fifteen calendar days for the first two hundred signatures thereon plus one additional day for each five hundred additional signatures or fraction thereof on the petitions presented to him. The invalidity of

any name or signature, according to the information and belief of the county auditor, shall be indicated by appropriate notation in the right-hand column of the petition. At the expiration of the allotted time the auditor shall forward the petitions to the secretary of state with his certificate thereon substantially as follows:

"State of North Dakota }
} ss.
County of.....}

To the Honorable....., Secretary of State for the state of North Dakota:

I,....., County Auditor for the County of....., have made a spot check of the foregoing signatures and from the information available it is my belief that the names and signatures appearing on this petition are bona fide names and signatures of qualified electors of this county and that the post office addresses stated are substantially correct. As to the names and signatures, as indicated in the right-hand column, I find that they are either not bona fide electors of the county or that the signatures are not genuine.

Signed.....
County Auditor"

§ 8. Filing Petitions—Additional Verification—Certification for Election.) The certificate of the county auditor shall be prima facie evidence of the facts stated therein and the secretary of state shall consider and count only such signatures on such petitions as shall be so certified by the county auditor to be genuine; provided, that the secretary of state shall consider and count such of the remaining signatures as shall be proved to be genuine prior to the date of the determination of the sufficiency of the petitions as provided in section 9. To prove such facts the official certificate of a notary public of the county in which the signer resides shall be required and shall be in substantially the following form:

"State of North Dakota }
} ss.
County of.....}

On this.....day of.....in the year..... before me personally appeared....., who acknowledged to me that he did sign the annexed petition, that he is a qualified elector of the state of North Dakota and of the county of....., as listed, and that his post office address is correctly stated on the petition.

In Testimony Whereof, I have hereunto set my hand and official seal this.....day of....., 19.....
(SEAL)

Signed .....
Notary Public
My commission expires:....."

Such certificate shall be attached to the petition upon which the signatures appear.

When the secretary of state is satisfied that the petitions filed in his office bear a sufficient number of valid signatures, he shall make such determination known as provided in section 9 of this Act.

§ 9. Filing of Petition — Determination of Sufficiency — Waiting Period—Injunction.) If the secretary of state fails to find or refuses to immediately determine as legally sufficient any petition for the initiative or the referendum, any citizen may apply to the district court of Burleigh County for a writ of mandamus to compel him to do so. If the secretary of state determines the petitions for the initiative or the referendum do contain the legally required number of valid signatures he shall immediately make such determination known by issuing a proclamation to that effect or if upon finding the petitions do not contain the legally required number of valid signatures he shall also make that determination known in the same manner. The secretary of state shall certify the initiative or referendum petitions to the governor as containing the legally required number of signatures on the fifteenth day following the issuance of such proclamation, or on the succeeding day if the fifteenth day is a Sunday or a legal holiday. When the secretary of state makes his proclamation any citizen desiring to contest the determination made by the secretary of state shall apply within fifteen days to the district court of Burleigh County for an injunction prohibiting the secretary of state from making such certification or for a writ of mandamus to compel him to make such certification. If it shall be decided by the court that such petition is legally sufficient, the secretary of state shall immediately certify to the governor such petition as legally sufficient. On a showing that any petition filed is not legally sufficient, the court may enjoin the secretary of state and all other officers from certifying such measure or printing it on the official ballot for the ensuing election. All such suits shall be advanced upon the court calendar and heard and decided by the court as soon as possible. Either party may appeal the decision of the district court to the supreme court within ten days after a decision is rendered.

§ 10. Election Proclamation by Governor.) Upon receipt of the certification from the secretary of state, the governor shall proclaim the date of the primary or general election called for in the petitions as the date upon which the measure is to be voted. In cases where, in the judgment of the governor, the best interests of the state and its citizens require, the governor may proclaim a special election upon any referred measure at any date earlier than that specified in the referendum petition.

§ 11. Election Laws to Govern—Conflicting Measures.) The general laws governing elections and the canvass of the returns thereof shall govern elections on the initiative and referendum in all instances where consistent with the provisions of this chapter. If conflicting measures initiated by or referred to the electors shall be approved at the same election by a majority of the votes cast thereon, the one receiving the highest number of affirmative votes shall become the law.

§ 12. Effective Date of Initiated or Referred Measure.) Any measure, except an emergency measure which shall remain in effect until repealed, submitted to the electors of the state shall become a law when approved by a majority of the votes cast thereon. Such law shall go into effect on the thirtieth day after the election, unless otherwise specified in the measure.

§ 13. Who May Sign Petition—Penalty for Wrongful Signing.) Any person who is a qualified elector of the state of North Dakota may sign a petition for the initiative or the referendum on any measure upon which he is legaly entitled to vote. No person shall sign any name other than his own to any petition, or knowingly sign his name more than once for the same measure at one election, or sign the same when he is not a legal voter of this state.

§ 14. False Statements Concerning Petition Unlawful.) No person shall willfully or knowingly circulate, publish, or exhibit any false statement or representation concerning the contents or effect of any initiative or referendum petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign such petition.

§ 15. Filing Petition with False Signatures Unlawful.) No person shall file in the office of any officer required by law to receive the same, any initiative or referendum petition to which he is attached, appended, or subscribed any signature which the person so filing such petition knows to be false or fraudulent or not the genuine signature of the person pur-

porting to sign such petition, or whose name is attached, appended, or subscribed thereto.

§ 16. Circulating Petition with False, Forged, or Fictitious Names Unlawful.) No person shall circulate or cause to be circulated any initiative or referendum petition knowing the same to contain false, forged, or fictitious names.

§ 17. False Affidavit by Any Person Unlawful.) No person shall make any false affidavit concerning any initiative or referendum petition, or the signatures appended thereto.

§ 18. False Return, Certification, or Affidavits by Public Official Unlawful.) No public official or employee shall knowingly make any false return, certification, or affidavit concerning any initiative or referendum petition, or the signatures appended thereto.

§ 19. Ineligible Person Circulating Petition.) No person who is not a qualified elector of the state shall circulate or obtain signatures on any initiative or referendum petition. No person shall procure any person who is not a qualified elector of the state to circulate such petition or obtain such signatures.

§ 20. Other Unlawful Acts Enumerated.) No person shall offer, propose, or threaten to do any of the following acts in regard to any initiative or referendum petition:

1. To sell, hinder, or delay any initiative or referendum petition or any part thereof or the signatures thereon for any consideration; or
2. To use any petition or power of promotion or opposition to any petition in any manner or form for extortion, blackmail, or secret or private intimidation of any person or business interest.

§ 21. Penalty for Violations.) Any person violating any of the provisions of sections 13 through 20 shall, upon conviction, be punished by a fine of not to exceed five thousand dollars or imprisonment for a term of not to exceed two years, or by both such fine and imprisonment.

§ 22. Repeal.) Section 16-01-11 of the North Dakota Century Code is hereby repealed.

***§ 23. Effective Date.)** This Act shall not become operative unless and until the electors approve the amendment of section 25 of the Constitution submitted for approval to the electorate of this state at the general election in 1966 as designated in Senate Concurrent Resolution "A" of the Thirty-ninth Legislative Assembly.

Approved March 19, 1965.

***Note:** See section 5, chapter 483, 1965 S.L.

FIRES

CHAPTER 163

H. B. No. 874
(Burk)

REPORTING OF FIRES

AN ACT

To amend and reenact section 18-01-06 of the North Dakota Century Code, relating to the reporting of fires.

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

§ 1. Amendment.) Section 18-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-01-06. Fire Chiefs and Auditors or Clerks or Secretaries of Cities and Villages and Rural Fire Protection Districts Must Report Fires.) Within five days after the occurrence of any fire in which property in a city or village 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 village or rural fire protection district, if a fire department is maintained therein, or the auditor or clerk of the city or village 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.

Approved March 2, 1965.

CHAPTER 164

S. B. No. 104
(Kisse, Lips, Lashkowitz)

PARTICIPATION IN FIRE INSURANCE PREMIUM REFUNDS

AN ACT

To amend and reenact section 18-04-01 of the North Dakota Century Code, relating to participation in fire insurance premium refund.

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

§ 1. **Amendment.)** Section 18-04-01 of 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, village 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.

Approved March 3, 1965.

CHAPTER 165

S. B. No. 103
(Kisse, Lips, Lashkowitz)

FIRE INSURANCE PREMIUM REFUNDS

AN ACT

To amend and reenact section 18-04-05 of the North Dakota Century Code, relating to amount due cities, villages or rural fire departments; certificate of commissioner of insurance to department of accounts and purchases.

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

§ 1. Amendment.) Section 18-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-05. Amount Due Cities, Villages or Rural Fire Departments—Certificate of Commissioner of Insurance to Department of Accounts and Purchases.) The amount due to a city or village not encompassed by a fire district under the provisions of this chapter 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 or villages. The commissioner of insurance shall compute the amounts due to the several cities or villages 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 or village 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 or village 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.

Approved March 17, 1965.

CHAPTER 166

H. B. No. 592
(Poling, Davis)

FIRE DISTRICT DEBT LIMIT

AN ACT

To amend and reenact section 18-10-08 of the North Dakota Century Code, relating to indebtedness of district limited.

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

§ 1. Amendment.) Section 18-10-08 of 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 more than twenty-five thousand dollars, nor 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 March 19, 1965.

CHAPTER 167

S. B. No. 63
(Lips, Lashkowitz)

FIREMEN'S PENSION PLAN

AN ACT

To amend and reenact section 18-11-20 of the North Dakota Century Code, relating to members withdrawing from association and members in military service.

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

§ 1. Amendment.) Section 18-11-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-20. Members Withdrawing from Association—Members in Military Service.) Each association shall adopt bylaws and regulations providing that in the event any member withdraws from the employment in the department or ceases to be a member of the association he shall be entitled to a return of an amount which is not less than fifty percent nor more than one hundred percent of his contributions paid to the association without interest. Any benefits already received by such person shall be deducted from the amount which would be returned to him. Any applicant for a service pension who subsequently to his entry into the service of such fire department, has served in the military forces of the United States, shall not have the period of such military service deducted in the computation of the period of service herein provided for, but such military service shall be construed and counted as a part and portion of his active duty in said fire department, provided however, that credit for such military service shall not exceed five years. Any such member, who was a full-time regular fireman at the time of his entry into the armed services and who seeks credit for such service, shall, upon his return to employment in the fire department, pay into the pension fund for each year of military service the same amount of money as he would have contributed from his salary had he been in the continuous employment of the department.

Approved March 1, 1965.

FOODS, DRUGS, OILS, AND COMPOUNDS

CHAPTER 168

S. B. No. 113
(Weber, Larson, Sinner)

COLLECTION OF OLEOMARGARINE TAX BY TAX COMMISSIONER

AN ACT

To amend and reenact sections 19-05-08, 19-05-09, and 19-05-10 of the North Dakota Century Code, relating to the administration and collection of taxes on oleomargarine; and transferring the tax collecting function from the state treasurer to the state tax commissioner.

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

§ 1. **Amendment.)** Section 19-05-08 of 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.) The state tax commissioner shall collect a tax of ten cents per pound upon all oleomargarine sold to consumers in this state. An additional tax of ten cents per pound shall be collected upon all oleomargarine which is yellow in color sold to consumers 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 other container of oleomargarine is sold or distributed by a wholesaler he shall attach to each package a stamp denoting the payment of the tax upon the oleomargarine therein contained. Such stamps shall be canceled in the manner required by the state tax commissioner. The state auditor will cause destruction of returned canceled stamps at the time of the annual audit and a note of such destruction will be part of the audit. Canceled stamps will be destroyed by burning after audit by the state auditor. All wholesalers selling or distributing oleomargarine in the state shall make such reports to the state tax commissioner as he may prescribe. 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.

§ 2. **Amendment.)** Section 19-05-09 of 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.) 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 the stamps shall be turned into the general fund of the state. Such stamps shall be of the type that contains adhesive qualities so that once they are applied to carton or package they will so remain. Stamps that have been removed from oleomargarine packages that have been shipped from dealers within North Dakota back to wholesalers or jobbers may be forwarded to the state tax commissioner with an affidavit signed by a person in authority with the wholesalers or jobbers.

§ 3. **Amendment.)** Section 19-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-10. Tax Commissioner to Redeem Stamps—Unlawful for Dealer to Sell or Dispose of Stamps.) The state tax commissioner, upon request, shall redeem and make repayment for unused stamps. No dealer, wholesaler or jobber shall sell or dispose of any stamps received by him under the provisions of this chapter to another dealer or to any other person. If a person owns or operates more than one place of sale, stamps may be distributed to the various places of sale by the main office, but each such place of sale shall have a separate license and cancellation stamp.

Approved February 26, 1965.

GAME, FISH, AND PREDATORS

CHAPTER 169

S. B. No. 221
(Hernett)

GAME AND FISH RESIDENCY DEFINITIONS

AN ACT

To amend and reenact subsections 3 and 4 of section 20-01-01 of the North Dakota Century Code, relating to the definition of resident and nonresident in the game and fish laws.

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

§ **1. Amendment.)** Subsection 3 of section 20-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Resident" shall mean any person who has actually lived within this state or maintained his home therein for at least six months immediately preceding the date that residence is to be determined;

§ **2. Amendment.)** Subsection 4 of section 20-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Nonresident" shall mean any person who has not actually lived in this state or maintained his home therein for at least six months immediately prior to the date when residence is to be determined;

Approved March 15, 1965.

CHAPTER 170

H. B. No. 725
(Brown, Knudsen)

GAME BIRD DEFINED

AN ACT

To amend and reenact subsection 6 of section 20-01-01 of the North Dakota Century Code, relating to the protection of doves.

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

§ 1. Amendment.) Subsection 6 of section 20-01-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Game birds" shall include any and all varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sagehens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, and wild turkeys;

Approved March 6, 1965.

CHAPTER 171

H. B. No. 645
(Anderson, Bruner, Breum, Fossum, Bier, Rosendahl)

FEDERAL GAME AND FISH PAYMENTS

AN ACT

Relating to the disposition of payments from the federal government on account of lands taken for game and fish management purposes.

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

§ 1. Federal Payments for Game and Fish Lands—Allocation Within County.) Payments made by the federal government under the provisions of Public Law 523 (88th U.S. Congress) to any county in the state on account of lands taken by the federal government for game and fish management purposes shall be apportioned by the county treasurer of the receiving county in the following manner: twenty percent thereof shall be deposited in the county general fund, the remaining eighty percent shall be apportioned among the

school districts in which the land taken is located in proportion to the number of acres taken in each such school district.

Approved March 3, 1965.

CHAPTER 172

S. B. No. 101
(Morgan, Trenbeath, Becker, Mahoney)

ADVISORY BOARD COMPENSATION

AN ACT

To amend and reenact sections 20-02-30 and 20-02-31 of the North Dakota Century Code, relating to the state game and fish advisory board and the meetings held by its members.

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

§ 1. Amendment.) Section 20-02-30 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-02-30. Compensation.) Each member of the advisory board shall be paid a per diem of ten dollars for each day of service in going to, attending, and returning from the meetings as provided in section 20-02-31 held in his respective district and the meetings of the advisory board. Each member shall be reimbursed for necessary and actual expenses at the rates and in the manner provided by law for other state officers. Such compensation and expenses shall be paid out of the game and fish department appropriations.

§ 2. Amendment.) Section 20-02-31 of the 1963 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 and may make general recommendations in regard to the operation of the state game and fish department and the programs thereof, which the commissioner may carry out. The provisions of this section may not be construed as limiting or restricting the powers, duties, and authority of the governor in the issuance of orders and proclamations as provided in chapter 20-08.

Approved March 6, 1965.

CHAPTER 173

H. B. No. 606
(Winge, Bowman)

LAND OWNERS' HUNTING LICENSES

AN ACT

To amend and reenact subsection 1 of section 20-03-02, relating to the privilege of hunting without a license.

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

§ 1. Amendment.) Subsection 1 of section 20-03-02 of 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; and

Approved March 10, 1965.

CHAPTER 174

H. B. No. 623
(Breum, Krenz, Dahlen, Shorma)

FISHING LICENSE FEES

AN ACT

To amend and reenact subsections 7, 9, and 10 of section 20-03-12 of the 1963 Supplement to the North Dakota Century Code, relating to the fees for resident fishing license, nonresident short term fishing license, and resident family fishing license.

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

§ 1. Amendment.) Subsections 7, 9, and 10 of section 20-03-12 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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;

9. For a nonresident short term fishing license, the sum of two dollars; and

10. For a resident family fishing license, the sum of four dollars.

Approved March 15, 1965.

CHAPTER 175

H. B. No. 626
(Breum, Schaffer, Winge)

NONRESIDENT SHORT TERM FISHING LICENSE

AN ACT

To amend and reenact section 20-03-39 of the North Dakota Century Code, relating to nonresident short term fishing license.

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

§ 1. Amendment.) Section 20-03-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-39. Nonresident Short Term Fishing License.) In addition to the regular nonresident fishing license provided for in section 20-03-09 there is hereby authorized a nonresident short term fishing license. This license shall be valid for a period not to exceed seven days from date of issue.

Approved March 10, 1965.

CHAPTER 176

H. B. No. 625
(Breum, Schaffer, Dahlen, Larson (Richland))

POSSESSION LIMIT OF GAME BIRDS

AN ACT

To amend and reenact section 20-04-04 of the North Dakota Century Code, relating to the possession limit of game birds.

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

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

20-04-04. Possession Limit of Game Birds.) No person at any time shall possess, control, ship, transport, or store or can or otherwise preserve, more than that authorized by the governor's proclamation of any species of game bird mentioned in this chapter, except that game birds legally taken outside of this state that are properly tagged with evidence that such bird had been legally taken, may be possessed, transported or shipped in this state.

Approved March 10, 1965.

CHAPTER 177

H. B. No. 642
(Wagner, Boustead)

FISH HOUSE LICENSE

AN ACT

To amend and reenact section 20-06-08 of the North Dakota Century Code, relating to maintaining and licensing fish houses for winter fishing.

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

§ 1. Amendment.) Section 20-06-08 of 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, 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 3, 1965.

CHAPTER 178

H. B. No. 624
(Breum, Schaffer, Dahlen, Krenz)

BAG LIMITS ON GAME BIRDS

AN ACT

To amend and reenact section 20-08-02 of the 1963 Supplement to the North Dakota Century Code, relating to the limitations of the governor's power to establish bag limits on upland game and migratory waterfowl; and to declare an emergency.

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

§ 1. Amendment.) Section 20-08-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-08-02. Limitations on Governor's Powers.) The governor may not establish:

1. A bag limit on upland game birds which exceed fifteen birds in the aggregate; or
2. A bag limit on migratory waterfowl which is less than the federal bag limit thereon.

§ 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 10, 1965.

CHAPTER 179

H. B. No. 832
(Johnson (Barnes))

GAME REFUGE LEASES

AN ACT

To amend and reenact subsection 3 of section 20-11-01 of the North Dakota Century Code, relating to the period of lease for game refuges on private land.

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

§ 1. **Amendment.)** Subsection 3 of section 20-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The time for which the refuge is to be established, and in no case shall such time be for a period of less than five years from the date upon which the application is filed with the commissioner but such lease may be made renewable at the option of both parties for the same period as the original lease;

Approved March 15, 1965.

CHAPTER 180

H. B. No. 627
(Breum, Dahlen, Schaffer, Mueller)

FROG REGULATIONS

AN ACT

To amend and reenact section 20-12-01 of the North Dakota Century Code, relating to the taking of frogs and to repeal sections 20-12-02, 20-12-03, 20-12-04, 20-12-05, 20-12-06, 20-12-07, 20-12-08, 20-12-09, and 20-12-10 of the North Dakota Century Code.

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

§ 1. **Amendment.)** Section 20-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-12-01. Frogs—Season for Taking—Regulations—License —Penalty.) No person shall willfully take, catch, or kill any

frog except for angling purposes or biological classroom study within the state of North Dakota between the first day of April and the thirty-first day of May, both dates included. No person, at any time, shall willfully take, catch, or kill, any frog except for angling purposes or biological classroom study within the state of North Dakota, unless he shall first have obtained a commercial frog license from the game and fish commissioner at a fee of fifty dollars. The commissioner shall issue regulations relating to manner of taking, shipping, buying or selling and may require reports from each licensee at such time and of such information as deemed necessary. Any person who shall violate the provisions of this section or of the regulations issued pursuant thereto, 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, and upon conviction shall forfeit all privileges under title 20 for a period of one year thereafter.

§ 2. Repeal.) Sections 20-12-02, 20-12-03, 20-12-04, 20-12-05, 20-12-06, 20-12-07, 20-12-08, 20-12-09, and 20-12-10 of the North Dakota Century Code are hereby repealed.

Approved March 3, 1965.

GOVERNMENTAL FINANCE

CHAPTER 181

S. B. No. 28
(Lips, Van Horn)
(Recommended by Legislative Audit and Fiscal Review Committee)

FISCAL PRACTICE OF STATE AGENCIES

AN ACT

To provide for a national guard operating fund and expenditures therefrom, and to create and enact section 50-21-02.1 of the North Dakota Century Code, relating to the revolving fund for the construction of nursing homes, and to amend and reenact section 2 of chapter 56 of the 1963 Session Laws of North Dakota, sections 25-01-10, 26-22-07, 26-22-16, 26-22-52, 26-23-04, 26-23-12, 26-23-16, 26-24-03, 26-24-12, 26-24-13, 26-24-14, 26-24-17, 27-12-06, 37-14-08, 39-16-10, 50-06-04, 50-06-14, 50-24-26, 50-24-27, 52-09-03, 52-09-06, subsection d of section 52-10-06, sections 54-23-25, 54-23-40, 54-23-41, 57-52-15, 65-02-05, and 65-04-30 of the North Dakota Century Code, relating to the depositing of public moneys in the state treasury and the Bank of North Dakota, withdrawal of such moneys by vouchers and abstracts approved by state officials or the state auditing board, the preparation of warrant-checks and the supervision of check-writing procedures by the department of accounts and purchases, and generally providing uniform fiscal procedures for state agencies, and to repeal section 26-24-20, subsection 5 of section 37-02-06, chapter 37-06, section 54-11-02, and 54-23-41.1 of the North Dakota Century Code, relating to procedures for the payments from appropriations and funds of state educational institutions, payment of insurance adjustment expenses, the office of paymaster general in the national guard, the disposition of vouchers by the state treasurer, and the monthly purchases abstract for the board of administration.

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

§ 1. **Amendment.)** Section 2 of chapter 56 of the 1963 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

§ 2. **Nurses' Scholarship Loan Fund.)** There is hereby created a permanent fund to be known as the nurses' scholarship loan fund. All moneys appropriated for the purpose of granting scholarship loans under the provisions of chapter 43-12, together with principal and interest payments collected from recipients of scholarship loans, whether such scholarship loans were granted prior to the creation of the nurses' scholarship loan fund or after the creation of such fund, shall be credited by the state treasurer to the nurses' scholarship

loan fund, and the moneys in such fund shall be used, subject to biennial legislative appropriations, for the purpose of granting such scholarship loans.

§ 2. Amendment.) Section 25-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***25-01-10. Board May Accept Gifts and Bequests—State Treasurer To Have Custody of Funds.)** The board may accept in the name of the state and hold in trust for any institution mentioned in this chapter any lands conveyed or devised and any money or other personal property given or bequeathed for application to any purpose connected with such institution. All moneys and property coming into the hands of the board as grants, donations, devises, gifts, and bequests shall be used for the specific purposes for which they are granted, donated, devised, bequeathed, or given. If no terms are imposed upon the use of any grant, donation, devise, bequest, or gift, it shall be used under conditions prescribed by the board for the general welfare of the institution for the benefit of which it is made.

§ 3. Amendment.) Section 26-22-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-07. State Hail Insurance Fund—Permanent Surplus—How Maintained — Appropriations from Fund.) A separate fund designated as the state hail insurance fund shall be maintained by the state treasurer, and all moneys collected under the provisions of this chapter shall be turned over to the state treasurer and kept in such fund. There shall be maintained in such fund a permanent surplus in the sum of five million dollars for the purpose of carrying out the provisions of this chapter and of paying hail losses promptly. All hail indemnities payable under the provisions of this chapter shall be paid from the state hail insurance fund, and all moneys placed in such fund are appropriated for the purpose of paying such hail indemnities. The legislative assembly shall appropriate moneys required to pay the expenses of conducting the hail insurance department from such fund and such expenses shall be paid by warrant-checks prepared by the department of accounts and purchases after the submission of vouchers to the state auditing board for its approval.

§ 4. Amendment.) Section 26-22-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***Note:** Section 25-01-10 was amended twice by the 1965 Session, once by section 2, chapter 181, 1965 S.L., and once by section 51, chapter 203, 1965 S.L.

26-22-16. Compensation of Assessors and County Auditors for Taking Applications.) The assessors and county auditors, in addition to other compensation allowed them by law, shall receive three-tenths percent of the risk carried on the applications for hail insurance coverage listed and reported by them and approved by the commissioner of insurance. The commissioner of insurance shall certify to the state auditing board upon a voucher the list of the assessors and county auditors entitled to payment under this section showing the several amounts due them, and after approval of the voucher the department of accounts and purchases shall draw warrants on the state treasurer for the payment of such compensation.

§ 5. **Amendment.)** Section 26-22-52 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-52. Payment of Hail Losses — Deduction of Unpaid Hail Taxes — Certification of Deductions.) Warrants in payment of hail losses shall be drawn after the adjustments thereof are approved. The commissioner of insurance, through the manager of the state hail insurance department, shall execute vouchers or abstracts for the payment of hail losses and the department of accounts and purchases shall prepare such warrants drawn on the state treasurer payable out of the state hail insurance fund, and the warrants shall be mailed by the insurance department to the persons entitled thereto, or if the warrant is a joint warrant, to one of such persons. The warrants shall become due and payable immediately upon issue and shall draw no interest unless they are registered for lack of funds, in which event they shall draw interest at the rate of five percent per annum from the date of registration. Before executing the vouchers or abstracts, the commissioner shall deduct the current hail indemnity taxes if ascertained at the time, all unpaid hail indemnity taxes for prior years upon the lands covered by the policy as certified by the county auditor, and any other unpaid indemnity tax for which the insured is liable. If the hail indemnity taxes for the then current year are not determined when the payment of the indemnity is made, the commissioner shall deduct from the indemnity a sum which he considers sufficient to cover such tax. The commissioner shall certify all deductions made under the provisions of this section to the various county auditors, and the county auditors and county treasurers shall use such certification as authority for striking from the tax rolls the current or delinquent taxes which have been paid by deduction from the indemnity. Any amount deducted by the insurance department in excess of the actual premium and other legal deductions shall be repaid to the claimant

within a reasonable time after the hail indemnity tax rate has been determined. Repayment of such excessive deductions shall be by warrant-check prepared by the department of accounts and purchases and drawn on the state treasurer payable out of the state hail insurance fund after the execution of vouchers for repayment by the commissioner. Any net indemnity of less than one dollar shall be paid to the claimant direct by postage stamps and a record of such payments shall be kept.

§ 6. Amendment.) Section 26-23-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-04. Commissioner May Employ Assistants.) The commissioner may employ such clerical and other assistants as may be necessary to operate the fund. The salaries of all employees together with all other expenditures for the operation of the fund shall remain within the appropriations made from time to time by the legislative assembly for such purposes and shall be paid by warrant-check drawn on the state treasury prepared by the department of accounts and purchases after the approval of expense vouchers by the state auditing board.

§ 7. Amendment.) Section 26-23-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-12. Audit of Claims Against State Bonding Fund—State Bonding Fund Board—Register of Claims.) All liability claims against the fund shall be audited by the state bonding fund board which shall consist of the commissioner of insurance, the state examiner, and the attorney general. Such board shall have the authority to prescribe the forms upon which claims shall be presented, and may administer oaths and examine witnesses in connection with claims presented to it. If the said board shall find a claim or any part thereof to be a valid, just, and proper charge against the fund, it shall make and file an order to that effect and shall state therein the amount allowed upon such claim. A brief description of every claim filed against the fund shall be entered by the commissioner in a register provided for that purpose showing the name of the claimant, the amount and character of the claim, the action taken by the board of audit, and the date when such action was taken.

§ 8. Amendment.) Section 26-23-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-16. Allowed Liability Claims Payable from Fund—Administrative Expenses—Methods of Payment.) All liability claims which are allowed against the fund shall be paid upon warrants drawn upon the state treasurer against the fund. Such warrants shall be prepared by the department of accounts and purchases pursuant to the directions of the state bonding fund board. Payments for administrative expenses of the state bonding fund shall be made within the limitations of legislative appropriations upon warrant-checks prepared by the department of accounts and purchases after the approval of vouchers by the state auditing board.

§ 9. Amendment.) Section 26-24-03 of 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 the services of any deputy fire marshal and of 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.

§ 10. Amendment.) Section 26-24-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-12. Reserve Balance—Payment of Loss.) All assessments, interest, and profits on investments and all other income of the fire and tornado fund shall be added to a reserve balance within the fund and from such reserve balance shall be paid all losses incurred and operating expenses appropriated by the legislative assembly in the manner provided by law.

§ 11. Amendment.) Section 26-24-13 of the 1963 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 fifty 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.

§ 12. **Amendment.)** Section 26-24-14 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-14. New Construction Insurance Rate.) Any property which shall not have been insured in the fund for a period of at least five years shall be charged a premium equal to fifty percent of the rate established by the Fire Underwriters Inspection Bureau. Any additional insurance shall be regarded as a new risk upon which premiums must be paid until such additional insurance has been in force for a period of five years. After any such property shall have been insured in the fund for a period of five years and the reserve balance is not up to twelve million dollars on August 1, 1947, it shall thereafter be charged a premium equal to twenty-five percent of such bureau rate. However, after the reserve balance is up to twelve million dollars and any property shall have been insured in the fund for a period of five years it shall thereafter be subject only to the assessment as provided in this chapter.

§ 13. **Amendment.)** Section 26-24-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-17. Loss—How Paid.) All losses occasioned by the hazards hereinbefore provided for shall be paid out of the funds in an amount not exceeding the amount of the insurance upon any particular risk. The loss upon any building or property in-

sured in the fund, whether totally destroyed or partially damaged by reason of said hazards or any of them, shall be adjusted by the commissioner or a duly authorized adjuster or adjusting company. Immediately upon the happening or occasion of any such loss or damage the officer, board, agent or agency having charge or control of the property destroyed or damaged shall notify the commissioner by telegram or in writing, giving the description of the property, the amount of insurance carried, the probable amount of loss or damage, and the probable cause of loss or damage. The officer, board, or agency having control of such damaged property shall not disturb the same except as provided in the policy until the commissioner or his agent shall have adjusted the loss or shall have given notice that the information on which adjustment is to be made has been secured. Allowances for loss and damage to insured property shall be paid out of the fund upon warrants drawn by the department of accounts and purchases upon the state treasurer against the fund after the submission of a voucher prepared by the commissioner to the department of accounts and purchases specifying the amount to be paid and the payee to whom such warrants shall be drawn. However, if at any time due to a catastrophe or disaster, or a succession of catastrophes or disasters, the reserve balance shall have been depleted below the sum of two million dollars, the commissioner may, with the approval of the industrial commission, issue premium anticipation certificates in an amount sufficient to bring the reserve balance up to two million dollars. Such premium anticipation certificates shall be issued for a period of from ten to twenty years, as determined by the commissioner with the approval of the industrial commission, and the interest and principal shall be paid and retired by assessments levied on all policies in force with the fund. To retire these premium anticipation certificates, the commissioner of insurance shall levy a special assessment against all property insured in the fund, provided, however, that the total of all assessments and premiums provided for in section 26-24-13 shall not exceed the full bureau rate. Any state department shall have the right to invest its funds in the purchase of such premium anticipation certificates.

§ **14. Amendment.)** Section 27-12-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-06. Method of Expenditure of Association's Funds—Annual Report of Receipts and Disbursements.) Expenditures of funds from the state bar association special fund in the state treasury shall be approved by the president and executive director of said association upon vouchers signed by them and approved by the state auditing board. Moneys shall be paid

from said fund by warrant-check prepared by the department of accounts and purchases. The secretary-treasurer of said association, in addition to the duties imposed upon him by the constitution, bylaws, and rules of the association, annually shall file in the office of the secretary-treasurer of the state bar board an itemized statement of the receipts and disbursements of said association.

§ 15. National Guard Operating Fund.) All income, collections, and reimbursements of the North Dakota National Guard from the United States and from armory rentals shall be deposited in the state treasury and credited to a national guard operating fund. All such income, collections, and reimbursements are hereby appropriated for the maintenance and operation of the national guard and shall be expended in the manner and for the purposes provided by law. The state treasurer, upon order of the director of the department of accounts and purchases, shall make semi-annual transfers from the general fund appropriation for the maintenance of the national guard to the national guard operating fund.

§ 16. Expenditure of Funds.) All expenditures of funds for the maintenance and operation of the national guard and the office of the adjutant general shall be made upon vouchers signed and approved by the adjutant general or such other officer or official as may be designated by him. Upon approval of such vouchers by the state auditing board, warrant-checks shall be prepared by the department of accounts and purchases for signature by the state auditor and state treasurer in accordance with such approved vouchers.

§ 17. Amendment.) Section 37-14-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-08. How Payments of Aid Made.) All payments of aid 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.

§ 18. Amendment.) Section 39-16-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-10. Deposit of Security with State Treasurer — Release—How Payment Made.) 1. Security deposited in compliance with the requirements of this chapter shall be placed by the commissioner in the custody of the state treasurer and shall be applied as in subsection 2 of this section only to the payment of a judgment rendered against the person on whose

behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of such accident, or within one year after the date of deposit of any security under subsection 3 of section 39-16-07, and such deposit or any balance thereof shall be returned to the depositor or his personal representative, when evidence satisfactory to the commissioner has been filed with him that there has been a release from liability, or a final adjudication of nonliability, or a confession of judgment, or a duly acknowledged agreement, in accordance with subsection 3 of section 39-16-06, or whenever, after the expiration of one year from the date of the accident, or within one year after the date of deposit of any security under subsection 3 of section 39-16-07, the commissioner shall be given reasonable evidence that there is no such action pending and no judgment rendered in such action left unpaid. Upon certification by the commissioner the state treasurer shall return any security deposited with him under the provisions of this chapter to the person entitled thereto except as provided for in subsection 3 of this section.

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 the person for whom such deposit was made, 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 in the accident which resulted in the requirement for the deposit of such security. 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.

3. All payments and refunds made from cash deposits in the state treasury under chapter 39-16 shall be made upon a warrant-check issued by the department of accounts and purchases after submission of a voucher signed by the state highway commissioner and approved by the state auditing board.

§ 19. Amendment.) Section 50-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-04. Members of Board—Compensation.) The members of the public welfare board shall receive fifteen dollars per day, not to exceed seventy-five days in any one year, and their necessary expenses for travel in the same amounts as other public officials while attending meetings, or in the performance of such special duties as the board may direct. Such

per diem and expenses shall be audited and paid in the manner provided for in section 50-06-14. The per diem compensation or expenses provided for in this section shall not be paid to any member of the board who receives a salary or expenses from the state, or any of its political subdivisions, or any institution or industry operated by the state in excess of two hundred fifty dollars a month.

§ 20. Amendment.) Section 50-06-14 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-14. Financing of Welfare Programs.) All programs carried out by the public welfare board under the provisions of this title shall be financed by payments out of a special operating fund maintained within the state treasury to be known as the welfare special operating fund. The executive director of the public welfare board or such other person as the board may designate and the state treasurer shall deposit in the welfare special fund, at such times as they may become available, all moneys received from any of the counties within the state, all moneys received from the United States under the provisions of the Social Security Act, such moneys as may be periodically required from legislative appropriations for public welfare purposes, and all public moneys received from any other source. All administrative expenditures made under the provisions of this title shall be paid upon individual warrants prepared by the department of accounts and purchases drawn on the state treasurer against the welfare special operating fund and signed by the state auditor after approval by the state auditing board, such expenditures to be supported by itemized vouchers signed by the executive director of the board or by such other officer or assistant as the board may designate and certify to the department of accounts and purchases. Funds available for payments to or on behalf of recipients of assistance shall be withdrawn as needed from the welfare special operating fund upon a voucher or vouchers approved and signed by the executive director of the public welfare board and by warrant-checks prepared by the department of accounts and purchases. Such warrant-checks shall be delivered to such executive director who shall deposit such warrant-checks in the Bank of North Dakota, whereupon such deposit shall be subject to individual checks drawn by the executive director or such other persons as he may designate for such payments. Any fund received from federal agencies shall be deposited and disbursed as herein provided and in the manner provided by Act of Congress or by the regulations of the federal agencies from which the funds were received.

§ 21.) Section 50-21-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-21-02.1. Revolving Fund Deposited in State Treasury—Expenditures.) The revolving fund shall be maintained in the state treasury. All expenditures therefrom shall be paid by warrant-check prepared by the department of accounts and purchases upon vouchers submitted by the manager of the Bank of North Dakota as approved by the state auditing board.

§ 22. Amendment.) Section 50-24-26 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24-26. Assistance to the Aged, Blind, or Disabled Funds.) All moneys received by the state department from any source for the purpose of carrying out the provisions of this chapter shall be deposited in the state treasury to the credit of the welfare special fund and shall be disbursed in the manner provided in section 50-06-14.

§ 23. Amendment.) Section 50-24-27 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24-27. Disbursements for Assistance to the Aged, Blind, or Disabled.) Disbursements for assistance under the provisions of this chapter shall be made only for the purposes of this chapter which shall include:

1. Payments to or on behalf of recipients of assistance;
2. Expenses of administration of the assistance to the aged, blind, or disabled plan in this state.

All disbursements for expenses of administration shall be made in the manner prescribed by section 50-06-14.

§ 24. Amendment.) Section 52-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***52-09-03. Administration.)** The North Dakota unemployment compensation division of the North Dakota workmen's compensation bureau hereinafter called the "bureau" shall be vested with authority to administer the old age and survivor insurance system. Expenses for the administration of the old age and survivor insurance system shall be within the limits of legislative appropriation and funds shall be expended by warrant-checks prepared by the department of accounts and purchases after the approval by the state auditing board.

***Note:** Section 52-09-03 was amended twice by the 1965 Session, once by section 24, chapter 181, 1965 S.L., and once by section 7, chapter 333, 1965 S.L.

§ 25. Amendment.) Section 52-09-06 of the North Dakota Century Code is hereby amended and reenacted by creating and enacting subsection D to read as follows:

D. A monthly abstract showing all of the deposits to and disbursements from such trust fund shall be forwarded to the department of accounts and purchases.

§ 26. Amendment.) Subsection d of section 52-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

d. The treasurer of the state of North Dakota shall be ex officio treasurer and custodian of the social security contribution fund and shall administer such fund in accordance with the provisions of this chapter and the directions of the state agency. All disbursements from such fund except administrative expenses shall be made in accordance with such regulations as the state agency may prescribe. All disbursements for administrative expenses from such fund shall be paid by warrant-checks prepared by the department of accounts and purchases after submission of vouchers to the state auditing board for its approval;

§ 27. Amendment.) Section 54-23-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***54-23-25. Moneys Remitted to State Treasurer.)** All moneys belonging to the state, derived from any source at any of the institutions under the control of the board shall be accounted for and remitted to the state treasurer not later than the tenth day of each month and the state treasurer shall maintain a special operating fund within the state treasury for each remitting institution receiving funds from such sources. All rents, interest, or income from land, money, or property, donated or granted by the United States and allocated to specific penal or charitable institutions under the terms of the Enabling Act and the state Constitution shall be deposited in such special operating fund of each institution and expended in accordance with the provisions of section 159 of the Constitution. The state treasurer shall make periodic transfers upon order of the director of the department of accounts and purchases from each institutional general fund appropriation to the appropriate institutional special operating fund whenever its balance falls so low as to require supplementation. All funds for necessary expenditures of such institutions shall be drawn from the special operating fund in the state treasury as provided by this chapter.

***Note:** Section 54-23-25 was amended twice by the 1965 Session, once by section 27, chapter 181, 1965 S.L., and once by section 2, chapter 351, 1965 S.L.

§ 28. **Amendment.)** Section 54-23-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-40. Monthly Statement of Institutional Expenditures and Payroll to Board of Administration.) An officer designated by the board for each institution under its control shall prepare two monthly statements showing first the payroll; and second the expenditures of every kind during the preceding month. Such statement shall be signed by the officer, approved by the chief executive officer of the institution, and filed in such form as the board may prescribe on a date fixed by the board for the examination and audit by the board. Attached thereto shall be the affidavit of the officer stating that the services therein specified were rendered and that the goods and other articles therein specified were purchased and received by him or under his direction at the institution and were purchased at a fair cash market price on credit not exceeding thirty days, that neither he nor any person in his behalf had any pecuniary or other interest in the purchases made, that he did not receive any pecuniary or other benefit therefrom, directly or indirectly, by commission, percentage, deductions, or in any other manner whatever, and that the articles contained in such bill conformed in all respects to the invoiced goods received and ordered by him or the samples from which the goods were purchased, both in quality and quantity. Such monthly statement shall be accompanied by the original vouchers of all institutional purchases and a complete itemized statement of each institutional expenditure. If any voucher or statement, or any part thereof, is found objectionable, the board shall endorse its disapproval thereon with its reasons therefor, and shall return it to the management of the institution, and when the matter disapproved of is corrected, the statement and voucher shall be returned to the board.

§ 29. **Amendment.)** Section 54-23-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-41. Audit of Monthly Statements of Expenditures and Payroll—Abstracts of Statement—Payment.) When the statements of expenditures and the payroll of an institution have been audited by the board and found correct, the secretary of the board, under the seal of the board, shall prepare an abstract, in duplicate. He shall deliver one copy thereof to the department of accounts and purchases and the other copy shall be retained in the office of the board. The department of accounts and purchases, upon receipt of the certified abstract, after approval by the auditing board, shall issue a warrant or warrants to be signed by the state auditor for the amount or

amounts thereof and shall deliver the same to the board for delivery to the proper officer of the institution, to be paid out in conformity with such rules as the board may prescribe.

§ 30. Amendment.) Section 57-52-15 of 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 auditor 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.

§ 31. Amendment.) Section 65-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-02-05. Office Space for Bureau—Expenditures from Fund for Assistants and Supplies—Travel.) The bureau shall be provided with office space in the state capitol. The bureau, at the expense of the fund, shall provide all necessary equipment, supplies, stationery, and furniture, and all clerical and other help necessary to carry out the provisions of this title. The members of the bureau and its assistants shall be entitled to receive from the fund for each mile actually and necessarily traveled in the performance of official duty by motor vehicle the same rates in the same manner as other state officials. If travel is by a motor vehicle owned by the state, or by any department or political subdivision thereof, no allowance shall be paid for such mileage. Vouchers for travel and other administrative expenses shall bear the approval of the bureau and the state auditing board before payment is made therefor. Travel and other administrative expense payments shall be made by warrant-check prepared by the department of accounts and purchases drawn upon the state treasurer against the fund. Expenditures made under the provisions of this section, however, must be within the limitations designated by the legislative assembly in appropriation measures adopted from time to time.

§ 32. Amendment.) Section 65-04-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-04-30. State Treasurer Is Custodian of Fund—Deposit—Disbursement on Vouchers—Additional Bond of Treasurer.) The state treasurer shall be the custodian of the fund and all payments of awards of the bureau therefrom for disbursements other than travel and administrative expenses shall be paid by him upon warrant-checks authorized and prepared by the bureau. Warrants drawn upon the fund and paid by the state treasurer shall be returned to the bureau and shall be kept in the files thereof. The bureau shall submit to the department of accounts and purchases once each month a monthly financial statement showing the receipts, disbursements, investments, and status of the fund. The treasurer may deposit any portion of the fund not needed for immediate use in the manner and subject to the requirements prescribed by law for the deposit by such treasurer of state funds. Any interest earned by any portion of the fund which is deposited by the state treasurer under the provisions of this section shall be collected by him and placed to the credit of the fund. The treasurer shall give a separate and additional bond in such amount as may be fixed by the governor conditioned for the faithful performance of his duties as custodian of the fund.

§ 33. Repeal.) Section 26-24-20, subsection 5 of section 37-02-06, chapter 37-06, and sections 54-11-02, 54-23-41.1 of the North Dakota Century Code are hereby repealed.

Approved March 17, 1965.

CHAPTER 182

S. B. No. 153
(Lashkowitz, Lips)

MUNICIPAL BOND PURPOSES

AN ACT

To amend and reenact subdivision b of subsection 7 of section 21-03-06 of the North Dakota Century Code, relating to the purposes for which general obligation bonds may be issued by municipalities, authorizing the refunding of bonds in advance of maturity, and declaring an emergency.

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

§ 1. Amendment.) Subdivision b of subsection 7 of section 21-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

b. To provide necessary funds for the payment of the principal and interest of bonds of such municipality, due or about to become due, for the payment of which the municipality has not sufficient funds, but only to the extent of such deficit; or to refund outstanding bonds of the municipality which are called for redemption and prepayment in accordance with their terms, or by the consent of the holders thereof, within six months from the date of the refunding bonds, when in the judgment of the governing body the best interests of the municipality will be served thereby, through the reduction of interest cost or the extension of maturities.

§ 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, 1965.

CHAPTER 183

H. B. No. 836
(Meschke, Stockman)

ISSUANCE OF MUNICIPAL BONDS

AN ACT

To amend and reenact sections 21-03-04, 21-03-18, 21-03-23, 21-03-41, and subsection 2 of section 21-03-42 of the North Dakota Century Code, subsections 5 and 6 of section 21-03-06 of the North Dakota Century Code, and subsection 1 of section 21-03-06, and section 21-03-15 of the 1963 Supplement to the North Dakota Century Code, relating to the issuance of bonds by municipalities and making provision for the payment of interest on and the principal amount of such bonds by the levy of taxes or the pledging of other revenues or moneys as may be authorized by the legislative assembly.

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

§ 1. **Amendment.)** Section 21-03-04 of 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 in-

debtedness in any manner or for any purpose in an amount which, with all other outstanding indebtedness of the municipality, shall exceed seven 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 four percent on such assessed value beyond said seven 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 six percent on such assessed value beyond the said seven 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 five 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 five 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.) Section 21-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-18. Form and Contents of Bonds.) Every municipal bond shall be a negotiable instrument payable to bearer, or to bearer or the registered owner, with interest coupons attached payable annually or semiannually at the rate specified in the accepted bid for the purchase of said bonds, which rate

shall not exceed the maximum rate specified in the initial resolution. Each bond shall specify the time and place for payment of the principal and interest, and shall be numbered consecutively with the other bonds of the same issue, which shall begin with number one and continue upward, or if so directed by the governing body, shall begin with any other number and continue upward. Each bond shall bear upon its face a name indicative of the purpose of the issue specified in said initial resolution and shall contain a certificate or recital of any direct, annual, irrepealable tax which has been levied by the municipality upon all the taxable property therein, together with any other tax or source of revenue which the municipality may be authorized to impose or pledge and any annual or periodic payments or distributions appropriated or allocated by the legislative assembly, sufficient to pay the interest when it falls due, and also to pay and discharge the principal of such bond at maturity, and may contain any other statement of fact not in conflict with said initial resolution. The entire issue may be composed of bonds of a single denomination or of two or more denominations.

§ 3. **Amendment.)** Section 21-03-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-23. Bond Register.) The county auditor shall keep a bond register in which shall be entered, as to each issue of bonds issued by a taxing district in the county required by the provision of section 21-03-22 to be delivered to the county auditor after execution, a record of the date of issuance, the aggregate amount authorized, the aggregate amount issued, the number of bonds and the denomination of each, the date of maturity of each bond, the rate of interest, the amount of the levy on taxable property for each year certified by the taxing board, the amount levied on any other object of taxation by the municipality, the amount pledged or allocated from other sources of revenue of the municipality, and the amount of any annual or periodic payments or distributions appropriated or allocated by the legislative assembly. Such bond register also shall contain similar information regarding each issue of certificates of indebtedness of each taxing district in the county. The state examiner shall prescribe for the use of the county auditors a uniform form of bond register.

§ 4. **Amendment.)** Section 21-03-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-41. Sinking Funds—Duty of County Treasurer.) When the county treasurer is custodian of any sinking fund, he shall

not remit to the treasurer of the taxing district any taxes levied or any other moneys received for the purpose of paying the interest on or retiring the principal of bonds issued, but he shall retain the same in a separate special fund maintained as a sinking and interest fund for the bonds of such taxing district. The county treasurer shall make quarterly reports to the treasurer of the taxing district whose sinking fund he has in his possession, showing all collections and amounts added to each such fund, all payments made from such fund, and the net balance in each such fund from time to time. The county treasurer shall keep the sinking funds of each taxing district on deposit in such public depository as may have furnished proper bond therefor and as may have been designated by the governing board of the taxing district. When a sinking fund is so deposited, the county treasurer shall be relieved of personal responsibility for its safekeeping.

§ 5. Amendment.) Subsection 2 of section 21-03-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. All moneys raised by taxation and received from other sources pursuant to section 21-03-15 for the purpose of paying said bonds;

§ 6. Amendment.) Subsection 1 of section 21-03-06 of the 1963 Supplement to the North Dakota Century Code and subsections 5 and 6 of section 21-03-06 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

21-03-06. Purpose and Specific Limitations of Bond Issues.) Municipalities are empowered to borrow money, subject to the general limitations of amounts prescribed by sections 21-03-04 and 21-03-05, and subject, in certain cases, to the further limitations prescribed by this section, and to issue bonds thereof for the purposes enumerated in this section. Such bonds may be issued:

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 four-fifths 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 and one-fifth 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 and one-fifth 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 and one-fifth 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 four-fifths 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 and one-fifth percent of the value of the taxable property in such park district.

§ 7. **Amendment.)** Section 21-03-15 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-15. Direct, Annual, Irrepealable Tax.) The governing body of every municipality issuing bonds under the authority of this chapter, after the sale of such bonds and before the delivery thereof, shall levy by recorded resolution or ordinance a direct, annual tax which, together with any other moneys provided by, or sources of revenue authorized by, the legislative assembly, shall be sufficient in amount to pay, and for the express purpose of paying, the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The municipality shall be and continue without power to repeal such levy or levies or to obstruct the collection of any such tax until such payments have been made or provided for. A copy of such resolution or ordinance shall be certified to and filed with the county

auditor, and after the issuance of such bonds, any such tax on property from year to year shall be carried into the tax roll of the municipality and collected as other property taxes are collected. No further annual levy for that purpose shall be necessary. Any other tax or source of revenue authorized by the legislative assembly for such purposes and imposed or pledged by the municipality for those purposes shall likewise be irrepealable and subject to the same conditions and limitations as any taxes levied on property for the same purposes. Any annual or periodic amounts provided for the municipality issuing such bonds by the legislative assembly out of state funds for paying the interest and principal of such bonds shall constitute an irrepealable and continuing appropriation until the liability for all interest and principal payments of the bonds have been satisfied. When insufficient funds are available to pay the matured bonds, the county auditor shall notify the governing body of such municipality of such deficiency and the governing body thereupon may levy a direct tax on the taxable property to pay said deficiency and interest thereon. If the governing body of the issuing municipality no longer exists, the county auditor shall levy a direct tax against the taxable property in the original issuing municipality to pay said deficiency and the interest thereon. The manner of levy, certification and collection of said tax shall be the same as provided by this section for the levy, certification and collection of taxes by this section. When such bonds are further sustained by revenue of a revenue producing utility, industry, or enterprise, said resolution or ordinance may provide that the tax to be levied and assessed may be reduced by such amount and under such conditions as shall be determined in said resolution or ordinance so long as adequate provision is always made for the payment of such bonds and interest thereon.

§ 8. **Validation of Increased Debt Limits.)** The amendments contained in this Act shall not in any way invalidate any increased limit of bonded indebtedness that may have been approved by the electorate of any municipality or political subdivision prior to the effective date of this Act.

Approved March 19, 1965.

CHAPTER 184

S. B. No. 154
(Lashkowitz, Lips)

BIDS ON MUNICIPAL BONDS

AN ACT

Authorizing municipalities to call for and consider only sealed bids for the purchase of municipal bonds.

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

§ 1. Sealed Bids.) The governing body of any municipality calling for bids for the purchase of municipal bonds, as provided in sections 21-03-26 and 21-03-27 of the North Dakota Century Code, may in its discretion determine, and may state in the notice calling for such bids, that only sealed bids shall be received and considered.

Approved February 26, 1965.

CHAPTER 185

S. B. No. 133
(Sinner, Baeverstad)

MUNICIPAL SINKING FUNDS

AN ACT

To amend and reenact section 21-03-40 of the North Dakota Century Code, relating to the custodian of municipal sinking funds.

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

§ 1. Amendment.) Section 21-03-40 of 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, school district, or park district having a population of more than one thousand. In the case of any municipality having a population of more than one thousand, the treasurer thereof shall be custodian of each of its sinking funds.

Approved March 2, 1965.

CHAPTER 186

S. B. No. 155
(Lashkowitz, Lips)

1965 BOND VALIDATING ACT

AN ACT

To amend and reenact sections 21-09-01 and 21-09-05 of the 1963 Supplement to the North Dakota Century Code, changing the title of "The 1963 Bond Validating Act" to "The 1965 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, 1965.

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

§ **1. Amendment.)** Section 21-09-01 of the 1963 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 1965 Bond Validating Act".

§ **2. Amendment.)** Section 21-09-05 of the 1963 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, 1965.

Approved February 25, 1965.

CHAPTER 187

H. B. No. 532
(Christensen, Poling)
(Recommended by Legislative Audit and Fiscal Review Committee)

SPECIAL FUND TRANSFERS

AN ACT

To transfer certain dedicated funds from the general fund and to amend and reenact sections 39-17-02 and 57-32-04 of the North Dakota Century Code, relating to deposits in certain funds.

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

§ 1.) All moneys in the air transportation fund as provided for in section 57-32-04 of the 1963 Supplement to the North Dakota Century Code in the general fund are hereby transferred to a special fund within the state treasury to be known as the Air Transportation Fund.

§ 2.) All moneys in the judges retirement fund in the general fund are hereby transferred to a special fund within the state treasury to be known as the judicial retirement fund. Any money collected pursuant to chapter 27-17 of the North Dakota Century Code shall be deposited with the state treasurer, who shall credit the same to the special fund to be known as the Judicial Retirement Fund.

§ 3.) All moneys in the unsatisfied judgment fund as provided in section 39-17-02 of the North Dakota Century Code in the general fund are hereby transferred to a special fund within the state treasury to be known as the Unsatisfied Judgment Fund.

§ 4. Amendment.) Section 39-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-17-02. Unsatisfied Judgment Fund Established—When Collection of Fee Suspended.) The fees paid pursuant to section 39-17-01 shall be deposited with the state treasurer, who shall credit the same to the unsatisfied judgment fund. Judgments recovered under the provisions of this chapter shall be paid from moneys deposited in the unsatisfied judgment fund under the provisions of this section and such moneys are hereby appropriated for such purpose. It is also provided that there shall be a continuing appropriation out of the fund of all moneys required for administration purposes but not to exceed thirty-five thousand dollars annually for admin-

istration of the unsatisfied judgment fund. If on the first day of June in any year the amount of money standing to the credit of the unsatisfied judgment fund is one hundred thousand dollars or more, the requirement for the payment of such fee shall be suspended during the succeeding year and until such year in which, on the first day of June of the previous year, the amount of such fund is less than one hundred thousand dollars when such fee shall be reimposed and collected as provided herein.

§ 5. Amendment.) Section 57-32-04 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-32-04. Allocation of Tax.) The taxes imposed by this chapter upon car line companies and express companies shall be collected by the state treasurer and deposited in the state general fund. The taxes imposed by this chapter upon air transportation companies shall be deposited with the state treasurer, who shall credit the same to the air transportation fund, but within ninety days after receipt thereof, these funds shall be remitted by the state treasurer to the cities or villages where such air transportation companies make regularly scheduled landings upon the basis of the number of regularly scheduled landings made in such municipalities to be used exclusively by such municipalities for airport purposes. It shall be the duty of the tax commissioner to certify to the state treasurer the names of such air transportation companies, the municipalities where such scheduled landings are made, and the number of such scheduled landings in such municipalities.

Approved February 25, 1965.

HEALTH AND SAFETY

CHAPTER 188

H. B. No. 739
(Stockman, Haugland, Powers (Cass), Bier, Lang)

DUTIES OF LOCAL REGISTRAR

AN ACT

To amend and reenact section 23-02-09 of the North Dakota Century Code, relating to the duties of local registrars.

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

§ 1. **Amendment.)** Section 23-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-02-09. Local Registrars—Duties.) Each local registrar shall:

1. Supply blank forms of certificates to such persons as require them;
2. Examine carefully each certificate of birth or death when presented for record to see that it has been made out in accordance with the provisions of this chapter and the instructions of the state registrar;
3. Issue burial-transit permits as provided in this title;
4. If a certificate of death is incomplete or unsatisfactory, call attention to the defects in the return and withhold issuing the burial-transit permit until the certificate is correct;
5. If a certificate of birth is incomplete, notify the informant immediately and require him to supply the missing items if they can be obtained;
6. Number the certificates of birth and of death in separate series and sign his name as registrar in attest of the date of filing in his office;
7. Make a copy of each birth and death certificate registered by him in such manner as is directed by the state registrar; and
8. On such dates during each month as directed by the state

registrar of vital statistics transmit to the state registrar all original certificates registered by him. If no births and no deaths have occurred in his district in any month, he shall report that fact on the first day of the following month to the state registrar in the manner directed by him.

Approved February 24, 1965.

CHAPTER 189

H. B. No. 538
(Haugland, Aamoth, Anderson, Wagner, Powers (Cass), Gietzen)
(From LRC Study)

AVAILABILITY OF STATE RECORDS

AN ACT

To amend and reenact section 23-02-23 of the North Dakota Century Code, relating to the availability of state records by the division of vital statistics and relating to the destruction of welfare records.

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

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

23-02-23. Certificates and Other Records Are Confidential.) All certificates, applications, affidavits, proofs, or other records filed with the state registrar of vital statistics relative to birth shall be deemed confidential and shall not be open to inspection by any person except the person whose birth has been recorded, if such person is an adult, and, if such person is a minor, by the legal parents or general guardian thereof. Such records, however, may be inspected by and information divulged to the veterans service commissioner upon his certificate that the person whose birth record is inspected or concerning which information is sought is either a veteran of the armed forces of the United States or a dependent of such veteran. In other cases, access to such records or certified copies thereof may be obtained only upon an order of the district court, and such court shall issue such order only when it has been shown to the satisfaction of the court that the information contained in the original records on file in the office of the state registrar of vital statistics is material and necessary to litigation pending in any court, and that the ends of justice will be best served by the production of such

original records. This section shall not preclude the state registrar of vital statistics from furnishing such records, or reports from such records, to the federal government, or any department or agency thereof, when such records are required for statistical purposes, nor shall it preclude the state registrar from furnishing information contained in records to state's attorneys, county welfare boards, the state public welfare board, and the attorney general when such information is to be used for official business in carrying out their duties. The state registrar of vital statistics may permit the inspection of such records when in the opinion of such registrar such inspection will facilitate the correction of the records in his office. Information obtained from such records may be furnished without charge to any state department upon the order of the attorney general made upon the written application of the executive head of the department showing the name of the individual relative to whom such information is required, and stating that such information is required in the proper administration of the work of such department. Any information so furnished to any department shall be deemed confidential.

§ 2. Rules for Destruction of Certain State and County Welfare Records—Secretary of State to Promulgate.) The secretary of state, in his capacity as state records administrator, shall promulgate rules and regulations for the destruction or disposal of state and county welfare case files pertaining to work relief and public assistance programs after such files have been closed for a minimum period of six years and shall also promulgate rules and regulations for the destruction or disposal of other state and county welfare records which are obsolete or have been duplicated. The secretary of state, prior to the promulgation of rules and regulations for the destruction of state and county welfare files and records, shall consult with the director of the state welfare board in regard to the destruction of such files and records. The secretary of state may, from time to time, revise such rules and regulations after further consultation with the director of the state welfare board.

Approved March 15, 1965.

CHAPTER 190

S. B. No. 201
(Mahoney, Sinner, Weber)

DISPOSAL OF DEAD BODIES

AN ACT

To amend and reenact section 23-06-01 of the North Dakota Century Code, relating to the right to dispose of one's own body and to provide and regulate the manner of disposition of one's own body and to provide certain immunities in the procedures of such disposition.

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

§ 1. **Amendment.)** Section 23-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-06-01. Right to Dispose of One's Own Body.) Subject to the health regulations contained in this chapter, every person, over the age of 18 years, and every person under the age of 18 years with the written consent of one parent or guardian has the rights:

1. To direct the manner in which his body shall be disposed of after his death;

2. To direct, in writing executed before one subscribing witness, the manner and the organization to which his body or any organ, member, or part thereof shall be disposed of after his death for the purposes of medical-surgical research or the development of reconstructive medicine and surgery or for replacement or rehabilitation of diseased or worn out parts or organs of other humans, and;

3. To direct the manner in which any part of his body which becomes separated therefrom during his lifetime shall be disposed of.

Any disposition of his own body, organ, member or parts thereof, effective after death, may be revoked by the person at any time prior to his death by the execution of a written instrument in the same manner as the original grant. If the deceased person has left no known written instruction regarding the disposal of his body as provided in this section, the person charged with the duty of burying the body of a deceased person may likewise, in the same manner, consent to

the use of the body or any organ, member or parts thereof for the same purposes or any of them.

§ 2. Immunity From Liability.) A physician licensed in or authorized to practice medicine in this state who in good faith and when authorized as provided in this Act removes any organ, member or part thereof from the body of a deceased person for the purposes of this Act shall not be liable in any civil action arising out of his reliance on the terms of the written authorization.

§ 3. Application of Other Laws.) The provisions of sections 03, 05, 08, 09, 10, 11, 12, 16, 17, and 19, of chapter 6, title 23, North Dakota Century Code as amended, shall not apply to any body or organs or members or parts thereof disposed of after death pursuant to the written authorization provided in this Act and for the purposes of this Act.

§ 4. Statement of Policy.) This Act shall have for its purposes the promoting of the public interest in aiding the development of medicine by facilitating antemortem and postmortem authorizations for donations of tissue in order to encourage and aid the development of reconstructive medicine and surgery and development of medical-surgical research in the fields of tissue preservation, tissue transplantation and tissue culture.

Approved March 1, 1965.

CHAPTER 191

S. B. No. 194
(Weber, Ecker, Thompson, Van Horn)

ABANDONED CEMETERIES

AN ACT

To provide for the upkeep of abandoned cemeteries by the various counties.

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

§ 1. Abandoned Cemeteries To Be Kept Up by Counties.) The board of county commissioners or county park board of each county may provide for the general upkeep for all abandoned cemeteries located within such county. Such board may at least once each year proceed to have the weeds and grass cut, restore gravestones to their original placement,

and perform any other general maintenance necessary to maintain the dignity of the grounds. For the purpose of this Act a cemetery shall mean a tract of land where eight or more persons are buried and which was not used as a private burial plot.

Approved March 15, 1965.

CHAPTER 192

H. B. No. 669
(Erickson (Mountrail), Skaar)

DEFINITION OF CITY

AN ACT

To amend and reenact subsection 2 of section 23-11-01 of the North Dakota Century Code, relating to the definition of "city" under housing authorities law.

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

§ **1. Amendment.)** Subsection 2 of section 23-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "City" shall mean any city having a population of more than one thousand inhabitants according to the last federal census and "the city" shall mean the particular city for which a particular housing authority is created, except that it shall not mean a city having a population under five thousand persons and located in a county which at the effective date of this Act has an activated housing authority, nor shall it mean any city which has agreed to or will so elect to participate in a county housing authority pursuant to section 54-40-08;

Approved March 5, 1965.

CHAPTER 193

S. B. No. 182
(Larson, Weber, Tuff, Trenbeath)

STATE SAFETY COMMITTEE MEMBERSHIP

AN ACT

To amend and reenact section 23-13-09 of the 1963 Supplement to the North Dakota Century Code, relating to the membership of the state safety committee and to add the state health officer as a member.

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

§ 1. Amendment.) Section 23-13-09 of the 1963 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 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 15, 1965.

CHAPTER 194

S. B. No. 176
(Mahoney, Jurgensen, Kautzmann, Kisse, Lashkowitz, Roen, Ecker)

HEALTH DISTRICT ORGANIZATION

AN ACT

To amend and reenact sections 23-14-04, 23-14-05, 23-14-08, 23-14-10, and 23-14-11 of the North Dakota Century Code, relating to health districts including organization of district board of health, appointment of district health officer and his assistants, their compensation, and providing and disbursing of health district funds.

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

§ 1. **Amendment.)** Section 23-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-04. District Board of Health.) A district health unit shall be organized by the appointment of a district board of health to consist of not less than five members, one of whom shall be a physician, one a dentist, one a business or professional man, one a farmer, and one a woman, who shall be appointed for terms as follows: One for one year, one for two years, one for three years, one for four years, and one for five years. All subsequent appointments shall be for a term of five years. Each appointee shall serve without compensation and until his successor is appointed and qualified, and if a vacancy occurs, the vacancy shall be filled by appointing for the remainder of the unexpired term. Each appointee shall qualify by filing the constitutional oath of office, and in case of a district health unit, such oath shall be filed in the office of the county auditor of the county having the larger population according to the most recent state or federal census. Each county in the district shall have at least one representative on the district board of health and counties of over fifteen thousand population shall have an additional representative for each fifteen thousand population or fraction thereof. In district units of less than five counties, each county shall have at least one representative on the district board of health and the additional representatives selected to constitute the minimum five member board shall be equitably apportioned among the counties on a population basis. In a city-county health district comprised of only one county and having a city or cities of fifteen thousand population or more, each city having a population of fifteen thousand or more shall have a representative on the district board of health for each fifteen

thousand population or fraction thereof and the remaining population of the county, exclusive of the populations of cities with fifteen thousand population or more each, shall have a representative on the district board of health for each fifteen thousand population or fraction thereof. The members of the district board of health shall be reimbursed for actual expenses incurred in attending official board meetings in the manner and to the extent provided for state officers.

§ 2. **Amendment.)** Section 23-14-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-05. District Health Officer.) The district board of health shall appoint for a term of five years a full time district health officer, or a part time district health officer, subject to removal for cause by the district board of health. He shall be a physician and surgeon regularly licensed to practice medicine and surgery in the state of North Dakota, and shall have the qualifications prescribed by the conference of state and territorial health officers of the United States, or shall have the recommendation of the state health officer, and he need not be, when appointed, a resident of the county or district. He shall qualify by filing the constitutional oath of office in the manner provided for the members of the district board of health. The district health officer shall, consistent with the terms of his appointment, devote his full time or his part time to the duties of his office, and shall maintain an office within the jurisdiction of the district health unit, at the place to be designated by the district board of health, such office, with necessary equipment, to be furnished by the district board of health.

§ 3. **Amendment.)** Section 23-14-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-08. Assistants to Health Officer.) The district board of health shall provide for such technical and clerical assistants to the district health officer as it may deem necessary. The district health officer shall have the right to select and discharge such assistants. When the health district is served by a part time health officer, the district board of health may appoint an executive officer.

§ 4. **Amendment.)** Section 23-14-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-10. Salary and Compensation.) The salary of the district health officer shall be fixed by the district board of

health. The district board of health shall determine the compensation of such technical and clerical help as may be allowed by the district board of health to the district health officer, and the district board of health also shall determine the amount of mileage to be paid for the necessary travel of the district health officer and his assistants, not to exceed the per diem and mileage rates established for state officers.

§ 5. Amendment.) Section 23-14-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-11. Health Fund—How Provided.) All salaries, mileage, compensation, and expenses provided for herein shall be paid as the salaries, mileage, compensation, and expenses of other county officers now are paid, out of a health district fund as follows:

1. The district board of health, as provided in this chapter, shall prepare a budget for the next fiscal year at the time at which and in the manner in which a county budget is adopted and it shall be submitted to the joint board of county commissioners for approval. The amount budgeted and approved shall be prorated, in health districts composed of more than one county, among the various counties in the health district according to the assessed valuation of the respective counties comprising the said health district, and shall be certified by the district health board to the respective county auditors of such counties within ten days thereafter, and shall be included in the levies of such counties. The amount called for in the budget shall not exceed the amount which can be raised by a levy of one mill on the assessed valuation. Such levy shall not be subject to the limitation on county tax levy for general and special county purposes, and the amount derived therefrom shall be placed in a special health fund. The health fund shall be deposited with and disbursed by the treasurer of the district board of health, and all counties comprising the health district shall remit and make settlements with such treasurer quarterly. Any funds remaining at the end of any fiscal year may be carried over to the next fiscal year;
2. All claims against the district health fund shall be audited by the district board of health or by the president and secretary of the board when authorized or delegated by the board, and shall be paid from the district health fund by the treasurer and approved or ratified by the district board of health at its quarterly meetings.

Approved March 6, 1965.

CHAPTER 195

S. B. No. 279
(Lips)

LICENSING ADDICTION HOSPITALS

AN ACT

To provide for licensing and operation of a clinic for addictions.

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

§ 1.) No person, partnership, association, or corporation, shall establish, conduct, or maintain in the state of North Dakota, a clinic, hospital, sanitarium, or related institution for the care of persons addicted to alcohol or narcotics without first obtaining a license in the manner provided in this Act, unless a license has already been issued for such care under the provisions of Title 23.

§ 2.) Any person, partnership, association, or corporation desiring a license hereunder shall file with the North Dakota commission on alcoholism a verified application containing the name of the applicant; the type of institution to be operated; the location thereof; the name of the person or persons in charge thereof; and such other information as the North Dakota commission on alcoholism may require.

§ 3.) Every building, institution, or establishment for which a license has been issued under this Act shall be periodically inspected by a sanitary engineer and firemen who shall report as to the safety of the institution to the North Dakota commission on alcoholism, which commission shall also inspect the institution under the rules and regulations to be established by said commission. No institution of any kind licensed pursuant to the provisions of this Act shall be required to be licensed or inspected under the laws of this state relating to hotels, restaurants, or lodging houses.

§ 4.) The North Dakota commission on alcoholism is hereby authorized to issue licenses to operate addiction clinics or other related institutions as herein defined, for a period of one year, which, after inspection, are to comply with the provisions of this Act, and any regulations adopted by the commission. The commission is hereby authorized to suspend or revoke a license issued hereunder on any of the following grounds:

1. Violation of any of the provisions of this Act or the rules and regulations issued pursuant thereto;

2. Permitting, aiding or abetting the commission of any illegal act in such institution;

3. Conduct practices detrimental to the welfare or health of any patient of such institution.

Before any license issued hereunder is suspended or revoked, thirty days' written notice shall be given the holder thereof of the date set for the hearing of the complaint. The holder of such license shall be furnished with a copy of the complaint and be entitled to be represented by legal counsel at such hearing. Such notice shall be given by the commission by registered or certified mail. If a license is revoked as herein provided, a new application for license may be considered by the commission when, and after, the conditions upon which revocation was based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made on all provisions of this Act and the rules and regulations hereunder have been complied with.

§ 5.) The North Dakota commission on alcoholism shall have the power to establish standards under this Act which it finds necessary and in the public interest, and it may rescind, amend, or modify such regulations and standards from time to time as may be in the public interest, insofar as such action is not in conflict with any of the provisions of this Act. The provisions of chapter 28-32 shall apply to regulations and administrative proceedings under this Act.

§ 6.) Information received by the North Dakota commission on alcoholism through inspection and supervision of institutions under this Act shall be confidential and shall not be disclosed except in a proceeding involving the question of licensure.

§ 7.) The North Dakota commission on alcoholism is hereby authorized and empowered, for and on behalf of the licensees hereunder and their patients in the state of North Dakota, to accept any funds or grants, through appropriate channels of the state of North Dakota or any of its subdivisions or of the United States, and any supplies or equipment which may be made available to this state or any political subdivision thereof for hospital or educational facilities, goods, or services.

Approved March 3, 1965.

CHAPTER 196

S. B. No. 202
(Mahoney, Hernett)

IONIZING RADIATION DEVELOPMENT

AN ACT

Instituting a program to permit development and utilization of sources of ionizing radiation for peaceful purposes consistent with the health and safety of the public; authorizing the governor of the state of North Dakota to enter into agreements with the United States atomic energy commission transferring certain federal regulatory powers to North Dakota; providing for the licensing of radioactive materials; designating the North Dakota state department of health as the agency to administer the licensing and regulatory radiation program; and prescribing the functions, powers, and duties of the state department of health with respect thereto.

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

§ 1. Definitions.) For the purposes of this Act, the following words and phrases are defined:

1. "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high speed electrons, protons, neutrons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

2. "Radioactive material" means any solid, liquid or gas that emits ionizing radiation spontaneously.

3. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the commission, or any successor thereto and other than federal government agencies licensed by the commission or any successor thereto.

4. "Department" means North Dakota state department of health.

5. "Commission" means United States atomic energy commission.

6. "Byproduct material" means any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

7. "Source material" means uranium, thorium, or any other material which the department declares by rule to be source material after the commission, or any successor thereto, has determined the material to be such; or ores containing one or more of the foregoing materials, in such concentration as the department declares by rule to be source material after the commission or any successor thereto has determined the material in such concentration to be source material.

8. "Special nuclear material" means:

   a. Plutonium, uranium-233, uranium enriched in the isotope-233 or in the isotope-235, and any other material which the department declares by rule to be special nuclear material after the commission, or any successor thereto, has determined the material to be such, but does not include source material; or

   b. Any material artificially enriched by any of the foregoing but does not include source material.

9. "General license" means a license effective pursuant to regulations promulgated by the department without the filing of an application to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

10. "Specific license" means a license issued after application, to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment utilizing byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

11. "Registration" means the notification of the department of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with sections 23-20-02 through 23-20-06 of chapter 23 of the North Dakota Century Code.

§ 2. State Radiation Control Agency.) The North Dakota state department of health, hereinafter referred to as the department, is hereby designated to administer the statewide licensing and regulatory radiation program, consistent with the provisions of this Act.

§ 3. Powers and Duties of the Department.) For the protection of the public health and safety, the department is empowered to:

1. Evaluate hazards associated with the use of sources of ionizing radiation by inspection and other means;
2. Conduct programs with due regard for compatibility with federal programs for the licensing and regulation of byproduct, source, special nuclear materials, and other radioactive materials;
3. Advise, consult, and cooperate with other public agencies and with affected groups and industries; and
4. Administer the statewide licensing and regulatory radiation program.

§ 4. Licensing and Registration of Sources of Ionizing Radiation.)

1. The department shall provide by rule or regulation for general or specific licensing of persons to use, manufacture, produce, acquire, own, receive, possess, or transfer byproduct, source, special nuclear material and other radioactive materials or devices or equipment utilizing such materials. Such rule or regulation shall provide for amendment, suspension, or revocation of licenses.
2. The department may exempt certain sources of ionizing radiation or kinds of uses or users from the licensing or registration requirements set forth in this section and in section 23-20-02 through 23-20-06 of chapter 23 of the North Dakota Century Code when the department makes a finding that the exemption of such sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

§ 5. Federal-State Agreements.)

1. The governor, on behalf of this state, is authorized to enter into agreements with the federal government providing for discontinuance of certain of the responsibilities of the federal government with respect to sources of ionizing radiation and the assumption thereof by the state.
2. Any person who, on the effective date of an agreement under subsection above, possesses a license issued by the federal government shall be deemed to possess the same pursuant to a license issued under this Act, which shall expire either ninety days after receipt from the department of a notice of expiration of such license, or on the date of expiration specified in the federal license whichever is earlier.

§ **6. Administrative Procedures and Judicial Review.)** Any proceeding under this Act for:

1. The issuance or modification of rules and regulations including emergency orders relating to control of sources of ionizing radiation;

2. Granting, suspending, revoking, or amending any license; or

3. Determining compliance with rules and regulations of the department, shall be conducted in accordance with the provisions of chapter 28-32 of the title, "Adminstrative Agencies Practice Act", of the North Dakota Century Code. Where an emergency exists requiring immediate action to protect the public health and safety, the department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such 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 within ten days. On the basis of such hearing the emergency order shall be continued, modified or revoked within thirty days after such hearing.

§ **7. Injunction Proceedings.)** Whenever, in the judgment of the department, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or any rule, regulation or order issued thereunder, the department, in accordance with the laws of the state governing injunctions and other process may maintain an action in the name of the state enjoining such acts or practices, or for an order directing compliance, and upon a showing by the department that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

§ **8. Prohibited Uses.)** It shall be unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own or possess any source of ionizing radiation unless registered with or licensed by the department in accordance with the provisions of this Act.

§ **9. Impounding of Materials.)** The department shall have the authority in the event of an emergency to impound or order the impounding of sources of ionizing radiation, in the possession of any person who is not equipped to observe or

fails to observe the provisions of this Act or any rules or regulations issued thereunder.

§ 10. Penalties.) Any person who violates any of the provisions of this Act, or rules, regulations or orders in effect pursuant thereto of the department shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law.

§ 11. Effective Date.) The provisions of this Act relating to the control of byproduct, source, and special nuclear materials shall become effective on the effective date of the agreement between the federal government and this state as provided in section five of this Act. The provisions of this Act relating to other sources of ionizing radiation shall take effect on July 1, 1965.

Approved March 6, 1965.

CHAPTER 197

H. B. No. 596
(Wagner, Brown)

CANCER CURE TREATMENTS

AN ACT

To amend and reenact section 23-23-02 of the 1963 Supplement to the North Dakota Century Code, relating to cancer cures.

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

§ 1. Amendment.) Section 23-23-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-23-02. Prohibition Against Prescription, Treatment, Sale or Distribution of Cancer Cure.) No person other than a licensed physician, or licensed dentist shall in any manner hold himself out to any other person as being able to prescribe treatment for, or cure the disease of cancer, nor in any manner undertake to treat, or prescribe for the treatment of the disease of cancer. No person shall sell or offer to sell, or give away or offer to give away, except upon the prescription of a licensed physician or licensed dentist, any drug, medicine, compound, nostrum or device which is represented by the manufacturer or seller thereof to have curative powers when used in the treatment of the disease of cancer.

Approved March 3, 1965.

CHAPTER 198

S. B. No. 163
(Lashkowitz, Jurgensen, Mahoney, Larson, Longmire, Lips)

VECTOR CONTROL DISTRICTS

AN ACT

To provide for the organization and operation of vector control districts.

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 provides:

1. "Board" means the board of commissioners of a vector control district.
2. "District" means a vector control district established for the control of public health vectors.
3. "Health officer" means the state health officer.
4. "Public health vectors" means mosquitoes and flies existing in such numbers as to be detrimental to human health and well being.

§ **2. 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, village 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.

§ 3. State Health Council at the Hearing Shall Hear All Relevant and Competent Testimony Offered in Support of or Against the Formation of the District—Area To Be Included Within District—How Determined.) The area or areas to be included in the district shall embrace the territory described in the petition for the creation thereof. The council, however, shall consider and may include within the boundaries of the district areas which may be benefited by being included therein.

§ 4. Order Establishing District.) A certified copy of the order establishing a vector control district shall be filed with the county auditor of each county within which any portion of the district lies and 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 council his certificate bearing the seal of the state of the due organization of such district and shall record such certificate and the order of the council 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 vector control 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 Act or which may be reasonably implied in order to exercise such powers. The order of the council shall specify the name or number by which such vector control district shall be known.

§ 5. 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 appointed 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, township supervisors or village trustees of any county, city, village or township whose territory is embraced or included within said district.

§ 6. 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, village, or township included within said district. Such notice shall state the name and postoffice 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.

§ 7. Bonds.) The treasurer of the district shall be bonded in such amount as shall be required by the board of com-

missioners but such bond shall not be less than one thousand dollars. Other district employees shall be bonded in such amount as the board may prescribe. Every officer or employee of whom a bond shall be required shall be deemed bonded with the state bonding fund upon notice of his appointment given to the state commissioner of insurance by the secretary of the district. Upon notification of the state bonding fund of the premium required the treasurer shall remit the same.

§ 8. **Powers and Duties of the Board of Commissioners.)** The board of commissioners of a vector control district may:

1. Take all necessary and proper steps and measures for the eradication of public health vectors within the district. Prior to taking such measures the board shall consider technical information available to it for the purpose of determining the need for control measures and the need for specific action.

2. Enter upon any land, public or private, within the district at any reasonable time to inspect for or to control public health vectors and their breeding places.

3. Purchase all needed equipment, supplies and materials.

4. Employ such labor and service as may be necessary or proper in the furtherance of its powers herein.

5. Employ labor and services and fix the compensations and prescribe the duties of all employees, agents, and servants.

6. Acquire by gift or purchase, hold, manage and dispose of, real or personal property in the name of the district in the furtherance of the purposes for which the district is established.

7. Work cooperatively with irrigation and drainage districts, municipal corporations or other public agencies and use funds of the district to assist such other agencies for the construction, improvement, repair and maintenance of ditches and for the purpose of assisting such other agencies in abatement practices for the control of public health vectors.

8. To contract with the United States Government or any department thereof or with any other corporations, public or private and state government of this or other states to carry out the provisions of this Act.

9. Generally to do all things necessary or incident to the powers granted and to carry out the objects specified in this Act.

10. After organization and on or before July 1 in each year thereafter, to adopt a budget showing estimated expenses for the ensuing fiscal year commencing July 1 and by resolution submit such budget to the board of county commissioners in each county in which the district is located. The board of county commissioners shall consider such budget and by resolution levy a tax of not to exceed one mill on each dollar of taxable valuation in the district or part thereof and direct the county auditor to file such budget and spread the levy on his tax roll.

§ 9. District Budget—Tax Levy.) When a vector control district has been created and a board of commissioners thereof has been organized, the board shall estimate the expenses of the district from the date of its establishment until the end of the ensuing fiscal year and before July 1 in each year and thereafter shall estimate district expenses for the fiscal year ensuing. Estimates of district expenses may include all outlays necessary to carry out the powers of the board herein provided for. Upon completion and adoption of a budget covering necessary expenses the board of commissioners shall send a copy of such budget to the county auditor of each county in the district. If a district is situated in more than one county the estimate shall be apportioned to the counties affected. Such county auditor shall transmit the same to the board of commissioners of his county. The board of county commissioners of each county in which the district is situated shall by resolution levy, authorize and direct their county auditor to extend and spread upon the tax roll of his county a tax of not to exceed one mill on each dollar of taxable valuation in the district or part of district situated in the county in the same manner and with the same effect as general property taxes are extended and spread. Funds produced each year by such tax levy shall be available until expended and if such tax levy in any year will not produce sufficient revenue to cover district expenses a fund sufficient to pay the same may be accumulated.

§ 10. District May Issue Warrants in Anticipation of Taxes Levied to Pay Current Expenses.) After a vector control district has been established and a board of commissioners has been appointed and organized the board of commissioners may, in order to pay current district expenses including per diem compensation and expenses of commissioners and wages and salaries of officers or employees, by resolution authorize and issue district warrants in anticipation of impending collection and receipt of taxes levied. Such warrants shall bear such rate of interest as the board may determine not exceeding, however, seven percent per annum. The district treasurer

shall keep a register in which to enter each warrant issued showing the date and amount of each warrant, the date of payment and the amount paid in redemption thereof. All warrants shall be paid in order of their presentation for payment to the district treasurer. Such warrants shall be drawn to the claimant or bearer in the same manner as a county warrant and shall be signed by the chairman of the board of commissioners and countersigned by the treasurer of the district. The total amount of such warrants issued in any year to pay current district expenses shall not exceed eighty percent of the district's tax levy for such year.

§ 11. County Treasurer to Collect and Remit Taxes to District Treasurer—Deposit of District Funds.) The treasurer of each county in which a vector control district or a part of such district is situated shall collect all district taxes, together with penalty and interest thereon, if any, in the same manner as county taxes are collected and shall within twenty days after the close of each month pay to the treasurer of the district taxes collected by him during the preceding month and shall notify the secretary of the district of such payment. The district treasurer shall on or before the twentieth day of each month report to the chairman of the board the amount of money in the district treasury, the amount of receipts in the preceding month and items and amounts of expenditures. At each meeting of the board the treasurer shall submit to the board a statement of the district's finances. All collections received by the treasurer of the district shall be deposited by him in the Bank of North Dakota or such other state or national bank in the state as the board shall direct, to the credit of the district. No claim shall be paid by the treasurer until approved by the board of commissioners and then only upon warrants signed by the chairman and countersigned by the treasurer of the board. All claims against the district shall be verified in the same manner as claims against a county.

Approved March 19, 1965.

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 199

H. B. No. 670
(Meschke)

DEPOSIT OF HIGHWAY REVENUES

AN ACT

To provide for the crediting of revenues of the state highway department to the state highway fund and declaring an emergency.

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

§ 1. Highway Department Revenues to State Highway Fund.) All revenue in the form of charges, reimbursements or earnings as hereinafter specified, accruing to the state highway department or any of its agencies or divisions, shall be collected and received by the state highway commissioner or his agent, and deposited with the state treasurer weekly, who shall credit all such deposits to the state highway fund:

1. Overload fees or charges, permit fees, proceeds from sales, and reimbursements from other entities.
2. Service fees and charges for furnishing documents, material, information, or performing work at the request of, or for the convenience of other entities.
3. Income resulting from ownership of rights or properties.
4. Funds collected pursuant to a reciprocal or other agreement, which are in lieu of mile tax.
5. Other income resulting from authorized activities of the department and the discharge of its statutory responsibilities.

§ 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 10, 1965.

CHAPTER 200

H. B. No. 622
(Borstad, Bruner, Hoffner)

ENCROACHMENTS ON HIGHWAYS

AN ACT

To define and prohibit encroachments on state highways and to provide the removal thereof.

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

§ 1. Encroachments on State Highways.) No part of the right-of-way for state highways shall be encroached upon by erection thereon of any structure, or placing thereon any personal property, other than a temporary parking of a motor vehicle, without a written permit from the state highway commissioner. Any encroachment may be caused to be removed, obliterated or corrected by order of the highway commissioner and the total cost thereof shall be paid by the person responsible for the encroachment. Vehicles and other property left upon highway right-of-way for a period exceeding seventy-two hours, the ownership of which cannot be determined after reasonable effort has been made to do so, shall be deemed abandoned and may be removed from the right-of-way and stored at the nearest site available for thirty days and if it is not claimed by the owner during such period, and the cost of removal and storage paid, it may be disposed of in the manner prescribed by the commissioner. If such property shall be disposed of by sale it shall, except as otherwise provided by this section, be sold in the manner provided in section 40-05-15. The receipts therefrom shall be deposited in the state treasury as provided in section 153 of the Constitution and credited to the permanent school fund.

Approved March 2, 1965.

CHAPTER 201

H. B. No. 850
(Elkin)

SECTION LINE ROADS

AN ACT

To amend and reenact section 24-07-03 of the North Dakota Century Code, relating to section lines and authorizing the county commissioners to close section line roads intersected by interstate highways if petitioned to do so by adjoining landowners.

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

§ 1. Amendment.) Section 24-07-03 of 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.

Approved March 2, 1965.

CHAPTER 202

S. B. No. 230
(Nelson)

COST OF GRADE CROSSING DEVICES

AN ACT

To amend and reenact section 24-09-08.1 of the 1963 Supplement to the North Dakota Century Code, relating to apportionment of cost of automatic grade crossing protection devices and payment of the state of North Dakota's apportioned share of such cost.

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

§ 1. **Amendment.)** Section 24-09-08.1 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-08.1. Public Service Commission to Apportion Cost.) In order to promote public safety at intersections of railroad lines and all classes of highways, excepting those for which federal aid is available for automatic grade crossing protection devices, the public service commission shall apportion the cost thereof in accordance with this section. In the event that the public service commission in accordance with the provisions of section 24-09-08 orders that any grade crossing shall be protected by automatic grade crossing protection devices, the public service commission shall in its order apportion the cost thereof between the railroad interested, the political subdivision having jurisdiction of the highway involved, and the state of North Dakota. Such cost shall be apportioned to such parties or to any one or more of such parties on the basis of the benefit derived respectively by highway users and the railroad from the installation of such crossing protection device. For the purpose of this section, the cost attributable to the benefit of the highway users shall be apportioned to the state of North Dakota or to the political subdivision having jurisdiction of the highway involved or to both of such parties. The cost apportioned to the state of North Dakota shall be paid out of the highway fund in the state treasury, provided that not more than fifty thousand dollars may be expended for this purpose in any one biennium.

Approved March 1, 1965.

MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND, AND DEAF

CHAPTER 203

H. B. No. 945
(Committee on Delayed Bills)

STATE HOSPITAL TRANSFER AND INSTITUTIONAL MANAGEMENT

AN ACT

Transferring the administration and control of the state hospital to the mental health and retardation division and to create and enact section 25-01-02.1, to amend and reenact sections 6-09-07, 15-52-03, 25-01-01, 25-01-02, 25-01-03, 25-01-04, 25-01-05, 25-01-06, 25-01-07, 25-01-08, 25-01-10, 25-01-11, 25-01-12, 25-01-15, 25-02-04, 25-02-09, 25-03-15, subsection 1 of section 25-03-16, subsection 2 of section 25-03-20, sections 25-03-25, 25-03-26, 25-09-02, subsection 2 of section 25-09-03, sections 25-09-04, 25-09-05, 25-09-06, 25-09-07, 25-09-08, 25-09-10, 25-09-11, 25-10-01, 25-10-02, 25-10-03, 26-24-08, 32-36-22, 32-36-33, 44-04-08, 48-02-01, 48-09-04, 50-14-04, 54-23-01, 54-23-22, 54-27-11, 54-27-12, and 54-27-13 of the North Dakota Century Code, relating to the administration and control of certain of the state's charitable institutions and other powers and duties of the board of administration, and to repeal chapters 12-57 and 23-08, sections 25-01-13, 25-05-04, 25-05-05, 54-23-16, and 54-23-21 of the North Dakota Century Code, relating to the powers and duties of the board of administration.

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

§ 1. Transfer of Institutions Under the Board of Administration.) The administration and control of the state hospital at Jamestown is hereby transferred from the board of administration to the mental health and retardation division of the state department of health.

§ 2. Definitions.) In this chapter unless the context or subject matter otherwise requires, "supervising department" shall mean that department, division, board, or office responsible for and exercising supervision, control, and administration over the state hospital, as provided by law.

§ 3. Heads of Institutions Responsible to Supervising Department.) For the exercise of the duties of general supervision over the several institutions subject to the control of the supervising department, the heads of the institutions shall be responsible to the supervising department.

§ 4. Adopt Uniform System of Accounting.) The supervising department shall devise and install a system of accounting and auditing of all moneys appropriated, received, and expended. Such system shall be adapted to the institutions under its control and shall be made as nearly uniform as the necessities of the case may permit and in accordance with requirements of the department of accounts and purchases.

§ 5. Books and Accounts Kept by Supervising Department.) The supervising department shall keep at its office a proper and complete system of books and accounts with each institution under its control which shall show every expenditure authorized and made thereat. The book shall exhibit an account of each extraordinary or special appropriation made by the legislative assembly, with each item of expenditure thereof.

§ 6. Blanks and Forms Furnished by Supervising Department.) The supervising department shall formulate and furnish to each institution under its control, proper blanks and forms for all statements and accounts necessary to furnish the information required of the institution.

§ 7. Supervising Department to Have Access to Institutions and to Books and Records of Institutions.) The supervising department shall have access to all the state institutions under its management and control, and to all books, accounts, vouchers, supplies, and equipment of each of the institutions so that the supervising department may familiarize itself with the conditions, needs and requirements of the institutions. All books, documents, and records relating to the concerns and business of such institutions except personal records of patients at all times shall be open to the examination of any citizen of this state. Personal records of patients shall be made available upon court order or in accordance with rules and regulations established by the supervising department.

§ 8. Supervising Department May Make Rules and Regulations for Procedure and Administration of Institutions — Require Performance of Certain Duties.) The supervising department shall make all necessary rules and regulations for its own procedure and for the general administration, supervision, and management of the institutions under its control and management.

§ 9. Inspection of Institutions.) The supervising department or its duly authorized representative or representatives shall visit and inspect the institutions under its administration and control concerning administration, treatment, or finances of such institutions at any time, but shall make such inspection at least twice each year. If deemed necessary, the supervising

department shall examine under oath the officers and attendants, guards, and other employees, and make such inquiries as will determine their fitness for their respective duties.

§ 10. Investigation of Institutions—Witnesses—Fees—Not Excused from Testifying.) The supervising department, in aid of the investigation of any institution under its control, may summon and compel the attendance of witnesses and examine the same under oath, which any member thereof shall have the power to administer. The supervising department shall have access to all books, accounts, papers, and property material to such investigation, and may order the production of any other books or papers material thereto. Witnesses other than those in the employ of the state shall be entitled to the same fees as are allowed in civil cases in the district court. The claim that any testimony or evidence sought to be elicited or produced on such examination may tend to incriminate the person giving or producing it, or expose him to public ignominy, shall not excuse him from testifying or producing evidence, documentary or otherwise, but no person shall be prosecuted or subjected to any penalty or forfeiture for and on account of any matter or thing concerning which he may testify or produce such evidence. The witness shall not be exempt from prosecution and punishment for perjury committed in so testifying.

§ 11. Testimony Taken at Investigation Transcribed and Filed.) The supervising department shall cause the testimony taken at any investigation to be transcribed and filed in its office within ten days after the same is taken, or as soon thereafter as practicable. When so filed, the evidence shall be open for inspection of any person.

§ 12. Failure to Testify—Contempt.) Any person who fails or refuses to obey the orders of the supervising department issued in an investigation of any institution under its control, or to give or produce evidence when required, shall be reported by the supervising department to the district court or any judge thereof, and shall be dealt with by the court or judge as for contempt of court.

§ 13. Report to Governor Abuses and Wrongs Existing in Institutions.) The supervising department shall investigate and report to the governor any abuses or wrongs alleged to exist in the institutions under its control and management.

§ 14. Supervising Department to Keep Record of Persons in Institutions.) The supervising department shall keep in its office a record showing:

1. The residence, sex, age, nativity, occupation, religion, civil condition, and date of entrance or commitment of

every person, patient, or inmate in the institutions under its control and administration;

2. The date of discharge of every such person from the institutions, and whether such discharge was final;

3. The condition of the person at the time he left the institution;

4. If a person is transferred from one institution to another, to what institution transferred; and

5. If a person, patient, or inmate of an institution shall die, the date and cause of death.

This information shall be furnished to the supervising department by the institutions under its control. Such other obtainable facts shall be furnished as the supervising department, from time to time, may require. No one shall have access to the records, except as authorized by the supervising department, or on the order of a court of record.

§ 15. Entrance and Discharge Record of Persons at Institutions.) The managing officer of each institution, within thirty days after the commitment or entrance of a person, patient, or inmate to the institution, shall cause a true copy of his entrance record to be made and forwarded to the office of the supervising department. When a patient or inmate leaves, or is discharged, transferred, or dies in any institution, the superintendent or person in charge, within ten days thereafter, shall send such information to the supervising department having control of such institution. All such information shall be furnished on forms which the supervising department may prescribe.

§ 16. Supervising Department to Provide Protection Against Fire—Means of Escape.) The supervising department under advisement of the state fire marshal shall compel the superintendent of each of the institutions under its control to:

1. Provide at each institution adequate and ready means of protection against fire;

2. Construct proper means of escape for the patients and attendants where the same are not already constructed;

3. Establish and enforce rigid rules and regulations by which the danger of fire shall be minimized; and

4. Prevent, as far as possible, injury to the patients or pupils and loss or destruction, by any cause, of the property of the state.

§ 17. Inventory of Stocks and Supplies.) The supervising department, annually on June thirtieth of each year, shall require the superintendent of each institution under its charge to make a complete, minute, and accurate inventory of the stock and supplies on hand, and the amount and value thereof. The inventory shall be under the following heads:

1. Livestock;
2. Produce of the farm on hand;
3. Automobiles, trucks, and other vehicles;
4. Agricultural implements;
5. Machinery;
6. Mechanical fixtures;
7. Real estate;
8. Beds and bedding in patients' department;
9. Other furniture in patients' department;
10. Personal property of the state in superintendent's department;
11. Ready-made clothing;
12. Dry goods;
13. Provisions and groceries;
14. Drugs and medicines;
15. Fuel;
16. Library property; and
17. All other property under such heads as the supervising department may deem proper.

A like inventory shall be submitted by the proper superintendent of each institution to the supervising department when requested by the supervising department.

§ 18. Moneys Remitted to State Treasurer.) All moneys belonging to the state, derived from any source at any of the institutions under the control of the supervising department shall be accounted for and remitted to the state treasurer not later than the tenth day of each month. The state treasurer shall maintain a special operating fund within the state treasury for each remitting institution. All rents, interest, or income from land, money, or property donated or granted by the United States and allocated to specific charitable institutions under the terms of the Enabling Act and the state Constitution shall be deposited in such special operating fund of each institution and expended in accordance with the provisions of section 159 of the Constitution. The state treasurer shall make periodic transfers upon order of the director of the department of accounts and purchases from each institutional general fund appropriation to the appropriate institu-

tional special operating fund whenever its balance falls so low as to require supplementation. All funds for necessary expenditures of such institutions shall be drawn from the special operating fund in the state treasury as provided by this chapter.

§ 19. **Property of Institution Is Property of State.)** All public property of every kind and all public money in charge of the superintendent of any institution under the control of the supervising department, or that shall come to his hands or under his control on account of the institution under his charge, or from the business thereof, is the property of the state and at all times shall be kept separate and apart from the property of such superintendent.

§ 20. **Funds Belonging to Institutions or Patients To Be Paid to Superintendent.)** Each officer and employee of all state institutions under the management and control of the supervising department shall pay over to the superintendent of the institution without delay any funds which may come into his hands belonging to any patient of the institution and of which the superintendent is the legal custodian. He shall pay over to the proper officer of the institution without delay any funds which may come into his hands belonging to the institution.

§ 21. **Care and Custody of Funds Belonging to Patients of State Institutions.)** The superintendent of any state institution under the management and control of the supervising department, when the care and custody of any funds belonging to patients thereof are by law devolved upon him, shall keep accurate accounts of such funds in books provided for that purpose, and shall pay out such funds under such rules and regulations as may be prescribed by law or by the supervising department, taking proper vouchers therefor in all cases from the patient or responsible representative of such patient. Each superintendent shall give a bond in such sum as may be required by law, or as may be prescribed by the supervising department, to be subject to the approval of the state examiner, conditioned for the faithful performance of his duties and a due accounting for the funds entrusted to his care.

§ 22. **Property of Patients To Be Returned.)** The money and effects, except clothing, in possession of each patient when committed to any institution under control of the supervising department, shall be preserved by the superintendent of such institution and returned to such patient when discharged.

§ 23. **Estimate of Expenditures of Institutions Presented to Supervising Department and Department of Accounts and Purchases—Revision.)** At the times and in the manner pro-

vided by the department of accounts and purchases, the superintendent shall cause to be prepared triplicate estimates of all expenditures required for the institution. Two of the said triplicate estimates shall be sent to the supervising department and the third shall be kept by the superintendent. The supervising department may revise the estimates for supplies or other expenditures, and shall certify that it has carefully examined the same and that the articles contained in such estimates as approved, or revised by it, are, to its best knowledge and belief, actually required for the use of the institution. An approved copy containing any revisions of the estimate by the supervising department shall be forwarded by the supervising department to the department of accounts and purchases which shall contract for the required purchases.

§ 24. Department of Accounts and Purchases to Advertise for Bids for Supplies—State Firm Given Preference.) The department of accounts and purchases, after estimates of all expenditures have been certified and revised by the supervising department as provided in section 23, shall advertise for bids for such supplies and shall require samples in every possible case and in every case shall require the supplies purchased to be equal in value to the sample submitted by the successful bidder. Where samples are submitted and bids are the same, the firm in the state so bidding shall have preference.

§ 25. Contract for Supplies Sent to Institution.) When the estimates for supplies for the institutions under the control of the supervising department have been certified and revised by the supervising department and bids for the supplies enumerated and described therein have been received and contracts for furnishing the supplies have been let by the department of accounts and purchases, a copy of such revised estimates and the contract for furnishing the supplies enumerated and described in such revised estimates, duly certified, shall be sent to the institution and another copy shall be sent to the supervising department having control of such institution.

§ 26. Department of Accounts and Purchases May Purchase Supplies on Open Market.) Whenever in the judgment of the department of accounts and purchases the interests of the state can best be served thereby, it may purchase in the open market such supplies as are necessary.

§ 27. Bill Presented to Institution — Form — Thirty Days Allowed to Pay for Supplies.) The supplies purchased for the institutions under the control of the supervising department shall be purchased so as to permit at least thirty days' time to pay therefor. The officer of the institution designated by

the supervising department shall require itemized bills to be rendered by the person who furnishes supplies, in duplicate, for all purchases whether made upon contract or otherwise, which shall be in the form prescribed by the department of accounts and purchases and certified as required for other claims against the state.

§ 28. Department of Accounts and Purchases to Make Rules for Purchase of Supplies—Jobbers to File Address with Department of Accounts and Purchases or Institutions.) The department of accounts and purchases shall make specific rules and regulations respecting the manner in which supplies shall be purchased and contract made for such institutions so as to insure the competition and publicity necessary to secure the economical management of each institution. Jobbers or others desirous of selling supplies to an institution, by filing with the superintendent of such institution, or with the department of accounts and purchases, a memorandum showing their address and business, shall be afforded an opportunity to compete for the furnishing of the supplies under such limitations and rules as the department of accounts and purchases may prescribe.

§ 29. Supplies of Institutions — Duty of Officers.) The officer of each institution who is designated by the supervising department to have charge of and to be accountable for all the supplies and stores of the institution shall be charged therewith at their invoice value, and shall:

1. Direct all purchases of such institution as may be ordered by the department of accounts and purchases under the estimates as provided in section 23, in conjunction with the superintendent of each institution;
2. Issue all the supplies upon requisition approved by the superintendent or other officer designated by the supervising department. The requisition shall be his voucher therefor;
3. Examine and register all goods delivered, according to their amount and quality, and if found to correspond with the samples and in good order and correct in charge, he shall certify the bills; and
4. Make a consolidated report of all purchases to the department of accounts and purchases and the supervising department and all other transactions of such institution to such supervising department at the close of the annual period.

§ 30. Shortage in Supplies—Liability of Officer in Charge.) If it shall appear that there is a shortage in the supplies of any institution, the supervising department having control of

such institution shall appoint a committee to investigate the cause thereof. If it shall appear that the shortage resulted from unavoidable loss, without the negligence of the officer designated to have charge of the supplies, such officer shall be credited therewith, otherwise he shall be charged with the amount thereof and shall be required to pay the same into the state treasury within sixty days after the determination of the loss. If default is made in such payment, the officer shall forfeit his office and suit shall be instituted upon his official bond to recover the same.

§ 31. Monthly Statement of Institutional Expenditures and Payroll to Supervising Department.) An officer designated by the supervising department for each institution under its control shall prepare two monthly statements showing first the payroll, and second the expenditures of every kind during the preceding month. Such statement shall be signed by the officer, approved by the superintendent of the institution, and filed with the supervising department on a date fixed by the supervising department for the examination and audit of such department. Attached thereto shall be the affidavit of the officer stating that the services therein specified were rendered and that the goods and other articles therein specified were purchased and received by him or under his direction at the institution and were purchased at a fair cash market price on credit not exceeding thirty days, that neither he nor any person in his behalf had any pecuniary or other interest in the purchases made, that he did not receive any pecuniary or other benefit therefrom, directly or indirectly, by commission, percentage, deductions or in any other manner whatever, and that the articles contained in such bill conformed in all respects to the invoiced goods received and ordered by him or the samples from which the goods were purchased, both in quality and quantity. Such monthly statement shall be accompanied by the original invoices of all institutional purchases and a complete itemized statement of each institutional expenditure. If any invoice or statement, or any part thereof, is found objectionable, the supervising department having control of such institution shall endorse its disapproval thereon with its reasons therefor, and shall return it to the management of the institution, and when the matter disapproved of is corrected, the statement and invoice shall be returned to the supervising department.

§ 32. Audit of Monthly Statements of Expenditures—Abstracts of Statement—Payment.) When the monthly statement of expenditures of an institution have been audited by the supervising department having control of such institution and found correct, the supervising department shall prepare an abstract, in duplicate, showing the name, residence, and the

amount due each claimant, and the institution and the fund thereof on account of which the payment shall be made. He shall deliver one copy thereof to the department of accounts and purchases and the other copy shall be retained in the office of the division or department. The department of accounts and purchases, upon receipt of the certified abstract, after approval by the auditing board, shall issue a warrant or warrants for the amount or amounts thereof and shall deliver the same to the supervising department for delivery to the proper officer of the institution, to be paid out in conformity with such rules as the supervising department may prescribe.

§ 33. Examination of Monthly Payroll—Payment.) When the monthly statement of the payroll of an institution has been audited by the supervising department and found correct, the supervising department shall prepare an abstract, in duplicate, showing the name, residence, and the amount due each claimant, and the institution and the fund from which the payment shall be made. The supervising department shall deliver one copy thereof to the department of accounts and purchases and the other copy shall be retained in the office of the supervising department. The department of accounts and purchases, upon receipt of the certified abstract, after approval by the state auditing board, shall issue a warrant or warrants for the amounts thereof and shall deliver the same to the supervising department for delivery to the proper officer of the institution, to be paid out in accordance with such rules as the supervising department may prescribe.

§ 34. Use of Patient Labor in Erection or Repair of Buildings of Institutions.) All work for the erection, repair, or improvement of buildings, grounds, or properties under the control of the supervising department shall be let by contract, except that the work of patients in such institutions may be utilized if approved by the superintendent of such institution as having possible benefits to the patient and not detrimental to his health or treatment and where the use of such labor will not substantially depart from the requirements of section 48-02 of the title Public Buildings of the North Dakota Century Code.

§ 35. Supervising Department, Employees, or Employees of Institutions Not To Be Interested in Contracts.) No member of the supervising department, nor any employee of any of the same, nor any employee of the institutions under control of the supervising department, shall be interested, directly or indirectly, in any contract, purchase, or sale for or on account of any of the institutions under control of such supervising department. Any violation of the provisions of this section is sufficient cause for removal from office.

§ 36. Members of Supervising Department and Officers and Employees of Institutions Prohibited from Accepting Gifts—Penalty.) No member of the supervising department, nor any officer, agent, or employee thereof, and no superintendent, officer, manager, or employee of any of the institutions under the charge and control of the supervising department, directly or indirectly, for himself or any other person, shall receive or accept any gift or gratuity from any person, firm, or corporation dealing in goods, merchandise, or supplies which may be used in any of the institutions, or from any employee, servant, or agent of such person, firm, or corporation. Any person violating the provisions of this section is guilty of a misdemeanor. Such violation shall be cause for his removal from office.

§ 37. Employees — Penalty for Influencing Appointment.) Any member of the supervising department and any officer thereof who exerts any improper influence, by solicitation or otherwise, on the superintendent of any institution under the control of the supervising department, in the selection of any employee or assistant, is guilty of a misdemeanor.

§ 38. Political Influence or Contribution by Members of Supervising Department or Employees of Institution Prohibited.) Any member or officer of the supervising department, or any officer or employee of an institution subject to control of the supervising department, who, by solicitation or otherwise, exerts his influence, directly or indirectly, to induce other officers or employees of the state to adopt his political views shall be removed from his office or position by the proper authorities.

§ 39. Child Welfare—Powers and Duties of Supervising Department.) In addition to the other duties prescribed by law, the supervising department shall have the following duties and powers:

1. To accept the guardianship of the persons or children who may be committed to its care by courts of competent jurisdiction as neglected, delinquent, dependent, or defective;

2. To make such provisions for children committed to its care as are within the resources of the supervising department, and as will afford them proper care and protection;

3. To take the initiative in protecting and conserving the rights and interests of neglected, dependent, delinquent, illegitimate, and defective children; and

4. To act as parole officers of juveniles upon the request of courts of the state to which dependent, neglected, handicapped, or delinquent children may be committed.

§ 40. Amendment.) Section 6-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-07. State Funds Must Be Deposited in Bank of North Dakota.) All state funds, and funds of all state penal, educational, and industrial institutions shall be deposited in the Bank of North Dakota by the persons having control of such funds or shall be deposited in accordance with constitutional and statutory provisions.

§ 41. Amendment.) Section 15-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-03. Medical Center Advisory Council — Members, Terms, Meetings.) In order to assure the proper coordination and integration of the North Dakota state medical center with all other health and welfare activities of the state, a permanent medical center advisory council is hereby established to advise, consult, and make recommendations to the university administration, and to the several agencies represented on said medical center advisory council concerning the program of said North Dakota state medical center, the adaptation thereof to the needs of the state and to the requirements and facilities of the several agencies involved, and the use of said North Dakota state medical center and its facilities by the various institutions and agencies of the state and its political subdivisions. The medical center advisory council shall consist of seven members, two to be named by the governor, and one to be named by and from the membership of each of the following: The public welfare board of North Dakota, the state board of higher education, or such boards or departments as shall succeed them or any of them; the state health officer of the North Dakota state department of health; one shall be selected by the North Dakota state medical association; one shall be selected by the North Dakota hospital association.

The representatives named by the state agencies and boards above referred to shall be selected to serve as members of the medical center advisory council for periods of, at least, one year, but in no instance may they serve longer than their term of office on the public agency.

The representatives from the North Dakota state medical association and the North Dakota hospital association shall serve a term of three years or until their successors are named and qualified.

The three members appointed by the governor shall serve for three year terms. Of the persons appointed by the governor one shall be a representative of agriculture, one a representative of labor and one a representative of the public at large. The medical center advisory council shall name its own chairman and the dean of the University of North Dakota medical school shall serve as executive secretary thereof. The medical center advisory council shall meet in January and June of each year, and, from time to time, on its own motion or upon request of the university administration, to consider plans and program of action for the North Dakota state medical center, and make its recommendations thereon to the several agencies of the state and its political subdivisions involved and to the legislature.

§ 42. **Amendment.)** Section 25-01-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted by creating and enacting a new subsection to read as follows:

"Supervising officer" shall mean the state health officer of the state department of health, state mental health and retardation division of the state department of health, or the board of administration, as the case may be.

§ 43. **Amendment.)** Section 25-01-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-02. Transfer of Inmates Between Institutions.) The supervising officer may transfer patients of the state hospital, state school, or state sanatorium between such institutions whenever the superintendent of any such institution shall recommend such transfer and the supervising department is satisfied, upon investigation, that such transfer is advisable. If any patient, so transferred, is maintained at the expense of the county from which he was committed, the cost of his maintenance in the institution to which he is transferred shall be charged to such county and shall be collected therefrom upon notice to the county auditor of such county by the supervising officer.

§ 44.) Section 25-01-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-01-02.1. Health Council to Investigate Mental Health of Patients.) The health council may investigate the mental health and the condition of any person admitted to the state hospital, and shall order the discharge of any person so admitted or restrained, if, in its opinion, such person is not mentally ill or can be cared for after such discharge without danger to others and with benefit to the patient. In determining

whether the patient shall be discharged, the recommendation of the superintendent of the state hospital and supervising officer shall be secured. The granting of this power to the health council to determine the mental health of a person is permissive, and does not repeal or alter any statute respecting the discharge from, or admission to, the state hospital.

§ 45. Amendment.) Section 25-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-03. Supervising Officer to Appoint Superintendent of Institutions—Salaries—Removal.) The supervising officer shall appoint a superintendent for each of the institutions under its control. The tenure of office of each such superintendent shall be two years from the date of his appointment, and he shall possess such qualifications as are required by the provisions of this title. Any such superintendent may be removed by the supervising officer for misconduct, neglect of duty, incompetency, or other proper cause showing his inability or refusal properly to perform the duties of his office, but such removal at a time other than a termination of his two-year tenure shall be had only after an opportunity is given to such person to be heard before a board consisting of the governor, attorney general, and supervising officer of such institution on preferred written charges. A removal when made, however, shall be final. The supervising officer shall fix the compensation of each such superintendent within the limits prescribed in this title and within the appropriations made by the legislative assembly for such compensation.

§ 46. Amendment.) Section 25-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-04. Superintendent of Each Institution to Qualify.) The superintendent of each of the institutions mentioned in this chapter, before entering upon the duties of his office, shall take the oath prescribed for civil officers, and shall furnish a bond in such sum as may be fixed by the supervising officer which shall conform to the provisions of law applicable to the bonds of state officers and employees. Each such bond shall be filed by the supervising officer in the office of the secretary of state.

§ 47. Amendment.) Section 25-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-05. General Powers and Duties of Superintendents of Various Institutions.) The superintendent of each of the institutions mentioned in this chapter shall be the chief execu-

tive officer of the institution of which he is superintendent and, in connection with such institution, shall:

1. Employ all employees and assistants required in the management of the institution, the number of whom shall be determined in cooperation with the supervising officer;
2. Have general charge of the institution and of the grounds thereof;
3. Have general charge of the direction, treatment, control, and discipline of all persons, employees, and patients at or connected with the institution;
4. Formulate, subject to the approval of the supervising officer, all rules and regulations relating to the conduct of the persons within and employees of the institution;
5. Maintain salutary discipline among all employees and persons or patients in or connected with the institution and enforce strict obedience to all rules and regulations thereof;
6. Cause complete records to be kept of all persons admitted to the institution; and
7. Submit to the supervising officer reports of the institution in such form, at such times, and containing such information, as may be required by the supervising officer.

§ 48. **Amendment.)** Section 25-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-01-06. Duty of Superintendent and the Supervising Officer in Case of Questionable Commitment.) The superintendent of the state hospital and the superintendent of the state school shall notify the supervising officer immediately if there is any question as to the propriety of the commitment or detention of any person received at the institution, and the supervising officer, upon such notification, shall inquire into the matter presented and shall take such action as may be deemed proper in the premises.

§ 49. **Amendment.)** Section 25-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-07. Salaries of Officers and Employees Other Than Superintendent—How Fixed.) The supervising officer in cooperation with the superintendent, prior to July first in each

year, shall fix the annual or monthly salaries of all of the officers, exclusive of the superintendent, and all of the employees in each of the several institutions mentioned in this chapter. It shall classify such officers and employees into grades, and the salaries paid to those in each grade all other factors being equal shall be uniform in the several institutions. The schedule of salaries fixed by the supervising officer shall become operative on July first in the year in which the same are fixed. The supervising officer in cooperation with the superintendent may fix the salaries of additional employees hired after July first and may increase the salary of any employee deemed worthy of such increase. Such salaries shall be paid in the same manner as other expenses of the several institutions are paid. All of the salaries in each institution, however, shall be within the limits fixed by the appropriations made by the legislative assembly for salaries in such institution.

§ 50. Amendment.) Section 25-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-08. Discharge of Subordinate Officers and Employees.) The superintendent of any institution mentioned in this chapter may discharge any person employed therein, subject to such restrictions as may be placed upon such power by the supervising officer. He shall show in the record of any person discharged by him the reason therefor.

§ 51. Amendment.) Section 25-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***25-01-10. Supervising Officer May Accept Gifts and Bequests—State Treasurer to Have Custody of Funds.)** The supervising officer may accept in the name of the state and hold in trust for any institution mentioned in this chapter any lands conveyed or devised and any money or other personal property given or bequeathed for application to any purpose connected with such institution. All moneys and property coming into the hands of the supervising officer as grants, donations, devises, gifts, and bequests shall be used for the specific purposes for which they are granted, donated, devised, bequeathed, or given. If no terms are imposed upon the use of any grant, donation, devise, bequest, or gift, it shall be used for the general maintenance of the institution for the benefit of which it is made.

***Note:** Section 25-01-10 was amended twice during the 1965 Session, once by section 2, chapter 181, 1965 S.L. and once by section 51, chapter 203, 1965 S.L.

§ 52. Amendment.) Section 25-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-11. State Treasurer to Have Custody of Income from Granted Lands.) The state treasurer shall be custodian of all funds arising from the sale of any lands granted to any institution named in this chapter, and such funds shall be deposited with him. He shall keep a separate account of each such institution to which a land grant has been made, and moneys in each such separate fund shall be used exclusively for the benefit of the institution to which the same belongs.

§ 53. Amendment.) Section 25-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-12. Drawing of Funds — Sale of Lands — Release of Mortgages—Appropriations Limit Power to Contract.) Moneys appropriated or given to any institution mentioned in this chapter shall be expended only upon order of the supervising officer. The supervising officer, however, shall not have the power to bind the state for any purpose in connection with any such institution beyond the amount of the appropriation which may have been made to such institution for such purpose, nor to sell or convey any part of the real estate belonging to any such institution without the consent of the legislative assembly, except that it may release any mortgage or convey any real estate which may have been received by it through any gift, bequest, or devise or upon any trust, the terms of which authorize such satisfaction or conveyance.

§ 54. Amendment.) Section 25-01-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-15. Money Remaining in Inmates' or Patients' Personal Account Transferred to General Welfare Account of Institution.) Any moneys remaining in the personal account, in the institution, of any inmate or patient after six years from the date of the death or discharge of such inmate or patient have elapsed, shall be transferred to the fund maintained in such institution for the general welfare of the inmates or patients thereof. No probate or other proceedings shall be required for the making of such transfer.

§ 55. Amendment.) Section 25-02-04 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-02-04. Superintendent to Possess Certain Qualifications —Employees.) The superintendent of the state hospital shall be a certified psychiatrist. He shall appoint with the approval

of the state mental health and retardation division an assistant superintendent of administration who shall be under his supervision and who shall be a qualified and experienced hospital administrator. The superintendent shall appoint and employ the professional staff and define their qualifications and duties. The assistant superintendent shall employ such other personnel as may be necessary and shall define their qualifications and duties.

§ 56. **Amendment.)** Section 25-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-02-09. Care of Patients To Be Impartial—Exceptions.) All patients at the state hospital shall be provided with equal care and treatment in accordance with the different degrees or conditions of mental and physical health. However, if relatives or friends of any patient shall request it and pay the expenses thereof, such patient may receive special care and be provided with a special attendant in such manner as may be agreed upon by the superintendent. In all such cases, the charges for special care and attendants shall be paid quarterly in advance. The relatives or friends of any patient in the hospital shall have the privilege of paying any portion or all of the expenses of such patient and the superintendent shall cause the account of such patient to be credited with any sums so paid. The superintendent shall account to the state mental health and retardation division for all money or property which shall come into his hands for the purpose of furnishing extra care or treatment to any patient at the state hospital.

§ 57. **Amendment.)** Section 25-03-15 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-15. Discharge.) The superintendent of the state hospital shall as frequently as practicable, but not less often than every six months, examine or cause to be examined every patient in the hospital. Whenever he determines that the conditions justifying hospitalization no longer exist, he shall discharge the patient and immediately notify the state mental health and retardation division and the mental health board of the county of residence of the patient. Unless a patient is discharged as cured or released in convalescent status as provided in section 25-03-16, the mental health board shall cause such patient to be removed from the hospital and shall provide all needed or suitable care, and the expense of such care and treatment shall be paid by the county of the patient's residence. Whenever a dispute arises between counties regard-

ing the residency of a patient for purposes of this section, it shall be determined by the state health officer. If the mental health board fails or neglects to remove and care for such discharged patient within thirty days from the notice of the order discharging him, or the order of the state mental health and retardation division upon finding of residency, the county shall be liable to the state for the full and actual cost of care of such patient as determined by the state health officer, commencing at the expiration of thirty days after the date of such notice. Such costs of care and treatment shall be paid by the county in the same manner as costs of care and treatment of other patients at the state hospital are charged and paid. Upon the discharge of any patient, the superintendent shall furnish the patient, unless otherwise supplied, with suitable clothing and a sum of money not exceeding twenty dollars, which shall be charged to the county of the patient's residence as other expenses of such patient in the hospital are charged.

§ 58. Amendment.) Subsection 1 of section 25-03-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The superintendent of the state hospital may release a patient on convalescent status when he believes that such release is in the best interests of the patient. Release on convalescent status shall include provisions for continuing responsibility to and supervision by the hospital, and may include a plan of treatment on an out-patient or non-hospital patient basis. Prior to the end of a year on convalescent status, and not less frequently than annually thereafter, the superintendent of the state hospital shall re-examine the facts relating to the hospitalization of the patient on convalescent status and, if he determines in view of the condition of the patient that hospitalization is no longer necessary, he shall discharge the patient and make a report thereof to the state mental health and retardation division and the mental health board of the county of residence.

§ 59. Amendment.) Subsection 2 of section 25-03-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Notwithstanding any limitations authorized under this section on the right of communication, every patient shall be entitled to communicate by sealed mail with at least one friend or relative of his choice, with the state mental health and retardation division, and with the mental health board of the county which ordered his hospitalization.

§ 60. Amendment.) Section 25-03-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-25. Reports to and Additional Powers of State Mental Health and Retardation Division.) The superintendent of the state hospital shall notify the state mental health and retardation division of all admissions to the state hospital. In addition to the specific authority granted under the provisions of this chapter, the state mental health and retardation division shall have authority to require reports from the head of any hospital relating to the admission, examination, diagnosis, release, or discharge of any mentally ill patient; to visit any such hospital regularly to review the commitment procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any patient or by any person on behalf of a patient; and to adopt such rules and regulations not inconsistent with the provisions of this chapter as it may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill.

§ 61. Amendment.) Section 25-03-26 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-26. Expenses of Stutsman County Mental Health Board.) All expenses of the mental health board of Stutsman County involving patients in residence at the state hospital shall be paid by the state hospital under the direction of the state mental health and retardation division.

§ 62. Amendment.) Section 25-09-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-02. Expenses Chargeable Against Patient or His Estate—Filing Claims—Duties of County Judge.) Except as provided in section 25-09-11, expenses for care and treatment of each patient at the state hospital or state school shall be the actual average per patient cost incurred by the state at each such institution. The supervising department shall recover quarterly from the patient if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans administration, such expenses shall be a current claim against such patient and may be recovered monthly by the supervising department except that the amount of seven dollars and fifty cents shall be credited to the patient's personal account from

any social security money received. Claims for expenses incurred by the state for care and treatment of a patient at the state hospital or state school may be filed against the estate of such patient after his death, at any time prior to final distribution thereof, by the supervising department in the same manner and with the same effect as claims of general creditors are filed against estates of decedents. Every county judge shall forward to the supervising department a list of the names of all persons whose estates have been entered for probate or heirship proceedings in his respective county court together with the legatees, devisees, and heirs at law of such estates within thirty days after the filing of the original certificate of any probate or heirship proceedings. The supervising department shall provide all county judges with forms for the purpose of carrying out the provisions of this section.

§ **63. Amendment.)** Subsection 2 of section 25-09-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. No real property belonging to such estate shall be sold during the lifetime of the patient except for the maintenance and support of his or her dependents, unless it is shown that the sale of such property will not result in undue hardship to such dependents, and in either such event, it shall be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the supervising department; and

§ **64. Amendment.)** Section 25-09-04 of the 1963 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, such costs as the supervising department may determine reasonable for the care and treatment of patients at each institution. For purposes of this chapter and title 25 of this code "responsible relatives" shall mean the patient's spouse, father, mother or children.

§ **65. Amendment.)** Section 25-09-05 of the 1963 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 Expenses.) 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 mental health board of the county from which the patient was admitted in the case of a patient at the state hospital or the state school, to determine whether the patient or his responsible relatives or their estates are able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The supervising department shall approve, reject, or amend the determination made by the county mental health 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.

§ **66. Amendment.)** Section 25-09-06 of the 1963 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.

§ **67. Amendment.)** Section 25-09-07 of the 1963 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.) 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 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.

§ 68. **Amendment.)** Section 25-09-08 of the 1963 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 general fund of this state.

§ 69. **Amendment.)** Section 25-09-10 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-10. Disposition of Nonresidents — Reciprocal Agreements.) 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, state school, 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, feeble-minded 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 laws of this state.

§ 70. **Amendment.)** Section 25-09-11 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-11. Reductions in Claims Against Responsible Relatives for Patients at State School.) Commencing with the effective date of this section, and at the beginning of each calendar year thereafter, the superintendent of public instruction shall certify to the 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 patient at the state school under section 25-09-02 or to responsible relatives of such patient under sections 25-09-04 and 25-09-06. Such deduction shall continue for a period of fifteen years after the date of the first admission of each patient to

the state school or until the patient reaches his twenty-first birthday, whichever shall first occur. During such period the responsible relatives, or their respective estates shall not be liable for more than a sum equal to seven hundred and fifty dollars, less the prorated average per-pupil costs of education. At no time shall the claims by the state to the responsible relatives or their estates be reduced below two hundred and forty dollars, annually, with the exception that such claims for care and treatment at the state school may be further reduced in accordance with the provisions of sections 25-09-05 and 25-09-06. After the passage of the above-mentioned fifteen-year period, or after such patient reaches his twenty-first birthday, whichever shall first occur, claims against responsible relatives shall be terminated against said responsible relatives, but actual costs of care and treatment shall accrue against the estate of the responsible relatives from this date.

Claims against the estates of responsible relatives for the care and treatment of patients at the state school shall not exceed an amount equal to that portion of the value of the estate which would pass to the patient under the intestacy laws of this state had the responsible relative died intestate during the life of the patient, but this limitation shall not bar additional or subsequent claims against any patient or any patient's estate regardless of the source of the property constituting such estate. Claims against the responsible relatives, or their estates, shall be retroactive to time of admission of the patient to the state school, in accordance with the above provision.

Parents with more than one patient in the state school shall pay as full payment for their children in the state school as follows:

1. Second child admitted to the state school, fifty percent of the regular charge assessed against the first patient;
2. Third child admitted to the state school, twenty-five percent of the regular charge assessed the first patient;
3. Fourth and successive children admitted to the state school, no charge.

Such claims may be further reduced as provided by sections 25-09-05 and 25-09-06.

No statute of limitations or similar statute shall bar the right of recovery for the expense incurred by the state for care and treatment at the state school from the patient or his estate and responsible relatives of their estates, but this section shall not apply to claims that may be otherwise barred by law prior to July 1, 1963.

§ 71. **Amendment.)** Section 25-10-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-10-01. State Mental Health Division.) There is hereby established within the state department of health a division to be known as the State Mental Health and Retardation Division, such division to be under the direction and supervision of a certified psychiatrist who shall be appointed by the state health officer with the approval of the state health council, to perform the following functions in the field of mental health:

1. Cooperate in providing services to state and local departments and agencies and other groups for programs of prevention of mental illness, mental retardation, and other psychiatric disabilities;
2. Assist in providing informational and educational services regarding mental health to the public and lay and professional groups;
3. Assist in providing consultative services to schools, courts, and health and welfare agencies, both public and private;
4. Assist in providing out-patient diagnostic and treatment services; and
5. Assist in providing rehabilitation services for patients suffering from mental or emotional disorders, mental retardation, and other psychiatric conditions, particularly those who have received prior treatment in an in-patient facility.

The above services shall be undertaken by the state department of health to the extent funds are available to the department for the performance of these functions.

§ 72. **Amendment.)** Section 25-10-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-10-02. Psychiatric Clinic.) The administration of the children's psychiatric out-patient clinic established pursuant to chapter 39 of the 1959 Session Laws shall be transferred from the board of administration to the state mental health and retardation division on July 1, 1961, and continued thereunder. The purpose of the clinic shall be primarily to provide psychiatric care and treatment to minors and persons placed under the control of the state as well as other residents who are referred to such clinic by an agency of the state

who cannot avail themselves of psychiatric care through private means. The staff of the clinic may, however, be used by the mental health and retardation division to a limited extent in carrying out other mental health services and programs undertaken by the state mental health and retardation division. The clinic may operate under the supervision of a qualified psychiatrist until the certified psychiatrist heading the mental health and retardation division is appointed, who shall upon appointment become the director of the clinic.

§ 73. **Amendment.)** Section 25-10-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-10-03. Mental Health Coordinating Committee—Membership—Purpose.) There shall be maintained a mental health coordinating committee composed of the state health officer as chairman, the superintendent of public instruction or his representative, the executive director of the state welfare board or his representative, and the chairman of the board of administration or his representative, and such other members as may be appointed by the above members of the committtee. Meetings of the committee shall be called at the discretion of the state health officer, but in no event shall the committee meet less than once each year. Members of the coordinating committee shall serve without compensation or mileage and travel expenses. It shall be the purpose of the committee to review, evaluate, and coordinate all the functions, programs, and services of all state agencies and departments and political subdivisions in the field of mental health, to prevent duplication of activities, provide for cooperation in common field of activity and the joint use of personnel and facilities. The committee shall investigate and procure, to such extent available, public and private funds to carry on mental health services and programs in this state.

§ 74. **Amendment.)** Section 26-24-08 of the 1963 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, village clerk, and school district clerk, as the case may be, shall report to the commissioner the sound depreciated value of each public building and of the

fixtures and permanent contents therein belonging to the state or political subdivision, and shall supply such other information as may be required by the commissioner on forms provided by him.

§ 75. Amendment.) Section 32-36-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-36-22. Payment to Trustee.) The court may require the payments to be made by the father to be made to the county welfare board, if there is one, or to any other suitable and proper trustee or guardian. The trustee shall report to the court annually, or oftener as directed by the court, the amounts received and paid over.

§ 76. Amendment.) Section 32-36-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-36-33. Notice of Action to Compel Support — Duty of Executive Director of the Public Welfare Board of North Dakota.) The clerk of the district court shall give notice of any proceedings to compel support under the provisions of this chapter to the executive director of the public welfare board of North Dakota. The executive director thereupon shall advise or assist the complainant or the court in such proceeding.

§ 77. Amendment.) Section 44-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-04-08. Duty of the Heads of State Institutions and State Boards, Departments, or Offices to Make Reports.) The head of each institution and each state board, department, or office shall set forth, in the annual or biennial report required by law, a list of all persons in the employ of the institution, department, office, or board. Such list shall give the name of each person drawing a salary at such institution, or from such board, department, or office, the amount of salary and other emoluments drawn, the fund or funds from which drawn, and the number of installments per annum in which such salary is drawn.

§ 78. Amendment.) Section 48-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-01. Definition of Governing Board.) In this chapter, unless the context or subject matter otherwise requires, the term "governing board" shall mean the governing board, department, or office of any public institution of the state

including the industrial commission and the North Dakota mill and elevator association, and the governing body of any county, city, park district, village, school district, or other political subdivision of the state.

§ 79. Amendment.) Section 48-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-09-04. Rules and Regulations—Cancellation of Contract.) The renting, leasing, or licensing, of any public property under the provisions of this chapter at all times shall be subject to the rules and regulations made and prescribed by the official, department, board, or commission having the control and management of the same. The renting and leasing term of any contract entered into in relation thereto may be canceled upon thirty days' written notice to the holder of the concession. Any contract granting a concession at any time after a breach of the terms thereof, or after a violation of any of the provisions of this chapter, shall be canceled upon thirty days' written notice to that effect.

§ 80. Amendment.) Section 50-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-14-04. Child Not Placed in Almshouse or Other Institution Without Consent of Executive Director of the Public Welfare Board of North Dakota.) No person, association, corporation, institution, or agency shall place a child in any almshouse in this state, or in any other institution, charitable, penal, or reformatory, in which delinquent children, or children charged with delinquency, are kept, without the consent of the executive director of the public welfare board of North Dakota, unless the placement is made pursuant to the order of a competent court duly entered by reason of the delinquency of the minor. Any person, association, corporation, institution, or agency violating the provisons of this section, is guilty of a misdemeanor.

§ 81. Amendment.) Section 54-23-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-01. Institutions Under Control of Board of Administration.) The board of administration shall have full power to manage, control, and govern, subject only to the limitations contained in this chapter and in title 25, the penitentiary, the school for the blind, the school for the deaf, the Grafton state school, the North Dakota industrial school, and the state tuberculosis sanatorium. The board shall not have the power to

manage, control, and govern the soldiers' home. The term "board" as used in this chapter shall mean the board of administration.

§ 82. Amendment.) Section 54-23-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-22. Transfer of Inmates from the Industrial School to Other Institutions.) The board may transfer inmates of the state training school to the state hospital or to the Grafton state school whenever the board is satisfied, upon investigation, that such transfer is advisable. If any inmate, so transferred, is maintained at the expense of the county from which he was committed, the cost of his maintenance in the institution to which he is transferred shall be charged to such county and shall be collected therefrom upon notice to the county auditor of said county by the board.

§ 83. Amendment.) Section 54-27-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***54-27-11. Appropriation—Record Kept by Department of Accounts and Purchases and Treasurer—Duties and Limitations of Department of Accounts and Purchases and Treasurer as to Appropriation.)** The department of accounts and purchases and state treasurer each shall keep a record in their office showing:

1. The total amount appropriated for maintenance for each state officer or agency, and of each separate item thereof;
2. The amount equal to seventy-five and twenty-five percent of the total appropriated and each separate item thereof; and
3. The amount disbursed and the balance on hand.

The department of accounts and purchases shall not issue any warrant during the first eighteen months of each biennium in excess of the seventy-five percent of any item appropriated for maintenance of any state official or state agency in the executive branch of government nor shall the state treasurer pay such warrant. The duties and limitations imposed upon the department of accounts and purchases and state treasurer shall apply only to the total amount appropriated for the biennium but not to separate items appropriated for maintenance for all penal and charitable institutions of this state and all

***Note:** Section 54-27-11 was amended twice during the 1965 Session, once by section 5, chapter 120, 1965 S.L. and once by section 83, chapter 203, 1965 S.L.

institutions under the jurisdiction and supervision of the state board of higher education. The administrative department, office, or board shall keep a record showing the amount, equal to seventy-five and twenty-five percent, respectively, of the total amount and of each separate item appropriated for maintenance for all such institutions under its control and shall be responsible for the enforcement of the restrictions upon the disbursement of all moneys appropriated to such institutions for maintenance purposes.

§ 84. Amendment.) Section 54-27-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-12. Expenditure of Amount in Excess of Appropriation for State Institutions by the Administrative Department, Office, or Board, or State Board of Higher Education, or Managing Officer — Unlawful.) The administrative department, office, or board of any penal or charitable state institution, or the state board of higher education, or any person thereof, in the transaction of the business of any state institution under its direction or control, shall not make nor authorize knowingly any expenditure in the matter of the erection or improvement of any public building, or structure, or the purchase of any real property, in excess of any appropriation made by the legislative assembly for such purpose. The president, superintendent, or managing officer of any state institution conducted under the direction or control of any department, office, or board, or the state board of higher education, shall not connive nor conspire knowingly with such departments, offices, or boards, nor with any member thereof, to procure to be expended in the matter of the erection or improvement of any public building or structure, or the purchase of any real property at the state institution of which he is president, superintendent, or managing officer, any sum in excess of the appropriation therefor as made by the legislative assembly.

§ 85. Amendment.) Section 54-27-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-13. Penalty for Expenditure of Excess of Appropriation for State Institutions.) Any person violating the provisions of section 54-27-12, is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment, and shall be subject to summary removal from office by the governor except elected officials who shall be subject to impeachment.

§ 86. Repeal.) Chapters 12-57 and 23-08, sections 25-01-13, 25-05-04, 25-05-05, 54-23-16, and 54-23-21 of the North Dakota Century Code are hereby repealed.

Approved March 20, 1965.

CHAPTER 204

S. B. No. 118
(Urdahl, Lips)

RELEASE OF STATE HOSPITAL PATIENTS

AN ACT

To amend and reenact section 25-03-10 of the North Dakota Century Code, relating to the right to release and application for judicial determination.

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

§ 1. Amendment.) Section 25-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-10. Right to Release—Application for Judicial Determination.) Any patient involuntarily hospitalized under the provisions of section 25-03-08 who requests to be released or whose release is requested in writing by his legal guardian, spouse, or adult next of kin shall be released within five days after the receipt of such request. It is provided, however, that upon application by the superintendent of the state hospital, or the county judge who consented to the emergency admission, to the mental health board of either the county in which the patient is hospitalized or of the county of the patient's residence, within five days from the time of such request for release, supported by a certification by the superintendent of the state hospital or a county judge that in his opinion such release would be unsafe for the patient or others, release may be postponed for a period not to exceed twenty days as the chairman of the mental health board may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 25-03-11. The superintendent of the state hospital or county judge shall provide reasonable means and arrangements for informing patients of their right to release as provided in this section, and for assisting them in making and presenting requests for release. If an examination as required in section 25-03-08 is not held within twenty days after the date of admission to the state hospital

or local hospital, or if the superintendent of the state hospital or local hospital or an examiner designated by him fails or refuses after such examination to certify that in his opinion the patient is mentally ill or is likely to injure himself or others if allowed to remain at liberty, the patient shall be immediately discharged.

Approved March 15, 1965.

CHAPTER 205

H. B. No. 664
(Collette, Gudajtes, Haugland, Staven, Lundene)

RELEASE OF PATIENTS AT GRAFTON

AN ACT

To amend and reenact section 25-04-05, and section 25-04-08 of the North Dakota Century Code, providing for commitment to and discharge from the state school at Grafton and to create and enact section 25-04-08.1 of the North Dakota Century Code providing for the temporary release of inmates of the state school under the supervision and control of the superintendent of such school.

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

§ 1. **Amendment.)** Section 25-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-05. Commitment to State School Upon Order of County Mental Health Board—Judicial Procedure.) Mentally retarded persons shall be committed to the state school in the same manner and pursuant to the same course of legal commitment as governs admission to the state hospital on forms provided by the state school. Such commitment shall comply with such rules and regulations as may be prescribed by the superintendent and his governing authority or body.

§ 2. **Amendment.)** Section 25-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-08. Discharge of Inmate from Institution.) The superintendent may grant any inmate of the school a discharge or leave of absence under such rules and regulations as the superintendent and his governing authority may prescribe. Prior notification shall also be given to such inmate's parents or guardian, if any, by registered or certified mail to such

parents' or guardian's last address, if known and to the county mental health board which committed the patient and to the county mental health board of the parents' or guardians' legal residence.

§ 3.) Section 25-04-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-04-08.1. Temporary Release.) The superintendent of the state school may grant a temporary release to any inmate when he believes such release is in the best interests of such inmate. Such temporary release shall include provision for continuing responsibility to and supervision by the superintendent of the state school. The inmate may be returned to the state school at such time as the superintendent believes that the temporary release is no longer in the best interests of the inmate. Such temporary release may be for the purposes of medical treatment, examination, training, rehabilitation, to the care of his own home, that of a relative, or friend, to a licensed foster home, to another institution of this state, or to an environment likely to be beneficial to the inmate. Such temporary release shall be made only after notice by certified or registered mail to the inmate's parents or guardian at their last address, if known.

Approved March 15, 1965.

CHAPTER 206

S. B. No. 87
(Longmire, Reichert)

MENTAL HEALTH AND RETARDATION SERVICE UNITS

AN ACT

To authorize the establishment of mental health and retardation service units, to provide for their administration and for state aid and assistance from mental health division of the state department of health, to authorize a mill levy of not to exceed three-quarters of one mill for such purpose, and providing for an appropriation.

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

§ 1. **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.

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 Act.

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.

§ 2. State Aid — Application — Program Approval — Local Support.) Cities, counties, or other political subdivisions or any combination thereof, and private nonprofit corporations may apply to the mental health division of the state department of health for assistance in establishing and maintaining mental health and retardation service units. In the case of a private nonprofit corporation a contract between the mental health division and the corporation shall be entered into for state aid and for the provision of mental health and retardation services by such corporation, which contract shall be upon such terms as the mental health division shall prescribe.

The unit or corporation requesting state aid shall submit to the mental health division of the state department of health not later than March first of each year the proposed budget for the following year, plus detailed plans with regard to the extent of services which shall include fee schedules based on the ability to pay and programs to be undertaken. The division shall not allocate any funds to any unit maintaining or establishing mental health and retardation service units until the proposed budget and detailed plans shall be approved by the division. During July of each year the mental health division shall allocate funds, to the extent available, to the various units in accordance with approved budgets and programs. The division shall have authority to reallocate unencumbered funds that have been allocated and may withdraw unencumbered funds if the services and programs of the mental health and retardation service unit do not correspond to the approved budget and plans forwarded to the health department.

State support to any mental health or retardation service unit shall not exceed forty percent of such unit's total expenditure for salaries, contract facilities and services, maintenance and service costs, expenses of the board of directors of the unit, and other expenses authorized by the mental health division of the state department of health. No reimbursement from moneys appropriated to the mental health division of the state department of health by the legislative assembly shall be authorized for any capital expenditures.

A mental health and retardation service unit comprising only one political subdivision may receive aid from such political subdivision to the extent that its governing body agrees to participate. If a mental health or retardation service unit comprises more than one political subdivision, the unit shall receive aid from the political subdivisions in proportion to the assessed valuation of each political subdivision or in such other manner as their governing bodies shall agree. A private nonprofit corporation may receive aid from any political subdivision on a contract basis, entered into between the officers of the corporation and the governing body of the political subdivision or subdivisions, for services to be rendered to the political subdivision and its residents.

The governing body of any such political subdivisions for the purpose of operating, maintaining, or participating in the operation and maintenance of mental health and retardation service units or providing such services by contract in accordance with this Act, may by resolution of the governing body thereof submit the question of the authorization of a tax upon all taxable property in the political subdivision of not

to exceed three-quarters of one mill to the electorate of the political subdivision at any special or regular election. If such levy shall be approved by the majority of the electors voting thereon a tax not in excess of that authorized may be levied by the governing body of the political subdivision for the purpose of providing services as authorized in this Act. Such levy, when authorized, shall be over and above any mill levy limitation provided by law, provided, however, there shall not be more than one election per year on the mill levy.

§ 3. Board of Directors—Appointment—Term.) Each mental health and retardation service unit, whether established by a political subdivision or a body corporate, shall be governed by and under the general supervision of a board of directors. The board of directors shall be appointed by the governing body of the political subdivision which comprises such unit, and if more than one political subdivision comprises such unit then appointed by the governing bodies of each such political subdivision meeting jointly. The board of directors shall not exceed thirteen members, but may be less in the discretion of such governing bodies. The term of office of the board members shall be three years, staggered so that the term of office of an equal number of the board members, if possible, expires each year. Vacancies occurring on the board for other than the expiration of a term shall be filled in the same manner as original appointments, except that appointments shall be made only for the unexpired term. No compensation shall be allowed the board members, but they shall be allowed the same mileage and expenses as is allowed state officials. The board shall elect a chairman from their membership and such other officers as the board deems necessary. All members of each board of directors shall be residents of the area served by the mental health and retardation service unit and such membership shall represent as nearly as possible local health departments, medical societies, county welfare boards, hospital boards, and other lay and professional organizations and people.

§ 4. Powers and Duties of Board — Administration.) The following powers and duties shall be performed by the board of directors of the mental health and retardation service unit:

1. Determine, review, and evaluate services and programs provided by the unit and make periodic reports thereon to the mental health division of the state department of health, together with any recommendations the board may have for improvement in services, programs, or facilities;
2. Recruit and promote local financing from private and public sources;

3. Promote and arrange for cooperation and working agreements with other social service agencies, public and private, and with individuals and organizations in the educational field and judicial branch of government;

4. Determine the budgets and submit them to the governing bodies of the political subdivisions concerned for their approval and prepare detailed plans for services and programs of the unit for the forthcoming year; and

5. Perform any other act necessary to properly administer the mental health and retardation service unit.

The board may employ such professional personnel as may be necessary to properly staff the mental health and retardation service unit and may in its discretion employ such administrative personnel as may be necessary to assist them in the performance of their duties, including an administrator. The board may delegate to the administrator such of its powers and duties as the board deems necessary and desirable. The professional staff of such mental health and retardation service unit shall be under the medical direction of a qualified psychiatrist.

§ 5. **Appropriation.)** There is hereby appropriated out of any unappropriated moneys in the state treasury, the sum of one hundred and twenty-five thousand dollars or so much thereof as may be necessary, for the purpose of providing financial assistance in establishing and maintaining mental health and retardation service units for the biennium beginning July 1, 1965, and ending June 30, 1967.

Approved March 15, 1965.

INSURANCE

CHAPTER 207

H. B. No. 768
(Miller, Lundene)

EXAMINATION OF INSURANCE COMPANIES

AN ACT

To amend and reenact subsection 6 of section 26-01-04 and section 26-01-08 of the North Dakota Century Code, relating to official examination of insurance companies, and declaring an emergency.

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

§ 1. Amendment.) Subsection 6 of section 26-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. For an official examination, the actual expense and per diem incurred;

§ 2. Amendment.) Section 26-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-01-08. Examinations—By Whom Conducted—Compensation To Be Paid Into State Treasury.) All examinations of insurance companies required or permitted by law to be conducted by the insurance commissioner and whether or not the same are so-called convention examinations, shall be conducted by qualifed regular employees of the insurance commissioner, and their compensation shall be paid out of the appropriation for that department. Any sums paid to said employees or to the insurance department or commissioner by the company or companies examined, as an examination fee or otherwise, shall be deemed to be state money, and forthwith shall be paid into the state treasury. Any sums paid to the employee or the department or commissioner as expense money for the examiner may be paid directly to the employee, and no employee may charge or collect from the state any expenses incurred in connection with any examination for or during which his expenses or any part thereof have been paid by any other person, firm, or corporation.

§ 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, 1965.

CHAPTER 208

S. B. No. 130
(Walz, George, Hernett, Beck)

CANCELLATION OF MOTOR VEHICLE LIABILITY INSURANCE

AN ACT

To provide cancellation provisions restricting the cancellation of an insured's motor vehicle liability insurance.

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

§ 1. Notice Required Before Cancellation of Motor Vehicle Liability Policy—Penalty.) All insurance companies authorized to sell insurance in the state of North Dakota who sell or write motor vehicle liability insurance contracts shall include in such contracts as a mandatory provision or endorsement the cancellation provisions as set forth by the national bureau of casualty underwriters, or other standard cancellation provisions that have been approved by the insurance department of North Dakota. Failure to comply with such cancellation provision requirements shall be sufficient cause for cancellation, revocation, or refusal to renew that company's certificate of authority to do business in North Dakota by the insurance commissioner.

Approved March 17, 1965.

CHAPTER 209

S. B. No. 191
(Lips)

SOLICITATION OF PROXIES

AN ACT

Enabling the insurance commissioner to promulgate rules and regulations respecting solicitation of proxies in regard to a security of a domestic stock insurance company.

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

§ 1. Insurance Commissioner Authorized to Regulate Solicitation of Proxies.) It shall be unlawful for any person, in contravention of such rules and regulations as the insurance commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any equity security of a domestic stock insurance company not listed on a national securities exchange registered as such with the Securities and Exchange Commission under the United States Securities Exchange Act of 1934, as amended. This section is applicable to all domestic stock insurers having one hundred or more stockholders of record; provided, however, that this section shall not apply to any insurer if ninty-five percent or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares are held by less than five hundred stockholders. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities and Exchange Act of nineteen hundred thirty-four, as amended, shall be exempt from the provisions of this section.

Approved March 10, 1965.

CHAPTER 210

H. B. No. 719
(Whittlesey, Meschke)

QUALIFICATION OF DIRECTORS

AN ACT

To amend and reenact section 26-08-06 of the North Dakota Century Code, relating to qualification of directors—residence requirements of directors and executive officers.

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

§ 1. Amendment.) Section 26-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-08-06. Qualification of Directors — Residence Requirements of Directors and Executive Officers.) One-third of the directors and a majority of the executive officers of a domestic insurance company must be residents of this state, and each of the directors of such a company, if it has a capital stock, must be the owner in his own right of stock of such company of the par value of at least five hundred dollars.

Approved March 10, 1965.

CHAPTER 211

H. B. No. 718
(Whittlesey, Meschke)

INVESTMENT OF FUNDS

AN ACT

To amend and reenact subdivision c of subsection 13 of section 26-08-11 of the North Dakota Century Code, relating to authorized investment of funds of insurance companies.

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

§ 1. Amendment.) Subdivision c of subsection 13 of section 26-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

c. An investment in any single parcel of real estate acquired under the provisions of this subsection shall not exceed two percent of the admitted assets of the company;

Approved March 10, 1965.

CHAPTER 212

H. B. No. 650
(Giffey, Bruner)

COVERAGE OF MUTUAL INSURANCE COMPANIES

AN ACT

To create and enact section 26-15-01.1 and to amend and reenact section 26-15-01 of the North Dakota Century Code, providing that county mutual insurance companies may write limited liability insurance policies, and relating to the types of insurance coverage that may be issued by county mutual insurance companies and their territorial limits of operation.

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

§ 1. Amendment.) Section 26-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-15-01. County Mutual Insurance Company—Organization —Organizers Required.) A corporation for mutual insurance against loss or damage by fire, lightning, cyclone, windstorm, tornado, hail, except upon growing crops, any hazard upon any risk upon livestock, explosion, except the explosion of steam boilers and flywheels, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke to the property of the insured, theft, vandalism, malicious mischief, water damage and freezing, collision and overturn of farm machinery, collapse of buildings, glass breakage, the additional living expenses incurred over and above normal living costs in cases of damage, the removal of debris, the cost of repairing or replacing homes or living residences, or all such forms of insurance, may be formed in accordance with the provisions of this chapter by:

1. Any number of persons, not less than fifty, residing in not more than ten counties in this state, who collectively own property of not less than one hundred thousand dollars in value which they desire to insure; or

2. Any number of persons, not less than twenty-five, residing in any one county in this state, who collectively own property of not less than twenty-five thousand dollars in value which they desire to insure.

§ 2.) Section 26-15-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-15-01.1. Liability Insurance Contracts — Limitations.) Any company organized under the provisions of this chapter may make contracts of insurance against loss, expense, or liability by reason of bodily injury or death by accident, disability, sickness, or disease suffered by others for which the insured may be liable or may have assumed liability, except no liability insurance contracts against any or all loss or expense resulting from the ownership, maintenance, or use of any motor vehicle normally operated, intended to be operated, or designed for use, upon any highway, road, or street in this state, shall be made. No contracts authorized under this section shall be accepted unless such contracts are totally reinsured with a company or companies authorized and licensed to write such insurance in the state of North Dakota.

Approved March 19, 1965.

CHAPTER 213

H. B. No. 822
(Leer, Glaspey, Poling, Opedahl, Hoffner, Breum, Meyer,)
(Belquist, Erickson (Ward), Bloom)

SUSPENSION OF HAIL INSURANCE COVERAGE

AN ACT

To amend and reenact sections 26-22-23, 26-22-30, 26-22-32, 26-22-54, and 26-22-09 of the North Dakota Century Code, relating to state hail insurance and providing for a temporary suspension of the issuing of hail insurance coverage.

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

§ 1. **Amendment.)** Section 26-22-23 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-23. Amount of Indemnity — When Losses Allowed.) The maximum amount of indemnity for total loss shall be twenty dollars per acre insurance. No indemnity shall be

allowed to any claimant for a loss of less than five percent, and a loss of ninety percent or over shall be deemed a total loss. A loss of one hundred percent of actual determined hail damage may be allowed to insured wheat, oats, barley, rye, and flax crops laying in windrows, bound or shocked. Only loss or damage to crops directly traceable to hail shall be allowed and no indemnity shall be allowed or paid for damage to any crop after it is abandoned.

§ 2. Amendment.) Section 26-22-30 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-30. Districts in State for Purposes of Levying Hail Indemnity Tax.) For the purpose of levying the acreage indemnity tax required under the provisions of this chapter, the commissioner of insurance shall establish as many districts as may be deemed advisable from past experience or from any records available, and such districts may be changed from time to time as experience may indicate.

§ 3. Amendment.) Section 26-22-32 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-32. Commissioner Determines Rate of Hail Indemnity Tax Levy—Collection of Hail Indemnity Tax by a Commissioner with Discount—Certificate to County Auditors—Duties of County Auditors and Treasurers.) The commissioner of insurance shall establish a rate or rates of levy for the hail indemnity tax in each of the districts established pursuant to section 26-22-30. Such rate or rates shall be commensurate with the risk incurred as nearly as can be determined from past experience or from any records available, and such rate or rates may be changed from time to time as experience may indicate. The commissioner of insurance in the same manner may establish appropriate rates for hail insurance coverage containing a deductible clause. The rate or rates of levy for any year shall be established by the commissioner of insurance before applications for hail insurance coverage are solicited.

As soon as possible after the hail indemnity tax rates have been determined, the commissioner shall send a statement by mail to each owner of real property against which the hail indemnity tax has been levied, setting forth the amount of said hail indemnity tax. As soon as possible after the fifteenth day of November of each year, the commissioner through the state hail insurance department, shall file with the county auditor of each county a complete list of descriptions of lands within such county upon which the state hail insurance

department has carried the protection for the then current season based on the regular applications for hail insurance on file in his office after cancellation thereof and changes therein have been considered and cash payments have been credited. Each county auditor shall enter the unpaid hail indemnity tax in the tax list for his county and spread the same upon the tax rolls thereof in separate columns showing the amount of indemnity tax charged against each description of each tract, parcel, or subdivision of land insured with the department using the list described in this section as the basis therefor. The several county auditors and county treasurers shall make proper corrections on their records and shall cause deductions of hail indemnity taxes to be made from time to time upon receipt of certification from state hail insurance department.

§ 4. **Amendment.)** Section 26-22-54 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-54. Insurance of Homestead and Indian Lands—Issuance of Other Special Policies.) The hail insurance department may insure crops grown on homestead lands on which a patent has not been issued, on land within the boundaries of Indian reservations, on lands not otherwise subject to taxation, and in all cases where crops of the kinds described in this chapter are not insurable on regular applications filed under this chapter. In any case where crops are not covered by an approved application made in accordance with other provisions of this chapter, any party having a direct interest in such crops may apply for insurance on his proportionate share of such crops according to the provisions of this section. The applications requesting such special insurance shall be filed with the state hail insurance department directly upon blanks furnished by the commissioner of insurance, under such rules and regulations as he may direct, and shall be accompanied by a certified check or draft in payment of the premium for each dollar of insurance applied for.

§ 5. **Amendment.)** Section 26-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-09. Loans May Be Made to Replenish State Hail Insurance Fund.) If during the period ending January 1, 1967 the moneys in the state hail insurance fund are insufficient to pay warrants drawn, or about to be drawn, upon such fund in payment of hail losses, the commissioner of insurance, with the approval and assistance of the industrial commission, may negotiate a loan upon the best terms possible; provided, how-

ever, that such loan may not exceed the amount reasonably necessary to pay hail losses occurring prior to January 1, 1967. The proceeds of such loan shall be turned over to the state treasurer and by him placed in the state hail insurance fund for disbursement pursuant to the provisions of this chapter. In order to negotiate such loan, the commissioner, with the assistance and approval of the industrial commission, may issue warrants, debentures, or certificates of indebtedness in such amounts and payable at such times as is deemed advisable. Such warrants, debentures, or certificates of indebtedness shall be drawn upon the state treasurer and shall be payable out of the state hail insurance fund. All warrants, debentures, or certificates of indebtedness so issued shall be countersigned by the department of accounts and purchases and the state auditor and entered by the department upon its records as obligations issued against and payable out of the state hail insurance fund. If bonds are used as security by the state hail insurance department when a loan is obtained, it shall not be mandatory to issue certificates of indebtedness based on anticipated colllections of hail taxes. The state treasurer shall pay all such warrants, debentures, certificates of indebtedness, or contracted debts out of any moneys in the state hail insurance fund properly applicable thereto.

§ 6. Temporary Suspension.) Notwithstanding any other provision of law, the state hail insurance department shall not issue further insurance coverage during the six months period beginning July 1, 1965, and ending December 31, 1965, and the operations of the state hail insurance department shall be suspended for such period except for the processing and disposition of insurance coverage issued prior to July 1, 1965, and the adjustment and payment of claims arising under insurance coverage issued prior to July 1, 1965.

Approved March 19, 1965.

CHAPTER 214

S. B. No. 340
(Hernett, Lips)

REINSURANCE OF FIRE AND TORNADO FUND

AN ACT

To amend and reenact section 26-24-22 of the North Dakota Century Code, relating to reinsurance of the state fire and tornado fund.

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

§ 1. **Amendment.)** Section 26-24-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-22. Insurance Required.) The commissioner of insurance shall procure and he shall keep in force, an excess of loss reinsurance contract naming the state fire and tornado fund as the reinsured. Such reinsurance contract shall meet the following minimum specifications: (a) Reimburse the state fire and tornado fund for all losses in excess of five hundred thousand dollars incurred by the state fire and tornado fund under policies issued by the fund and arising out of each occurrence of a peril included in the state fire and tornado fund policies; (b) The limit of liability of such reinsurance contract shall be no less than twenty-five million dollars each loss occurrence and twenty-five million dollars as respects all loss occurrence each twelve month period; (c) A sixty day cancellation notice. The cost of such excess of loss reinsurance shall be paid out of the premium income of the state fire and tornado fund. This excess of loss reinsurance shall be procured by the commissioner and the state fire and tornado fund only through bids as hereinafter provided and shall be written only in a company or companies authorized to do business within the state of North Dakota. The contract shall be negotiated with and countersigned by a licensed North Dakota resident insurance agent. On or before the second Monday in June each odd numbered year the commissioner of insurance shall publish in the official newspaper of Burleigh County, North Dakota, a notice that on the last Monday in June of such year the insurance commissioner will accept bids at his office in the state capitol in the city of Bismarck, North Dakota. A copy of such notice shall also be posted at the office of the state fire and tornado fund. A copy of such notice shall also be mailed to each insurance company licensed to write fire insurance in the state of

North Dakota. On the said last Monday in June of each odd numbered year, the commissioner of insurance with the approval of the industrial commission shall contract for such excess of loss reinsurance with the company or group of companies submitting the lowest and best bid therefor for the two year period commencing on the ensuing first day of August. The commissioner of insurance with the approval of the industrial commission may disregard the provisions of this section after they have studied the available bids for the reinsurance required by this section.

Approved March 17, 1965.

CHAPTER 215

H. B. No. 783
(Lundene, Stockman, Krenz, Johnson (Barnes))

COERCING PURCHASER OF INSURANCE

AN ACT

To prohibit coercing a purchaser or borrower to insure with a particular insurance company or agent, and providing that a violation thereof shall be an unfair insurance practice.

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

§ 1. Coercing Purchaser or Borrower to Insure with Particular Company or Agent Prohibited.) 1. No person, firm or corporation engaged in selling real or personal property or in the business of financing the purchase of real or personal property or of lending money on the security of real or personal property and no trustee, director, officer, agent, or other employee of any such person, firm or corporation shall require, as a condition precedent, concurrent, or subsequent to the sale or financing the purchase of such property or to lending money upon the security of a mortgage thereon, or as a condition precedent, concurrent, or subsequent for the renewal or extension of any such loan or mortgage or for the performance of any other act in connection therewith, that the person, firm or corporation purchasing such property or for whom such purchase is to be financed or to whom the money is to be loaned or for whom such extension, renewal or other act is to be granted, or performed, negotiate any policy of insurance or renewal thereof covering such property through a particular insurance company, agent, solicitor or broker.

2. This Act shall not prevent the exercise by any person, firm or corporation of its right to designate reasonable financial requirements as to the insurer, the terms and provisions of the policy and the adequacy of the coverage with respect to insurance on property pledged or mortgaged to such person, firm or corporation; and nothing herein contained shall be construed as to prohibit the right of any person, firm or corporation from voluntarily negotiating or soliciting the placing of such insurance; nor shall this Act forbid the securing of insurance or a renewal thereof at the request of the purchaser or borrower or because of the failure of the purchaser or borrower to furnish the necessary insurance or renewal thereof.

§ 2. **Unfair Insurance Practice.)** Any violation of this Act shall constitute an unfair insurance practice and the person, firm or corporation practicing the same shall be proceeded against under the provisions of chapter 26-30 of the North Dakota Century Code.

Approved March 10, 1965.

CHAPTER 216

S. B. No. 187
(Lips)

INSIDER TRADING OF EQUITY SECURITIES

AN ACT

Concerning insider trading of domestic stock insurance company equity securities.

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

§ 1.) Every person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner of insurance on or before July 1, 1965, or within ten days after he becomes such beneficial owner, director or officer a statement, in such form as the commissioner of insurance may prescribe, of the amount of all equity securities of such company of which he is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the commissioner of insurance a statement, in such form as the commissioner of insurance may prescribe, indicating his ownership at the

close of the calendar month and such changes in his ownership as have occurred during such calendar month.

§ 2.) For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of his relationship to such company, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the commissioner of insurance by rules and regulations may exempt as not comprehended within the purpose of this section.

§ 3.) It shall be unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or his principal (1) does not own the security sold, or (2) if owning the security, does not deliver it against such sale within twenty days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

§ 4.) The provisions of section 2 of this Act shall not apply to any purchase and sale, or sale and purchase, and the provisions of section 3 of this Act shall not apply to any sale, of an equity security of a domestic stock insurance company not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintence by him of a primary or secondary market (otherwise than on an exchange as defined

in the Securities Exchange Act of 1934) for such security. The commissioner of insurance may, by such rules and regulations as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

§ 5.) The provisions of sections 1, 2 and 3 of this Act shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner of insurance may adopt in order to carry out the purposes of this Act.

§ 6.) The term "equity security" when used in this Act means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner of insurance shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

§ 7.) The provisions of sections 1, 2, and 3 of this Act shall not apply to equity securities of a domestic stock insurance company if (1) such securities shall be registered, or shall be required to be registered, pursuant to section 12 of the Securities Exchange Act of 1934, as amended, or if (2) such domestic stock insurance company shall not have any class of its equity securities held of record by one hundred or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 1, 2, and 3 of this Act except for the provisions of this subsection (2).

§ 8.) The commissioner of insurance shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in him by sections 1 through 7 of this Act, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of sections 1, 2 and 3 of this Act imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner of insurance, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

Approved March 15, 1965.

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 217

H. B. No. 903
(Boustead, Coles, Unruh)

FAMILY COURTS

AN ACT

Establishing family courts as divisions of district courts, and relating to their powers, duties, and procedures.

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

§ 1. Purposes.) The purpose of this Act is to protect the rights of children and to promote the public welfare and the welfare of children by preserving, promoting, and protecting family life and the institution of matrimony and to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies.

§ 2. Applicability of the Law—Determination by Presiding 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 thirty-five thousand inhabitants and in which the presiding judge of a district determines the social conditions and the number of domestic relations cases in the courts in 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 Act. Such determination shall be made by court order at any time during the month of May of any year by the presiding judge of the district court of a judicial district and the family court shall thereafter be established on or before July 1 of any such year in which such determination has been made and each district court judge within said district shall be a judge of said family court.

§ 3. Exercise of Jurisdiction.) Each district court while sitting in the exercise of such jurisdiction conferred by this Act shall be known and referred to as the "Family Court".

§ 4. Transfer of Cases to Another Judge.) A district judge of any judicial district within the state may be requested by a judge of the family court to act as a judge of such court

during any period when a judge of a family court is on vacation, absent, disqualified, or for any reason unable to perform his duties. Any district judge acting in accordance with such request shall have all the powers and authority of a judge of the family court.

§ 5. **Budget.)** The presiding judge shall submit a budget, setting forth the amount of funds a family court will require in the carrying out of the purposes of this Act, at the time the order establishing such court is issued, and on or before the first day of July of each year thereafter, to the county commissioners of the respective county or counties wherein a family court has been established.

§ 6. **Rules of Procedure in the Institution of Actions for Divorce, Annulment or Separation—Residence Requirement.)** From and after the effective date of this Act, all civil actions instituted in divorce, annulment, or separation cases in a county wherein a family court has been established and in which one of the parties resides, shall be instituted by the filing in the office of the clerk of the district court wherein the action is 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.

§ 7. Petition Forms Provided.) The clerk of the court shall provide, at the expense of the county, blank forms for petitions and all other notices and orders as the court may by rule require to be filed or provided.

§ 8. No 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 of duty under the provisions of this Act.

§ 9. Time and Place of Hearing on Petition.) The court shall fix a time and place for hearing on the petition and shall 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 prior to the hearing or thereafter issue such further orders concerning the custody and care of the children of the marriage and restraining orders as it may deem necessary under the provisions of chapter 14-04, chapter 14-05, and chapter 14-06 of the North Dakota Century Code.

§ 10. Referral to Family Counselor.) At the time of the hearing on the petition 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 chapter 14-04, chapter 14-05, and chapter 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.

§ 11. Conference Informal.) The conferences before the family court counselor shall be conducted informally. To facilitate and promote the purposes of this Act, the court counselor may, with the consent of both of the parties to the proceeding, recommend or invoke the aid of physicians, psychiatrists or other specialists, scientific or social experts, or the pastor or director of any religious denomination to which the parties may belong. Such aid, however, shall not be at the expense of the court or of the county, unless the county commissioners of the county specifically provide and authorize such aid.

§ 12. Privacy of Hearing.) All district court hearings or conferences in proceedings under this Act shall be held in private and the court shall exclude all persons except the officers of the court, the parties, their counsel, and witnesses. Conferences may be held with each party while the other party is excluded. No stenographic transcript or record of the conferences shall be made or recorded save as the judge of the family court may order.

§ 13. Communications and Files Confidential.) All communications, verbal or written, from the parties to the family court counselor in the proceedings under this chapter shall be made to such counselor in official confidence. The files and records of a family court and its counselor in proceedings conducted under the provisions of this Act shall not be open to inspection or copy by anyone, including the parties, except upon an order of the court.

§ 14. Admissions and Statements at Conferences Inadmissible in Evidence.) No statement or other admission made by either party in the course of any conference held under this Act may be received in evidence against the party making the same, without such party's consent in any action, nor may either party thereto plead a defense of condonation arising out of any act of either spouse during such time as the family court retains jurisdiction of the parties and proceedings.

§ 15. Appointment and Duties of the Family Court Counselor.) The family court counselor shall be appointed and removed by the court and shall:

1. Hold conferences with parties to, and hearings in, proceedings under this Act, and make recommendations concerning such proceedings to the judge of the family court;
2. Cause such reports to be made, such statistics to be compiled and such records to be kept and perform such other duties as a judge of the family court may direct;
3. Shall have the same powers as masters under the provisions of Rule 53 of the North Dakota Rules of Civil Procedure.

§ 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 Act and for that purpose may exercise all the powers pertaining to their offices granted or imposed pursuant to the laws of this state.

§ 17. Reconciliation Agreement.) Any reconciliation agreement entered into between the parties may be reduced to writing and a court order may be made requiring the parties to comply therewith.

§ 18. Stay of Further Proceedings for Divorce, Annulment, or Separation.) During a period beginning upon the filing of the petition and continuing until sixty days after the date of the hearing on the petition, neither spouse shall file any action for divorce, annulment, or separation. If, however, after the expiration of such time, the controversy between the spouses has not been terminated, or within any time during such sixty-day period as the court by order may provide, either spouse may institute proceedings for divorce, annulment, or separation under the provisions of chapter 14-03, chapter 14-04, and chapter 14-05 of the North Dakota Century Code. The pendency of an action for divorce, annulment, or separation shall not operate as a bar to the instituting of further proceedings under this Act, with the consent of both of the parties to the action.

Approved March 15, 1965.

CHAPTER 218

H. B. No. 561
(Aamoth, Jungroth, Meschke, Wagner)

SALARIES OF JUDGES OF COUNTY COURTS OF INCREASED JURISDICTION

AN ACT

To amend and reenact section 27-08-08 of the North Dakota Century Code as set forth in the 1963 Pocket Supplement to Volume 5, relating to salaries of judges of the county courts of increased jurisdiction.

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

§ 1. Amendment.) Section 27-08-08 of the North Dakota Century Code as set forth in the 1963 Pocket Supplement to Volume 5 is hereby amended and reenacted to read as follows:

27-08-08. Salaries of Judges of County Courts of Increased Jurisdiction—Amount, Payment.) A county judge of a county court of this state having increased jurisdiction, for all services rendered in any capacity, shall receive the following salary: nine thousand dollars in counties having a population not exceeding fifteen thousand inhabitants; eleven thousand dol-

lars in counties having a population exceeding fifteen thousand inhabitants but not exceeding twenty-two thousand inhabitants; and twelve thousand dollars in counties having a population exceeding twenty-two thousand inhabitants. Such salary shall be payable by the county in equal monthly installments.

Approved March 10, 1965.

CHAPTER 219

H. B. No. 599
(Meschke, Stockman, Jungroth)

JURIES

AN ACT

To amend and reenact section 27-09-26 of the North Dakota Century Code, relating to the use of juries by district courts and county courts of increased jurisdiction and the creation and enactment of a new section 27-09-27 of the North Dakota Century Code, relating to attendance of jury panels at terms of court.

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

§ 1. **Amendment.)** Section 27-09-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-26. District Courts and County Courts Having Increased Jurisdiction May Use Each Others' Jury Panels.) A judge of the district court or the judge of a county court having increased jurisdiction may, by order, use an undischarged jury panel ordered, drawn, and summoned by the other, at any general, special, or adjourned term of the court for a county mutually served by such courts and for which no jury panel has been ordered.

§ 2.) Section 27-09-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-09-27. When Jury Panel to Attend Subsequent Term.) A judge of the district court may, by order, require an undischarged jury panel summoned to attend a term of the court to attend any subsequent general, special, or adjourned term of the court not exceeding in all one calendar year.

Approved March 1, 1965.

CHAPTER 220

S. B. No. 58
(Ringsak, Dahlund, Kjos, Walz, Longmire, Morgan, Lashkowitz,)
(Sorlie, Bopp, Thompson, Kadlec, Chesrown, Forkner)

ATTORNEYS' LICENSES

AN ACT

To amend and reenact section 27-11-22 of the North Dakota Century Code as set forth in the 1963 Supplement to Volume 5, relating to annual licenses to practice law, requirement, issuance, fees.

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

§ 1. Amendment.) Section 27-11-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-22. Annual Licenses to Practice Law—Requirement—Issuance—Fees—Exception.) Every person who has an unrevoked certificate of admission to the bar of this state and who desires to engage in the practice of law or hold judicial office therein, on or before the first day of January of each calendar year, shall secure an annual license from the state bar board. Such license shall be issued by the secretary-treasurer of such board upon payment of a fee of forty dollars and shall be good for one year from and after the first day of January of the year for which it is issued except that every person who has an unrevoked certificate of admission to the bar of this state, dated one year or less prior to date of application for license, or who maintains a residence outside this state and who does not engage in the practice of law in this state, shall have such license issued upon the payment of a fee of twenty dollars.

Approved March 15, 1965.

CHAPTER 221

H. B. No. 916
(Aamoth)

STATE BAR FUND

AN ACT

To amend and reenact subsection 3 of section 27-11-24 of the North Dakota Century Code, relating to expenditures of state bar fund.

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

§ 1. Amendment.) Subsection 3 of section 27-11-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The expenses incurred by the state bar board in conducting examinations of applicants for admission to the bar of this state and expenses of the state bar board or a grievance committee of the supreme court in investigating charges warranting the suspension or disbarment of members of the bar, or in prosecutions brought and conducted before the supreme court for the discipline of such members;

Approved March 10, 1965.

CHAPTER 222

S. B. No. 59
(Ringsak, Dahlund, Kjos, Walz, Longmire, Morgan, Lashkowitz,)
(Sorlie, Bopp, Thompson, Kadlec, Chesrown, Forkner)

BAR ASSOCIATION MEMBERSHIP

AN ACT

To amend and reenact section 27-12-02 of the North Dakota Century Code, relating to membership of bar association.

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

§ 1. Amendment.) Section 27-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-02. Membership of Bar Association.) The membership of the state bar association of North Dakota shall consist of all attorneys who have paid their annual license fees to and have received their licenses from the secretary-treasurer of the state bar board, as provided by law.

Approved March 15, 1965.

CHAPTER 223

H. B. No. 559
(Stockman)

JUDICIAL COUNCIL

AN ACT

To amend and reenact sections 27-15-01 and 27-15-10 of the North Dakota Century Code, relating to establishment of judicial council and compensation.

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

§ 1. Amendment.) Section 27-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-01. Judicial Council Established.) There shall be maintained a judicial council consisting of:

1. All judges of the supreme court, district courts, and county courts of increased jurisdiction of the state;
2. The attorney general;
3. The dean of the school of law of the university;
4. Five members of the bar who are engaged in the practice of law who shall be chosen by the executive committee of the state bar association; and
5. All retired judges of the supreme and district courts of the state.

§ 2. Amendment.) Section 27-15-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-10. Compensation — Expenses.) No member of the council shall receive compensation for any services rendered by him in such capacity, but any necessary expenses incurred by any judge of the county, district and supreme courts in the

discharge of his duties as a member shall be deemed expenses incurred in the performance of the duties of his office and shall be paid as such. The expenses of all other members of the council shall be audited and paid from the state bar fund in the same manner as other claims against such fund are paid except that in the matter of mileage expenses, the retired judges who are members of the council shall be paid such only for travel within the state.

Approved March 10, 1965.

CHAPTER 224

H. B. No. 748
(Hardmeyer)

JURISDICTION OF COUNTY JUSTICES

AN ACT

To provide additional jurisdiction and authority to county justices.

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

§ 1. County Justice — Authority — Jurisdiction — Records.) Every county justice in this state who resides in, or who has his main law office in a county, other than the one for which he was appointed, or elected, and qualified, as county justice, shall have jurisdiction in the county in which he resides or in which he has his main law office, to do and perform any of the acts and to exercise any of the powers and authority as county justice, relative to the county or counties for which he was appointed or elected; provided, however, that he shall not hold a jury trial in any county except the one for which he is qualified as county justice, unless by change of venue, nor shall any trial be conducted by such county justice in a county other than the one for which he has qualified, without the consent of the parties concerned, unless by change of venue. In such situations where the county justice resides in or has his main law office in a county other than that for which he has qualified as county justice, the clerk of the district court of the county for which the county justice qualified, shall also serve as clerk of the county justice during the absence from such county of the qualified county justice, and at such other times as the county justice may approve, and said clerk shall have the right to administer complainants oaths and file criminal complaints, and with the approval of the state's attorney of the county involved, to issue warrants of arrest,

and he shall also during the absence from the county of such county justice have authority to set the amount and to take and approve bonds, and to arrange continuances, postponements and adjournments, and to issue process, subpoenas, orders, warrants, summonses, and other pleadings, papers or documents, with the same force and effect as though filed, issued, executed or done by a regular county justice qualified as to such county, until a duly qualified county justice can and does appear to attend to such matters; that in addition, any county justice in the state may in his discretion designate, authorize, and appoint an additional person or persons to arrange, receive, and approve bonds in cases involving traffic violations; that as soon as it can conveniently be done, all papers, files, process and pleadings shall be delivered to the county justice entitled thereto; that in addition to other provisions of law, during the absence of any county justice from the state or during his disqualification, inability, or refusal to act with reference to the county for which he was elected, appointed, or qualified, the clerk of the district court of such county, after consulting with the state's attorney, may arrange to have any county justice from any adjacent county, to take the place of, and to act in the place of the county justice who is thus disqualified, absent, unable, or unwilling to act. The provisions of this Act shall be applicable both in civil and criminal matters involving the county justice and the justice court of such county.

Approved March 2, 1965.

CHAPTER 225

S. B. No. 38
(Reichert, Longmire, Sinner)
(From LRC Study)

JUDICIAL SELECTION

AN ACT

To restrict judges of the supreme court or district courts from practicing law and requiring such judges not to hear cases in which they have an interest and to define vacancies in the supreme court and district courts and the method of filling such vacancies and to create sections 16-06-06.1 and 27-15-03.1 of the North Dakota Century Code, relating to placing the names of judges on the election ballot and judicial council meetings; to amend and reenact sections 16-04-01, 16-04-02, 16-05-01, 27-02-01, 27-15-03, 27-15-05, 44-02-02, and 44-02-03 of the North Dakota Century Code, relating to election ballots, petitions, certificates of nomination for elected officials, the duties of the judicial council, the selection of the chief justice of the supreme court, vacancies in state or district offices, and providing an effective date.

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

§ 1. When an Office of Judge of the Supreme Court or District Court Deemed Vacant.) An office of the supreme court or district court shall become vacant if the incumbent shall:

1. Die in office;
2. Resign from office;
3. Be adjudged incapacitated in accordance with the provisions of the Constitution;
4. Be convicted under impeachment proceedings;
5. Cease to be a resident of the state;
6. Fail to qualify as provided by law;
7. Cease to possess any one of the qualifications of office prescribed by law;
8. Have his election or appointment declared void by a competent tribunal; or by
9. Non-reelection as provided by law; or by the
10. Filing of a declaration of non-candidacy as provided by law.

§ 2. Resignations of Supreme Court and District Court Judges—to Whom Made.) If a judge of the supreme court or district court resigns from office before the expiration of his term he shall submit such resignation in writing to the governor and the chairman of the judicial nominating commission.

§ 3. Non-reelection or Filing of a Declaration of Non-candidacy.) In the event of the rejection by the electorate of a judge of the supreme court or district court, the office of the judge shall be deemed vacant at the expiration of forty-five days from the date of the general election. If a judge of the supreme court or district court desires to retire upon the expiration of his term, he shall file a declaration of his non-candidacy with the secretary of state, governor, and chairman of the judicial nominating commission, not less than ninety days prior to the date of the general election, and the term of office for which he was selected or elected shall expire forty-five days from the date of the general election.

§ 4. Vacancy in the Office of Supreme Court and District Court Judges—How Filled.) A vacancy in the office of judge of the supreme court or district court as defined by law shall be filled pursuant to section 90 of the Constitution.

§ 5. Terms of Judicial Nominating Commission Members.) Each member except the chief justice shall serve for a term of six years except that upon the effective date of this Act the governor and the North Dakota state bar association shall appoint two members for two years, two members for four years, and two members for six years.

§ 6. Vacancies in Office of Supreme Court Judge—Selection of Nominees.) The whole judicial nominating commission shall meet within thirty days after a vacancy or the filing of a declaration of non-candidacy in the office of judge of the supreme court as defined by law. The chairman shall notify each member of the commission of the place and time of all meetings. A majority of the commission shall constitute a quorum and a majority of such quorum may act upon all matters properly before the commission. The commission shall nominate at least three qualified persons for each vacant office and shall submit a list of such nominees for each vacant office to the governor. Each member of the commission shall receive his actual and necessary expenses incurred by him in attending scheduled meetings and in performance of his official duties in the same manner and amounts as other state officials but shall receive no salary or compensation for services performed.

§ 7. Vacancies in Office of District Court Judge—Selection of Nominees.) The chairman of the judicial nominating commission and the members of the judicial nominating commis-

sion from the judicial district in which a vacancy has occurred in the office of judge of the district court shall meet within thirty days after the vacancy or the filing of a declaration of non-candidacy in the office of judge of the district court of such judicial district. The chairman shall notify each such member of the commission of the place and time of all meetings. A majority of the members of the commission named herein shall constitute a quorum and a majority of such quorum may act upon all matters properly before such members. Such members shall nominate at least three qualified persons for each vacant office in such judicial district and shall submit a list of such nominees for each vacant office to the governor. Each such member shall receive the same expenses and compensation as provided in section 6 of this Act.

§ 8. **Amendment.)** Section 16-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***16-04-01. Primary Election — When Held — Nomination of Candidates—Nomination for Special Elections.)** On the first Tuesday in September of every year in which a general election occurs, there shall be held in the various voting precincts of this state, in lieu of party caucuses and conventions, a primary election for the nomination of candidates for the following offices to be voted for at the ensuing general election: representatives in Congress, state officers, county officers, district assessors, and the following officers on the years of their regular election: members of the legislative assembly, county commissioners, and United States senators. In special elections the nominations for the officers enumerated in this section shall be made as provided in this title.

§ 9. **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 Required to Get Name on Ballot—Contents of Petition.) Every candidate for United States senator, United States representative, state officers, shall not more than sixty days nor less than forty days prior to a primary election, present to the secretary of state a petition giving his name, post office address, the title of the office to which he aspires, and the party which he represents. 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

***Note:** This section was also amended by section 2, chapter 157, 1965 S.L.

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 a legal voter and shall be subscribed under a certified party heading.

§ 10. Amendment.) Section 16-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-05-01. Certificates of Nomination—Place of Filing.) Certificates of nomination for candidates for offices to be filled by the electors of the entire state, or of any division or district greater than a county, and for legislative offices, except the offices of judges of the supreme court and the district courts, shall be filed with the secretary of state. Certificates of nomination for county officers shall be filed with the county auditor of the respective counties wherein the officers are to be elected.

§ 11.) Section 16-06-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

16-06-06.1. Supreme Court and District Court Judges' Names Placed on Official General Election Ballot.) The secretary of state shall place the names of all judges of the supreme court and district courts, who have not filed a declaration of noncandidacy as provided by law or who have not otherwise been removed from office in accordance with section 1 of this Act, on the respective official ballots to be voted for at the general election in the year the terms of said judges shall expire.

§ 12. 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 judicial council 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.

§ 13. Effective Date of Appointment.) The judicial council shall make its first appointment of a chief justice at its next regular scheduled judicial council 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 judicial council following the effective date of this Act.

§ 14. **Amendment.)** Section 27-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-15-03. Organization of Council — Rules of Procedure.) The chief justice, during his term as chief justice, shall be chairman of the judicial council except when the council is meeting to select a chief justice. An executive secretary shall be chosen by the council either from within or without the council. The council shall make rules for its procedure and the conduct of its business.

§ 15.) Section 27-15-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-15-03.1. When Supreme Court Judges Shall Not Attend Meetings.) Judges of the supreme court shall not attend the meeting of the judicial council when it is selecting a chief justice. The members of the council shall select from its own members a chairman to act during said meeting.

§ 16. **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.

§ 17. **Amendment.)** Section 44-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-02-02. Resignations of Officers—to Whom Made.) The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state;
2. Any other state or district officer, except judges of the supreme court and district courts who shall submit their resignation as provided by section 2 of this Act, to the governor;

3. A member of the legislative assembly, to the presiding officer of the branch of which he is a member, when in session, and when not in session, to the governor. When made to the presiding officer, he at once shall notify the governor thereof;

4. An officer of the legislative assembly, to the branch of which he is an officer;

5. An elective county officer, by filing or depositing such resignation in the office of the county auditor, except that the resignation of the county auditor shall be filed or deposited with the board of county commissioners. Any such resignation, unless a different time is fixed therein, shall take effect upon such filing or deposit;

6. An officer of a civil township, to the board of supervisors of the township, except that a member of such board shall submit his resignation to the township clerk, and the township clerk forthwith shall give to the county auditor notice of the resignation of all officers whose bonds are filed with such officer; and

7. Any officer holding his office by appointment, to the body, board, court, or officer which appointed him.

§ 18. Amendment.) Section 44-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-02-03. Vacancy in State or District Office—How Filled.) Any vacancy in a state or district office, except in the office of a member of the legislative assembly, shall be filled by appointment by the governor. A vacancy in the office of judge of the supreme court or district court shall be filled by appointment by the governor as provided by section 90 of the Constitution. If during a vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign, or die, or from mental or physical disease or otherwise become incapable of performing the duties of the office of governor as provided by section 72 of the Constitution of the state of North Dakota, then the succession to the office of governor shall be the secretary of state, speaker of the house, president pro tem of the senate, attorney general, in the order named. Each succeeding person named shall hold the office of governor until the vacancy is filled by election or until any disability of the preceding person in the line of succession is removed.

§ 19. Restriction on Practicing Law by Judges.) No judge of the supreme court or district court shall act as attorney or counselor at law during the period of his incumbency. Any

such judge who willfully shall violate the provisions of this section shall be subject to removal from office.

§ 20. **Judge Cannot Be an Interested Party.)** No judge of the supreme court, district court, or county court of increased jurisdiction shall hear or try any case in which he is or may be an interested party.

*§ 21. **Effective Date.)** This Act shall not become effective unless and until the electors approve the amendment of section 90 of the Constitution submitted for approval of the electorate of this state at the general election in 1966 as designated in Senate Concurrent Resolution "P" of the Thirty-ninth Legislative Assembly.

Approved March 19, 1965.

***Note:** See chapter 481, 1965 S.L.

JUDICIAL PROCEDURE, CIVIL

CHAPTER 226

S. B. No. 185
(Reichert)

CHANGE OF VENUE

AN ACT

To amend and reenact subsection 4 of section 28-04-07 of the North Dakota Century Code, relating to the change of the place of trial when there appears to be an insufficient number of jury cases for trial to warrant the expense of a jury.

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

§ **1. Amendment.)** Subsection 4 of section 28-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. When upon the call of the calendar at any regular or special term there appears to be an insufficient number of jury cases for trial to warrant the expense of a jury, the court, on application of any party to such an action, or on its own motion, taking into consideration the convenience of witnesses and the promotion of justice, may order the transfer of such jury cases as are on the calendar to any county within the judicial district where a jury session of court will be held in the immediate future, so that a prompt trial of such cases may be had.

Approved March 10, 1965.

CHAPTER 227

S. B. No. 328
(Chesrown, Longmire)

EXPERT WITNESS FEES

AN ACT

To amend and reenact subsection 5 of section 28-26-06 of the North Dakota Century Code, relating to expert witness fees.

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

§ 1. Amendment.) Subsection 5 of section 28-26-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The fees of expert witnesses. Such fees shall not exceed fifty dollars per day for each witness, plus his actual expense. The following shall nevertheless be in the sole discretion of the trial court:

   a. The number of expert witnesses who shall be allowed fees or expenses;

   b. The amount of fees to be paid such allowed expert witnesses, up to the fifty-dollar per day individual limitation, including an amount for time expended in preparation for trial; and

   c. The amount of costs for actual expenses to be paid such allowed expert witnesses.

Approved March 18, 1965.

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 228

S. B. No. 273
(Longmire, Reichert)

COMPENSATION OF COURT APPOINTED COUNSEL

AN ACT

To amend and reenact section 29-01-27 of the North Dakota Century Code, relating to compensation for court appointed counsel.

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

§ 1. Amendment.) Section 29-01-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-01-27. Indigent Defendant—Attorney Appointed—Compensation—Limitation.) In all criminal actions when it is satisfactorily shown to the court that the defendant has no means and is unable to employ counsel, the court shall appoint and assign counsel for his defense and allow and direct to be paid by the county in which such trial is had a reasonable and just compensation to the attorney so assigned for such services as he may render, but such attorney shall not be paid a sum to exceed fifty dollars per day in any one case.

Approved March 15, 1965.

CHAPTER 229

H. B. No. 554
(Jungroth)

CRIMINAL APPEALS

AN ACT

To create and enact section 29-28-30.1, and to amend and reenact sections 29-28-06, 29-28-08, 29-28-11, 29-28-18, 29-28-20, 29-28-23, 29-28-27, and 29-28-28 of the North Dakota Century Code, relating to criminal appeals.

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

§ 1. **Amendment.)** Section 29-28-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-06. From What Defendant May Appeal.) An appeal may be taken by the defendant from:

1. A verdict of guilty;
2. A final judgment of conviction;
3. An order refusing a motion in arrest of judgment;
4. An order denying a motion for a new trial; or
5. An order made after judgment affecting any substantial right of the party.

§ 2. **Amendment.)** Section 29-28-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-08. Time for Appeals in Criminal Cases.) An appeal from a verdict or judgment may be taken within three months after its rendition and from an order within sixty days after it is made. The appellant shall file the settled statement of the case and briefs on an appeal from a verdict or judgment in the office of the clerk of district court within six months after the date of verdict or judgment and in an appeal from an order within sixty days after the date thereof. The district court, upon application of the appellant made upon notice to the adverse party before the expiration of the time in which such record shall be filed, may extend such time for a period of not more than three months and further extension may be granted only by the supreme court upon the application of the appellant upon like notice. In case of the failure of the appellant

to file such record within the time allowed by law or within such further time as may be allowed by the court, as provided in this title, said appeal shall be deemed dismissed.

§ 3. **Amendment.)** Section 29-28-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-11. When Appeal Deemed Taken.) An appeal is deemed to be taken when notice thereof, served as required by sections 29-28-09 and 29-28-10, is filed in the office of the clerk of the district court of the county in which the order, verdict, or judgment appealed from is made, entered, or filed, with evidence of the service or publication thereof endorsed thereon or attached thereto.

§ 4. **Amendment.)** Section 29-28-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-18. Transmission of Papers to Supreme Court.) Within ten days after an appeal has been taken, the clerk of the district court with whom the notice of appeal is filed, without charge, shall certify and transmit to the clerk of the supreme court the notice of appeal, undertaking, and certificate of probable cause, if any, and a certified copy of the verdict, judgment, or order appealed from. Upon the filing of the completed record in any appeal, the clerk of the district court immediately shall transmit to the clerk of the supreme court a full and perfect transcript consisting of all papers on file in the case, of all entries in his minutes, the settled statement of the case and briefs, and shall certify the same under his hand and the seal of the court, and the clerk of the supreme court shall file the same and shall perform the same services as in a civil case, without charge.

§ 5. **Amendment.)** Section 29-28-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-20. Irregularity in Substantial Particulars—Notice.) If the appeal is irregular in any substantial particular, but not otherwise, the supreme court, on any day, on motion of the respondent, upon five days' notice accompanied with the copies of the papers upon which the motion is founded, may order it to be dismissed. The dismissal of an appeal affirms the verdict or judgment. If the irregularities complained of are corrected in a reasonable time, the appeal shall not be dismissed and the supreme court must fix the time and direct the manner of correcting the irregularity.

§ 6. **Amendment.)** Section 29-28-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-23. When Verdict or Judgment Must Be Affirmed—Reversal.) The verdict or judgment may be affirmed if the appellant fails to appear, but may be reversed only after argument if the respondent fails to appear.

§ 7. **Amendment.)** Section 29-28-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-27. Court May Review Intermediate Orders.) Upon an appeal taken by the defendant from a verdict or judgment, the supreme court may review any intermediate order or ruling which involves the merits or which may have affected the verdict or judgment adversely to the defendant.

§ 8. **Amendment.)** Section 29-28-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-28-28. Power of Supreme Court on Appeal.) The supreme court may reverse, affirm, or modify the verdict or judgment or order appealed from, and may set aside, affirm, or modify any or all the proceedings subsequent to or dependent upon such verdict, judgment, or order, and, if proper, may order a new trial. In either case, the action must be remanded to the district court with proper instructions, together with the opinion of the court.

§ 9.) Section 29-28-30.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

29-28-30.1. Verdict Affirmed — Must Be Enforced.) If a verdict against the defendant is affirmed, the original verdict must stand and any court orders thereon, including suspension and deferred imposition of sentence, must be enforced.

Approved March 15, 1965.

JUDICIAL PROOF

CHAPTER 230

S. B. No. 131
(Mahoney, Longmire, Ringsak, Reichert)

PHYSICIAN'S PRIVILEGED COMMUNICATIONS

AN ACT

To amend and reenact subsection 3 of section 31-01-06 of the North Dakota Century Code, relating to physician's privileged communications.

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

§ 1. **Amendment.)** Subsection 3 of section 31-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A physician or surgeon, without the consent of his patient, cannot be examined as to any information acquired in attending the patient or as to any communication made by the patient to him in the course of professional employment;

Approved March 6, 1965.

JUDICIAL REMEDIES

CHAPTER 231

S. B. No. 66
(Mahoney, Chesrown, Thompson)

WAGES EXEMPT FROM GARNISHMENT

AN ACT

To amend and reenact section 32-09-02 of the North Dakota Century Code, relating to certain amounts of wages exempt from garnishment.

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

§ 1. Amendment.) Section 32-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09-02. What Wages Exempt from Garnishment.) The wages or salary of any person who is not a head of a family but is a resident of this state, to the amount of thirty-five dollars per week, shall be exempt from garnishment. The wages of any person who is head of a family and a resident of this state shall be exempt to the amount of fifty dollars per week plus five dollars per week for each dependent but not more than twenty-five dollars. Every employer shall pay to such person such exempt wages or salary, not to exceed the amounts exempted by this section, of each week's wages earned by him when due. Upon such wage earner's making and delivering to such employer his affidavit that he is a head of a family and specifying the number of his dependents residing with the family in this state, he shall be entitled to additional exemptions for dependents, notwithstanding the service of a garnishee summons, and the surplus only of his wages above the exemptions shall be held by the employer to abide the event of the garnishment suit.

Approved March 10, 1965.

CHAPTER 232

S. B. No. 215
(Kautzmann, Chesrown, Forkner, Kjos)

GARNISHMENT DISCLOSURE FEES

AN ACT

To amend and reenact sections 32-09-05 and 32-09-10 of the North Dakota Century Code, relating to the witness fees paid to a garnishee.

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

§ 1. **Amendment.)** Section 32-09-05 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09-05. Service on Department of Accounts and Purchases —Fees.) Service upon the state of North Dakota, or any institution, department, or agency thereof, as garnishee, may be made upon the director of the department of accounts and purchases in the manner by law provided for such service in garnishment proceedings, except that the fee to be tendered and paid the department of accounts and purchases for making affidavit of disclosure and filing the same shall be ten dollars. Such fees shall be paid into the state treasury.

§ 2. **Amendment.)** Section 32-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09-10. Witness Fees.) In all garnishment proceedings in the district court and county courts of increased jurisdiction the plaintiff, when the garnishment summons is served upon the garnishee, shall tender to the garnishee the sum of ten dollars as his fee for making his affidavit of disclosure and filing the same in the office of the clerk of the court in which such garnishment proceeding is pending. Should the plaintiff take issue on the answer to the garnishee summons and require the garnishee to stand trial, he, at the time issue is taken, shall tender to the garnishee his traveling fees and fees for one day's attendance in court. Such fees shall be the same as witness fees in the district court. When the garnishee is a foreign corporation and service is made upon the secretary of state or commissioner of insurance, it shall not be necessary to tender traveling fees either from the home office of the corporation or from the capital of the state, but in lieu thereof there shall be paid to the secretary of state or to the commis-

sioner of insurance or to the resident agent of the corporation the sum of ten dollars to be remitted to the garnishee.

Approved March 19, 1965.

CHAPTER 233

H. B. No. 860
(Brown)

QUIET TITLE ACTION COMPLAINT

AN ACT

To amend and reenact section 32-17-04 of the North Dakota Century Code, relating to the requirements of a complaint in an action for the determination of adverse claims, commonly known as quiet title actions.

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

§ 1. Amendment.) Section 32-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-17-04. Complaint Form—Description of Property.) In an action for the determination of adverse claims, the property must be described in the complaint with such certainty as to enable an officer upon execution to identify it. In other respects the complaint, exclusive of the venue, title, subscription, and verification, may be substantially in the following form, the blanks being properly filled:

> The plaintiff for cause of action shows to the court that he has an estate or interest in, or a lien or encumbrance upon, as the case may be, the following described real property, situated in the above named county and state, to wit:.....
>
> That the defendants claim certain estates or interests in, or liens or encumbrances upon, the same, as the case may be, adverse to plaintiff. (Here allege the facts concerning use and occupation and value thereof, and any property wasted or removed and the value thereof, if pertinent. Where the state is named as a party defendant the complaint must state the interest the state or its agencies or departments might have in the property; or in the alternative state that the complainant is not aware of any specific interest that the state might have in the property.)

Wherefore, plaintiff prays: 1. That the defendants be required to set forth all their adverse claims to the property above described, and that the validity, superiority, and priority thereof be determined; 2. That the same be adjudged null and void, and that they be decreed to have no estate or interest in, or lien or encumbrance upon, said property; 3. That this title be quieted as to such claim, and that defendants be forever debarred and enjoined from further asserting the same; 4. That he recover possession of the premises described, if possession is desired; 5. That he recover.....
dollars as the value of the use and occupation and value of property wasted and removed therefrom; 6. That he have such other general relief as may be just, together with costs and disbursements.

Approved February 24, 1965.

JUSTICE COURT

CHAPTER 234

S. B. No. 189
(Reichert, Rolfsrud)

REMITTANCE OF FEES

AN ACT

To amend and reenact section 33-01-21 of the North Dakota Century Code, relating to the periodic payment of moneys collected by county justices to the county treasurer.

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

§ **1. Amendment.)** Section 33-01-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-01-21. When Moneys Collected Payable by Justice to County Treasurer.) Subject to the provisions of section 33-12-23, each county justice shall pay over to the county treasurer of his county all fines or other moneys collected or received by him in behalf of the county or state and remaining in his hands in reasonable intervals of not more than thirty-five days.

Approved March 6, 1965.

LABOR AND EMPLOYMENT

CHAPTER 235

H. B. No. 918
(Hardmeyer, Coles)

AGE DISCRIMINATION PROHIBITED

AN ACT

To prohibit unjust discrimination in employment because of age, and providing for a penalty.

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

§ 1. **Unlawful to Discriminate Because of Age.)** No person, persons, firm, association or corporation, carrying on or conducting within this state, any business requiring the employment of labor, shall refuse to hire, employ, or license, or bar or discharge from employment, any individual between the ages of forty and sixty-five years, solely and only upon the ground of age; when the reasonable demands of the position do not require such an age distinction; and, provided that such individual is well versed in the line of business carried on by such person, persons, firm, association or corporation, and is qualified physically, mentally and by training and experience to satisfactorily perform the labor assigned to him or for which he applies. Nothing herein shall affect the retirement policy or system of any employer where such policy or system is not merely a subterfuge to evade the purposes of that Act.

§ 2. **Penalty.)** Any person or corporation who violates any of the provisions of the preceding section shall be guilty of a misdemeanor, and shall be punished by a fine of not to exceed twenty-five dollars or by imprisonment in the county jail for not to exceed one day or by both such fine and imprisonment.

Approved March 15, 1965.

CHAPTER 236

H. B. No. 753
(Hertz, Jungroth, Sanstead, Meschke, Obie, Gengler, Gietzen,)
(Meyer, Giffey, Shorma, Olson, Loerch, Schoenwald,)
(Williamson, Montplaisir, Myhre, Hoffner)

DEPARTMENT OF LABOR

AN ACT

To create and enact sections 34-05-01.1, 34-05-01.2, and 34-05-01.3 of the North Dakota Century Code, providing for a North Dakota department of labor and to prescribe the duties and organization thereof; to amend and reenact section 34-05-01, 34-05-03, 34-05-04, subsection 1 of section 34-06-01, subsection 4 of section 34-07-03, sections 34-07-15, 34-07-18, 34-07-19, 34-07-20, 34-07-21, and subsection 7 of section 34-12-01 of the North Dakota Century Code, relating to the definition of commissioner; and to repeal section 34-05-02 and chapter 34-10 of the North Dakota Century Code, relating to the labor division of the department of agriculture and labor and the settlement of labor disputes, and providing an effective date.

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

§ 1. **Amendment.)** Section 34-05-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-05-01. Statistics Relating to the Employment of Labor.) The commissioner of labor shall collect, systematize, and present in biennial reports as prescribed by section 54-06-04 to the governor and secretary of state statistical details relating to the employment of labor in the state. The statistics may be classified as the commissioner of labor deems best.

§ 2.) Section 34-05-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

34-05-01.1. Department of Labor.) There is hereby created the North Dakota Department of Labor. All records, materials, supplies, and equipment used by the deputy commissioner of agriculture and labor in his official capacity as administrator of the labor division of the department of agriculture and labor shall be transferred to the department of labor.

§ 3.) Section 34-05-01.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

34-05-01.2. Department of Labor To Be Administered by Commissioner of Labor.) The department of labor shall be administered by a Commissioner of Labor who shall be elected

for a four-year term on a no-party ballot in the year 1966 and every four years thereafter in the same manner as provided for no-party candidates pursuant to chapter 16-08. Following his election, the term of the commissioner of labor shall commence on the same day as the terms for other elected state officials. The commissioner of labor shall possess the same qualifications for office as the commissioner of agriculture and labor and he shall receive an annual salary to be determined by legislative appropriation.

§ 4.) Section 34-05-01.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

34-05-01.3. Duties of Commissioner of Labor.) The commissioner of labor shall:

1. Improve working conditions and living conditions of employees and advance their opportunities for profitable employment;
2. Foster, promote, and develop the welfare of both wage earners and industries in North Dakota;
3. Promote friendly and cooperative relations between employers and employees;
4. Cooperate with other state agencies to encourage the development of new industries and the expansion of existing industries;
5. Represent the state of North Dakota in dealings with the United States Department of Labor, with the Federal Mediation and Conciliation Service, and with the United States Veterans Administration with respect to job training programs;
6. Acquire and disseminate information on the subjects connected with labor, relations between employers and employees, hours of labor and working conditions;
7. Encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance;
8. Report biennially to the governor and to the legislative assembly concerning activities of the department of labor, including in such report recommendations for legislation deemed necessary or desirable to effectuate the purposes of this chapter;
9. Administer the provisions of chapter 34-06 relating to wages and hours, chapter 34-07 relating to child labor, and the provisions of chapter 34-12 relating to labor-management relations; and

10. Perform such other duties as may be required by law.

§ 5. Amendment.) Section 34-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-05-03. Officials and Employers to Furnish Certain Information—Penalty.) All public officers and all employers of labor shall furnish to the commissioner of labor such information as he may request relating to their respective offices or businesses. The information obtained shall be preserved, systematized, and tabulated by the commissioner. Information concerning the business or affairs of any individual, form, company, or corporation shall not be divulged or made public by the commissioner or anyone in the employ of his office, and a violation of this provision shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. Any officer, any employer of labor, and any operator or manager of any establishment wherein labor is employed, who shall fail or refuse to furnish the commissioner with the information asked for by him under 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 seven days nor more than thirty days, or by both such fine and imprisonment. No prosecution shall be commenced for a violation of the provisions of this section until a second blank has been mailed to the defaulting officer or employer and he has been given twenty days to complete and return the same.

§ 6. Amendment.) Section 34-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-05-04. Employment of Assistants.) The commissioner of labor may employ necessary help and assistants for the purpose of administering and enforcing labor laws, rules, and regulations, and may fix their compensation and bonds. The total amount of compensation paid for such purposes, however, shall not exceed the amount appropriated therefor by the legislative assembly.

§ 7. Amendment.) Subsection 1 of section 34-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*1. "Commissioner" shall mean the commissioner of labor;

***Note:** Subsection 1 of section 34-06-01 was also amended by section 1, chapter 237, 1965 S.L.

§ 8. Amendment.) Subsection 4 of section 34-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The commissioner of labor or his agent or representative:

§ 9. Amendment.) Section 34-07-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-15. Maximum Hours of Labor of Minors Under Sixteen Years of Age—Notice To Be Posted.) No minor under the age of sixteen years shall be employed or permitted to work at any occupation, except in domestic services and at farm labor, for more than forty-eight hours in any one week, nor for more than six days in any one week, nor for more than eight hours in any one day, nor before the hour of seven o'clock a.m. nor after the hour of seven o'clock p.m. Every employer shall post in a conspicuous place in every room where minors are employed, a printed notice stating the hours of work required of the minors each day of the week, the hours of commencing and stopping work, and the hours allowed for dinner or other meals. The printed form of such notice shall be furnished by the commissioner of labor. The employment of any minor for a longer period than that stated in the notice shall be a violation of this chapter.

§ 10. Amendment.) Section 34-07-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-18. Inspection of Factories and Establishments By Peace Officers—Report—Complaints.) Peace officers may visit mines, factories, workshops, and mercantile establishments within their several jurisdictions to ascertain whether any minors are employed therein contrary to the provisions of this chapter. The peace officers shall report all cases of illegal employment to the commissioner of labor. Such officers may require that the employment certificates and the lists of employees which an employer is required to keep under the provisions of this chapter be produced for inspection. Complaints for offenses under this chapter may be made by any peace officer or by any other person cognizant of the facts.

§ 11. Amendment.) Section 34-07-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-19. Duties of Commissioner of Labor — Prosecutions for Violations of Chapter.) The commissioner of labor shall prepare all blanks necessary in the administration of this chapter, shall distribute such blanks to the school officers and

authorities of this state, shall exercise general supervision over the administration of the provisions of this chapter, and shall enforce the same. He and his agents and representatives shall have full power of visitation and inspection of all factories, industries, and other establishments in which minors may be employed or permitted to work. All violations of this chapter brought to the attention of the commissioner shall be referred to the state's attorney of the proper county for prosecution.

§ 12. **Amendment.)** Section 34-07-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-20. Commissioner May Issue Orders with Reference to Employment of Minors.) In addition to the powers vested in the commissioner of labor by the provisions of chapter 34-06, he may issue general and special orders with reference to the employment of minors and may prohibit the employment of minors in any employment or place of employment which is dangerous or prejudicial to the life, health, safety, or welfare of such minors. Any such regulation or order shall be in addition to the regulations specified in this chapter.

§ 13. **Amendment.)** Section 34-07-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-21. Penalty—Violation of Chapter—Certifying Labor Statement.) Any person who shall employ any minor contrary to the provisions of this chapter or to any order or regulation issued by the commissioner of labor as provided in this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than fifty dollars for each separate offense. Any person authorized to sign a certificate as prescribed in this chapter who certifies to any material false statement therein shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than fifty dollars.

§ 14. **Amendment.)** Subsection 7 of section 34-12-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. "Commissioner" shall mean the North Dakota commissioner of labor, his successor or his duly authorized deputy.

*§ 15. **Repeal.)** Section 34-05-02 and chapter 34-10 of the North Dakota Century Code are hereby repealed.

***Note:** Chapter 34-10 was also repealed by chapter 239, 1965 S.L.

§ 16. **Effective Date.)** The provisions of this Act, other than those relating to the election of the commissioner of labor, shall become effective on January 1, 1967.

Approved March 19, 1965.

CHAPTER 237

S. B. No. 300
(Trenbeath, Lips, Morgan, Becker, Forkner, Kelly, Beck, Mutch,)
(Strinden, Robinson, Ringsak)

MINIMUM WAGES

AN ACT

To amend and reenact sections 34-06-01, 34-06-02, 34-06-03, 34-06-05, 34-06-07, 34-06-09, 34-06-10, 34-06-12, 34-06-15, and 34-06-16 of the North Dakota Century Code, providing minimum wages for all employees, under regulations affecting minimum wages; providing for exceptions to the minimum wage in regard to employees who are incapacitated or who have limited ability due to age, physical or mental condition, or experience and training; and making an appropriation therefor.

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

§ 1. **Amendment.)** Section 34-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-01. Definitions.) In this chapter, unless context or subject matter otherwise requires:

*1. "Commissioner" shall mean the commissioner of agriculture and labor;

2. "Minor" shall mean a person of either sex under the age of eighteen years;

3. "Employee" includes any individual employed by an employer;

4. "Employer" includes any individual, partnership, association, corporation, or any person or group of persons acting in the interest of an employer in relation to an employee;

***Note:** Subsection 1 of section 34-06-01 was also amended by section 7, chapter 236, 1965 S.L.

5. "Occupation" shall mean a business or industry, or a trade or branch thereof, but it shall not include outside salesmen who are compensated on a commission basis.

§ 2. Amendment.) Section 34-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-02. Power to Investigate Conditions of Labor and Wages and Hours of Employees.) The commissioner shall have the power to:

1. Investigate and ascertain the wages and the hours and conditions of labor of employees in the different occupations in which they are employed within this state;

2. Inspect and examine, either in person or through authorized representative, all books, payrolls, and other records of any employer of employees appertaining to or bearing on the questions of hours or conditions of labor of any employee employed by such employer;

3. Require from any employer of employees a full and true statement of the wages paid to, and the hours and conditions of labor of, all employees in his employ.

§ 3. Amendment.) Section 34-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-03. Commissioner May Adopt Standards.) The commissioner, in the manner prescribed in this chapter, may ascertain and prescribe:

1. Standards of hours of employment for employees and what are unreasonably long hours for employees in any occupation within this state;

2. Standards of conditions of labor for employees in any occupation within this state and what surroundings or conditions, sanitary or otherwise, are detrimental to the health or morals of employees in any such occupation;

3. Standards of minimum wages for employees in any occupation in this state and what wages are inadequate to supply the necessary cost of living to any such employees and to maintain them in good health; and

4. Standards of minimum wages for minors in any occupation within this state and what wages are unreasonably low for any such minor workers.

§ 4. Amendment.) Section 34-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-05. Employment of Employees Under Certain Conditions Illegal.) It shall be unlawful to employ in any occupation within this state:

1. Employees for unreasonably long hours;
2. Employees under surroundings or conditions, sanitary or otherwise, which may be detrimental to their health or morals;
3. Employees for wages which are inadequate to supply the necessary cost of living and to maintain them in good health; and
4. Minors for unreasonably low wages.

§ 5. Amendment.) Section 34-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-07. Employer to Keep Register of Employees Employed—Inspection and Examination of Register.) Every employer shall keep a register of the names of all employees employed by him, and on request shall permit the commissioner or any of his authorized representatives to inspect and examine such register.

§ 6. Amendment.) Section 34-06-09 of 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 not more than three representatives of the employers in said occupation, of an equal number of the representatives of the employees in said occupation, of not more than three disinterested persons representing the public, 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.

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

34-06-10. Recommendations Contained in Report of Conference.) In the report required under the provisions of section 34-06-09, the conference shall make recommendations on any or all of the following questions concerning the particular occupation under inquiry:

1. Standards of hours of employment for employees and what are unreasonably long hours of employment for employees;

2. Standards of conditions of labor for employees and what surroundings or conditions, sanitary or otherwise, are detrimental to the health or morals of employees; and

3. Standards of minimum wages for employees and what wages are inadequate to supply the necessary cost of living to employees and maintain them in health. In its recommendations on a question of wages where it appears that any substantial number of employees in the occupation under inquiry are being paid by piece rates as distinguished from time rates, the conference shall recommend minimum piece rates as well as minimum time rates and shall recommend such minimum piece rates as in its judgment will be adequate to supply the necessary cost of living to, and to maintain the health of, employees of average ordinary ability.

§ 8. **Amendment.)** Section 34-06-12 of 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 recom-

mendations 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. 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.

§ 9. Amendment.) Section 34-06-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-15. Special License to Employ at Less Than Minimum Wage Issued by Commissioner.) The commissioner may issue to an employee who is physically defective by age or otherwise, or to any apprentice or learner in an occupation which usually requires learners or apprentices, a special license authorizing the employment of such licensee in an occupation in which a minimum wage has been established, at a wage less than such minimum wage. Such license shall be issued under such rules and regulations as the commissioner may establish.

§ 10. Amendment.) Section 34-06-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-16. Recovery by Underpaid Employee.) If any employee shall be paid by her or his employer less than the minimum wage to which she or he is entitled under or by virtue of an order of the commissioner, such worker may recover in a civil action the full amount of the minimum wage less any amount actually paid to her or him by the employer, together with such attorney's fees as may be allowed by the court. An agreement providing for employment at less than the minimum wage specified in the order shall be no defense in such action.

§ 11. Appropriation.) There is hereby appropriated out of any unappropriated moneys in the state treasury, the sum of fifty thousand dollars or so much thereof as may be necessary

for the purpose of implementing the administration of state minimum wage laws and regulations.

Approved March 19, 1965.

CHAPTER 238

H. B. No. 690

(Powers (Cass), Haugland, Duncan, Jungroth, Hertz, Frank,)
(Poling, Meschke, Williamson, Sanstead, Lundene, Connolly,)
(Bergman, Froeschle, Erickson (Ward), Whittlesey, Hilleboe,)
(Burk, Skaar, Myhre, Aamoth, Backes, Stockman)

EQUAL PAY FOR MEN AND WOMEN

AN ACT

To provide for equal pay for both males and females for comparable work done and providing for penalties for violation of the provisions of this Act.

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

§ 1. Declaration of Public Policy.) The public policy of this state is declared to be that the practice of discriminating on the basis of sex by paying wages to employees of one sex at a lesser rate than the rate paid to employees of the opposite sex for comparable work on jobs which have comparable requirements unjustly discriminates against the person receiving the lesser rate; leads to low worker morale, high turnover, and frequent labor unrest; discourages workers paid at the lesser wage rates from training for higher level jobs; curtails employment opportunities, decreases workers' mobility, and increases labor costs; impairs purchasing power and threatens the maintenance of an adequate standard of living by such workers and their families; prevents optimum utilization of the state's available labor resources; threatens the well-being of citizens of this state; and adversely affects the general welfare. It is therefore declared to be the policy of this state through exercise of its police power to correct and, as rapidly as possible, to eliminate discriminatory wage practices based on sex.

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

1. "Employee" means any individual employed by an employer, including individuals employed by the state or any of its political subdivisions including public bodies;

2. "Employer" means any person acting directly or indirectly in the interest of an employer in relation to one or more employees of each sex;

3. "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the commissioner in regulations issued under this Act;

4. "Employ" includes to suffer or permit to work;

5. "Occupation" includes any industry, trade, business or branch thereof, or any employment or class of employment, but does not include domestic employment in private homes;

6. "Commissioner" means the commissioner of agriculture and labor; and

7. "Person" includes one or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

§ 3. **Prohibition of Discrimination.)** No employer shall discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation in this state at a rate less than the rate at which he pays any employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort, and responsibility, but not to physical strength. Differentials which are paid pursuant to established seniority systems, job descriptive systems, merit increase systems, or executive training programs, which do not discriminate on the basis of sex, are not within this prohibition. An employer who is paying a wage differential in violation of this Act shall not, in order to comply with it, reduce the wage rates of any employee. No person shall cause or attempt to cause an employer to discriminate against any employee in violation of this Act. No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of this Act, except when proven that the act of such employee is fraudulent.

§ 4. **Powers of Commissioner.)** The commissioner shall have power and it shall be his duty to carry out the provisions of this Act and for this purpose, the commissioner, or his authorized representative, shall have power to:

1. With the consent of the employer or upon appropriate court order, for cause, enter the place of employment of any employer to inspect and copy payrolls and other

employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to the administration and enforcement of this Act;

2. Examine witnesses under oath, and to require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of any investigation undertaken pursuant to this section;

3. Eliminate pay practices unlawful under this Act, by informal methods of conference, conciliation and persuasion, and to supervise the payment of wages owing to any employee under this Act; and

4. Issue such regulations, not inconsistent with the purpose of this Act, as he deems necessary or appropriate to carry out its provisions.

Witnesses summoned by the commissioner or his authorized representative shall be paid the same fees as are allowed witnesses attending the district courts of this state. In the event of the failure of a person to attend, testify, or produce documents under or in response to a subpoena, the court on application of the commissioner or his representative may issue an order requiring said person to appear before the commissioner or authorized representative, or to produce documentary evidence, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

§ 5. **Collection of Unpaid Wages and Other Relief.)** Any employer who violates the provisions of section 3 of this Act shall be liable to the employee or employees affected in the amount of their unpaid wages, and in instances of willful violation in employee suits up to an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. The court in such action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. No agreement by any such employee to work for less than the wage to which such employee is entitled under this Act shall be a bar to any such action, or to a voluntary wage restitution of the full amount due under this Act. At the written request of any employee claiming to have been paid less than the wage to which he may be entitled under this Act, the commissioner may bring any legal action necessary

in behalf of the employee to collect such claim for unpaid wages. The commissioner shall not be required to pay the filing fee, or other costs, in connection with such action. The commissioner shall have power to join various claims against the employer in one cause of action. In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of this Act. The commissioner shall have power to petition any court of competent jurisdiction to restrain violations of section 3, and for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of this Act.

§ 6. **Statute of Limitations.)** Court action under this Act may be commenced no later than two years after the cause of action occurs.

§ 7. **Records and Reporting.)** Every employer subject to this Act shall make, keep, and maintain such records of the wages and wage rates, job classifications and other terms and conditions of employment of the persons employed by him, and shall preserve such records for such periods of time, and shall make such reports therefrom as the commissioner shall prescribe.

§ 8. **Posting of Law.)** Every person subject to this Act shall keep an abstract or copy of this Act posted in a conspicuous place in or about the premises wherein any employee is employed. Employers shall be furnished copies or abstracts of this Act by the state without charge.

§ 9. **Penalties.)** Any person who violates any provision of this Act, or who discharges or in any other manner discriminates against any employee because such employee has made any complaint to his employer, the commissioner, or any other person, or has instituted, or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceedings, shall, upon conviction thereof be subject to a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment. Any employer who violates this Act by failing to keep the records required hereunder, or to furnish such records to the commissioner upon request, or who falsifies such records, or who hinders, delays, or otherwise interferes with the commissioner or his authorized representative in the performance of his duties in the enforcement of this Act, shall upon conviction be subject to a fine of not more than one hundred dollars.

Approved March 15, 1965.

CHAPTER 239

H. B. No. 797
(Hertz, Kvasager, Ruddy, Myhre, Jungroth, Meschke,)
(Powers (Cass), Haugland, Erickson (Ward), Larsen (Grand Forks))

SETTLEMENT OF LABOR DISPUTES

AN ACT

To repeal chapter 34-10 of the North Dakota Century Code.

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

§ 1. **Repeal.)** Chapter *34-10 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1965.

CHAPTER 240

H. B. No. 589
(Hertz, Anderson, Stockman, Powers (Barnes))

WAGE COLLECTION

AN ACT

Relating to payment and collection of wages for labor; requiring semimonthly or agreed payments; providing for separation of employees from payroll; imposing certain conditions in event of industrial disputes; requiring the prompt payments of wages conceded to be due; placing responsibility for enforcement of this Act; granting the commissioner of labor and his deputy certain powers and imposing certain duties; generally providing for the enforcement of this Act; fixing penalties for violations; permitting assignment of claims for wages to the commissioner; imposing upon the commissioner of labor and his deputy the duty to prosecute actions; providing for power to promulgate regulations.

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

§ 1. **Definition.)** Whenever used in this Act, "Employer" includes every person, firm, partnership, association, corporation, receiver or other officer of a court of the state, and any agent or officer of any kind of the above-mentioned classes and subject to the provisions hereof, employing any person in this state.

*Note: This chapter was also repealed by section 15, chapter 236, 1965 S.L.

§ 2. **Semimonthly or Agreed Payday.)** Every employer shall pay all wages due to his employees at least twice each calendar month, or on regular agreed paydays designated in advance by the employer, in lawful money of the United States or with checks on banks convenient to the place of employment.

§ 3. **Employees Who Are Separated from Payroll Before Paydays.)**

1. Discharged employees. Whenever an employer separates an employee from the payroll the unpaid wages or compensation of such employee shall become due immediately, and the employer shall pay such wages to the employee within twenty-four hours of the time of separation.

2. Employees quitting. Whenever an employee not having a written contract for a definite period quits or resigns his employment, the wages or compensation earned shall become due and payable not later than the next regular stated pay day.

3. Industrial disputes. In the event of the suspension of work as the result of an industrial dispute, the wages and compensation earned and unpaid at the time of said suspension shall become due and payable at the next regular payday, as provided in section 1 of this Act, including, without abatement or reduction, all amounts due all persons whose work has been suspended as a result of such industrial dispute, together with any deposit or other guaranty held by the employer for the faithful performance of the duties of the employment.

§ 4. **Unconditional Payment of Wages Conceded To Be Due.)** In case of a dispute over wages, the employer shall give written notice to the employee of the amount of wages less whatever the employee owes the employer which he concedes to be due and shall pay such amount without condition within the time set by this Act, provided that acceptance by the employee of any payment made hereunder shall not constitute a release as to the balance of the claim.

§ 5. **Enforcement.)** It shall be the duty of the commissioner of labor or his deputy to ensure compliance with the provisions of this Act, to investigate as to any violations of this Act, and to institute or cause to be instituted actions for penalties and forfeitures provided hereunder. The commissioner of labor or his deputy may hold hearings to satisfy himself as to the justice of any claim, and he shall cooperate with any employee in the enforcement of a claim against his employer

in any case whenever, in his opinion, the claim is valid. The commissioner of labor and his authorized representative shall have the right to enter places of employment for the purpose of inspecting records and seeing that all provisions of this Act are complied with.

§ 6. **Personnel.)** The commissioner of labor and his deputy, may employ such clerical and other assistants as may be necessary to carry out the purposes of this Act, and shall fix the compensation of such employees and may also, to carry out such purposes, incur reasonable traveling expenses for the said commissioner, his deputy, and assistants.

§ 7. **Penalties.)** Any employer who shall willfully refuse to pay the wages due and payable when demanded as in this Act, or who shall falsely deny the amount thereof, or that the same is due with intent to secure for himself or any other person any discount upon such indebtedness, or with intent to annoy, harass, or oppress, or hinder, or delay, or defraud the person to whom such indebtedness is due, shall be guilty of a misdemeanor and upon conviction thereof, be punished by a fine of not less than twenty-five dollars or more than fifty dollars for each such offense. Any employee who shall falsify the amount due himself or who willfully attempts to defraud the employer shall be subject to a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars or more than fifty dollars for each such separate offense.

§ 8. **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 provided by section 9 of this Act, not to exceed two 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.

§ 9. **Employees' Remedies.)** Whenever the commissioner determines that wages have not been paid, and that such unpaid wages constitute an enforceable claim, the commissioner shall upon the request of the employee take an assignment in trust for such wages or any claim for liquidated

damages, without being bound by any of the technical rules respecting the validity of any such assignments and may bring any legal action necessary to collect such claim. With the consent of the assigning employee at the time of the assignment the commissioner shall have the power to settle and adjust any such claim to the same extent as might the assigning employee.

§ 10. **Rules and Regulations.)** The commissioner is authorized to issue such rules and regulations as necessary for the purpose of carrying out the provisions of this Act.

§ 11. **Separability of Provisions.)** If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

Approved March 19, 1965.

LIVESTOCK

CHAPTER 241

S. B. No. 75
(Nelson)

LIVESTOCK SANITARY BOARD, COMPENSATION

AN ACT

To amend and reenact section 36-01-04 of the North Dakota Century Code, relating to compensation and expenses of members of the livestock sanitary board.

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

§ 1. **Amendment.)** Section 36-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-04. Compensation and Expenses of Members of Board.) Each member of the state livestock sanitary board shall receive as compensation for his services the sum of fifteen dollars per day for each day employed, and his actual expenses incurred in attending the meetings of the board. Such sum shall be paid out of the state treasury upon vouchers of the board duly certified by the president and secretary thereof.

Approved March 6, 1965.

CHAPTER 242

S. B. No. 102
(Lips, Sinner)

EXECUTIVE OFFICER, SALARY

AN ACT

To amend and reenact section 36-01-05 of the North Dakota Century Code, relating to the salary of the executive officer.

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

§ 1. Amendment.) Section 36-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-05. Executive Officer—Salary—Bond.) The executive officer of the state livestock sanitary board shall receive for his services such annual salary as shall be fixed by the board within the limits of the appropriations made to the board by the legislative assembly. Before entering upon the discharge of his duties, the executive officer shall give a bond in the sum of five thousand dollars, to the state of North Dakota, conditioned for the proper discharge of his duties, and shall take the oath of office required of civil officers.

Approved March 6, 1965.

CHAPTER 243

S. B. No. 173
(Sinner, Robinson)

FEEDLOT REGISTRATION

AN ACT

To permit the registration of certain livestock feedlots, prescribe the powers and duties of the livestock sanitary board in connection therewith, and provide a penalty for violations.

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

§ 1. Feedlot Registration—Rules and Regulations—Penalty.) No person shall operate a registered livestock feedlot without obtaining from the livestock sanitary board a registration number. The livestock sanitary board is hereby authorized to

set rules within the limitations of this section for the operation of feedlots registered for the enforcement of brand inspection regulations. Applications for registration shall be made upon such forms as may be prescribed by the board and shall be accompanied by a fee equal to the fee charged for brand recording. All fees and any inspection fees established by the board shall be remitted regularly to the North Dakota stockmen's association. The board may promulgate in accordance with chapter 28-32 such rules and regulations consistent with law as may be required for the purpose of assuring that brand laws are complied with and brand inspection certificates are available, and proper records are maintained. Violation of any provision of law or of any rule or regulation of the board promulgated pursuant to this section shall subject the operator to revocation or suspension of registration issued hereunder, and in addition any person violating any provision of this section or rule or regulation of the board promulgated hereunder shall be guilty of a misdemeanor. The provisions of this section shall not be construed as prohibiting the operation of non-registered feedlots.

Approved March 10, 1965.

CHAPTER 244

H. B. No. 848
(Rivinius, Connolly, Mueller, Knudsen, Frank, Dornacker)

LIVESTOCK AUCTION MARKET LICENSES

AN ACT

To amend and reenact section 36-05-03 of the North Dakota Century Code, relating to the licensing of livestock auction markets.

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

§ 1. Amendment.) Section 36-05-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-03. License Required—Application—Fee.) No person, partnership, firm, or corporation shall establish or operate a livestock auction market within this state without first procuring a license to do so from the livestock sanitary board. An applicant for such license shall:

1. Make a written application therefor in the form prescribed by the livestock sanitary board;

2. File such evidence as the livestock sanitary board may require showing that he or it is financially responsible to operate such an auction market and that he or it will own or control adequate facilities for the care, sorting, feeding, loading and unloading, and shipment of livestock;

3. Pay to the livestock sanitary board a license fee of one hundred dollars;

4. File with the livestock sanitary board a schedule of the fees and commissions which will be charged to owners, sellers, or their agents; such schedule shall likewise be posted conspicuously at the auction market. This schedule shall not be altered except upon notification to the livestock sanitary board and reposting of the changed schedule;

5. State the place where applicant proposes to operate a livestock auction market;

6. Make a complete and detailed description of the property and facilities proposed to be used in connection with such livestock market;

7. Make a showing of public convenience and necessity to the satisfaction of the board, provided, however, that the provisions of this subsection shall not apply to livestock auction markets legally licensed and engaged in business at the time of the effective date of this Act.

Approved March 8, 1965.

CHAPTER 245

H. B. No. 788
(Brown, Stallman, Connolly)

BONDING LIVESTOCK AUCTION MARKETS

AN ACT

To amend and reenact section 36-05-04 of the North Dakota Century Code, relating to bonding requirements of auction markets and providing exceptions therefor.

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

§ 1. Amendment.) Section 36-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-04. Bond to Accompany Application for License — Amount — Approval — Conditions — Term.) Each applicant for a license to operate a livestock auction market shall file his application for such license, or for a renewal thereof, a surety bond in the minimum amount of ten thousand dollars. Such bond shall be approved as to the amount, form, and surety by the livestock sanitary board. The livestock sanitary board shall be the obligee in the bond, and it shall be for the benefit of, and for the purpose of protecting, any person selling to or through or buying livestock through or from the licensee or his or its agent. The livestock sanitary board may demand an additional bond of the licensee whenever in its judgment the volume of the business of the licensee warrants such demand. The bond shall be conditioned for:

1. The payment of all money received by the licensee and operator of such livestock auction market as such operator, less reasonable expenses and agreed commissions;
2. The faithful performance by the licensee of his duties as such licensee; and
3. The faithful performance by the licensee of all of the provisions of this code relating to the purchase, sale or holding of livestock.

Such bond shall cover the entire license period.

§ 2. Exemptions.) However, where the livestock sanitary board executive officer is the trustee or obligee of a surety bond wherein said auction market operator is the principal and is operating and is bonded under the provisions of the Packers and Stockyards Act of 1921 of the United States, the executive officer may accept such bond in lieu of the one herein otherwise required, except that the minimum bond requirements of ten thousand dollars shall be continued.

Approved March 2, 1965.

CHAPTER 246

S. B. No. 77
(Rolfsrud, Roen, Solberg, Robinson)

LIVESTOCK BRANDS

AN ACT

To amend and reenact subsection 3 of section 36-09-02 of the North Dakota Century Code, relating to the application for use of livestock brand or mark, and creating and enacting subsection 4 of section 36-09-02 of the North Dakota Century Code, defining the term "numerical brand".

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

§ 1. Amendment.) Subsection 3 of section 36-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Indicating clearly the place or position upon each kind of livestock where such brand is to be placed, except that the hips of any cattle shall not be used for registered numerical brands. Nonregistered numerical brands may be located upon the hips of cattle for individual identification. Registered brands other than numerical brands may also be located on the hips of cattle. The provisions of this Act shall not apply to any numerical brand recorded prior to the effective date of chapter 235 of the 1957 Session Laws.

§ 2.) Subsection 4 of section 36-09-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

4. Numerical brand shall mean a brand consisting entirely of upright number or numbers, and shall not include brands consisting of lazy numbers, or combinations of letters, or characters and numbers.

Approved February 26, 1965.

CHAPTER 247

H. B. No. 740
(Connolly, Reimers, Streibel, Bowman)

BRAND BOOKS

AN ACT

To amend and reenact section 36-09-14 of the North Dakota Century Code, relating to distribution of and fees for brand books.

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

§ 1. **Amendment.)** Section 36-09-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-09-14. Commissioner of Agriculture and Labor to Issue Brand Book.) The commissioner of agriculture and labor shall compile and issue a brand book from the records of livestock brands in his office as of the final date for rerecording, and a copy of such brand book shall be delivered free of charge to every brand inspector and upon written request from other law enforcement officers of the state of North Dakota. Annually thereafter the commissioner shall prepare a supplement of brands registered during the year and shall distribute the same free of charge to every brand inspector and upon written request from other law enforcement officers of the state of North Dakota. Brand books shall also be sold to all interested persons at the general office for recording marks and brands maintained in the office of the commissioner of agriculture and labor at a price of two dollars and fifty cents per brand book including supplement.

Approved March 6, 1965.

CHAPTER 248

S. B. No. 82
(Robinson, Roen)

IMPORTED CATTLE HEALTH CERTIFICATE

AN ACT

To amend and reenact section 36-14-05 of the North Dakota Century Code, relating to certificates of health required on cattle imported into this state.

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

§ 1. Amendment.) Section 36-14-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-05. Cattle Brought Into State—Certificate of Health Required.) All cattle brought into this state for dairy, breeding, and feeding purposes shall be accompanied by a certificate of health certifying that such animals are free from symptoms of contagious, infectious, or communicable disease, except that no health certificate is required for those cattle originating directly from a producer's premises and not diverted enroute, if such cattle are delivered directly to a licensed auction market or other premises approved by the livestock sanitary board.

Approved March 6, 1965.

CHAPTER 249

S. B. No. 83
(Robinson, Roen)

SHEEP HEALTH CERTIFICATES

AN ACT

To amend and reenact section 36-14-06 of the North Dakota Century Code, relating to certificates of health required on sheep imported into this state.

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

§ 1. Amendment.) Section 36-14-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-06. Certificate of Health Required of Sheep Imported Into State—Contents.) All sheep brought into this state shall be accompanied by a certificate of health certifying that such animals are free from symptoms of contagious, infectious, or communicable diseases, except that no health certificate is required for those sheep originating directly from a producer's premises and not diverted enroute, if such sheep are delivered directly to a licensed auction market or other premises approved by the livestock sanitary board.

Approved March 6, 1965.

CHAPTER 250

S. B. No. 84
(Robinson, Roen)

SWINE HEALTH CERTIFICATES

AN ACT

To amend and reenact section 36-14-07 of the North Dakota Century Code, relating to certificates of health required on swine imported into this state.

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

§ 1. **Amendment.)** Section 36-14-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-07. Swine Brought Into State to Have Certificate of Health—Contents.) All swine brought into this state shall be accompanied by a certificate of health certifying that such animals are free from symptoms of contagious, infectious, or communicable diseases, except that no health certificate is required for those swine originating directly from a producer's premises and not diverted enroute, if such swine are delivered directly to a licensed auction market or other premises approved by the livestock sanitary board.

Approved March 6, 1965.

CHAPTER 251

S. B. No. 85
(Robinson, Roen)

CATTLE SHIPMENTS

AN ACT

To amend and reenact section 36-14-10 of the North Dakota Century Code, relating to shipments of cattle, swine, or sheep for immediate slaughter.

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

§ 1. Amendment.) Section 36-14-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-10. Shipments of Cattle, Swine, or Sheep for Immediate Slaughter.) Shipments into this state of cattle, swine, and sheep for immediate slaughter shall be permitted without a health certificate only if such livestock are not diverted enroute, and are delivered directly to a slaughtering establishment approved by the livestock sanitary board.

Approved March 6, 1965.

CHAPTER 252

S. B. No. 136
(Morgan)

HOG CHOLERA

AN ACT

To provide for appraisal, indemnification, and destruction of swine infected with, affected with, or exposed to hog cholera, under certain conditions, and providing for right of appeal.

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

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

1. "Hog cholera" means the contagious, infectious, and communicable disease of swine commonly known as hog cholera.

2. "Destroy" means to condemn because of hog cholera under state authority and slaughter or otherwise kill as a result of a or pursuant to such condemnation.

3. "Board" shall mean state livestock sanitary board.

§ 2. **General Authority.)** The board, or its executive officer or any authorized agents thereof, may destroy or require the destruction of any swine which said board, executive officer, or agent, knows to be, or suspects is, infected with, affected with, or exposed to hog cholera, whenever said board, executive officer, or agents, finds such destruction to be necessary to prevent or reduce the danger of the spread of hog cholera.

§ 3. **Appraisal and Indemnification.)** The board, or its executive officer, or agents, shall appraise any swine destroyed or ordered destroyed pursuant to this Act and shall indemnify the owner of such swine in an amount to be set by the board for either registered animals or grade animals.

§ 4. **Institution of Indemnification.)** It is hereby recognized and declared that indemnification for the destruction of swine infected with, exposed to, or suspected of being affected or exposed to hog cholera, is an expression of the public policy of this state to be employed only in the final phase of the official state-federal eradication program in the state, or as a means of preventing or minimizing its recurrence, as such may be determined by the board. The board, or its executive officer, or agents, shall not institute an initial program of indemnification until the state has been approved as meeting the requirements specified by the appropriate cooperating federal agency.

§ 5. **Cooperation with the United States.)** The board, or its executive officer, or agents, may cooperate with the United States, or any department, agency, or officer thereof, in the control and eradication of hog cholera, including the sharing in the payment of indemnities for swine destroyed, but the state shall only share in such payment of indemnities in the amounts or rates set by the board.

§ 6. **Rules and Regulations.)** The board may make, promulgate, amend, repeal, and enforce rules and regulations for implementing this Act.

§ 7. **Review.)** Any act or omission of the board pursuant to or within the purview of this Act shall be reviewable by the courts of this state as provided in chapter 28-32 of the North Dakota Century Code.

Approved March 10, 1965.

CHAPTER 253

S. B. No. 203
(Morgan, Robinson, Roen)

CALFHOOD VACCINATION

AN ACT

To amend and reenact section 36-15-21 of the North Dakota Century Code, relating to calfhood vaccination against brucellosis.

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

§ 1. Amendment.) Section 36-15-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-21. Calfhood Vaccination Against Brucellosis Required—Penalty.) No person shall bring into this state any female dairy cattle over eight months of age or any female beef cattle over twelve months of age for dairy or breeding purposes within this state that have not been officially calfhood vaccinated against brucellosis; nor shall he acquire within this state, except by his own raising, any female dairy cattle over eight months of age or any female beef cattle over twelve months of age born after January 1, 1963, for dairy or breeding purposes within this state, that have not been officially calfhood vaccinated against brucellosis. "Officially calfhood vaccinated" shall mean a bovine female animal vaccinated against brucellosis while from four through eight months of age, if a dairy breed, or from four to twelve months, if a beef breed, under the supervision of a federal or state veterinary official, with a vaccine approved by the North Dakota state veterinarian, and permanently identified as such a vaccinate and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of brucellosis. However, the board in its discretion, and only in extenuating circumstances, may grant a hearing to any person under such rules and regulations as the board may prescribe, as to whether or not an exception should be made to the provisions of this section. An appeal may be taken from the decision of the board under the provisions of chapter 28-32 of the North Dakota Century Code. Any person who shall bring into this state or acquire within this state any cattle contrary to the provisions of this section, shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by

imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

Approved March 15, 1965.

CHAPTER 254

S. B. No. 86
(Robinson, Roen)

CATTLE DISEASES, REPEAL

AN ACT

To repeal section 36-14-14, all of chapters 36-16, 36-17, 36-18, and 36-19 of the North Dakota Century Code, relating to certificates of health being required on sale of purebred cattle and nonregistered bulls for breeding purposes, glanders and dourine, bot treatment law, serum institute, and dipping stations.

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

§ 1. **Repeal.)** Section 36-14-14, all of chapters 36-16, 36-17, 36-18, and 36-19 of the North Dakota Century Code are hereby repealed.

Approved February 25, 1965.

CHAPTER 255

H. B. No. 635
(Davis, Hardmeyer, Connolly)

MEAT INSPECTION EXEMPTIONS

AN ACT

To amend and reenact section 36-23-04 of the North Dakota Century Code, relating to exemptions to the meat inspection law.

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

§ 1. **Amendment.)** Section 36-23-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-23-04. Exemptions.) Retail and wholesale butchers and retail and wholesale dealers in meats or meat products supplying customers only within the municipality in which their

slaughter or manufacturing establishment is located or adjacent thereto, or delivering such products to any other municipality in the state, or anyone slaughtering or manufacturing meats and meat products for home consumption and all slaughterers under federal inspection, or markets and manufacturing establishments buying federal or state inspected meats shall be exempt from the provisions of this chapter.

The provisions of this section shall in no way affect or limit the statutes and laws of this state contained in chapter 40-05 of this code authorizing municipalities to regulate, inspect, and license slaughtering, meat packing, and manufacturing establishments engaged in the production of meat products for human consumption within the municipality, or who deliver or sell meat or meat products within the municipality. However, the livestock sanitary board in order to carry out the provisions of section 36-23-03 of this chapter, and upon the application of any person, may grant a license upon his compliance with the provisions of this chapter.

Approved March 2, 1965.

MILITARY

CHAPTER 256

H. B. No. 607
(Collette, Backes, Coles, Erickson (Ward), Hoffner, Stallman,)
(Whittlesey)

EMERGENCY AID BY NATIONAL GUARD

AN ACT

To amend and reenact sections 37-07-05, 37-11-01, 37-11-02, and 37-11-04 of the North Dakota Century Code, relating to activities of the national guard in aid of civil authorities and the protection of life and property, and the determination and payment of claims for the death or disability of members; expenditures of the national guard in the service of the state; and to repeal sections 37-11-03, 37-11-05, 37-11-08, and 37-11-09 of the North Dakota Century Code, relating to pensions for death and disability of members.

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

§ 1.) Whenever the governor shall order the national guard or any portion thereof into the active service of the state in accordance with sections 37-01-04 and 37-01-06, the adjutant general shall determine and record the costs of the national guard in performing such service. Immediately following the termination of such active service, or prior thereto if it shall be deemed necessary by the adjutant general, the adjutant general shall make application to the state emergency commission for a grant of funds from the contingency fund or other available funds in the state treasury in an amount equal to the costs of the national guard in performing such service. Notwithstanding other provisions of chapter 54-16, it shall be conclusively presumed upon the receipt of such application by the emergency commission from the adjutant general that an emergency exists, and such commission shall forthwith grant and direct the transfer to the credit of the national guard from the contingency fund or such other funds as may be available of an amount equal to that certified in such application by the adjutant general.

§ 2. Amendment.) Section 37-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-07-05. Pay and Allowances of Enlisted Men—Deductions Allowed.) Each enlisted man of the national guard, when called into active service by the governor, shall receive pay

at the rate provided for enlisted men of similar grade, rating, and term of enlistment in the national guard of the United States, except that such pay rate shall not be less than ten dollars per day and shall also receive transportation, shelter, and subsistence. The value of articles issued to any member of a company or battery and not returned in good order on demand, and all legal fines or forfeitures, may be deducted from the member's pay. Pay at an annual encampment shall be such as is allowed by federal law.

§ 3. Amendment.) Section 37-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-11-01. Members of Militia and National Guard and Dependents May Be Given Pension.) Every member of the militia or national guard who has been or who shall be wounded or disabled or the surviving dependents of such member in case of the member's death from such wound or disability while:

1. In the service of this state in case of riot, tumult, breach of the peace, resistance to process, invasion, disaster relief, the protection of life or property, or insurrection, or imminent danger thereof; or
2. Engaged in any lawfully ordered parade, drill, encampment, or inspection; or
3. Acting pursuant to call in aid of the civil authorities, shall be taken care of and provided for at the expense of this state in the manner provided in this chapter.

§ 4. Amendment.) Section 37-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-11-02. Compensation for Disability or Death.) Applications for compensation for disability or death of any member of the militia or member of the national guard under conditions as specified in section 37-11-01 shall be made by such member or his surviving dependents to the workmen's compensation bureau. The workmen's compensation bureau shall process such application in the manner set forth in title 65 and shall make determinations of eligibility and disability in the same manner and upon the same basis as provided in such title. In the event the workmen's compensation commission shall determine a member of the militia or national guard has been disabled under the provisions of section 37-11-01 and title 65 or valid claims of surviving dependents of such member exist in accordance with section 37-11-01 and title 65, it shall certify to the adjutant general the type and amount or

percentage of disability or the names of any approved claims of surviving dependents together with any other necessary information.

The adjutant general shall immediately make a determination of the amount of such claim or claims that will be payable during the current biennium in accordance with the provisions of section 37-11-04 and shall apply to the emergency commission for a grant of funds from the contingency fund in an amount sufficient to pay such claim or claims during the balance of the biennium. It shall be conclusively presumed upon the receipt of such application by the emergency commission that an emergency exists, and such commission shall forthwith grant and direct the transfer to the credit of the national guard from the contingency fund any amount equal to that certified in the application by the adjutant general. The adjutant general shall immediately thereafter pay all accumulated moneys due upon such claim or claims and thereafter make payments in accordance with the provisions of section 37-11-04.

The adjutant general shall submit to the legislative assembly at its next session, at the same time as other requests for appropriations for the national guard are submitted, a request for sufficient appropriated funds to make all payments due upon such claim or claims during the subsequent biennium and shall do so each biennium thereafter until such claim or claims are liquidated. The amount of any claims paid by the adjutant general pursuant to this chapter shall be reduced by an amount equal to any benefits payable by the government of the United States to the member or his surviving dependents because of his disability or death or payable under the provisions of section 37-11-07 to a disabled member.

§ 5. **Amendment.)** Section 37-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-11-04. Amount of Pensions and Claims Allowed.) A pension or claim allowed under the provisions of this chapter shall be in the same amount as a pension or claim paid by the United States of America to a person under corresponding circumstances except as reduced by section 37-11-02.

§ 6. **Repeal.)** Sections 37-11-03, 37-11-05, 37-11-08, and 37-11-09 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1965.

CHAPTER 257

S. B. No. 90
(Holland)

QUALIFICATIONS OF SOLDIERS' HOME COMMANDANT

AN ACT

Amending and reenacting section 37-15-07 of the 1963 Supplement to the North Dakota Century Code, relating to the appointment, qualifications and salary of the commandant of the soldiers' home.

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

§ 1. Amendment.) Section 37-15-07 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-07. Commandant of Soldiers' Home—Appointment—Qualifications—Salary—Serves at Pleasure of Board.) The board of trustees of the soldiers' home shall appoint as commandant of the home a person who holds an honorable discharge from the military or naval service of the United States of America and who served in the Spanish American War, World War I or World War II. The commandant shall serve at pleasure of the board. He shall receive such salary as the board of trustees shall determine from the appropriations made by the legislature, plus such compensation, not exceeding fifty dollars per month, as may be determined by the board of trustees for his services as secretary of the board.

Approved March 2, 1965.

CHAPTER 258

S. B. No. 89
(Holland)

DONATIONS TO SOLDIERS' HOME

AN ACT

Authorizing the board of trustees of the North Dakota soldiers' home or the commandant of said home to accept or receive donations, gifts or bequests and use same for the specific purpose for which they were made.

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

§ 1. Board of Trustees or Commandant May Accept Gifts, Donations or Bequests.) The soldiers' home through the board of trustees or the commandant for and in behalf of the soldiers' home is hereby authorized to accept or receive any donations, gifts or bequests offered or tendered to, or for the benefit of the soldiers' home. All such moneys received or accepted shall be used for the specific purposes for which they were given or donated. This authority shall apply and be retroactive to any or all gifts, donations or bequests heretofore tendered, offered or made.

Approved February 27, 1965.

CHAPTER 259

H. B. No. 731
(Anderson, Tough, Solberg, Mueller)
(Budget Board Recommendation)

CIVIL DEFENSE UNDER ADJUTANT GENERAL

AN ACT

To amend and reenact section 37-17-03 of the 1963 Supplement to the North Dakota Century Code, providing for the placement of the division of state civil defense within the office of the adjutant general.

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

§ 1. Amendment.) Section 37-17-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted 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 who shall be the head thereof. The director shall be appointed by the governor upon the recommendation of the adjutant general. Nothing in this chapter shall be construed as prohibiting the director or any employee of the division from holding any position, rank, or commission in an active or inactive status in the North Dakota national guard or the North Dakota state guard if otherwise qualified. He shall hold office during the pleasure of the governor and his compensation shall be fixed by the governor 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.

The director, subject to the direction and control of the governor and the supervision of the adjutant general, shall be the executive head of the civil defense division and shall be responsible to the adjutant general and governor for carrying out the state civil defense program. 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 governor.

On declaration of a state or national emergency by the governor or by national authority, requiring mobilization of statewide civil defense resources and organizations, the director of the state civil defense will be directly responsible to the state adjutant general, with other state agencies as the governor may direct.

Approved March 19, 1965.

MINING AND GAS AND OIL PRODUCTION

CHAPTER 260

H. B. No. 926
(Glaspey, Backes, Stockman)

OIL AND GAS UNITIZATION

AN ACT

To create and enact sections 38-08-09.1, 38-08-09.2, 38-08-09.3, 38-08-09.4, 38-08-09.5, 38-08-09.6, 38-08-09.7, 38-08-09.8, 38-08-09.9, 38-08-09.10, 38-08-09.11, 38-08-09.12, 38-08-09.13, 38-08-09.14, 38-08-09.15, and 38-08-09.16 of the North Dakota Century Code, to provide for the unitized management, operation, and development of common sources of supply of oil and gas and to encourage cycling, recycling, pressure maintenance, and secondary recovery operations in order that the greatest possible economic recovery of oil and gas be obtained within the state to the benefit of landowners, royalty owners, producers, and the general public, and for the protection of the correlative rights of all such persons; and to prescribe procedures for organizing such unit operations, providing for appeals to district courts.

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

§ 1.) Section 38-08-09.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.1. Legislative Finding.) The legislature finds and determines that it is desirable and necessary, under the circumstances and for the purposes hereinafter set out, to authorize and provide for unitized management, operation, and further development of the oil and gas properties to which this Act is applicable, to the end that a greater ultimate recovery of oil and gas may be had therefrom, waste prevented, the drilling of unnecessary wells eliminated, and the correlative rights of the owners in a fuller and more beneficial enjoyment of the oil and gas rights be protected.

§ 2.) Section 38-08-09.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.2. Power and Authority of Commission.) The industrial commission of the state of North Dakota, hereinafter referred to as the "commission", is hereby vested with continuing jurisdiction, power and authority, including the right to describe and set forth in its orders all those things per-

taining to the plan of unitization which are fair, reasonable and equitable and which are necessary or proper to protect, safeguard, and adjust the respective rights and obligations of the several persons affected, and it shall be its duty to make and enforce such orders and do such things as may be necessary or proper to carry out and effectuate the purposes of this Act.

§ 3.) Section 38-08-09.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.3. Matters To Be Found by Commission—Requisites of Petition.) If upon the filing of a petition therefor and after notice and hearing, all in the form and manner and in accordance with the procedure and requirements hereinafter provided, the commission shall find:

1. That the unitized management, operation, and further development of a common source of supply of oil and gas or portion thereof is reasonably necessary in order to effectively carry on pressure-maintenance or repressuring operations, cycling operations, water flooding operations, or any combination thereof, or any other form of joint effort calculated to substantially increase the ultimate recovery of oil and gas from the common source of supply;

2. That one or more of said unitized methods of operation as applied to such common source of supply or portion thereof are feasible, will prevent waste and will with reasonable probability result in the increased recovery of substantially more oil and gas from the common source of supply than would otherwise be recovered;

3. That the estimated additional cost, if any, of conducting such operations will not exceed the value of the additional oil and gas so recovered; and

4. That such unitization and adoption of one or more of such unitized methods of operation is for the common good and will result in the general advantage of the owners of the oil and gas rights within the common source of supply or portion thereof directly affected,

it shall make a finding to that effect and make an order creating the unit and providing for the unitization and unitized operation of the common source of supply or portion thereof described in the order, all upon such terms and conditions, as may be shown by the evidence to be fair, reasonable, equitable, and which are necessary or proper to protect, safeguard, and adjust the respective rights and obligations of the several persons affected, including royalty owners, owners of overriding

royalties, oil and gas payments, carried interests, mortgagees, lien claimants, and others, as well as the lessees. The petition shall set forth a description of the proposed unit area with a map or plat thereof attached, must allege the existence of the facts required to be found by the commission as hereinabove provided and shall have attached thereto a proposed plan of unitization applicable to such proposed unit area and which the petitioner or petitioners consider to be fair, reasonable, and equitable.

§ 4.) Section 38-08-09.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.4. Order—Units and Unit Areas—Plan of Unitization.) The order of the commission shall define the area of the common source of supply or portion thereof to be included within the unit area and prescribe with reasonable detail the plan of unitization applicable thereto.

Each unit and unit area shall be limited to all or a portion of a single common source of supply.

A unit may be created to embrace less than the whole of a common source of supply only where it is shown by the evidence that the area to be so included within the unit area is of such size and shape as may be reasonably required for the successful and efficient conduct of the unitized method or methods of operation for which the unit is created, and that the conduct thereof will have no material adverse effect upon the remainder of such common source of supply.

The plan of unitization for each such unit and unit area shall be one suited to the needs and requirements of the particular unit dependent upon the facts and conditions found to exist with respect thereto. In addition to such other terms, provisions, conditions and requirements found by the commission to be reasonably necessary or proper to effectuate or accomplish the purpose of this Act, and subject to the further requirements hereof, each such plan of unitization shall contain fair, reasonable, and equitable provisions for:

1. The efficient unitized management or control of the further development and operation of the unit area for the recovery of oil and gas from the common source of supply affected. Under such a plan the actual operations within the unit area may be carried on in whole or in part by the unit itself, or by one or more of the lessees within the unit area as unit operator subject to the supervision and direction of the unit, dependent upon what is most beneficial or expedient. The designation of the unit operation shall be by a vote of the

working interest owners in the unit in a manner provided by the plan of unitization and not by the commission, and the unit operating agreement shall contain a provision that the owners of a simple majority of the working interest in the unit area may vote to change the unit operator;

2. The division of interest or formula for the apportionment and allocation of the unit production, among and to the several separately-owned tracts within the unit area such as will reasonably permit persons otherwise entitled to share in or benefit by the production from such separately-owned tracts to produce or receive, in lieu thereof, their fair, equitable, and reasonable share of the unit production or other benefits thereof. A separately-owned tract's fair, equitable, and reasonable share of the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable therefrom, location on structure, its probable productivity of oil and gas in the absence of unit operations, the burden of operation to which the tract will or is likely to be subjected, or so many of said factors, or such other pertinent engineering, geological, or operating factors, as may be reasonably susceptible of determination. Unit production as that term is used in this Act shall mean and include all oil and gas produced from a unit area from and after the effective date of the order of the commission creating the unit regardless of the well or tract within the unit area from which the same is produced;

3. The manner in which the unit and the further development and operation of the unit area shall or may be financed and the basis, terms, and conditions on which the cost and expense thereof shall be apportioned among and assessed against the tracts and interests made chargeable therewith, including a detailed accounting procedure governing all charges and credits incident to such operations. Upon and subject to such terms and conditions as to time and legal rate of interest as may be fair to all concerned, reasonable provision shall be made in the plan of unitization for carrying or otherwise financing lessees who are unable to promptly meet their financial obligations in connection with the unit;

4. The procedure and basis upon which wells, equipment, and other properties of the several lessees within the

unit area to be taken over and used for unit operations, including the method of arriving at the compensation therefor, or of otherwise proportionately equalizing or adjusting the investment of the several lessees in the project as of the effective date of unit operation;

5. The creation of an operating committee to have general overall management and control of the unit and the conduct of its business and affairs and the operations carried on by it, together with the creation or designation of such other subcommittees, boards, or officers to function under authority of the operating committee as may be necessary, proper or convenient in the efficient management of the unit, defining the powers and duties of all such committees, boards, or officers and prescribing their tenure and time and method for their selection;

6. The time when the plan of unitization shall become and be effective;

7. The time when and conditions under which and the method by which the unit shall or may be dissolved and its affairs wound up.

§ 5.) Section 38-08-09.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.5. Ratification or Approval of Plan by Lessees and Owners.) At the time of filing of the petition for the approval of a unit agreement and the filing of the unit agreement, the commission shall set a time and place for the hearing. At least 45 days prior to the hearing, the applicant or someone under his direction and control, shall give notice of the time and place of said hearing and shall mail, postage prepaid, a copy of the application and the proposed plan of unitization to each affected person owning an interest of record in the unit outline, at such person's last known post office address. In addition, such applicant shall file with the commission engineering, geological, and all other technical exhibits to be used at said hearing, and further, the notice shall so specify that such material is filed and is available for inspection. Service shall be complete in the mailing of the notice of hearing and unit agreement to each interest owner as hereinbefore prescribed at their last known address and the filing of an affidavit of mailing with the commission. No order of the commission creating a unit and prescribing the plan of unitization applicable thereto shall become effective unless and until the plan of unitization has been signed, or in writing ratified or approved by those persons who, under the commission's order, will be required to pay at least eighty percent of

the costs of the unit operation and also by the owners of at least eighty percent of the production or proceeds thereof that will be credited to interests which are free of cost such as royalties, overriding royalties, and production payments, and in addition it shall be required that when there is more than one person who will be obligated to pay costs of the unit operation, at least two nonaffiliated such persons and at least two of the persons owning production or proceeds thereof that will be credited to interests which are free of costs such as royalties, overriding royalties, and production payments, shall be required as voluntary parties, and the commission has made a finding either in the order creating the unit or in a supplemental order that the plan of unitization has been so signed, ratified, or approved by lessees and royalty owners owning the required percentage interest in and to the unit area. Where the plan of unitization has not been so signed, ratified, or approved by lessees and royalty owners owning the required percentage interest in and to the unit area at the time the order creating the unit is made, the commission shall, upon petition and notice, hold such additional and supplemental hearings as may be requested or required to determine if and when the plan of unitization has been so signed, ratified, or approved by lessees and royalty owners owning the required percentage interest in and to the unit area and shall, in respect to such hearings, make and enter a finding of its determination in such regard. In the event lessees and royalty owners, or either, owning the required percentage interest in and to the unit area have not so signed, ratified, or approved the plan of unitization within a period of six months from and after the date on which the order creating the unit is made, the order creating the unit shall cease to be of further force and effect and shall be revoked by the commission.

§ 6.) Section 38-08-09.6 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.6. Unlawful Operation.) From and after the effective date of an order of the commission creating a unit and prescribing the plan of unitization applicable thereto, the operation of any well producing from the common source of supply or portion thereof within the unit area defined in the order by persons other than the unit or persons acting under its authority or except in the manner and to the extent provided in such plan of unitization shall be unlawful and is hereby prohibited.

§ 7.) Section 38-08-09.7 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.7. Status and Powers of Unit — Liability for Expenses — Liens.) Each unit created under the provisions of this Act shall be a body politic and corporate, capable of suing, being sued, and contracting as such in its own name. Each such unit shall be authorized on behalf and for the account of all the owners of the oil and gas rights within the unit area, without profit to the unit, to supervise, manage, and conduct the further development and operations for the production of oil and gas from the unit area, pursuant to the powers conferred, and subject to the limitations imposed by the provisions of this Act and by the plan of unitization.

The obligation or liability of the lessee or other owners of the oil and gas rights in the several separately-owned tracts for the payment of unit expense shall at all times be several and not joint or collective and in no event shall a lessee or other owner of the oil and gas rights in the separately-owned tract be chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interest in such separately-owned tract pursuant to the plan of unitization and then only to the extent of the lien provided for in this Act.

Subject to such reasonable limitations as may be set out in the plan of unitization, the unit shall have a first and prior lien upon the leasehold production (exclusive of such interests which are free of costs, such as royalties, overriding royalties, and production payments) in and to each separately-owned tract, the interest of the owners thereof in and to the unit production in the possession of the unit, to secure the payment of the amount of the unit expense charged to and assessed against such separately-owned tract. The interest of the lessee or other persons who by lease, contract, or otherwise are obligated or responsible for the cost and expense of developing and operating a separately owned tract for oil and gas in the absence of unitization, shall, however, be primarily responsible for and charged with any assessment for unit expense made against such tract. Any land owner, royalty or any overriding royalty, or any production payment which is a part of the unit production allocated to each separately-owned tract shall in all events be regarded as royalty to be distributed to and among, or the proceeds thereof paid to the royalty owners free and clear of all unit expense and free of any lien thereof.

§ 8.) Section 38-08-09.8 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.8. Modification of Property Rights, Leases and Contracts—Title to Property—Distribution of Proceeds—Delivery in Kind—Effect of Operations—Matters Not Affected.) Prop-

erty rights, leases, contracts, and all other rights and obligations shall be regarded as amended and modified to the extent necessary to conform to the provisions and requirements of this Act and to any valid and applicable plan of unitization or order of the commission made and adopted pursuant hereto, but otherwise to remain in full force and effect.

Nothing contained in this Act shall be construed to require a transfer to or vesting in the unit of title to the separately-owned tracts or leases thereon within the unit area, other than the right to use and operate the same to the extent set out in the plan of unitization; nor shall the unit be regarded as owning the unit production. The unit production and the proceeds from the sale thereof shall be owned by the several persons to whom the same is allocated under the plan of unitization. All property, whether real or personal, which the unit may in any way acquire, hold, or possess shall not be acquired, held, or possessed by the unit for its own account but shall be so acquired, held, and possessed by the unit for the account and as agent of the several lessees and shall be the property of such lessees as their interests may appear under the plan of unitization, subject, however, to the right of the unit to the possession, management, use, or disposal of the same in the proper conduct of its affairs.

The amount of the unit production allocated to each separately-owned tract within the unit, and only that amount, regardless of the well or wells in the unit area from which it may be produced, and regardless of whether it be more or less than the amount of the production from the well or wells, if any, on any such separately-owned tract, shall for all intents, uses, and purposes be regarded and considered as production from such separately-owned tract, and, except as may be otherwise authorized in this Act, or in the plan of unitization approved by the commission, shall be distributed among or the proceeds thereof paid to the several persons entitled to share in the production from such separately-owned tract in the same manner, in the same proportions, and upon the same conditions that they would have participated and shared in the production or proceeds thereof from such separately-owned tract had not said unit been organized, and with the same legal force and effect. If adequate provisions are made for the receipt thereof, the share of the unit production allocated to each separately-owned tract shall be delivered in kind to the persons entitled thereto by virtue of ownership of oil and gas rights therein or by purchase from such owners subject to the rights of the unit to withhold and sell the same in payment of unit expense pursuant to the plan of unitization, and subject further to the call of the unit on such proportions

of the gas for operating purposes as may be provided in the plan of unitization.

Operations carried on under and in accordance with the plan of unitization shall be regarded and considered as a fulfillment of and compliance with all of the provisions, covenants, and conditions, express or implied, of the several oil and gas mining leases upon lands included within the unit area, or other contracts pertaining to the development thereof, insofar as said leases or other contracts may relate to the common source of supply or portion thereof included in the unit area. Wells drilled or operated on any part of the unit area no matter where located shall for all purposes be regarded as wells drilled on each separately-owned tract within such unit area.

Nothing herein or in any plan of unitization shall be construed as increasing or decreasing the express or implied covenants of a lease in respect to a common source of supply or lands not included within the unit area of a unit.

§ 9.) Section 38-08-09.9 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.9. Enlargement of Area—Creation of New Units—Amendment of Plan.) The unit area of a unit may be enlarged at any time by the commission, subject to the limitations hereinbefore provided to include adjoining portions of the same common source of supply, including the unit area of another unit, and a new unit created for the unitized management, operation, and further development of such enlarged unit area, or the plan of unitization may be otherwise amended, all in the same manner, upon the same conditions and subject to the same limitations as herein provided with respect to the creation of a unit in the first instance, except, that where an amendment to a plan of unitization relates only to the rights and obligations as between lessees the requirement that the same be signed, ratified, or approved by royalty owners of record of not less than eighty percent of the unit area shall have no application.

§ 10.) Section 38-08-09.10 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.10. Reasonableness of Plan.) A plan of unitization shall not be considered fair and reasonable if it contains a provision for operating charges which include any part of district or central office expense other than reasonable overhead charges.

§ 11.) Section 38-08-09.11 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.11. Participating by Public Lands.) The proper board or officer of the state having the control and management of state land, and the proper board or officer of any political, municipal, or other subdivision or agency of the state, are hereby authorized and shall have the power on behalf of the state or of such political, municipal, or other subdivision or agency thereof, with respect to land or oil and gas rights, subject to the control and management of such respective body, board, or officer, to consent to or participate in any plan or program of unitization adopted pursuant to this Act.

§ 12.) Section 38-08-09.12 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.12. Receipts as Income.) Neither the unit production, nor proceeds from the sale thereof, nor other receipts shall be treated, regarded, or taxed as income or profits of the unit; but instead, all such receipts shall be the income of the several persons to whom or to whose credit the same are payable under the plan of unitization. To the extent the unit may receive or disburse said receipts it shall only do so as a common administrative agent of the persons to whom the same are payable.

§ 13.) Section 38-08-09.13 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.13. Definitions.) For the purposes of this Act, unless the context otherwise requires:

1. The term "lessee" refers not only to lessees under oil and gas leases but also includes owners of unleased mineral rights having the right to develop the same for oil and gas to the extent of a 7/8ths interest.

2. Any reference to a separately-owned tract, although in general terms broad enough to include the surface and all underlying common sources of supply of oil and gas shall have reference thereto only in relation to the common source of supply or portion thereof embraced within the unit area of a particular unit.

3. The phrase "oil and gas" shall refer not only to oil and gas as such in combination one with the other, but shall have general reference to oil, gas, casinghead gas, casinghead gasoline, gas-distillate, or other hydrocarbons, or any combination or combinations thereof, which may be found in or produced from a common source of supply of oil, oil and gas or gas-distillate.

4. The term "person" shall mean and include any individual, corporation, partnership, common law or statutory trust, association of any kind, the state of North Dakota, or any subdivision or agency thereof acting in a proprietary capacity, guardian, executor, administrator, fiduciary of any kind, or any other entity or being capable of owning an interest in and to a common source of supply of oil and gas.

5. The term "unit expense" shall include and mean any and all cost and expense in the conduct and management of its affairs or the operations carried on by it.

§ 14.) Section 38-08-09.14 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.14. Severability of Provisions.) The provisions of this Act are declared to be severable, and, if any section, sentence, clause, or part thereof be held invalid or unconstitutional for any reason, such invalidity or unconstitutionality shall not be construed to affect the validity of the remaining provisions of this Act.

§ 15.) Section 38-08-09.15 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.15. Agreements Not Violative of Laws Governing Monopolies or Restraint of Trade.) No agreement between or among lessees or other owners of oil and gas rights in oil and gas properties, entered into pursuant hereto or with a view or for the purpose of bringing about the unitized development or operation of such properties, shall be held to violate any of the statutes of this state prohibiting monopolies or acts, arrangements, agreements, contracts, combinations, or conspiracies in restraint of trade or commerce.

§ 16.) Section 38-08-09.16 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.16. Appeals.) Any person adversely affected by an order of the commission made under this Act, may appeal from such order to the district court of the county in which the land or a part thereof involved in the unit lies, in the manner provided in section 38-08-14 of the North Dakota Century Code.

Approved March 20, 1965.

MOTOR VEHICLES

CHAPTER 261

H. B. No. 630
(Collette, Backes, Coles, Erickson (Ward), Hoffner, Stallman,)
(Whittlesey)

CLASS A EMERGENCY VEHICLES

AN ACT

To amend and reenact subdivision a of subsection 1 of section 39-01-01 and subsection 3 of section 39-21-18 of the North Dakota Century Code, relating to emergency vehicles to be used by the adjutant general.

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

§ 1. Amendment.) Subdivision a of subsection 1 of section 39-01-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

a. Class A authorized emergency vehicles shall mean:

(1) Vehicles of a governmental owned fire department;

(2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title pertaining to all motor vehicles or by a salaried employee of any municipal police department within the municipality or by any sheriff or deputy sheriff not to include special deputy sheriffs, or by the warden of the state penitentiary and his authorized agents;

(3) Ambulances;

(4) Vehicles operated by or under the control of the commissioner, and district deputy commissioner, and district deputy game warden of the North Dakota game and fish department;

(5) Vehicles owned or leased by the United States Government used for law enforcement purposes;

(6) Vehicles designated for the use of the adjutant general and assistant adjutant general in cases of emergency;

§ 2. **Amendment.)** Subsection 3 of section 39-21-18 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A police vehicle when used as an authorized emergency vehicle may but need not be equipped with alternately flashing red lights specified herein and a vehicle designated for the use of the adjutant general or the assistant adjutant general may but need not be equipped with a siren, exhaust whistle or bell specified herein.

Approved March 5, 1965.

CHAPTER 262

S. B. No. 94
(Longmire)

CLASS C EMERGENCY VEHICLES

AN ACT

To create and enact subdivision c of subsection 1 of section 39-01-01 and section 39-10-03.2 of the North Dakota Century Code, relating to the definition of authorized emergency vehicles.

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

§ 1.) Subdivision c of subsection 1 of section 39-01-01 of the 1963 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

c. Class C vehicles used by civil defense directors while used in the performance of emergency duties;

§ 2.) Section 39-10-03.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-10-03.2. Class C Authorized Emergency Vehicles.) All Class B specifications shall apply except that a rotating blue flashing light shall be displayed.

Approved March 1, 1965.

CHAPTER 263

H. B. No. 780
(Tweten, Larsen (Grand Forks), Unruh)

TIRES TO BE USED ON HIGHWAYS

AN ACT

To amend and reenact subsection 30 of section 39-01-01 and section 39-21-40 of the North Dakota Century Code, relating to the use of certain tires on highways.

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

§ 1. Amendment.) Subsection 30 of section 39-01-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

30. "Metal tires" shall include all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material except that this provision shall not apply to pneumatic tires;

§ 2. Amendment.) Section 39-21-40 of the 1963 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 or 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, upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid.

Approved March 8, 1965.

CHAPTER 264

H. B. No. 647
(Linderman, Frank)

DEFINITION OF MOTORCYCLE

AN ACT

To define motorcycle.

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

§ 1.) "Motorcycle" shall mean every 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, but excluding implements of husbandry.

Approved March 5, 1965.

CHAPTER 265

H. B. No. 889
(Sanstead)

MARKINGS ON STATE-OWNED VEHICLES

AN ACT

To amend and reenact section 39-01-02 of the 1963 Supplement to the North Dakota Century Code, requiring state-owned motor vehicles having name printed on side of vehicles, providing a penalty for failure and providing an exception for the governor's vehicle.

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

§ 1. Amendment.) Section 39-01-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-01-02. State-Owned Motor Vehicles to Have Name Painted on Side of Vehicles—Penalty for Failure.) All motor vehicles owned by any state department, institution, or industry and operated by such department, institution, or industry, except the official vehicle for use by the governor, shall have painted on each front door the following words: NORTH DAKOTA, in letters four inches in height. Two and one-half inches directly below such words shall be printed in letters one and one-half inches in height the name of the

department, institution, or industry of the state owning or operating such motor vehicle. The width of the lettering required by this section shall be proportionate to the required height and the color of such lettering shall be in clear and sharp contrast to the background. The state highway patrol and all peace officers of this state shall enforce the provisions of this section. The state auditor, in the course of spot checking or verifying the inventory of any department, institution, or industry, shall include in his report to the governor and the legislative assembly any instance of noncompliance with this section that shall come to his attention. The above requirements shall not apply to cars owned and operated by the state highway patrol or cars used principally in institutional, juvenile, parole and placement service; or to any truck owned by any state department, institution, or industry. Any state official, or any employee of any state department, institution, or industry, who uses a motor vehicle which shall not be marked as is required by this section is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Approved March 5, 1965.

CHAPTER 266

S. B. No. 363
(Delayed Bills Committee)

MOTOR VEHICLE LIABILITY INSURANCE OF GOVERNMENTAL BODIES

AN ACT

To amend and reenact sections 39-01-08, 39-07-05 and 40-43-07 of the North Dakota Century Code, relating to waiver of defense of immunity when motor vehicle liability insurance is carried.

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.) 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, drainage and irrigation districts using or operating motor vehicles, are hereby authorized to carry insurance for their own protection and the 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; provided, however, that any insurance carrier furnishing such insurance shall not be permitted to raise a defense of governmental immunity or immunity of any employee, from liability for any damage or loss occasioned by any such vehicle or the operator thereof, which waiver shall be contained in the policy; provided, further, that 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.

§ 2. **Amendment.)** Section 39-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-05. Applicability of Provisions of Chapters.) The provisions of chapters 39-08 through 39-13 applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by this state or any county, district, or other political subdivision of this state subject to such specific exceptions as are set forth in such chapters. The provisions of such chapters shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work, provided, however, the provisions of this section shall not be raised as a defense from negligence by the state or any insurance carrier in any action for damage or loss occasioned by any vehicle or the operator thereof which is insured under the provisions of sections 39-01-08 or 40-43-07 of the North Dakota Century Code.

§ 3. **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 — Defense of Governmental Immunity Not Available to Insurers.) 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. This section shall not deprive any political subdivision of the state of its right to claim governmental immunity or immunity of

any employee but such immunity shall not be available to the insurance carrier furnishing such insurance and all policies providing for such insurance shall contain a waiver of such defense.

Approved March 17, 1965.

CHAPTER 267

H. B. No. 658
(Tweten, Shablow, Krenz, Opedahl, Dahlen, Larsen (Grand Forks))

APPOINTMENT OF HIGHWAY PATROLMEN

AN ACT

To amend and reenact subsection 5 of section 39-03-03 of the North Dakota Century Code, relating to highway patrolmen, their appointments, removal and duties.

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

§ 1. Amendment.) Subsection 5 of section 39-03-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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.

Approved March 2, 1965.

CHAPTER 268

S. B. No. 216
(Jurgensen, Sorlie)

POWERS OF HIGHWAY PATROL

AN ACT

To amend and reenact section 39-03-09 of the North Dakota Century Code, relating to the powers of the highway patrol.

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

§ 1. Amendment.) Section 39-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-09. Powers of Highway Patrol.) The superintendent and each member of the highway patrol, shall have the power:

1. Of a peace officer for the purpose of enforcing the provisions of this title relating to operators' licenses, the provisions of title 24 relating to highways, and of any other law regulating the operation of vehicles or the use of the highways, and in addition the highway patrol shall enforce all laws relating to the use or presence of alcoholic beverages in motor vehicles;

2. To make arrests upon view and without warrant for any violation committed in his presence of any of the provisions of this title relating to operators' licenses, or of title 24 relating to highways or to other laws regulating the operation of vehicles or the use of the highways;

3. To direct traffic in conformance with law, or, in case of fire or emergency and to expedite traffic, or, to insure safety by directing traffic as conditions may require notwithstanding the provisions of law;

4. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this title relating to operators' licenses or of any other law regulating the operation of vehicles, to require the driver of such vehicle to stop and exhibit his operators' license and the registration card issued for the vehicle, and to submit to an inspection of such vehicle, the registration plates and registration card thereon, or to submit to an inspection and test of the equipment of such vehicle;

5. For the purpose of locating stolen vehicles and to investigate the title and registration thereof, to inspect any vehicle of a type required to be registered under the provisions of this title, in any public garage or repair shop, or in any place where such vehicles are held for sale or wrecking;
6. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways;
7. To investigate traffic accidents and secure testimony of witnesses or of persons involved;
8. To investigate reported thefts of motor vehicles, trailers, semi-trailers;
9. To take applications for operators' licenses without making a charge therefor; and
10. To enforce all laws, rules or regulations of the state of North Dakota pertaining to the closing hours of all business or establishments selling alcoholic beverages outside the limits of incorporated cities and villages of this state.
11. Of a peace officer for the purpose of enforcing the provisions of this code at all state charitable and penal institutions and on the state capitol grounds.

Approved March 1, 1965.

CHAPTER 269

S. B. No. 141
(Holand, Reichert, Forkner, Becker)

HIGHWAY PATROLMEN'S RETIREMENT SYSTEM

AN ACT

To create and enact subsection 8 of section 39-03A-01 and 39-03A-21.1 of the North Dakota Century Code, to amend and reenact subsection 7 of section 39-03A-01, sections 39-03A-09, 39-03A-10, 39-03A-15, 39-03A-17 and 39-03A-21 of the North Dakota Century Code, and to repeal sections 39-03A-19 and 39-03A-20 of the North Dakota Century Code, relating to the highway patrolmen's retirement system.

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

§ 1. Amendment.) Subsection 7 of section 39-03A-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. "Average monthly salary," the amount which will be produced by dividing the total compensation, but not including compensation in excess of four hundred dollars in any month, before deductions, received by the contributor during the last ten years of his service, by the total number of active service served by him, during such ten year period, or, if the contributor has not served a month of active service, then the amount of the contributor's beginning salary, not exceeding four hundred dollars. Retirement, disability, widow's benefit, children's benefit, severance payments, and death payments shall henceforth be computed in accordance with this subsection whether the retirement, disability, or death occurred prior to or subsequent to its passage, except that retirement, disability, children's benefit, widow's benefit, severance payments and death payments of contributors, or the dependents of contributors, not employed by the highway patrol subsequent to January 1, 1964, shall remain as established by the laws in effect prior to such date.

§ 2. **Amendment.)** Subsection 8 of section 39-03A-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

8. "Regular interest," the interest to be credited on the contributor's contributions in the amount of three percent per annum.

§ 3. **Amendment.)** Section 39-03A-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-09. Payments by Contributors.) Every member shall be required to contribute into the fund a sum equal to six percent of his monthly salary, but not to exceed twenty-four dollars, which sum shall be deducted from his salary and credited to his account in the fund. Every member, who has been in the employ of the North Dakota highway patrol prior to July 1, 1949, shall have the option and he may elect to make payments to the date when he first entered the service of the North Dakota highway patrol. Such back payments shall not exceed three and one-half percent of the total salary which would have been earned by the contributor had he continued in the service of the patrol, and may be spread over a period of three years by having the regular payroll deduction of the contributor increased in an amount equal to the total of his back payments divided by thirty-six, which deduction increase shall be credited to such back payments owing and shall be continued until the full amount of such back pay-

ments shall have been completed. Any such deduction increase may be anticipated in part or in full by the contributor at any time and must be anticipated in full before a retirement or optional retirement allowance is granted, and, if not so anticipated and paid in full, then any retirement or optional retirement allowance to which the contributor would otherwise be entitled shall be reduced by an amount and for such time as will assure that the back payments will be returned to the fund in the same manner as if the deduction increase had been continued. Every contributor who shall elect to make such back payments shall receive full credit under this chapter for all contributions made into the fund and for all service credits to which he might thereby be entitled.

§ 4. Amendment.) Section 39-03A-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-10. Contributions by the State of North Dakota.) The state of North Dakota shall annually contribute to the fund a sum equal to one and one-fourth of the amount contributed by patrolmen to this fund from the general fund.

§ 5. Amendment.) Section 39-03A-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-15. Disability Retirement.) Each contributor who shall become totally disabled, regardless of the amount, if any, of his accumulated deductions, may apply to the board for disability retirement allowance provided for in section 39-03A-16.

§ 6. Amendment.) Section 39-03A-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-17. Severance Allowance.) Each contributor who has not reached the age of sixty-five and whose employment with the patrol has been terminated and who is not entitled to any retirement or survivors' benefits, shall be entitled to receive from the fund, upon making application therefor to the board, a severance allowance which shall consist of the amount of the accumulated deductions of the contributor plus regular interest.

§ 7. Amendment.) Section 39-03A-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-21. Payments in Case of Death.) Whenever a contributor, whether or not he is receiving or is entitled to receive

a retirement, optional retirement, or disability retirement allowance, dies leaving a surviving wife or children an allowance shall be paid to the surviving wife until her death or prior remarriage, or, if there is no surviving wife, to the surviving children under eighteen years of age.

Eligibility for benefits under the provisions of this section shall be effective for the widows or children of all members making contributions to the North Dakota highway patrolmen's retirement fund subsequent to July 1, 1955.

Such allowance shall be seventy-five percent of the maximum retirement benefit.

§ 8.) Section 39-03A-21.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-03A-21.1. Children's Benefit—Limitation.) Each dependent child of a contributor shall be entitled to receive a monthly benefit of $10.00 until such dependent child reaches the age of eighteen years. In the event of the remarriage of the surviving wife, each such dependent child shall then be entitled to receive a monthly benefit of $25.00 until such dependent child reaches the age of eighteen years. The benefits provided for dependent children in this section shall be payable only if the child or children are not receiving benefits under the preceding section. The aggregate maximum family benefit under this section and the preceding section shall, however, in no event exceed the basic amount upon which the widow's benefit is based. The children's benefit payable under this section or the preceding section shall be paid to the parent or legally appointed guardian as the case may be.

§ 9. **Repeal.)** Sections 39-03A-19 and 39-03A-20 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1965.

CHAPTER 270

S. B. No. 360
(Committee on Delayed Bills)

MOTOR VEHICLE LICENSE PLATES

AN ACT

To amend and reenact section 39-04-11 of the North Dakota Century Code, relating to the display of motor vehicle number plates and tabs, and declaring an emergency.

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

§ 1. Amendment.) Section 39-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-11. Display of Number Plates and Tabs.) Except as otherwise specifically provided, no person shall operate or drive a motor vehicle on the public highways of this state unless such vehicle shall have a distinctive number assigned to it by the registrar, and two number plates, bearing such number conspicuously displayed, horizontally and in an upright position, one on the front and one on the rear of such vehicle, each securely fastened, except number plates assigned to a motorcycle or house trailer shall be attached to the rear thereof. As far as is reasonably possible, such plates shall at all times be kept free and clear of mud, ice, or snow so as to be clearly visible and all number plates, markers, or evidence of registration or licensing except for the current year shall be removed from such vehicle. All motor vehicle license plates issued by the registrar, shall continue to be the property of the state of North Dakota for the period for which said plates are valid. An annual registration tab or sticker for the current registration year shall be displayed on each number plate in those years for which such tabs or stickers are issued in lieu of number plates.

§ 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, 1965.

CHAPTER 271

S. B. No. 140
(Hernett, Bopp, Sorlie)
(Budget Board Recommendation)

TRANSFER OF FEES FOR REGISTRATION OF MOTOR VEHICLES

AN ACT

To amend and reenact section 39-04-12 of the North Dakota Century Code, relating to the additional fee of fifty cents charged for the registration of motor vehicles, and to provide for the transfer of the balance remaining in the license plate revolving fund to the motor vehicle registration fund.

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

§ 1. **Amendment.)** Section 39-04-12 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-12. Contents of Number Plates—Size of Letters and Numerals on Plates—Reflectorized—Tabs or Stickers—Additional Fee.) Number plates shall be of metal or other suitable material bearing the name of the state, either in full or by abbreviation, the number of the year, the slogan "Peace Garden State" and a distinctive number for assignment to each vehicle. The distinctive number may be in figures or a combination of figures and letters and shall be of a size clearly distinguishable by law enforcement officers and individuals generally. To reduce highway accidents at night all such number plates shall be legible for a minimum distance of one hundred feet to an approaching motorist by day or night with lawful headlight beams and without other illumination. Each standard six inch by twelve inch finished numeral plate except trailer plates and dealer's plates shall be treated with a reflectorized material according to the specifications prescribed by the registrar. The registrar shall furnish such number plates for a four-year period commencing January 1, 1958. In any year during which number plates are not furnished the registrar shall furnish for each annual registration a year plate, tab, or sticker to designate the year of registration. This plate, tab, or sticker shall show the calendar year for which issued, and is valid only for that year. It shall be unlawful for any person to transfer to another vehicle the number plate, tab, or sticker during the period or calendar year for which issued. For the purpose of procuring number plates which are treated for increased visibility as hereinbefore provided, an

additional fee of fifty cents per year for each registration of a vehicle shall be added to the registration fee, which additional fee shall be deposited by the registrar in the motor vehicle registration fund in the state treasury.

The motor vehicle registrar may, in his discretion, provide special plates marked with initials, letters, or combination of numerals and letters at the request of the registrant, upon application therefor and upon payment of an additional fee of one hundred dollars. In the event of sale or transfer of the vehicle, the special plates shall be surrendered and upon application, a regular license plate shall be issued without additional cost.

§ 2. Transfer of Funds.) All existing balances in the license plate revolving fund on June 30, 1965, shall be transferred by the state treasurer to the motor vehicle registration fund.

Approved March 2, 1965.

CHAPTER 272

H. B. No. 710
(Connolly, Streibel, Reimers)

TRANSFER OF REGISTRATION PLATES

AN ACT

To amend and reenact section 39-04-36 of the 1963 Supplement to the North Dakota Century Code, relating to the transfer of registration plates to certain vehicles.

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

§ 1. Amendment.) Section 39-04-36 of the 1963 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 56,000 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 such transfer of registration. Whenever the truck from which plates are transferred remains in a motor vehicle dealer's possession in North Dakota, it must be licensed for a minimum weight of 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 properly licensed therefor under the provisions of this chapter.

Approved March 3, 1965.

CHAPTER 273

H. B. No. 646
(Linderman, Frank)

ACCIDENT REPORTS

AN ACT

To amend and reenact section 39-08-09 of the North Dakota Century Code, relating to accident reports.

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

§ 1. Amendment.) Section 39-08-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-09. Immediate Notice and Written Report of Accident.) The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of fifty dollars or more shall immediately give notice of such accident to the local police department if such accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the state highway patrol. Within five days after such accident, the driver shall also forward a written report of the accident to the highway commissioner.

The highway commissioner may suspend the license or permit to drive and any nonresident operating privileges of any person failing to report an accident as provided in sections 39-08-06 through 39-08-09 until such report has been filed, and the commissioner may extend such suspension not to exceed thirty days.

Approved March 2, 1965.

CHAPTER 274

H. B. No. 648
(Tweten, Unruh, Krenz, Dahlen, Opedahl)

PUBLIC INSPECTION OF ACCIDENT REPORTS

AN ACT

To amend and reenact subsection 3 of section 39-08-14 of the North Dakota Century Code, as amended, relating to public inspection of reports relating to accidents.

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

§ 1. Amendment.) Subsection 3 of section 39-08-14 of the North Dakota Century Code, as amended, is hereby amended and reenacted to read as follows:

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.

Approved February 27, 1965.

CHAPTER 275

H. B. No. 601
(Tweten, Unruh, Dahlen, Krenz)

UNLAWFUL USE OF ALCOHOLIC BEVERAGES

AN ACT

To amend and reenact section 39-08-18 of the North Dakota Century Code, relating to open receptacles containing alcoholic beverages in automobile, truck or bus.

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

§ 1. Amendment.) Section 39-08-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-18. Unlawful to Have Opened Receptacle Containing Alcoholic Beverages in or on a Motor Vehicle.) No person shall drink or consume alcoholic beverages, as defined in section 5-01-01, in or on a motor vehicle, nor shall any person have in his possession on his person while in or on a motor vehicle, or keep in or on a motor vehicle, any bottle or receptacle, containing alcoholic beverages, as herein defined, which has been opened or the contents of which have been partially consumed. Any person violating the provisions of this section shall be guilty of a misdemeanor, and shall be punished by a fine or 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 February 24, 1965.

CHAPTER 276

S. B. No. 183
(Lashkowitz, Lips)

USE OF LIGHTS ON EMERGENCY VEHICLES

AN ACT

To amend and reenact section 39-10-03 of the 1963 Supplement to the North Dakota Century Code, relating to emergency vehicles and the permissive use of red or white revolving lights, and limiting the use of such revolving lights, and declaring an emergency.

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

§ 1. Amendment.) Section 39-10-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-03. Class A Authorized Emergency Vehicles.)

1. The driver of a class A authorized emergency vehicle may:

   a. Park or stand, irrespective of the provisions of this chapter;

   b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

   c. Exceed the speed limit so long as he does not endanger life or property;

d. Disregard regulations governing direction of movement or turning in specified directions.

2. The exceptions herein granted to a class A authorized emergency vehicle shall apply only:

   a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions;

   b. When the class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death or damage to property, and when giving audible signal by siren or when giving adequate warning by use of a flashing red light which is visible under normal atmospheric conditions for at least five hundred feet;

   c. In any instance when the head of a law enforcement agency deems advisable within the area of his jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red light which is visible under normal atmospheric conditions for at least five hundred feet.

3. No emergency vehicle shall display or permit to be displayed any red lamp except when operated on official business.

4. Vehicles operated as emergency fire apparatus owned or operated by a duly organized fire department while responding to an emergency may use revolving white or red lights. No other vehicles may use revolving white lights.

§ 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 17, 1965.

CHAPTER 277

S. B. No. 96
(Kadlec, Dahlund, Larson)

TRAFFIC CONTROL DEVICES

AN ACT

To amend and reenact subsection 3 of section 39-10-44 of the 1963 Supplement to the North Dakota Century Code, relating to uniform traffic control devices, and declaring an emergency.

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

§ 1. **Amendment.)** Subsection 3 of section 39-10-44 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Every stop sign shall bear the word "STOP" in letters not less than eight inches in height. Every yield sign shall bear the word "YIELD" in letters not less than six inches in height. Every stop sign and every yield sign shall at nighttime be rendered luminous by internal illumination, or by a light projected on the face of the sign or by efficient reflecting elements in the face of the sign.

§ 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, 1965.

CHAPTER 278

H. B. No. 712
(Opedahl, Rustan, Tweten, Miller, Bowman)

SPECIAL PERMITS FOR LARGE VEHICLES

AN ACT

To amend and reenact section 39-12-02 of the 1963 Supplement to the North Dakota Century Code, relating to special permits for vehicles of excessive size and weight, and declaring an emergency.

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

§ 1. **Amendment.)** Section 39-12-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-02. Special Permits for Vehicles of Excessive Size and Weight Issued—Contents—Fees.) The commissioner and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified by this chapter, or with a load extending more than three feet beyond the front thereof, upon a highway under the jurisdiction of the body granting the permit. Every such permit may designate the route to be traversed, and may contain any other restrictions or conditions deemed necessary by the body granting such permit. Every such permit shall be carried in the vehicle to which it refers and shall be opened to inspection by any peace officer. It shall be a violation of the provisions of this chapter for any person to violate any of the terms or conditions of such special permit. All permits for the movement of excessive size and weight on state highways shall be single trips only.

An appropriate charge shall be made for each permit and all funds collected hereunder by the state highway commissioner shall be deposited in the state highway fund and are hereby appropriated for use in the construction and maintenance of highways and operating expenses of the highway department. Official or publicly owned vehicles shall not be required to pay charges for permits.

§ 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 20, 1965.

CHAPTER 279

S. B. No. 93
(Reichert, Kjos, Robinson)

LENGTH OF MOTOR VEHICLES

AN ACT

To amend and reenact subsection 4 and to create subsection 7 of section 39-12-04 of the North Dakota Century Code, relating to the length limitations on highway vehicles.

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

§ 1. Amendment.) Subsection 4 of section 39-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A length when operated in combination, including the load thereon, shall not exceed a length of 60 feet, except as hereinafter provided.

§ 2.) Subsection 7 of section 39-12-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

7. A combination of vehicles consisting of truck-tractor semi-trailer and trailer, including the load thereon, exceeding 60 feet in length but not exceeding 65 feet in length may be operated only on and over those highways in the state designated by the highway commissioner.

Approved March 15, 1965.

CHAPTER 280

S. B. No. 97
(Kadlec, Dahlund, Larson)

MEMBERSHIP OF RECIPROCITY COMMISSION

AN ACT

To amend and reenact section 39-19-01 of the North Dakota Century Code, relating to the membership 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 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, 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.

§ 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, 1965.

CHAPTER 281

S. B. No. 212
(Reichert, Longmire, Chesrown)

CHEMICAL ANALYSES TESTS

AN ACT

To amend and reenact subsection 5 of section 39-20-07 of the 1963 Supplement to the North Dakota Century Code, relating to admissibility of results of scientific tests.

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

§ **1. Amendment.)** Subsection 5 of section 39-20-07 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-07. Results of Chemical Analyses Admissible.)

5. The results of such chemical analysis shall be received in evidence when it is shown that the test was fairly administered, provided that a test of a person's blood, urine, breath or other bodily substance and the result thereof is further shown to have been performed according to methods and/or with devices approved by the state toxicologist and by an individual possessing a certificate of qualification to administer the test issued by the state toxicologist. The state toxicologist is authorized to approve satisfactory techniques, devices and methods of chemical analysis, and to determine and certify the qualifications of individuals to conduct such analysis.

Approved March 17, 1965.

CHAPTER 282

S. B. No. 217
(Dahlund, Mutch, Becker, Bopp, Tuff, Solberg, Jurgensen, Beck,)
(Ecker, Luick, Kisse)

MOTOR VEHICLE LIGHTS

AN ACT

To amend and reenact section 39-21-01 of the 1963 Supplement to the North Dakota Century Code, relating to the display of parking lights on moving vehicles.

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

§ **1. Amendment.)** Section 39-21-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-01. When Lighted Lamps Are Required.) Every vehicle upon a highway within this state at any time from a half-hour after sunset to a half-hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of five hundred feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles.

Approved March 15, 1965.

CHAPTER 283

S. B. No. 105
(Weber, Larson, Solberg)

SAFETY BELTS REQUIRED

AN ACT

To require safety belts on all 1966 and subsequent models of automobiles bought, sold, leased, traded or transferred by or to North Dakota residents and to prescribe type and manner of installation.

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

§ **1. Safety Belts.)** It is unlawful for any person to buy, sell, lease, trade or transfer from or to North Dakota residents at retail an automobile, which is manufactured or assembled

in 1966 or subsequent years, unless such vehicle is equipped with safety belts installed for use in the left front and right front seats thereof.

All such safety belts must be of a type and must be installed in a manner approved by the motor vehicle registrar. The registrar shall establish specifications and requirements for approved types of safety belts and attachments thereto, which as far as possible, shall conform to the specifications of the society of automotive engineers.

Approved March 8, 1965.

CHAPTER 284

S. B. No. 321
(Holand)

VEHICLE EQUIPMENT SAFETY COMPACT

AN ACT

To provide for the adoption and implementation of the Vehicle Equipment Safety Compact, declaring legislative intent thereto, providing for the administration and financing thereof, and providing a penalty for conflicts of interest.

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

§ **1.)** The Vehicle Equipment Safety Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

Vehicle Equipment Safety Compact

ARTICLE I

Findings and Purposes

1. The party states find that:

   a. Accidents and deaths on their streets and highways present a very serious human and economic problem with a major deleterious effect on the public welfare.

   b. There is a vital need for the development of greater interjurisdictional cooperation to achieve the necessary uniformity in the laws, rules, regulations, and codes relating to vehicle equipment, and to accomplish this by such means as will minimize the time between the development of demonstrably and scien-

tifically sound safety features and their incorporation into vehicles.

2. The purposes of this compact are to:

   a. Promote uniformity in regulation of and standards for equipment.

   b. Secure uniformity of law and administrative practice in vehicular regulation and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety.

   c. To provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in section 1 of this Article.

3. It is the intent of this compact to emphasize performance requirements and not to determine the specific details of engineering in the manufacture of vehicles or equipment except to the extent necessary for the meeting of such performance requirements.

ARTICLE II

Definitions

As used in this compact:

1. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

2. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

3. "Equipment" means any part of a vehicle or any accessory for use thereon which affects the safety of operation of such vehicle or the safety of the occupants.

ARTICLE III

The Commission

1. There is hereby created an agency of the party states to be known as the "Vehicle Equipment Safety Commission", hereinafter called the commission. The commission shall be composed of one commissioner from each party state who shall be appointed, serve, and be subject to removal in accordance

with the laws of the state which he represents. If authorized by the laws of his party state, a commissioner may provide for the discharge of his duties and the performance of his functions on the commission, either for the duration of his membership or any lesser period of time, by an alternate. No such alternate shall be entitled to serve unless notification of his identity and appointment shall have been given to the commission in such form as the commission may require. Each commissioner, and each alternate, when serving in the place and stead of a commissioner, shall be entitled to be reimbursed by the commission for expenses actually incurred in attending commission meetings or while engaged in the business of the commission.

2. The commissioners 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, or their alternates, are present.

3. The commission shall have a seal.

4. The commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The commission may appoint an executive director and fix his duties and compensation. Such executive director shall serve at the pleasure of the commission, and together with the treasurer shall be bonded in such amount as the commission shall determine. The executive director also shall serve as secretary. If there be no executive director, the commission shall elect a secretary in addition to the other officers provided by this subsection.

5. Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director with the approval of the commission, or the commission if there be no executive director, shall appoint, remove, or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

6. The commission may establish and maintain independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the commission shall be eligible for social security coverage in respect to old age and survivor's insurance, provided that the commission takes such steps as may be necessary pursuant to the laws of the United States to participate in such program of insurance as a governmental

agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

7. The commission may borrow, accept, or contract for the services of personnel from any party state, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party states or their subdivisions.

8. 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 and may receive, utilize, and dispose of the same.

9. 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.

10. 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. The bylaws shall provide for appropriate notice to the commissioners of all commission meetings and hearings and the business to be transacted at such meetings or hearings. Such notice shall also be given to such agencies or officers of each party state as the laws of such party state may provide.

11. 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, and embodying such recommendations as may have been issued by the commission. The commission may make such additional reports as it may deem desirable.

ARTICLE IV

Research and Testing

The commission shall have power to:

1. Collect, correlate, analyze, and evaluate information resulting or derivable from research and testing activities in equipment and related fields.

2. Recommend and encourage the undertaking of research and testing in any aspect of equipment or related matters

when, in its judgment, appropriate or sufficient research or testing has not been undertaken.

3. Contract for such equipment research and testing as one or more governmental agencies may agree to have contracted for by the commission, provided that such governmental agency or agencies shall make available the funds necessary for such research and testing.

4. Recommend to the party states changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations, or codes which would promote effective governmental action or coordination in the prevention of equipment-related highway accidents or the mitigation of equipment-related highway safety problems.

ARTICLE V

Vehicular Equipment

1. In the interest of vehicular and public safety, the commission may study the need for or desirability of the establishment of or changes in performance requirements or restrictions for any item of equipment. As a result of such study, the commission may publish a report relating to any item or items of equipment, and the issuance of such a report shall be a condition precedent to any proceedings or other action provided or authorized by this Article. No less than sixty days after the publication of a report containing the results of such study, the commission upon due notice shall hold a hearing or hearings at such place or places as it may determine.

2. Following the hearing or hearings provided for in subsection 1 of this Article, and with due regard for standards recommended by appropriate profession and technical associations and agencies, the commission may issue rules, regulations, or codes embodying performance requirements or restrictions for any item or items of equipment covered in the report, which in the opinion of the commission will be fair and equitable and effectuate the purposes of this compact.

3. Each party state obligates itself to give due consideration to any and all rules, regulations, and codes issued by the commission and hereby declares its policy and intent to be the promotion of uniformity in the laws of the several party states relating to equipment.

4. The commission shall send prompt notice of its action in issuing any rule, regulation, or code pursuant to this Article to the appropriate motor vehicle agency of each party state and such notice shall contain the complete text of the rule, regulation, or code.

5. If the constitution of a party state requires, or if its statutes provide, the approval of the legislature by appropriate resolution or Act may be made a condition precedent to the taking effect in such party state of any rule, regulation, or code. In such event, the commissioner of such party state shall submit any commission rule, regulation, or code to the legislature as promptly as may be in lieu of administrative acceptance or rejection thereof by the party state.

6. Except as otherwise specifically provided in or pursuant to subsections 5 and 7 of this Article, the appropriate motor vehicle agency of a party state shall in accordance with its constitution or procedural laws adopt the rule, regulation, or code within six months of the sending of the notice, and, upon such adoption, the rule, regulation, or code shall have the force and effect of law therein.

7. The appropriate motor vehicle agency of a party state may decline to adopt a rule, regulation, or code issued by the commission pursuant to this Article if such agency specifically finds, after public hearing on due notice, that a variation from the commission's rule, regulation, or code is necessary to the public safety, and incorporates in such finding the reasons upon which it is based. Any such finding shall be subject to review by such procedure for review of administrative determinations as may be applicable pursuant to the laws of the party state. Upon request, the commission shall be furnished with a copy of the transcript of any hearings held pursuant to this subsection.

ARTICLE VI

Finance

1. The commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

2. 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. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: one-third in equal shares and the remainder in proportion to the number of motor vehicles registered in each party state. In determining the number of such registrations, the commission may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of

estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning vehicular registrations.

3. The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under section 8 of Article III of this compact, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under section 8 of Article III hereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

4. 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 under its rules. 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.

5. 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.

6. 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 VII

Conflict of Interest

1. The commission shall adopt rules and regulations with respect to conflict of interest for the commissioners of the party states, and their alternates, if any, and for the staff of the commission and contractors with the commission to the end that no member or employee or contractor shall have a pecuniary or other incompatible interest in the manufacture, sale, or distribution of motor vehicles or vehicular equipment or in any facility or enterprise employed by the commission or on its behalf for testing, conduct of investigation, or research. In addition to any penalty for violation of such rules and regulations as may be applicable under the laws of the violator's jurisdiction of residence, employment or business, any violation of a commission rule or regulation adopted

pursuant to this Article shall require the immediate vacating of membering employee and the immediate vacating of membership, or relinquishing of status as a member on the commission by any commissioner or alternate. In the case of a contractor, any violation of any such rule or regulation shall make any contract of the violator with the commission subject to cancellation by the commission.

2. Nothing contained in this Article shall be deemed to prevent a contractor for the commission from using any facilities subject to his control in the performance of the contract even though such facilities are not devoted solely to work of or done on behalf of the commission; nor to prevent such a contractor from receiving remuneration or profit from the use of such facilities.

ARTICLE VIII

Advisory and Technical Committees

The commission may establish such advisory and technical committees as it may deem necessary, membership on which may include private citizens and public officials, and may cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities.

ARTICLE IX

Entry Into Force and Withdrawal

1. This compact shall enter into force when enacted into law by any six or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

2. 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 executive heads 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 X

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 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 herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all several matters.

§ 2.) The legislature finds that:

1. The public safety necessitates the continuous development, modernization, and implementation of standards and requirements of law relating to vehicle equipment, in accordance with expert knowledge and opinion.

2. The public safety further requires that such standards and requirements be uniform from jurisdiction to jurisdiction, except to the extent that specific and compelling evidence supports variation.

3. The motor vehicle registrar when acting upon recommendations of the Vehicle Equipment Safety Commission, and pursuant to the Vehicle Equipment Safety Compact, will provide a just, equitable, and orderly means of promoting the public safety in the manner and within the scope contemplated by this Act.

§ 3.) Pursuant to section 5 of Article V of the Vehicle Equipment Safety Compact, it is the intention of this state and it is hereby provided that no rule, regulation, or code issued by the Vehicle Equipment Safety Commission in accordance with Article V of the compact shall take final effect until approved by Act of the legislative assembly. Any rule, regulation, or code adopted by the Vehicle Equipment Safety Commission may be temporarily adopted by the motor vehicle registrar until such time as it may be disapproved by the legislative assembly as herein provided. A rule, regulation, or code temporarily adopted by the motor vehicle registrar shall be submitted to the legislative assembly for final approval at the next legislative assembly or as soon as possible after the temporary adoption. Any rule, regulation, or code temporarily adopted but not approved, or not acted upon by the legislative assembly, shall become void at the time of disapproval or the termination of the legislative assembly at which no action was taken.

§ 4.) The commissioner of this state on the Vehicle Equipment Safety Commission shall be the motor vehicle registrar who shall serve during his continuance as motor vehicle registrar. The commissioner may designate an alternate from

among the officers and employees of his agency to serve in his place and stead on the Vehicle Equipment Safety Commission. Subject to the provisions of the compact and bylaws of the Vehicle Equipment Safety Commission, the authority and responsibilities of such alternate shall be as determined by the commissioner designating such alternate.

§ **5.)** The merit system council may make an agreement with the Vehicle Equipment Safety Commission for the coverage of said commission's employees pursuant to section 6 of Article III of the compact. Any such agreement, as nearly as may be shall provide for arrangements similar to those available to the employees of this state and shall be subject to amendment or termination in accordance with its terms.

§ **6.)** Within appropriations available therefor, the departments, agencies, and officers of the government of this state may cooperate with and assist the Vehicle Equipment Safety Commission within the scope contemplated by section 8 of Article III of the compact. The departments, agencies, and officers of the government of this state are authorized generally to cooperate with said commission.

§ **7.)** Filing of documents as required by section 10 of Article III of the compact shall be with the secretary of state. Any and all notices required by commission bylaws to be given pursuant to section 10 of Article III of the compact shall be given to the commissioner of this state, or his alternate, if any.

§ **8.)** Pursuant to section 1 of Article VI of the compact, the Vehicle Equipment Safety Commission shall submit its budgets to the state budget board.

§ **9.)** Pursuant to section 4 of Article VI of the compact, the state auditor is hereby empowered and authorized to inspect the accounts of the Vehicle Equipment Safety Commission.

§ **10.)** Any person found guilty of a conflict of interest in connection with the administration of this Act, or rule or regulation promulgated hereunder, shall, upon conviction, be punished by a fine of not more than five hundred dollars, or imprisonment for not more than one year, or by both such fine and imprisonment, and in addition shall forfeit his status as a public official or employee.

Approved March 17, 1965.

MUNICIPAL GOVERNMENT

CHAPTER 285

S. B. No. 318
(Lashkowitz, Jurgensen, Redlin)

MODERN COUNCIL FORM OF GOVERNMENT

AN ACT

Providing for a modern council form of government for cities and to amend and reenact sections 40-03-01, 40-03-04, 40-04-08, and 40-12-01 of the North Dakota Century Code and section 40-04-10 of the 1963 Supplement to the North Dakota Century Code, relating to the adoption thereof.

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

§ 1. City Council—Who Constitutes—Terms.) The governing body of a city operating under the modern council form of government shall be the city council, which shall be composed of five members one of whom shall be the mayor all elected at large or a city council composed of seven members, four of whom shall be elected by wards, and three of whom, including the one serving as mayor shall be elected at large. Candidates for the council shall run for either mayor or councilman but not both at the same time. The mayor shall be elected at large or, a city council composed of eleven members, seven of whom shall be elected by wards and four of whom, including the one serving as mayor, shall be elected at large. Candidates for the council shall run for either mayor or councilman but not both at the same time. The mayor shall be elected at large. When a city first adopts a modern council form of government in cities electing five council members, the candidates having the three highest number of votes shall be elected for a four-year term and the other two for a two-year term. In cities electing seven or eleven council members, the candidates, by means of their nominating petitions, must announce their intentions to seek a ward seat or an at-large seat, or the mayor's seat. A candidate seeking a ward seat shall be a resident of such ward. When a city first adopts a modern council form of government in cities electing seven members, the elected mayor candidate and the elected candidates from the four wards shall be elected for a four-year term and the three at-large elected candidates for a two-year term. When a city first adopts a modern council form of government in cities electing

eleven members, the elected mayor candidate and the elected candidates from the seven wards shall be elected for a four-year term and the three at-large elected candidates for a two-year term. Thereafter the terms of members of the council shall be four years, or until their successors are elected and qualified.

§ 2. **Compensation of Councilmen.)** The members of the council shall receive such compensation for their services as shall be fixed by ordinance, but not more than the maximum provided for the members of the governing board under any other form of city government, except in the cities adopting the eleven member modern council the maximum compensation shall be eighty-five dollars per month.

§ 3. **Vacancies on City Council—How Filled.)** If a vacancy occurs in the office of councilman by death, resignation or otherwise, the city may call a special 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 or city at large by which the councilman previously holding was elected or appointed to fill such vacancy until the next city election, at which election the unexpired term shall be filled.

§ 4. **Restrictions on Council Member.)** No city councilman shall be eligible to any other office the salary of which is payable out of the city treasury, nor shall he hold any other office under the city government.

§ 5. **Meetings — Regular, Special, and for Organization.)** The city council shall hold its regular meetings on the first Monday of each and every month, and may prescribe by ordinance the manner in which special meetings may be called. The first meeting for the organization of the city council shall be held on the third Tuesday in April of each even numbered year.

§ 6. **Mayor.)** The mayor shall preside at meetings of the council, and be the recognized head of the city for all ceremonial purposes and by the governor for purposes of military law. He shall continue to have all the rights and privileges as a member of the council. If a vacancy occurs in the office of mayor or if the incumbent is absent or disabled, a mayor pro tempore shall be selected by the council from among their number to act for the unexpired term or during continuance of the absence or disability.

§ 7. **Council—Duties and Powers.)** The council shall perform all duties prescribed by law or by city ordinances and shall see that the laws and ordinances are faithfully executed.

§ 8. **Amendment.)** Section 40-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-03-01. Organization.) Any city or village in this state having a population of not less than two hundred inhabitants may become incorporated as a city under the council form of government or the modern council form of government in the following manner: upon a petition signed by one-fifth of the electors of such city or village, based upon the votes cast for the office of governor at the last preceding general election, the governing body of the city or village shall submit to the electors thereof the question whether such city or village shall be incorporated as a city under the council form of government or the modern council form of government. Such governing body shall appoint a time when and a place or places where the election shall be held and shall designate the clerks and judges at such election. Such question shall not be submitted more than once in every four years.

§ 9. **Amendment.)** Section 40-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-03-04. Form of Ballots.) The ballots to be used at an election for the organization of a city under this chapter shall be in substantially the following form:

Shall the village of.....(name the village)..... be incorporated as a city under the council form of government?

YES..... ☐

NO ..... ☐

Shall the (city) or (village) of (name the city or village) be incorporated as a city under the modern council form of government with a five man council?

YES..... ☐

NO ..... ☐

Shall the (city) or (village) of (name the city or village) be incorporated as a city under the modern council form of government with a seven man council?

YES..... ☐

NO ..... ☐

Shall the (city) or (village) of (name the city or village) be incorporated as a city under the modern council form of government with an eleven man council?

YES..... ☐

NO ..... ☐

§ 10. Amendment.) 40-04-08 of the North Dakota Century Century Code is hereby amended and reenacted to read as follows:

40-04-08. Change from Commission System of Government —Petition Required.) Any city which shall have operated for more than six years under the city commission system of government may change its organization thereunder and adopt the city council form of government or the modern council form of government. The proceeding to change shall be initiated by a petition asking for such change signed by not less than forty percent of the electors of the city. For the purpose of this section the term "qualified electors of the city" shall mean the total number of electors voting at the preceding general election. The signatures to such petition need not be appended to a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name of the street upon and the number of the house in which each petitioner resides, and the length of his residence in the city. Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

§ 11. Amendment.) Section 40-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-12-01. Initiative and Referendum Apply Only in Commission and Modern Council Cities.) The provisions of this chapter relative to the initiating and referring of municipal ordinances shall apply only in cities operating under the commission and modern council system of government except those cities adopting the eleven member council.

§ 12. Amendment.) Section 40-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-04-10. Procedure When Petition to Change from Commission System of Government Is Filed—Special Election—Ballot.) When a petition to change from the commission sys-

tem of government, together with the city auditor's certificate of sufficiency, is filed with the governing body of a municipality, the governing body shall call a special election at which only the question of changing from the commission system of government will be submitted. The date of such election shall not be less than thirty days nor more than ninety days after the date of the auditor's certificate that a sufficient petition has been filed. The election shall be conducted, returns thereof made, and the result thereof declared in all respects as are other city elections. Notice of such election shall be given by the publication of the proposition to be voted upon, the places where the election will be held, and the date of the election, in each newspaper published in the city, not more than twenty days and not less than five days before the date of such election. The ballot to be used at the election provided for in this section shall be in substantially the following form:

Shall the city of.....change from its organization under the commission system of government and become a city under the council form of government?

YES..... ☐

NO ..... ☐

Shall the city of.....change from its organization under the commission system of government and become a city under the modern council form of government with a five man council?

YES..... ☐

NO ..... ☐

Shall the city of.....change from its organization under the commission system of government and become a city under the modern council form of government with a seven man council?

YES..... ☐

NO ..... ☐

Shall the city of.....change from its organization under the commission system of government and become a city under the modern council form of government with an eleven man council?

YES..... ☐

NO ..... ☐

Approved March 15, 1965.

CHAPTER 286

H. B. No. 870
(Meschke, Whittlesey, Stenhjem, Unruh, Schaffer, Loerch)

MUNICIPAL JUDGES

AN ACT

To amend and reenact sections 40-18-01, 40-18-03, and 40-18-11 of the 1963 Supplement to the North Dakota Century Code and sections 40-18-04, 40-18-05, 40-18-06, 40-18-07, 40-18-08, 40-18-09, 40-18-10, 40-18-13, 40-18-14, 40-18-15, 40-18-16, 40-18-17, 40-18-18, 40-18-19, 40-15-02, subsection 3 of section 40-15-01, and subsection 4 of section 40-14-01 of the North Dakota Century Code, relating to the jurisdiction, selection, qualifications, compensation, duties and powers of police magistrates, and changing the name thereof to municipal judges.

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

§ 1. **Amendment.)** Section 40-18-01 of the 1963 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 or village having a population of 3000 or more shall be an attorney licensed to practice law in this state, unless no person so licensed is available in the city or village and shall have exclusive jurisdiction of, and shall hear, try and determine, all offenses against the ordinances of the city or village, as the case may be. The offices of county justice and municipal judge may not be held by the same person.

§ 2. **Amendment.)** Section 40-18-03 of the 1963 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. An appointee shall qualify, and he shall hold office until the next city election, and until his successor is elected and qualified. During the temporary absence, interest, disqualification, or disability of the 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 or disability or interest. Such alternate shall be compensated on a per diem basis at a rate set by the governing body, and shall possess, as nearly as is practicable, the qualifications of the regular municipal judge.

§ 3. **Amendment.)** Section 40-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-04. Office Hours of Municipal Judge.) The municipal judge shall be in attendance at his office for the transaction of business at such reasonable hours as the governing body of the city may prescribe. Complaints may be made to, and writs and process issued by, him at all times in court or otherwise.

§ 4. **Amendment.)** Section 40-18-05 of 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 and within his village 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.

§ 5. **Amendment.)** Section 40-18-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-06. Municipal Judge Who Is Paid Salary to Turn Fees Into City Treasury.) When the municipal judge is paid a salary by the city, he shall not receive fees of any kind or in any amount from the city. In all criminal actions and in all actions instituted under any ordinance of the city, however, he shall collect the same fees as are allowed by section 33-01-23, and such fees shall be paid by him into the city treasury at the end of each month. At the end of each month, the municipal judge shall make and file with the city auditor a written report under oath showing an account of all fees collected by him in such actions during the preceding month and showing the actions in which such fees were collected. His salary shall not be paid to him until he has complied with the provisions of this section.

§ 6. Amendment.) Section 40-18-07 of 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 village ordinance or bylaw, as the case may be, 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.

§ 7. Amendment.) Section 40-18-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-08. Warrants Issued by Municipal Judge to Run to Whom.) All warrants issued by a municipal judge for the violation of any general law of this state shall run to the sheriff, or any constable of the county or to the chief of police, marshal, or any policeman of the municipality.

§ 8. Amendment.) Section 40-18-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-09. Subpoena of Witnesses—Continuance of Trial—Verbal Notice to Witnesses to Attend.) A municipal judge shall subpoena all persons whose testimony may be material as witnesses on a trial before him, and if necessary, he shall enforce their attendance by attachment. On continuance of a trial, the municipal judge verbally may notify the witnesses present to attend before him at the time to which the action is continued. Such verbal notice shall be as valid as a subpoena.

§ 9. Amendment.) Section 40-18-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-10. Trials for Misdemeanors Before Municipal Judge Governed by Justice Court Procedure.) All trials before a municipal judge for misdemeanors arising under the laws of this state shall be governed by the criminal procedure applicable to justices' courts in like cases.

§ 10. Amendment.) Section 40-18-11 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-11. How Proceedings in Criminal Cases Not Provided for in This Chapter To Be Governed.) In all cases not specifically provided for in this chapter, the process and proceedings in the court of a municipal judge shall be governed by the provisions of the laws of this state regulating proceedings in justices' courts in either civil or criminal cases.

§ 11. Amendment.) Section 40-18-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-13. Suspension of Sentence.) A municipal judge may suspend any sentence imposed by him during the good behavior of the person so sentenced or for other reasonable cause.

§ 12. Amendment.) Section 40-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-14. Municipal Judge May Enforce Orders and Judgments.) A municipal judge shall have the power to enforce due obedience to his orders and judgments. He may fine or imprison for contempt offered to him while holding court, or to process issued, or orders made by him, in the same manner and to the same extent as is provided by the laws of this state in the case of a county justice.

§ 13. Amendment.) Section 40-18-15 of 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 or Village.) An action for the violation of a city ordinance or of a village 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. A defendant who is charged with the violation of a village ordinance, before the commencement of the trial, may demand a trial by jury regardless of the penalty specified in the village ordinance for the offense.

§ 14. Amendment.) Section 40-18-16 of 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 muni-

cipal judge shall prepare a list of the names of eighteen residents of the city or village having the qualification of jurors in the district court. The defendant and the attorney for the city or village, or the chief of police or the village marshal, if the city or village 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 or to the village constable, as the case may be, commanding him to summon the twelve persons whose names remain upon the list as jurors.

§ 15. Amendment.) Section 40-18-17 of 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 or the village marshal 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.

§ 16. Amendment.) Section 40-18-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-18. Fee of Juror in Court of Municipal Judge.) Each person summoned as a juror in any case in the court of a municipal judge shall be entitled to a fee of four dollars. If the defendant is convicted, the fees of all jurors shall be taxed against him as a part of the costs of the case.

§ 17. Amendment.) Section 40-18-19 of 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 determination in a municipal judge's court the district court shall take judicial notice of all of the ordinances of the city or of the village, as the case may be.

§ 18. Amendment.) Section 40-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-15-02. Terms of Elective Officers.) The terms of office of the president of the board of city commissioners and of each commissioner shall be as provided in chapter 40-09. The municipal judge shall hold office for four years and until his successor is elected and qualified.

§ 19. Amendment.) Subsection 3 of section 40-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A municipal judge.

§ 20. Amendment.) Subsection 4 of section 40-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A municipal judge.

Approved March 10, 1965.

CHAPTER 287

H. B. No. 717
(Dornacker, Schaffer, Christopher, Winge)

DATES OF MUNICIPAL ELECTIONS

AN ACT

To amend and reenact sections 40-21-02, 40-21-03, and 40-07-03 of the North Dakota Century Code, relating to municipal elections.

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

§ 1. Amendment.) Section 40-21-02 of 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 and by posting written or printed notices in three public places in the city. 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 and special city elections the board of city commissioners, at least ten days before any election is held, shall appoint one inspector and two judges of election in each precinct established in the city.

§ 2. Amendment.) Section 40-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-03. Elections in Council Cities—Polling Places—Polls Open—Notice.) Biennial municipal elections in cities operating under the council form of government shall be held on the first Tuesday in April in each even numbered year at such place or places as the city council shall designate. In cities where aldermen are elected at large, the council shall designate one polling place only. 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. Ten days' notice of the time and place of holding each election and of the offices to be filled thereat shall be given by the city auditor by publication in at least two newspapers published in said city if two are published therein. Publication in one such newspaper shall be sufficient if only one newspaper is published in the city.

§ 3. Amendment.) Section 40-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-07-03. Polls—Opening and Closing Hours.) In all village elections, 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.

Approved March 17, 1965.

CHAPTER 288

S. B. No. 156
(Lashkowitz, Sorlie, Jurgensen, Lips)

PUBLICATION OF ASSESSMENT LISTS

AN ACT

To amend and reenact section 40-23-10 of the North Dakota Century Code, so as to permit municipalities to file special assessment lists for public inspection, in lieu of publication, when more than five thousand lots or tracts are included within the list, and declaring an emergency.

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

§ 1. **Amendment.)** Section 40-23-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-10. Publication of Assessment List and Notice of Hearing of Objections to List.) The 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 municipality, 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.

§ 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, 1965.

CHAPTER 289

S. B. No. 237
(Kautzmann, Lips)

DUE DATES OF SPECIAL ASSESSMENTS

AN ACT

To amend and reenact sections 40-24-02, 40-24-03, 40-24-11, 40-24-12, 40-24-15, and 40-24-16 of the North Dakota Century Code, relating to special assessments levied by municipalities, the computation of interest thereon, the lien thereof as between vendor and vendee, the certification, collection, review and correction thereof, and the issuance of receipts therefor.

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

§ 1. **Amendment.)** Section 40-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-02. Special Assessments When Due and Payable — Interest.) All special assessments levied under the provisions of this title may be paid without interest within ten days after they have been approved by the governing body and thereafter shall bear interest at a rate of not exceeding seven percent per annum on the total amount thereof remaining from time to time unpaid.

§ 2. **Amendment.)** Section 40-24-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-03. Lien Between Vendor and Vendee of Special Assessments.) As between a vendor and vendee of real property, unless the purchase contract otherwise provides, the installments of all special assessments for local improvements which are required to be certified and returned to the county auditor in each year shall be and become a lien upon the real property upon which the same are assessed from and after the first day of December in such year.

§ 3. **Amendment.)** Section 40-24-11 of 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 or village clerk, as the case may be, 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.

§ 4. **Amendment.)** Section 40-24-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-12. City Auditor or Village Clerk to Insert Amount of Improvements in County Real Estate Assessment Book—Regulations Governing—Form.) The city auditor or the village clerk, as the case may be, 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 or village clerk, as the case may be, 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 or the village clerk. The city auditor or village clerk 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 or village clerk 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 form to be used by the city auditor or village clerk 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.

§ 5. **Amendment.)** Section 40-24-15 of 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 assess-

ment 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 or village clerk. In such event the certificate of the city auditor or village clerk 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.

§ 6. **Amendment.)** Section 40-24-16 of 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 or village clerk 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 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 or village clerk.

Approved March 15, 1965.

CHAPTER 290

S. B. No. 158
(Lashkowitz, Sorlie, Mahoney, Urdahl, Lips, Jurgensen)

FINANCING OF MUNICIPAL UNDERTAKINGS

AN ACT

To amend and reenact section 40-35-02 of the 1963 Supplement to the North Dakota Century Code, relating to municipal undertakings which may be financed by the issuance of revenue bonds, and declaring an emergency.

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

§ 1. Amendment.) Section 40-35-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-35-02. "Undertaking" Defined.) The term "undertaking", as used in this chapter, unless a different meaning clearly appears from the context, shall mean systems, plants, works, instrumentalities, and properties used in revenue producing undertakings, or any combination of two or more of such undertakings, which are used or useful in connection with:

1. The obtaining of a water supply and the conservation, treatment, distribution, and disposal of water for public and private uses;
2. The collection, treatment, and disposal of sewage, waste, and storm water;
3. The generation, production, transmission, and distribution of natural, artificial, or mixed gas, or electric energy, for lighting, heating, and power for public and private uses;
4. The operation of parking lots, trailer courts and facilities for motor vehicles and house trailers;
5. The purchase, acquisition or establishment, maintenance and operation of a public transportation system; and
6. The purchase, acquisition, construction, establishment, maintenance and operation of an airport and the facilities and services in connection therewith;

together with all parts of any such undertaking and all appurtenances thereto, including lands, easements, rights in land, water rights, contract rights, franchises, approaches,

dams, reservoirs, generating stations, sewage disposal plants, intercepting sewers, truck connections, other sewer and water mains, filtration works, pumping stations, and equipment, and facilities in and upon such buildings and lands.

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

Approved March 19, 1965.

CHAPTER 291

H. B. No. 920
(Hardmeyer, Gietzen)

AUDITOR'S COPY OF MUNICIPAL BUDGET REPEALED

AN ACT

To repeal section 40-40-07 of the North Dakota Century Code, relating to preliminary budgets.

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

§ 1. **Repeal.)** Section 40-40-07 of the North Dakota Century Code is hereby repealed.

Approved March 5, 1965.

CHAPTER 292

S. B. No. 200
(Lashkowitz, Lips)

POLICEMEN'S RETIREMENT DATE AND AMOUNT

AN ACT

To amend and reenact section 40-45-09 of the 1963 Supplement to the North Dakota Century Code, relating to when a policeman may retire on pension and the amount to be paid to such retiring policeman.

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

§ 1. **Amendment.)** Section 40-45-09 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-09. Who May Be Retired on Pension—Amount Paid to Retiring Member—Retiring Member Not Paid.) Any member of the police department, including officers and police matrons, who shall have served twenty-two years or more in the department and shall have reached the age of sixty years, or who, while a member of such department, shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he may be paid out of the pension fund of the department a monthly pension equal to sixty percent of the average monthly salary received during the highest paid consecutive thirty-six month period of his employment in the department. If any member shall have served twenty-two years in the department but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years. Upon approval of the governing body of the municipality, and at the discretion of the board of trustees if it shall find that the actuarial soundness of the fund would not be materially impaired, any member otherwise qualifying in accordance with the provisions of this section may retire if he has reached the age of fifty-five years.

Approved March 15, 1965.

CHAPTER 293

S. B. No. 197
(Lashkowitz, Lips)

REFUND FROM POLICEMEN'S PENSION FUND

AN ACT

To amend and reenact section 40-45-21 of the North Dakota Century Code, relating to policemen obtaining refund from pension fund upon termination of employment.

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

§ 1. Amendment.) Section 40-45-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-21. Policemen Entitled to Refund from Fund Upon Termination of Employment with City.) Any employee of a police department who shall have contributed to the policemen's pension fund, and who voluntarily and while in good standing as a member of such police force leaves the employ-

ment of the city, shall be entitled upon application at the time of such termination, to a refund of all contributions made by him.

Approved March 6, 1965.

CHAPTER 294

S. B. No. 305
(Luick, Lashkowitz)

COUNTY PARTICIPATION IN MUNICIPAL INDUSTRIAL DEVELOPMENT ACT

AN ACT

To amend and reenact section 40-57-02, subsection 11 of section 40-57-03, and section 40-57-10 of the North Dakota Century Code Supplement, and subsection 9 of section 40-57-03 of the North Dakota Century Code, relating to municipal industrial development and the issuance of municipal revenue bonds for industrial development projects, authorizing counties to engage in such projects, authorizing sale of a project to the lessee, authorizing construction of a project by the lessee, and authorizing private sale of such bonds at not less than ninety-five percent of par plus accrued interest and declaring an emergency.

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

§ 1. Amendment.) Section 40-57-02 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

40-57-02. "Projects" and "Municipalities" Defined.) As used in this chapter, unless a different meaning clearly appears from the context, the term "municipality" shall include counties as well as municipalities of the types listed in section 40-01-01, subsection 1, and the term "project" shall mean any real property, buildings and improvements on real property or the buildings thereon, and any equipment permanently located on such real property or in such buildings, which are used or useful in connection with revenue producing enterprises, or any combination of two or more such enterprises, engaged or to be engaged in:

1. Assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products, or any combination thereof;
2. Storing, warehousing, distributing, or selling any products of agriculture, mining, or manufacture.

3. Any other industry or business not prohibited by the constitution or laws of the state of North Dakota.

In no event, however, shall the term "project" include those undertakings defined in chapter 40-35.

§ 2. Amendment.) Subsection 9 of section 40-57-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. Sell and convey all properties acquired in connection with such projects, including without limitation the sale and conveyance thereof subject to such mortgage as herein provided, and the sale and conveyance thereof to the lessee under an option granted in the lease of the project, for such price, and at such time as the governing body of the municipality may determine, provided, however, that no sale or conveyance of such properties shall ever be made in such manner as to impair the rights or interests of the holder, or holders, of any bonds issued under the authority of this chapter; and

§ 3. Amendment.) Subsection 11 of section 40-57-03 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

11. In any instance where the project consists of the construction, reconstruction, improvement, betterment of real property, buildings and improvements on real property and buildings, the provisions of chapter 48-02 of the North Dakota Century Code and other applicable statutes shall apply; except that the municipality, in the lease and resolution or mortgage defining the terms and conditions upon which the project is to be constructed, leased and financed, or in a preliminary agreement establishing the general terms of the lease and financing of the project when constructed, may permit the lessee, subject to such terms and conditions as the municipality shall find necessary or desirable and proper, to provide for the construction, acquisition and installation of the buildings, improvements and equipment to be included in the project by any means available to the lessee and in the manner determined by the lessee, whether or not the procedure followed by the lessee is in conformity with said chapter 48-02.

§ 4. Amendment.) Section 40-57-10 of the North Dakota Century Code Supplement 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, provided that they shall not be sold at a price such that the interest cost to the municipality for the proceeds of the bonds computed to maturity according to standard tables of bond values will exceed five percent per annum. 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 Francisco, 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.

§ 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 19, 1965.

CHAPTER 295

H. B. No. 789
(Stallman, Haugen, Shorma, Larson (Richland), Jungroth)

TAX EXEMPTION OF MUNICIPAL INDUSTRIAL DEVELOPMENT PROJECTS

AN ACT

To amend and reenact section 40-57-17 of the North Dakota Century Code, relating to the taxation of projects under the Municipal Industrial Development Act.

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

§ 1. Amendment.) Section 40-57-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-17. Exemptions from Taxation.) The leasehold granted by a municipality under this chapter is hereby classified as personal property and such leasehold and all other personal property used by the lessee in connection with the project and located on the premises of the leasehold shall be exempt from personal property taxation for a period of five

years from the granting of such leasehold and execution of any instrument evidencing said grant. Further, that any corporate lessee under such a leasehold referred to shall be exempt from the payment of corporate income taxes on any corporate income attributable to the business carried on by the lessee on such leasehold premises for a period of five years from the year in which the corporation lessee commenced business operations on the leased premises, provided, however, that this section shall not have the effect of exempting such corporation lessee from filing an annual income tax return.

Approved March 19, 1965.

NEGOTIABLE INSTRUMENTS

CHAPTER 296

S. B. No. 60
(Reichert, Longmire, Hernett, Kautzmann, Chesrown)

UNIFORM COMMERCIAL CODE

AN ACT

Note: Pursuant to section 37 of Senate Bill No. 60, the Uniform Commercial Code will not be published as part of the 1965 Session Laws but will be published as a separate Supplement to the North Dakota Century Code and may be cited as chapter 296 of the 1965 Session Laws. This Supplement will become part of Volume 8 of the North Dakota Century Code and will be published prior to the Uniform Commercial Code's effective date of July 1, 1966.

Approved March 19, 1965.

OCCUPATIONS AND PROFESSIONS

CHAPTER 297

H. B. No. 684
(Boustad, Erickson (Ward), Whittlesey)

BARBER FEES

AN ACT

To amend and reenact section 43-04-42 of the North Dakota Century Code, relating to barber board fees.

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

§ 1. Amendment.) Section 43-04-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-42. Fees.) The fees to be paid by an applicant are as follows: For examination for a certificate to practice master barbering, fifteen dollars;

For issuance of such certificate, two dollars;

For examination for a certificate to practice as an apprentice barber, seven dollars;

For issuance of such certificate, two dollars;

For renewal of master barber's certificate, ten dollars;

For restoration of expired master barber's certificate, a five dollar penalty fee in addition to the regular renewal fee;

For renewal of apprentice barber's certificate, six dollars;

For restoration of expired apprentice barber's certificate, a five dollar penalty fee in addition to the regular renewal fee;

For a permit to operate a barber school or college, an annual fee of one hundred twenty-five dollars; and

Annual establishment fees to be paid by each shop owner in advance, two dollars for the first barber chair and one dollar for each additional barber chair which is in use one month or more in any one year. Each application to open or establish a barber shop in this state shall be accompanied by a fee of twenty-five dollars to cover expenses of inspection,

which shall be retained by the board and deposited as other fees. A duplicate license certificate or permit will be issued upon the filing of a statement covering the loss of the same, verified by the oath of the applicant, and submitting a signed photograph of the applicant and the payment of a fee of fifty cents for the issuance of the duplicate. The board shall have the power to reduce renewal fees below the amounts heretofore set out in this section whenever such board determines that the full amount is not necessary to finance the necessary and regular operations of the board. Such reduction shall be made by the board only by applying an equal percentage of reduction to all renewal fees provided for in this chapter, and such reduction shall be made when commencing the licensing year and shall be in effect for the whole of such year. Anyone becoming a member of armed forces of the United States in time of war while holding a license as a barber or apprentice and while in good standing as to payment of fees, may obtain a restoration of his certificate without payment of such restoration fee.

Approved March 15, 1965.

CHAPTER 298

H. B. No. 556
(Belquist, Stockman, Gronhovd, Haugland, Kvasager)

CHIROPRACTIC LICENSES

AN ACT

To amend and reenact section 43-06-08, subsection 3 of section 43-06-09, sections 43-06-11 and 43-06-13 of the North Dakota Century Code, relating to chiropractic license.

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

§ 1. Amendment.) Section 43-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-06-08. License Required—Application—Examination Required—Fee.) No person shall practice chiropractic in this state unless he has a license from the state board of chiropractic examiners. Any person who desires a license shall apply to the board and submit to an examination. Each applicant shall present with his application his diploma from an accredited school or college of chiropractic, or a photograph of the same, and proof that he has the required qualifications.

Before beginning the examination, the applicant shall pay to the secretary-treasurer of the board the sum of fifty dollars. The board may in its discretion accept a national examining board certificate in lieu of an examination for a license, provided all other requirements are met.

§ 2. **Amendment.)** Subsection 3 of section 43-06-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A degree received from an accredited school or college of chiropractic where the resident course of instruction is not less than four years of eight months each, or four thousand hours.

§ 3. **Amendment.)** Section 43-06-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-06-11. License—When Issued—Who Issues—Title Used by Licensed Chiropractor.) A license to practice chiropractic in this state shall be issued by the board to an applicant who has submitted proof of the required qualifications and passed the required examination. No license to practice chiropractic shall be granted except upon the affirmative vote of at least three of the members of the board. A licensed chiropractor may not use the title physician, or surgeon, but may use the title doctor of chiropractic, or D. C.

§ 4. **Amendment.)** Section 43-06-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-06-13. Term of License—Renewal—Fee—Requirements.) A license to practice chiropractic in this state shall be valid for one year only and shall be renewed on or before the first day of September of each year. The fee for renewal of a license shall be determined by the board, but shall not exceed twenty-five dollars. The board, before it issues a renewal license, may require each applicant practicing in this state to attend a postgraduate course in an accredited chiropractic school or college, or to attend at least a two-day session of the educational program arranged by the North Dakota Chiropractic association.

Approved March 19, 1965.

CHAPTER 299

S. B. No. 244
(Rait, Larson)

INCOME TAX CLEARANCE OF PUBLIC CONTRACTORS

AN ACT

Relating to income tax clearance to be obtained by individuals, corporations and others performing contracts for the state of North Dakota or any political subdivision or governmental subdivision thereof and providing for an effective date.

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

§ 1. Contracts with State.)

1. No contractor, resident or nonresident shall be eligible to enter into a public contract with any department of the state of North Dakota, nor any political or governmental subdivision of the state until satisfactory showing is made that said contractor has paid all delinquent income taxes, if any, owed to the state pursuant to the provisions of chapter 57-38, and which have been assessed either by the filing of an income tax return by the contractor, or by an assessment of additional income taxes against the contractor by the commissioner that has become finally and irrevocably fixed, before the date that the contract was executed by the parties thereto.

   a. "Contractor" and "public contract" having the same definition for purposes of this section as in chapter 43-07 relating to issuance of licenses to contractors.

2. A certificate from and by the tax commissioner shall satisfy the requirement of subsection 1. Upon failure to file such a certificate, such department, political or governmental subdivision shall refuse to execute said public contract.

3. The provisions of this section shall apply only to contracts executed after the effective date of this Act.

Approved March 19, 1965.

CHAPTER 300

H. B. No. 614
(Ruddy, Bergman, Tweten)

LICENSES OF PUBLIC CONTRACTORS

AN ACT

To amend and reenact section 43-07-12 of the North Dakota Century Code, relating to the licensing of bidders on public contracts, and to exempt therefrom the requirement that contractors be licensed prior to submitting bids to the state highway department for any federal aid project, and declaring an emergency.

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

§ 1. Amendment.) Section 43-07-12 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-12. Bids to Show License Issued.) All bids and proposals for the construction of any public contract project subject to the provisions of this chapter shall contain a statement showing that the bidder or contractor is duly and regularly licensed hereunder. The number and class of such license then held by such public contractor shall appear upon such bid or proposal. No contract shall be awarded to any contractor unless he is the holder of a license in the class within which the value of the project shall fall as hereinbefore provided. Except in the case of bids submitted to the state highway department for any federal aid project, a contractor must be the holder of a license at least ten days prior to the date set for receiving bids, to be a qualified bidder. Except in the case of bids submitted to the state highway department the bid shall be submitted in a sealed envelope upon which there is disclosed the following information:

1. The class of license held by the bidder;
2. The number of the bidder's license;
3. The name of the person, firm or corporation submitting the bid;
4. Date on which license was issued or renewed.

A bid submitted without this information on the envelope shall not be considered and shall be returned to the bidder.

§ 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, 1965.

CHAPTER 301

S. B. No. 299
(Urdahl, Jurgensen, Lips)

NURSES' SCHOLARSHIP LOANS

AN ACT

To amend and reenact subsections 2, 3, and 4 of section 43-12-25 and sections 43-12-26, 43-12-27, 43-12-28, 43-12-29, 43-12-30, and 43-12-31 of the North Dakota Century Code, relating to nurse preparation scholarship loans for qualified residents of North Dakota who express an intent to prepare for nursing and designating the state board to administer the provisions of this Act.

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

§ 1. Amendment.) Subsections 2, 3, and 4 of section 43-12-25 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A "student of nursing" shall mean one who has met all the requirements for enrollment in an approved school of nursing;

3. A "practical nurse student" shall mean one who has met all the requirements for enrollment in an approved course for practical nursing;

4. A "professional graduate nurse" shall mean one who has met all legal requirements for licensure in this state and has been registered by the state board, who practices or holds a position by virtue of her professional knowledge and legal status, and who holds a certificate of licensure from the state board for the current year.

§ 2. Amendment.) Section 43-12-26 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-26. Advisory Committee.) There shall be an advisory committee composed of three members, to be designated by the North Dakota council on health careers. This advisory

committee shall assist the state board in awarding scholarship loans.

§ 3. Amendment.) Section 43-12-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-27. Duties of the State Board.)

1. The state board may grant scholarship loans to students attending a school of nursing in accordance with the laws pertaining to registration of nurses or licensing of practical nurses and to professional graduate nurses meeting requirements for advanced study.
2. The state board shall make rules and regulations and establish standards, requirements and procedure in administering sections 43-12-25 through 43-12-31 so as to encourage young men and women to enter the nursing profession.

§ 4. Amendment.) Section 43-12-28 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-28. Qualifications of Candidates.) A person shall not be selected as a candidate for a scholarship loan unless such applicant be at least eighteen years of age. In selecting candidates for scholarship loans, consideration shall be given to:

1. Adaptability to nursing,
2. Health,
3. Character,
4. Person-social characteristics,
5. Record of level of achievement,
6. Capacity and willingness upon graduation to nurse in a hospital or institution in North Dakota for two years, and
7. Financial need for such scholarship in pursuing education in the field of nursing.

§ 5. Amendment.) Section 43-12-29 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-29. Use of Scholarship Loans.) These scholarship loans shall be used, first, to pay the tuition and other institutional fees and expenses of the recipient incidental to such nursing education; second, to defray the cost of books and

equipment needed by the recipient in pursuit of studies and, third, for partial subsistence of the recipient through facilities operated by the school or college. Scholarship loans shall be awarded only to students enrolled in an accredited school of nursing; to students enrolled in an approved course for practical nurses; and to professional graduate nurses enrolled in a college or university. Any facilities of the school designed to aid in securing part-time employment for students, to help defray costs of their education shall be made available to a recipient of a scholarship loan on an equal basis with other students enrolled. Scholarship loan holders may not continue to hold the scholarship loan unless they maintain a satisfactory grade average as set by the state board.

§ 6. **Amendment.)** Section 43-12-30 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-30. Scholarship Loan Payments — Note Required — Conditions — Scholarship Loan Continued.) 1. The student of nursing shall receive a scholarship loan of no more than one thousand dollars. Equal distribution of payments shall be made for each year in the nursing program.

2. The practical nurse scholarship loan shall not exceed three hundred dollars and shall be available to the student upon enrollment in the course.

3. The fund shall provide for scholarship loans for professional graduate nurses desiring to take advanced courses in nursing education which further qualifies applicants for a position or leads to a baccalaureate or higher degrees. After completion of such advanced study the recipient shall be required to return to North Dakota for a position to be held for at least two years. The professional graduate nurse shall receive a scholarship loan not to exceed one thousand eight hundred dollars for advanced study in a college or university which may lead to a degree. The scholarship loan shall be allotted according to rules and regulations adopted by the state board.

4. Each scholarship loan recipient shall sign and execute a note to the state treasurer for each payment, endorsed by a responsible adult for the amount of such scholarship loan. The state board shall certify to the state auditor the name of each recipient of a scholarship loan. The auditor shall issue his warrant to the state treasurer who shall pay the amount of the scholarship loan through the secretary of the school or college in which the recipient is enrolled.

5. The notes of scholarship loan recipients shall bear interest at the rate of three percent per annum and shall become due and payable with accrued interest thereon upon demand.

§ 7. **Amendment.)** Section 43-12-31 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-31. Collection and Cancellation.) 1. A rate of six percent per annum will be charged on any portion of the scholarship loan not repaid upon demand of the state board.

2. The note of the student of nursing scholarship loan recipient shall bear interest at the rate of three percent per annum. Before the note provided in sections 43-12-25 through 43-12-31 has been called for payment, and when the recipient has satisfactorily completed the required basic course in nursing and has satisfactorily completed two full years of nursing in North Dakota the note and accrued interest thereon shall be canceled.

3. The note of the practical nurse student scholarship loan recipient shall bear interest at the rate of three percent per annum. Before the note provided in sections 43-12-25 through 43-12-31 has been called for payment, and when the recipient has satisfactorily completed the required course in practical nursing and has satisfactorily completed one full year of practical nursing in North Dakota the note and accrued interest thereon shall be canceled.

4. The note of the professional graduate nurse scholarship loan recipient shall bear interest at the rate of three percent per annum. Before the note provided in sections 43-12-25 through 43-12-31 has been called for payment, and when the recipient has satisfactorily completed the advanced course in nursing and has satisfactorily completed two full years of nursing in North Dakota the note and accrued interest thereon shall be canceled.

5. Upon satisfactory proof of the requirements herein set forth, the board shall notify the state treasurer to cancel the notes.

Whenever less than two full years of nursing has been completed the notes may be canceled in the order of execution corresponding with the months of nursing which are completed. In the event of death or total disability of the recipient the notes and accrued interest shall be canceled.

Approved March 15, 1965.

CHAPTER 302

H. B. No. 796
(Poling, Haugland)

NURSES' GOOD SAMARITAN LAW

AN ACT

To create and enact sections 43-12-33 and 43-12-34, relating to emergency care rendered by licensed and registered nurses at the scene of an emergency or in the event of a disaster and declaring an emergency.

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

§ 1.) Section 43-12-33 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-12-33. Emergency Treatment.) Any nurse licensed and registered under the provisions of this chapter, who, in good faith, renders in this state emergency care at the scene of the emergency shall be expected to render only such emergency care as in her judgment is at the time indicated.

§ 2.) Section 43-12-34 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-12-34. Emergency Treatment by Resident Nurses During Disaster.) In the event of a disaster the nurse shall perform therapeutic measures delegated by medical authority or shall initiate therapeutic measures until medical direction is available.

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

Approved March 19, 1965.

CHAPTER 303

S. B. No. 236
(Longmire)

LICENSING OF DETECTION OF DECEPTION EXAMINERS

AN ACT

To provide for licensing and regulating detection of deception examiners.

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: "Detection of deception examiner", hereinafter referred to as "examiner" means any person who uses any device or instrument to test or question individuals for the purpose of detecting deception.

"Person" includes any natural person, partnership, association, corporation or trust.

§ 2. **Device or Instrument To Be Used.)** Every examiner shall use an instrument which records permanently and simultaneously the subject's cardio-vascular and respiratory patterns as minimum standards, but such an instrument may record additional physiological changes pertinent to the detection of deception. An examiner shall, upon written request of a person examined, make known the results of such test to the person examined within five days of receipt of the written request.

§ 3. **Unlawful Acts.)** It is unlawful for any person to administer detection of deception examinations, or attempt to hold himself out as an examiner, without a license issued by the attorney general of the state.

§ 4. **Applications for Licenses.)** Applications for licenses shall be made to the attorney general in writing on forms prescribed by the attorney general and shall be accompanied by the required fee, which shall not be returnable. Any such application shall require such information as in the judgment of the attorney general will enable him to pass on the qualifications of the applicant for a license.

§ 5. **Renewal of Licenses.)** The license of an examiner which has not been revoked or is not suspended shall be renewed annually upon payment of the required fee by the examiner.

§ 6. **Consent for Service of Process.)** Each nonresident applicant for an original license or a renewal license, shall file an irrevocable consent that actions against the applicant may be filed in any appropriate court of any county of this state in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process in any action may be served on the applicant by leaving two copies thereof with the attorney general. Such consent shall stipulate and agree that such service of process shall be taken and held to be valid and binding for all purposes. The attorney general shall send forthwith one copy of the process to the applicant at the address shown on the records of his office by registered or certified mail.

§ 7. **Qualifications of Applicant.)** A person is qualified to receive a license as an examiner:

1. Who is at least twenty-one years of age; and
2. Who is a citizen of the United States; and
3. Who establishes that he is a person of honesty, truthfulness, integrity and moral fitness; and
4. Who has not been convicted of a misdemeanor involving moral turpitude or a felony, or who has not been released or discharged under other than honorable conditions from any of the Armed Services of the United States; and
5. Who has passed an examination conducted by the attorney general, or under his supervision, to determine his competency to obtain a license to practice as an examiner; and
6. Who has satisfactorily completed specialized training deemed acceptable by the attorney general.

§ 8. **Reinstatement of License.)** An examiner whose license has expired may be reinstated at any time within five years after the expiration thereof, by making a renewal application therefor and by paying the renewal license fee and all lapsed renewal fees for each year since the expiration of his license.

§ 9. **Contents of License — Posting.)** A license must be prominently displayed at the principal place of business of every examiner. Each license shall be signed by the attorney general and shall be issued under the seal of his office.

§ 10. **Revocation or Suspension.)** The attorney general may refuse to issue or renew or may suspend or revoke a license for any one of the following grounds:

1. Material misstatement in the application for original license or in the application for any renewal license under this Act.
2. Willful disregard or violation of this Act or of any regulation or rule issued pursuant thereto.
3. Conviction of a felony or a misdemeanor involving moral turpitude.
4. Making any willful misrepresentation or false promises or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees.
5. Having demonstrated incompetency to act as an examiner as defined under this Act.
6. Allowing one's license under this Act to be used by an unlicensed person in violation of the provisions of this Act.
7. Willfully aiding or abetting another in the violation of this Act or of any rule issued by the attorney general pursuant thereto.
8. Where the license holder has been adjudged mentally ill, mentally deficient or in need of mental treatment.
9. Failing, within a reasonable time, to provide information requested by the attorney general as the result of a formal or informal complaint to the attorney general, which would indicate a violation of this Act.

§ 11. **Notice and Hearing on License Revocation.)** The attorney general may, upon his own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for refusal, suspension or revocation, as herein set forth, investigate the actions of any person holding or claiming to hold a license. The attorney general shall, before refusing to issue, suspending or revoking any license, at least ten days prior to the date set for the hearing notify in writing the applicant or holder of such license of any charges made and shall afford such accused person an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by delivery of the same personally to the accused person, or by mailing the same by registered mail to the place of business last theretofore specified by the accused person in his last notification to the attorney general. At the time and place fixed in the notice, the attorney general shall proceed to hearing of the charges and both the accused person and

the complainant shall be accorded ample opportunity to present in person or by counsel, such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The attorney general may continue such hearing from time to time.

§ 12. Appeal from Decision.) The district court of the county wherein the accused person resides shall have power to review any order of revocation or suspension and all questions of law and fact thereon provided application therefor is made by either party within thirty days from the date of service of such order.

§ 13. Attorney General May Issue Regulations.) The attorney general may issue regulations, consistent with the provisions of this Act, for the administration and enforcement thereof and may prescribe forms which shall be issued in connection therewith.

§ 14. Examination and License Fees.)

1. The fee to be paid by an applicant for an examination to determine his fitness to receive an examiner's license is twenty-five dollars.
2. The fee to be paid for an examiner's renewal license is ten dollars.
3. The fee to be paid for the issuance of a duplicate license is five dollars.
4. The fee to be paid for the reinstatement of an examiner's license within five years of the lapse thereof shall be five dollars and all of the lapsed renewal fees.
5. The fee to be paid for the restoration of a license which lapsed more than five years preceding the application for restoration shall be twenty-five dollars.

§ 15. Exemptions.) The provisions of this chapter shall not apply to any examiner in the exclusive employment of the United States of America, the state of North Dakota, any county, municipality, or political subdivision in this state, any department, bureau or agency of any of the foregoing, or any examiner thereof in the pursuit of his official duties.

§ 16. Examiner Licensed in Another State Exempt from Examination.) An applicant who is an examiner, licensed under the laws of another state of the United States, may be issued a license without examination by the attorney general, in his discretion, upon payment of a fee of twenty-five dollars, and the production of satisfactory proof:

1. That the applicant is at least twenty-one years of age; and
2. That the applicant is a citizen of the United States; and
3. That he is of good moral character; and
4. That the requirements for the licensing of examiners in such particular state of the United States were at the date of licensing, substantially equivalent to the requirements then in force in this state; and
5. That the applicant had lawfully engaged in the administration of polygraph examinations under the laws of such state for at least two years prior to his application for license hereunder.

§ **17. Violation—Penalty.)** Any person who violates any provision of this Act or any person who falsely states or represents that he has been or is an examiner or trainee shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or imprisonment in the county jail for a term of not to exceed six months, or both.

Approved March 15, 1965.

OFFICES AND OFFICERS

CHAPTER 304

H. B. No. 531
(Christensen, Poling)
(Recommended by Legislative Audit and Fiscal Review Committee)

EXPENSE AND OTHER CLAIMS AGAINST STATE OR POLITICAL SUBDIVISION

AN ACT

To create and enact sections 44-08-05.1 and 54-14-07 of the North Dakota Century Code, relating to the approval of vouchers for the expenditure of public funds and the penalty for violation thereof, and to the promulgation of rules by the state auditing board; to amend and reenact sections 44-08-03, 44-08-04, 44-08-05, 54-06-09, 54-14-03, and 54-14-04 of the North Dakota Century Code, relating to the claiming, paying, and receiving of travel expenditures and the violation thereof, and to repeal section 54-14-05 of the North Dakota Century Code, relating to printing on vouchers penalty for false certification.

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

§ 1. Amendment.) Section 44-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-03. Traveling Expenses—What Allowed.) No elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, shall willfully make claim upon, or willfully receive, any public funds for traveling expenses, while engaged upon public business, in an amount in excess of that allowed by law for such travel. Where more than one public officer, employee, representative, or agent shall travel in the same car while engaged upon official duty, whether belonging to different departments, subdivisions, boards, or commissions or not, no claim shall be made for more than one mileage, such claim to be made by the owner or lessee of such car.

§ 2. Amendment.) Section 44-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-04. Expense Account—Amount Allowed — Verification.) Each elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, may make claim and shall upon approval of such claim be paid as an allowance for meals and lodging while engaged within this state in the discharge of a public duty away from his normal working and living residence for all or any part of any quarter of a day at the following rates for each quarter of any twenty-four hour period:

1. First quarter shall be from six o'clock a.m. to twelve o'clock noon and the sum shall not exceed one dollar and twenty-five cents;
2. Second quarter shall be from twelve o'clock noon to six o'clock p.m. and the sum shall not exceed one dollar and fifty cents;
3. Third quarter shall be from six o'clock p.m. to twelve o'clock midnight and the sum shall not exceed two dollars and fifty cents;
4. Fourth quarter shall be from twelve o'clock midnight to six o'clock a.m. and the sum shall not exceed six dollars and seventy-five cents;
5. Provided, however, that the preceding four subsections shall not be applicable unless the person concerned has been out of the headquarters or normal place of employment for six hours or overnight.

Verifications of claims shall not be required for the first three quarters listed above and only a lodging receipt shall be required for the fourth quarter; provided, however, the amount paid for such lodging shall not be required to be listed.

Such persons engaged in travel without the state shall not claim a sum in excess of eight dollars a day for meals and in addition thereto actual lodging expenses. Verification by receipt for such out-of-state travel expense shall be required only for lodging expense claimed.

The head of any department, institution, or agency of this state may set a rate for such expenses less than those set forth in this section for any person or persons under his authority. Verification of any other type of expense not prescribed by this section shall be as prescribed by the state auditing board except no receipt shall be required for taxi or cab fares up to and including the sum of five dollars. The state auditing board shall disapprove any claim it shall de-

termine to be in error or unlawful or not within the limits of legislative appropriations. The travel expenses of the governor, lieutenant governor, judges of the supreme court, district courts, and county courts of increased jurisdiction, and members of the legislative assembly shall not be limited by the expense allowance limitations prescribed by this section.

§ 3. **Amendment.)** Section 44-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-05. Unlawful Expense and Traveling Account — Penalty—Civil Action.) Any person violating any of the provisions of sections 44-08-03 or 44-08-04 is guilty of a felony and shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment in a county jail for not less than ninety days nor more than one year, or by imprisonment in the penitentiary for not more than five years, or by both such fine and imprisonment. In addition to the criminal penalties herein imposed, any person subject to the provisions of sections 44-08-03 or 44-08-04 who receives public funds for the discharge of a public duty in excess of the amounts allowed by such sections shall, thirty days after a demand for a return of such excess amounts has been made by the attorney general, be subject to a civil suit to be brought by the attorney general for the recovery of the amount received in excess of that lawfully allowed.

§ 4.) Section 44-08-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

44-08-05.1. Vouchers — Requirements for Approval — Penalty—Action for Violations.) Any public officer or employee who has the power to approve a voucher for a department, agency, or institution for travel expenses or any other state expenditure of public funds shall determine before approving such voucher the following:

1. That the expenditure for travel or other expenditures were for lawful and official purposes;

2. If for travel expense, that the travel actually occurred, and that the sums claimed for travel expenses are actually due the individual who is seeking reimbursement, allowance, or payment;

3. If the voucher is for expenditure other than travel expense, that the expenditure is lawful and that the voucher contains no false claims.

Any public officer or employee who willfully approves a voucher with knowledge it contains false or unlawful claims or that it does not otherwise meet the requirements of this section for approval, shall be guilty of a misappropriation of public funds and shall be subject to the penalty prescribed by section 12-10-02. Any public officer or employee who shall without the use of ordinary care and diligence negligently approve a voucher for a department, agency, or institution containing false or unlawful claims or which does not otherwise meet the requirements of this section for approval, shall be personally liable for any funds improperly expended. The director of the department of accounts and purchases, members of the state auditing board, state auditor, or any other person who has knowledge of an actual or possible violation of this section shall make such information known to the attorney general. The attorney general shall investigate any alleged violations and if a violation appears to exist he shall criminally prosecute under section 12-10-02 or bring a civil suit for the recovery of such funds as may actually have been improperly paid against the payee and officer or employee who approved such voucher in violation of any of the above requirements or shall bring both such criminal action or civil suit. The officer or employee who approves any voucher negligently shall have the right of subrogation against the payee of such voucher in the event public funds have been improperly paid to the payee.

§ 5. **Amendment.)** Section 54-06-09 of the 1963 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 certified 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 it, verified by his affidavit. The statement shall be submitted to the state auditing board for approval and shall be paid only when approved by said board.

§ 6. Amendment.) Section 54-14-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-03. Powers and Duties of State Auditing Board.) The state auditing board shall audit all claims, accounts, bills, or demands against the state, except those of state-owned utilities, enterprises, and business projects, and such others as are specifically excepted by law. The state auditing board may delegate to the director of accounts and purchases authority to approve payments for payrolls, purchases, and such other items as in their discretion they deem feasible and desirable. Any person or department aggrieved by the disallowance of a claim by the director of accounts and purchases under the authority delegated herein may appeal such disallowance to the auditing board, which may reverse or affirm the action of the director of accounts and purchases.

§ 7. Amendment.) Section 54-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-04. Claim Against State Filed with State Auditing Board.) No bill, claim, account, or demand against the state shall be audited, allowed, or paid until a full itemized statement in writing has been filed with the state auditing board, unless such bill, claim, account, or demand is:

1. For a salary fixed by law;

2. Against a state owned utility, enterprise, or business project; or

3. Specifically exempt by law.

§ 8.) Section 54-14-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-14-07. Auditing Board Rules — Standard Vouchers — Disapproval of Claims.) In order to insure that sufficient information is provided to verify claims and determine the exact purpose of expenditures the state auditing board shall promulgate rules and regulations which they deem necessary for an adequate accounting and shall direct the preparation of standard forms or vouchers upon which claims against any public fund shall be submitted. The standard forms or vouchers shall be prepared in such a manner so as to require an enumeration and description of services performed, purposes of expenditures, types of items or services purchased, number of days of per diem payments, the capacity in which per diem is claimed, and any other information which is deemed necessary or desirable by the state auditing board. In the case of travel expenses the state auditing board shall specifically provide by rule or regulation for certification and a method whereby adequate verification of travel allowances or expenses can be provided, and to this end may direct individuals or departments to maintain adequate records which they may be called upon to produce for pre-audit or post-audit purposes in order to verify any information submitted upon travel vouchers or verify the correctness and lawfulness of the expenditures. The auditing board shall disapprove all vouchers or expenditures it determines to be in error or unlawful or exceeding the limits of legislative appropriation.

§ 9. Repeal.) Section 54-14-05 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1965.

CHAPTER 305

S. B. No. 308
(George, Lashkowitz)

UNIFORM FACSIMILE SIGNATURE ACT

AN ACT

To adopt the Uniform Facsimile Signatures of Public Officials Act; providing for the use of facsimile signatures and seals on public securities and instruments of payment issued by the state or any of its instrumentalities or political subdivisions; constituting a felony the use of such signatures or seals with intent to defraud; and declaring an emergency.

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

§ 1. **Definitions.)** As used in this Act:

1. "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state or by any of its departments, agencies, public bodies, or other instrumentalities or by any of its political subdivisions.
2. "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.
3. "Authorized officer" means any official of this state or any of its departments, agencies, public bodies, or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted.
4. "Facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer.

§ 2. **Facsimile Signature.)** Any authorized officer, after filing with the secretary of state or, in the case of officers of any city, village, county, school district or other political subdivision, with the clerk of such subdivision, his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

1. Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed, but no such manual subscription shall be required as to interest coupons attached to such security; and

2. Any instrument of payment.

Upon compliance with this Act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

§ 3. **Use of Facsimile Seal.)** When the seal of this state or any of its departments, agencies, public bodies, or other instrumentalities or of any of its political subdivisions is required in the execution of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, stamped or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

§ 4. **Violation and Penalty.)** Any person who with intent to defraud uses on a public security or an instrument of payment:

1. A facsimile signature, or any reproduction of it, of any authorized officer, or

2. Any facsimile seal, or any reproduction of it, of this state or any of its departments, agencies, public bodies, or other instrumentalities or of any of its political subdivisions is guilty of a felony.

§ 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 15, 1965.

PRINTING LAWS

CHAPTER 306

S. B. No. 181
(Strinden, Lips, Larson, Witteman)

BIDS ON STATE PRINTING

AN ACT

To amend and reenact section 46-02-09 of the North Dakota Century Code, relating to proposals for printing, classification 6, to permit subletting.

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

§ 1. **Amendment.)** Section 46-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-02-09. Proposals for Printing — Classification.) Each department and office of the government may let the printing of all matters coming within classification 6 to such newspaper or job printing shop in this state as may be equipped to handle, perform and take proper care of the work required and to furnish the stock necessary. Before letting or submitting such order for printing or miscellaneous job work to such newspaper or job printing shop, the department or state office shall submit such order or requisition for printing to the department of accounts and purchases, which shall determine and fix the reasonable maximum cost or price for such printing work and the stock required. The price fixed and determined by the department of accounts and purchases, shall be the maximum cost of such printing work and material and the price paid by such department or office for the work and printing so ordered and the material furnished shall not exceed the maximum cost and price so determined. Such maximum cost and price so fixed shall not exceed the price and cost as provided for in the Franklin Printing Catalogue and shall be determined and fixed by the department of accounts and purchases according to the kind and quality of material required and the kind of work necessary. Upon the determination and fixing of such maximum cost and price to be charged for the work required and material furnished, the state department or office may have such work and printing done and the material furnished by such newspaper or

job printing shop in this state as the said state department or office shall select.

Approved March 4, 1965.

CHAPTER 307

H. B. No. 649
(Brown)

DISPOSAL OF OLD LAWS

AN ACT

To amend and reenact section 46-04-19 of the North Dakota Century Code, relating to the disposition of certain laws.

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

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

46-04-19. Secretary of State May Dispose of Laws.) The secretary of state may dispose of all volumes of the laws for the year 1959 or prior years in his possession except ten volumes of each which he shall keep for historical purposes.

Approved March 5, 1965.

CHAPTER 308

S. B. No. 232
(Becker, Morgan)

QUALIFICATIONS OF LEGAL NEWSPAPER

AN ACT

To amend and reenact subsection 2 of section 46-05-01 of the North Dakota Century Code, relating to the qualifications of a legal newspaper requiring that at least two pages of the newspaper be actually printed at the place designated in the date line.

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

§ **1. Amendment.)** Subsection 2 of section 46-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Have at least two pages of the newspaper actually printed at the place designated in the date line or within the county of the place designated in such date line; and

Approved March 3, 1965.

CHAPTER 309

H. B. No. 629
(Erickson (Ward), Williamson, Montplaisir, Jungroth,)
(Schoenwald, Hertz, Sanstead, Borstad, Meschke)

TERM OF OFFICIAL COUNTY NEWSPAPER

AN ACT

To amend and reenact section 46-06-06 of the North Dakota Century Code, relating to the election and term of an official county newspaper.

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

§ 1. Amendment.) Section 46-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-06-06. Newspaper Receiving Highest Number of Votes Elected—Canvass.) The newspaper receiving the highest number of votes at the general election shall be declared elected. The county auditor, upon the canvass and return of the vote by the county canvassing board, shall issue a certificate of election to such newspaper, and it shall become the official newspaper beginning on the first Monday in January following the election, and shall act as the official newspaper for a period of four years and until a successor is chosen and takes office. The canvass of the votes for the official newspaper shall be made by the county canvassing board at the time other election returns are canvassed.

Approved February 24, 1965.

PROPERTY

CHAPTER 310

S. B. No. 330
(Chesrown, Longmire)

TERMINATION OF EASEMENTS

AN ACT

Relating to the termination of certain easements.

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

§ 1. Temporary Easements to Contain Fixed Termination Date.) Whenever a temporary easement is acquired by the state or any of its agencies, departments, or institutions, or any political subdivision of the state in connection with highway or road construction or for any other purpose, a fixed date of termination shall be stated in such temporary easement, which date shall not be more than five years from the date of the easement.

Approved March 15, 1965.

CHAPTER 311

S. B. No. 65
(Longmire)

CONDOMINIUM OWNERSHIP OF REAL PROPERTY

AN ACT

To provide for condominium ownership of real property.

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

§ 1. Definitions.) In this chapter, unless context otherwise requires:

1. "Condominium" is an estate in real property consisting of an undivided interest or interests in common in a portion of a parcel of real property together with a separate interest or interests in space in a structure, on such real property;

2. "Project" means the entire parcel of real property divided, or to be divided into condominiums, including all structures thereon;

3. "Unit" means the elements of a condominium which are not owned in common with the owners of other condominiums in the project;

4. "Common areas" means the entire project excepting all units therein granted or reserved;

5. "Limited common areas" means those elements designed for use by the owners of one or more but less than all of the units included in the project;

6. "To divide" real property means to divide the ownership thereof by conveying one or more condominiums therein but less than the whole thereof;

7. "Interest" means the fractional or percentage interest or interests ascribed to each unit by the declaration provided for in section 3.

§ 2. Recording of Declaration to Submit Property to a Project.) When the sole owner or all the owners, or the sole lessee or all of the lessees of a lease desire to submit a parcel of real property to a project established by this chapter, a declaration to that effect shall be executed and acknowledged by the sole owner or lessee or all of such owners or lessees and shall be recorded in the office of the register of deeds of the county in which such property lies.

§ 3. Contents of Declaration.) The declaration provided for in section 2 shall contain:

1. A description or survey map of the surface of the land included within the project;

2. Diagrammatic floor plans of the structures built or to be built thereon in sufficient detail to identify each unit, its relative location and approximate dimensions;

3. A description of the common elements;

4. A description of the limited common elements;

5. The fractional or percentage interest which each unit bears to the entire project. The sum of such shall be one if expressed in fractions and one hundred if expressed in percentage.

§ 4. Declaration of Restrictions.) The owner of a project, shall, prior to the conveyance of any condominium therein, record a declaration of restrictions relating to such project,

which restrictions shall be enforceable equitable servitudes where reasonable, and shall inure to and bind all owners of condominiums in the project. Such servitudes, unless otherwise provided, may be enforced by any legal or equitable owner of a condominium in the project.

§ 5. Reference to Declaration for Description of Unit and Common Elements.) All subsequent deeds, mortgages, or other instruments shall describe the unit and the land, but may describe the individual units, the common elements, other than the land, or limited common elements by reference to appropriate numbers or letters if such appear on the declaration provided for in section 3 without repeating in detail the description of such units, common elements other than the land, or limited common elements. Such reference shall include the book and page of the recorded declaration.

§ 6. Incidents of a Condominium Grant.) Unless otherwise expressly provided for in the deeds, declaration of restrictions or plan, the incidents of a condominium grant are as follows:

1. The boundaries of the unit granted are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and the units include both the portions of the building so described and the airspace so encompassed. The following except as provided above are not part of the unit: bearing walls, columns, floors, roofs, foundations, elevator equipment and shafts, central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the unit. In interpreting deeds and plans the existing physical boundaries of the unit or of a unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the building.

2. The common areas are owned by the owners of the units as tenants in common in proportion to each unit's interest.

3. A nonexclusive easement for ingress, egress, and support through the common areas is appurtenant to and

inseparable from each unit and the common areas are subject to such easements.

4. Each condominium owner shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows, and doors bounding his own unit.

5. Except as provided in section 9 of this chapter, the common areas shall remain undivided, and there shall be no judicial partition thereof.

§ 7. Administration — Bylaws — Rules and Regulations.) The unit owners of each project shall provide for the administration of each project. The unit owners or administrative body established by the unit owners shall provide by bylaws for the maintenance of common elements, limited common elements where applicable, assessment of expenses, payment of losses, division of profits, disposition of hazard insurance proceeds and similar matters. A true copy of such bylaws shall be annexed to the declaration set forth in section 2 of this Act when adopted and made a part thereof and filed in the office of the register of deeds. No modification of or amendment to the bylaws shall be valid unless set forth in an amendment to the declaration and such amendment is duly recorded in the office of the register of deeds.

All bylaws, rules and regulations as adopted by the unit owners or administrative body of the project shall be reduced to writing and available to every owner of any interest in the project.

The unit owners shall also cause to be recorded in the office of the register of deeds the name of the person or persons who are responsible for the administrative duties and who may be designated as agent or agents for all owners for the service of legal process and possess such power and authority as may be provided in the bylaws.

§ 8. Compliance with Covenants, Bylaws, and Administrative Provisions.) Each unit owner shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the declarations or in the deed to his unit. Failure to comply with such provisions shall be ground for an action to recover sums due for damages, injunctive relief or such other relief as a court of proper jurisdiction may provide by the administrative body or in a proper case, by an aggrieved unit owner.

§ 9. Partition Not Available—Exceptions.) The provisions of chapter 32-16 relating to partition of real property shall not be available to any owner of any interest in real property included within a project established under this Act as against any other owner or owners of any interest or interests in the same project, so as to terminate the project.

An action may be brought by one or more unit owners in a project for partition thereof by sale of the entire project, as if the owners of all of the condominiums in such project were tenants-in-common in the entire project in the same proportion as their interests in the common areas, provided, however, that a partition by sale shall be made only upon the showing that:

1. Three years after damage or destruction to the project which renders a material part thereof unfit for its prior intended use, the project has not been rebuilt or repaired substantially to its state prior to its damage or destruction, or

2. That all or a substantial and material portion of the project has been destroyed or substantially damaged, and that condominium owners holding in aggregate more than fifty percent interest in the common areas are opposed to repair or restoration of the project, or

3. The project is obsolete and uneconomic, and that condominium owners holding in aggregate more than a fifty percent interest in the common areas are opposed to repair or restoration of the project.

§ 10. Withdrawal of Property from Project—Recording—Subsequent Project.) Any property so constituted as a condominium project may be removed therefrom at any time, provided the sole owner or all of the owners execute, acknowledge, and record a declaration evidencing such withdrawal. If at such time there are any encumbrances or liens against any of the units, such declaration will be effective only when the creditors holding such encumbrances or liens also execute and acknowledge such declaration, or their encumbrances or liens are satisfied, or expire by operation of law.

No withdrawal of any property from a condominium project shall be a bar to any subsequent commitment to a condominium project.

§ 11. Liens Against Units for Common Expenses—Removal from Lien—Effect of Part Payment.) A reasonable assessment for common expenses made by the administrative body upon any condominium and made in accordance with the recorded declaration and bylaws shall be a debt of the owner

thereof at the time the assessment is made. The amount of any such assessment plus any other charges thereon, such as interest, costs, and penalties, as such may be provided for in the declarations and bylaws, shall be and become a lien upon the condominium assessed when the administrative body causes such assessment to be recorded in the office of the register of deeds for the county in which such condominium is located. The notice of assessment shall state the amount of such assessment and other charges and the name of the record owner thereof. Such notice shall be signed by an authorized representative of the administrative body or as otherwise provided in the declarations and bylaws. Upon payment of said assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the administrative body shall cause a notice to be recorded stating the satisfaction and the release of the lien thereof.

§ 12. Other Liens—Removal from—Part Payment.) Subsequent to recording the declaration provided for in section 2 of this Act and while the property remains enrolled as a condominium project, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against the individual units and general common elements and limited common elements where applicable, appurtenant to such unit, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership.

In the event a lien against two or more units becomes effective, the owners of the separate units may remove their unit and the general common elements and limited common elements where applicable appurtenant to such unit from the lien by payment of the fractional or proportional amounts attributable to each of the units affected. Such individual payments shall be computed by reference to the fractions or percentages appearing on the declaration provided for in section 2 and bylaws annexed thereto. Subsequent to any such payment, discharge or other satisfaction the individual unit and the general common elements and limited common elements applicable appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any unit and the general common elements, limited common elements where applicable appurtenant thereto not so paid, satisfied, or discharged.

§ 13. Real Property Tax and Special Assessments—Levy on Each Unit.) All real property taxes and special assessments shall be levied on each unit and its respective appurtenant fractional share or percentage of the land, general common elements and limited common elements where applicable as such units and appurtenances are separately owned, and not on the entire project.

Any exemption from taxes that may exist on real property or the ownership thereof shall not be denied by virtue of the registration of the property under the provisions of this chapter.

Approved March 10, 1965.

CHAPTER 312

H. B. No. 799
(Krenz, Solberg, Dick)

TRANSFER OF PERFORMING RIGHTS TAX

AN ACT

To amend and reenact section 47-21-08 of the North Dakota Century Code, relating to the administration and collection of the tax on performing rights in music or dramatico-musical compositions, and transferring the tax collecting functions from the state treasurer to the state tax commissioner.

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

§ 1. Amendment.) Section 47-21-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-21-08. Tax Levied on Selling and Licensing Performing Rights of Music or Dramatico-Musical Compositions—Payable to State Tax Commissioner.) A tax shall be levied and collected for the act or privilege of selling, licensing, or otherwise disposing of performing rights in music or dramatico-musical compositions in this state, in an amount equal to five percent of the gross receipts of all such sales, licenses, or other disposition of performing rights in this state, payable to the state tax commissioner for the benefit of the general fund of the state, on or before the fifteenth day of March of each year, with respect to the gross receipts of the preceding calendar year. The state tax commissioner shall adopt and publish rules and regulations not in conflict herewith, as well

as a form of return and any other forms necessary to carry out the provisions of this section.

Approved March 10, 1965.

CHAPTER 313

H. B. No. 883
(Stockman)

SAVINGS INSTITUTIONS UNDER GIFTS TO MINORS ACT

AN ACT

To amend and reenact sections 47-24-01, 47-24-02, 47-24-03, 47-24-04, and 47-24-06 of the North Dakota Century Code, to bring savings and loan and building and loan associations within the provisions of 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 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. "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;
3. "Court" means the county court;
4. "Custodial property" includes:
   a. all securities 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 or

other disposition of such securities, money and income;

5. "Custodian" is a person so designated in a manner prescribed in this chapter;

6. "Depository" 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;

7. "Guardian" of a minor includes the general guardian, guardian, tutor or curator of his property, estate or person;

8. "Issue" 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;

9. "Legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate;

10. "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;

11. "Minor" is a person who has not attained the age of twenty-one years;

12. "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;

13. "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;

14. "Trust company" is a bank authorized to exercise trust power.

§ 2. Amendment.) Section 47-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-24-02. Manner of Making Gift.) An adult person may, during his lifetime, make a gift of a security, money or life insurance policy to a person who is a minor on the date of the gift:

1. If the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person 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. If the subject of the gift is a security not in registered form, by delivering it to an adult person 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).....**"**

3. If the subject of the gift is money, by paying or delivering it to a broker or a depository for credit to an account in the name of the donor, another adult person, an adult member of the minor's family, a guardian of the minor, or a depository with trust powers, followed, in substance, by the words: "as custodian for .....(name of minor)..... under the North Dakota Uniform Gifts to Minors Act."

4. If the subject of the gift is a life insurance policy by making a written assignment of all rights thereto.

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.

A donor who makes a gift to a minor in a manner prescribed in this section 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 section, 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 North Dakota Century Code is hereby amended and reenacted to read as follows:

47-24-03. Effect of Gift.) A gift made in a manner prescribed in this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security 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.

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, depository, 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 North Dakota Century Code is hereby amended and reenacted to read as follows:

47-24-04. Duties and Powers of Custodian.) The custodian shall collect, hold, manage, invest and reinvest the custodial property, and:

1. 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;

2. 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;

3. 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;

4. 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;

5. The custodian may sell, exchange, convert 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;

6. 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 a depository 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 keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property;

7. 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;

8. 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.

§ **5. Amendment.)** Section 47-24-06 of 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, depository, broker or other person 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 by the purported donor 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 or any money or other property paid or delivered to him.

Approved March 10, 1965.

PUBLIC BUILDINGS

CHAPTER 314

S. B. No. 338
(Lips, Roen, Van Horn, Thompson)

CAPITOL GROUNDS PLANNING COMMISSION

AN ACT

Providing for a capitol grounds planning commission; making an appropriation for capitol grounds planning, making an appropriation for a state highway department building, and declaring an emergency.

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

§ 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 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. The planning commission shall function during the calendar years 1965 and 1966 for the purpose of conferring with a qualified consultant retained by it to select a site for the construction of a highway department building on the capitol grounds and otherwise developing long-term plans for the development of the capitol grounds. The planning commission shall have the power and duty of making a selection for the site of the highway department building on the capitol grounds as soon as practicable after conferring with the qualified consultant, and the selection of the site by the planning commission is hereby confirmed by the Thirty-ninth Legislative Assembly. The construction of the highway department building may commence after the selection of the building site and as soon as adequate funds are available for such purpose in the state highway fund as provided in section 3 of this Act. 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. Appropriation.) There is hereby appropriated out of any moneys in the capitol building fund, not otherwise appropriated, the sum of $10,000.00 or so much thereof as may be necessary, to the capitol grounds planning commission for the purpose of obtaining the services of a qualified consultant in order to select a site for a state highway building on the capitol grounds and to defray the expenses of the capitol grounds planning commission for the biennium beginning July 1, 1965, and ending June 30, 1969.

§ 3. Appropriation.) There is hereby appropriated out of any moneys in the state highway fund, not otherwise appropriated, the sum of $2,500,000.00 or so much thereof as may be necessary, for the purpose of constructing a state highway department building, for the biennium beginning July 1, 1965, and ending June 30, 1969, provided, however, that such funds shall not be made available until the governor has determined that such funds are available and has certified such determination to the director of the department of accounts and purchases.

§ 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 17, 1965.

CHAPTER 315

S. B. No. 125
(Trenbeath, Kautzmann, Mahoney)

PUBLIC BUILDINGS TO BE CONSTRUCTED CONSIDERING HANDICAPPED NEEDS

AN ACT

Providing that buildings being constructed with public funds shall be constructed in a manner so as to consider the needs of the handicapped.

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

§ 1. Statement of Legislative Intent on Design of Public Buildings.) The standards and specifications to all buildings which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision shall take into consideration the needs of the handicapped, and as far as is feasible make such buildings

and their facilities accessible to, and useable by, handicapped persons.

Approved March 1, 1965.

CHAPTER 316

H. B. No. 706
(Whittlesey, Unruh, Gudajtes, Collette, Stallman)

USE OF NATIVE FUELS

AN ACT

To amend and reenact section 48-05-02 of the North Dakota Century Code, prescribing fuels to be used in the various state institutions, county buildings, and public school houses in this state.

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

§ 1. **Amendment.)** Section 48-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-05-02. Public Institutions to Use Native Fuel Products.) The various state institutions in this state shall use North Dakota native fuel products for fuel, except where the competitive price bid on a British Thermal Unit basis of purchasing non-native fuel is not greater than the cost of purchasing native fuel products. County buildings and public school buildings are specifically exempted from the provisions of this section.

Approved March 18, 1965.

CHAPTER 317

H. B. No. 560
(Poling, Dick)

EMERGENCY CENTERS IN PUBLIC BUILDINGS

AN ACT

To provide for space in the state capitol building and other state, county and local municipal buildings for emergency operating centers and civil defense offices.

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

§ 1. **State, County, Local Municipal Buildings—Space for Civil Defense Activities.)** The board of administration and any other group, board or commission having control of the use of any state, county, or local municipal buildings are authorized to provide space for emergency operating centers and civil defense offices in such buildings.

Approved March 2, 1965.

CHAPTER 318

H. B. No. 735
(Boustead, Coles, Wagner, Lang, Brown)

CONCESSIONS ON PUBLIC BUILDINGS AND GROUNDS

AN ACT

To amend and reenact section 48-09-01 of the North Dakota Century Code, relating to granting concessions for cafes, restaurants, and confectioneries on public buildings and grounds.

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

§ 1. **Amendment.)** Section 48-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-09-01. Granting of Concessions for Cafes, Restaurants, and Confectioneries on Public Buildings and Grounds.) Any state official, board or commission, any county official, board, or commission, and any municipal officer, board, or commission, having the supervision, control and management of any state, county, or municipal building and the adjacent grounds

thereof, when it is deemed to be for the public benefit and good, may grant a concession therein or thereon for any cafe, restaurant, or confectionery, by renting, leasing, and licensing any such concession to the highest and/or best bidder, at a reasonable rental per month, for a period not exceeding eight years, and may reject any and all bids therefor.

Approved March 6, 1965.

PUBLIC UTILITIES

CHAPTER 319

H. B. No. 724
(Lundene, Dick, Frank, Jungroth, Lang, Erickson (Mountrail),)
(Myhre, Hoffner, Strand, Tough, Bier, Opedahl)

EXTENSION OF PUBLIC UTILITY SERVICE

AN ACT

To amend and reenact sections 49-03-01 and 49-03-05 of the North Dakota Century Code, relating to certificates of public convenience and necessity and complaints thereto, and for limitations on electric public utilities serving customers in designated areas.

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

§ 1. **Amendment.)** Section 49-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-03-01. Certificate of Public Convenience and Necessity—Secured by Public Utility.) No public utility henceforth shall begin in the construction or operation of a public utility plant or system or extension thereof, without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction and operation. This section shall not be construed to require any such public utility to secure such certificate for an extension within any municipality within which it has lawfully commenced operations. The provisions of this section shall not be construed to exempt a public utility, operating an oil or gas pipeline gathering system for the purpose of collecting oil or gas at the well producing the oil or gas and transporting such products to another destination, from obtaining a certificate of public convenience and necessity from the public service commission prior to extending such pipelines to provide service to any wells in an oil or gas field not presently served, unless such oil or gas field borders within three miles of an oil or gas field presently being served. If any public utility in constructing or extending its line, plant, or system, unreasonably interferes with or is about to interfere unreasonably with the service or system of any other public utility, or any electric co-operative corporation, the commision on complaint of the public utility or the electric co-operative corporation claiming to be injuriously affected, after notice and hearing as provided in this

title, may make such order enforcing this section with respect to such public utility and prescribe such terms and conditions as are just and reasonable.

§ 2. Limitation on Electric Transmission and Distribution Lines, Extensions and Service by Electric Public Utilities.) No electric public utility henceforth shall begin in the construction or operation of a public utility plant or system or extension thereof without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction and operation, nor shall such public utility henceforth extend its electric transmission or distribution lines beyond or outside of the corporate limits of any municipality, nor shall it serve any customer where the place to be served is not located within the corporate limits of a municipality, unless and until, after application, such electric public utility has obtained an order from the public service commission of the state of North Dakota authorizing such extension and service and a certificate that public convenience and necessity require that permission be given to extend such lines and to serve such customer.

§ 3. Limitation on Issuance of Orders and Certificates of Public Convenience and Necessity to Electric Public Utilities.) The public service commission of the state of North Dakota shall not issue its order or a certificate of public convenience and necessity to any electric public utility to extend its electric distribution lines beyond the corporate limits of a municipality or to serve a customer whose place to be served is located outside the corporate limits of a municipality unless the electric co-operative corporation with lines or facilities nearest the place where service is required shall consent in writing to such extension by such electric public utility, or unless, upon hearing before the commission, called upon notice, it shall be shown that the service required cannot be provided by an electric co-operative corporation. Such certificate shall not be necessary if the public service commission approves an agreement between a public utility and the rural electric co-operative serving the area which includes the station to be served and which agreement designates said station to be in an area to be served by the public utility.

§ 4. Exclusions from Limitations on Electric Distribution Lines, Extension and Service and on Issuance of Certificates of Public Convenience and Necessity.) This Act shall not be construed to require any such electric public utility to secure such order or certificate for an extension of its electric distribution lines within the corporate limits of any municipality within which it has lawfully commenced operations; provided, however, that such extension or extensions shall not interfere

with existing services provided by a rural electric co-operative or another electric public utility within such municipality; and provided duplication of services is not deemed unreasonable by the public service commission; and

This Act shall not be construed to require an electric public utility to discontinue service to customers thereof whose places receiving service are located outside the corporate limits of a municipality upon the effective date of this Act; provided, however, that within ninety days after the effective date of this Act, any electric public utility furnishing service to customers whose places receiving service are located outside the corporate limits of a municipality shall file with the public service commission of the state of North Dakota a complete map or maps of its electric distribution system showing all places in North Dakota which are located outside the corporate limits of a municipality and which are receiving its service as of the effective date of this Act. After ninety days from the effective date of this Act, unless a customer whose place being served is located outside the corporate limits of a municipality is shown on said map or maps, it shall be conclusively presumed that such customer was not being served upon the effective date hereof and cannot be served until after compliance with the provisions of sections 2 and 3 hereof.

§ 5. **Enforcement of Act.)** If any electric public utility violates or threatens to violate any of the provisions of this Act or interferes with or threatens to interfere with the service or system of any other electric public utility or rural electric co-operative, the public service commission of the state of North Dakota, after complaint, notice and hearing as provided in chapter 28-32 of the North Dakota Century Code, shall make its order restraining and enjoining said electric public utility from constructing or extending its interfering lines, plant or system. In addition to the restraint imposed, the public service commission shall prescribe such terms and conditions as it shall deem reasonable and proper.

Provided, further, that nothing herein contained shall be construed to prohibit or limit any person, who has been injured in his business or property by reason of a violation of this Act by any electric public utility or electric co-operative corporation, from bringing an action for damages in any district court of this state to recover such damages.

§ 6. **Definitions.)** When used in this Act the following terms shall mean:

1. An electric public utility shall mean a privately owned supplier of electricity offering to supply or supplying electricity to the general public.
2. A rural electric co-operative shall include any electric co-operative organized under the provisions of the Electric Co-operative Act of the state of North Dakota. An electric co-operative, composed of members as prescribed by law, shall not be deemed to be an electric public utility.
3. A person shall include an individual, an electric public utility, a corporation, an association, or a rural electric co-operative.

Approved March 20, 1965.

CHAPTER 320

H. B. No. 547
(Tweten, Hertz, Bergman)
(From LRC Study)

PUBLIC UTILITY RATE CHANGES

AN ACT

To amend and reenact sections 49-05-04, 49-05-06, and 49-06-01 of the North Dakota Century Code, relating to public utility rate changes.

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

§ **1. Amendment.)** Section 49-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-05-04. Application for Increase of Rates—Information Required.) Any public utility requesting an increase in its rates above the maximum approved or prescribed by the commission, shall furnish the commission:

1. The original cost of all its property;
2. The date of the acquisition of said property;
3. The amount of money invested in said property;
4. The amount of stock outstanding;
5. The amount of bonds outstanding against said property;

6. All books, papers, and memoranda of the utility showing the financial condition thereof;
7. Its total monthly salaries and wage expense for such time as the commission may request;
8. An itemized statement of its expenditures;
9. The details of its profit and loss account; and
10. All other books, papers, vouchers, and accounts which the said commission shall ask to have produced as evidence at the hearing.

§ 2. **Amendment.)** Section 49-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-05-06. Hearing by Commission on Proposed Change of Rates.) Whenever a notice or any schedule stating an individual or joint rate, classification, contract, practice, rule, or regulation, increasing or decreasing, or resulting in an increase or decrease in any rate, shall be filed with the commission, the commission may suspend by motion such rate, classification, contract, practice, rule or regulation, but the period of suspension thereof shall not extend more than seven months for common carriers by rail and motor vehicle and for other public utilities eleven months beyond the time when it otherwise would go into effect. Upon complaint or upon its own initiative without complaint the commission may order a hearing, upon due notice, concerning the propriety of such rate, classification, contract, practice, rule, or regulation. On such hearing, the commission shall establish the rates, classifications, contracts, practices, rules, or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. At any such hearing, the burden to show that the increased rate or proposed change of rate, classification, regulation, rule or practice is just and reasonable shall be upon the public utility making application therefor. All such rates, classifications, contracts, practices, rules, or regulations not so suspended, on the expiration of thirty days from the time of filing the same with the commission, or of such lesser time as the commission may grant, shall go into effect and be the established and effective rates, classifications, contracts, practices, rules, and regulations, subject to the power of the commission, after a hearing had on its own motion or upon complaint, to alter or modify the same.

§ 3. **Amendment.)** Section 49-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-06-01. Valuation of Property as Basis for Determining Reasonableness of Rates—Railroads and Motor Carriers May Be Excepted.) The commission, for the purpose of ascertaining just and reasonable rates and charges of public utilities, or for any other purpose authorized by law, shall investigate and determine the value of the property of every public utility, except railroads and motor carriers, used and useful for the service and convenience of the public, excluding therefrom the value of any franchise or right to own, operate, or enjoy the same in excess of the amount, exclusive of any tax or annual charge, actually paid to any political subdivision of the state as a consideration for the grant of such franchise or right, and exclusive of any value of the right by reason of a monopoly or merger. The value of the property of railroads and motor carriers may, in the discretion of the commission, be required in establishing just and reasonable rates and charges. However, unless the commission determines that the value of the property of railroads and motor carriers is pertinent and essential in the establishment of just and reasonable rates and charges, such valuation shall not be made. The commission shall prescribe the details of the inventory of the property of each public utility to be valued.

Approved March 20, 1965.

CHAPTER 321

S. B. No. 98
(Morgan, Luick, Sinner)

GRAIN HOLD POINTS

AN ACT

Granting authority to the public service commission to require that railroads establish and maintain hold points for grain at designated locations.

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

§ 1. Requiring Establishment and Maintenance of Hold Points.) Any railroad operating in the state of North Dakota shall establish and maintain at such locations within the state as may be designated by the public service commission, such hold points as may be determined by the commission to be necessary and in the public interest for the sampling of grain shipments originating within the state of North Dakota.

Approved March 10, 1965.

CHAPTER 322

H. B. No. 548
(Tweten, Hertz, Bergman)
(From LRC Study)

TRANSPORTATION SAFETY REQUIREMENTS

AN ACT

To create and enact section 49-18-46, and to amend and reenact sections 49-11-16 and 49-13-06 of the North Dakota Century Code, relating to rail and motor carrier safety and equipment requirements and to repeal sections 49-13-01, 49-13-03, 49-18-27, 49-18-28, 49-18-29, and 49-18-30 of the North Dakota Century Code, relating to rail and motor carrier safety and equipment requirements.

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

§ 1. Amendment.) Section 49-11-16 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-11-16. Caution Signs—Specifications—Posting at Crossings.) Every railroad corporation operating a line of road within this state must erect suitable signs of caution at each crossing of its road with a public highway, which signs shall be lettered in accordance with standards and rules prescribed, after notice and opportunity of hearing, by the commission. The height of such signs shall be approximately eight feet six inches above the level of the traveled roadway to the cross-arms but this may be varied to provide the best view to persons approaching the crossing.

§ 2. Amendment.) Section 49-13-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-13-06. Clearance Required Over Tracks.) No person, firm, or corporation, including a railroad corporation, unless authorized by the commission shall erect or maintain on any standard gauge road on its line or on any standard gauge side-track used in connection therewith, any:

1. Coal chute, stock pen, pole, mail crane, standpipe, hog drencher, embankment of earth or natural rock, or any fixed or permanent structure or obstruction upon its line of railroad or on any side-track used in connection therewith, at a distance less than eight feet, measured from the center line of the track, which said structure or obstruction adjoins on standard gauge roads; nor

2. Overhead wires, bridges, viaducts, or other obstructions passing over and above its tracks at a less height than twenty-one feet, measured from the top of the track rail.

The public service commission, upon application after a thorough investigation and hearing in any particular case, may permit any railroad corporation to which this section applies to erect or reconstruct and maintain any such railroad facility at a lesser clearance than herein provided for when in the judgment of said commission the compliance with the clearance prescribed herein would be unreasonable or unnecessary and when a lesser clearance than that hereinbefore provided for would not create a condition unduly hazardous to the employees of such railroad corporation or any other person or corporation. Station freight house platforms which have a vertical height of not more than four feet, measured from the top of the track rail, may be erected and maintained at a less distance from the center of the track which they adjoin than herein specified.

§ 3.) Section 49-18-46 of the North Dakota Century Code is hereby created and enacted to read as follows:

49-18-46. Commission to Prescribe Safety Rules and Regulations.) The public service commission, for the protection of persons and property, shall promulgate and establish safety rules and regulations governing the working hours, age limits, physical and mental conditions, medical examinations, and records of employees; the adequacy, condition, construction, inspection, maintenance, purpose, and use of equipment; and any other necessary rules and regulations pertaining to the operations of carriers subject to the provisions of this chapter which are deemed necessary to promote the safety and protection of persons and property. To this end the commission may adopt in whole or in part the safety rules and regulations of the interstate commerce commission, by reference or otherwise, as now prescribed or which may from time to time be prescribed for the type of carriers subject to the provisions of this chapter engaged in interstate or foreign commerce.

§ 4. **Repeal.)** Sections 49-13-01, 49-13-03, 49-18-27, 49-18-28, 49-18-29, and 49-18-30 of the North Dakota Century Code are hereby repealed.

Approved March 2, 1965.

PUBLIC WELFARE

CHAPTER 323

S. B. No. 109
(Sorlie, Luick, Van Horn, Robinson, Saumur, Thompson,)
(Lips, Jurgensen, Lashkowitz)

COUNTY WELFARE BOARD TRAVEL

AN ACT

To create and enact section 50-01-08.1 of the North Dakota Century Code, relating to approval of out-of-state travel of certain county officials and employees.

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

§ 1.) Section 50-01-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-01-08.1. Out-of-State Travel Approval.) No member or employee of a county welfare board shall be reimbursed from public funds for per diem or travel expenses incurred in travel outside of the state of North Dakota unless such travel shall, in each instance, have been approved in advance by resolution of the board of county commissioners.

Approved March 2, 1965.

CHAPTER 324

S. B. No. 218
(Lips, Sinner)

DEFINITION OF DEPENDENT CHILDREN

AN ACT

To amend and reenact section 50-09-01 of the North Dakota Century Code, relating to dependent children.

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

§ 1. Amendment.) Section 50-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-09-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "State agency" shall mean the public welfare board of North Dakota;
2. "County agency" shall mean the county welfare board in each of the counties of the state;
3. "Private agency" shall mean a private child-caring or child-placing agency duly licensed under the laws of North Dakota, or a private maternity home providing special care exclusively for unmarried expectant mothers or mothers and their infants, and duly licensed under the laws of North Dakota;
4. "Assistance" shall mean money payments with respect to, or goods and services provided for dependent children, including payments for the care of unmarried mothers and their infants;
5. "Applicant" shall mean a person or agency having the custody of a dependent child making application for aid for such child under the provisions of this chapter;
6. "Dependent child" shall mean any needy child:
   a. Who is living in the home of a relative by birth, marriage, or adoption, who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental condition of a parent, and who is:
      (1) Under the age of eighteen years; or
      (2) Under the age of twenty-one years and physically or mentally incapacitated; or
      (3) Under the age of twenty-one years and a student regularly attending a high school, and making satisfactory progress, in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending and making satisfactory progress in a course of vocational or technical training designed to fit him for gainful employment;
   b. Under the age of twenty-one years, who is living in a licensed foster home or in a licensed child-caring or child-placing institution:
      (1) Who has been deprived of parental support or care by reason of the death, continued absence

from the home, or physical or mental incapacity of the parent; or

(2) Who is abandoned by his parent, guardian or custodian; or

(3) Whose parent, guardian or custodian is unable, neglects or refuses to provide proper or necessary subsistence, education, medical or surgical care, or other care necessary for his health, morals, or well-being; or

(4) Who is in need of special care as provided by a private agency for which his parent, guardian, or custodian is unable, neglects, or refuses to provide.

Approved March 2, 1965.

CHAPTER 325

S. B. No. 47
(Longmire, Kautzmann, Solberg, Morgan, Forkner)
(From LRC Study)

SUPPORT BY STEPFATHERS OF DEPENDENT CHILDREN

AN ACT

To create and enact section 50-09-08.1 of the North Dakota Century Code, providing that a stepfather shall support his stepchildren who would be eligible for aid to dependent children without such support and to amend and reenact section 50-09-10 of the North Dakota Century Code, providing that the income of a stepfather must be considered in determining the amount of assistance to be granted to a dependent child.

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

§ 1. Section 50-09-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-09-08.1. Stepfather's Liability for Dependent Child.) Notwithstanding the provisions of section 14-09-09 a stepfather is bound to support his wife's children for the duration of the marriage if without support from such stepfather they would be needy dependent children eligible for aid under the provisions of this chapter. A natural father is not relieved of any legal obligation to support his children by the liability for their support imposed upon their stepfather by this section.

§ 2. Amendment.) Section 50-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-09-10. Amount of Assistance—Consideration of Stepfather's Income.) The amount of assistance which shall be granted with respect to any dependent child under the provisions of this chapter shall be determined with due regard to:

1. His requirements;
2. The conditions existing in his case; and
3. The income and resources determined to be available to him from whatever source.

Assistance shall be sufficient when added to the income and resources available to a dependent child to provide him with a reasonable subsistence compatible with health and well-being.

In the case of a needy dependent child as defined in section 50-09-01 who lives with his mother and stepfather, the amount of aid granted pursuant to this chapter shall be computed after consideration is given to the income of the stepfather. The county welfare board granting aid shall determine if the stepfather is able to support the child either wholly or in part. Said determination shall be based upon a standard which takes into account the stepfather's or any other income, the conditions existing in the individual case, and the dependent child's requirements.

Approved March 8, 1965.

CHAPTER 326

H. B. No. 737
(Borstad, Wilkie, Erickson (Mountrail))

OWNERSHIP OF PROPERTY BY WELFARE RECIPIENTS

AN ACT

To amend and reenact sections 50-24-13, 50-24-15, and 50-24-33 of the 1963 Supplement to the North Dakota Century Code, relating to ownership of property.

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

§ 1. Amendment.) Section 50-24-13 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24-13. Ownership of Property—Transfer in Trust.) The ownership of real or personal property by an applicant for assistance to the aged, blind, or disabled or by the spouse of such applicant, either individually or jointly, or of insurance on the life of the applicant shall not preclude the granting of such assistance if the applicant is without funds for his support. However, as a condition to the grant of old age assistance, aid to the blind, or aid to the permanently and totally disabled, the applicant shall be required to transfer such property in trust by appropriate instrument as security for assistance payments the applicant may thereafter receive, unless the property consists of the following:

1. A homestead;
2. A life insurance policy having a cash surrender value of less than three hundred dollars; or
3. Personal property of a value less than three hundred dollars, not including household goods, wearing apparel and personal effects, such as money; or
4. Property selected by the applicant having a value of less than three hundred dollars;
5. Real or personal property held in trust for the applicant by the federal government;
6. Real or personal property on which the taking of security may be prohibited through legislation enacted by the Congress of the United States.

An applicant for medical assistance for the aged shall not be required to transfer his property in trust as security for such assistance. In determining the need for medical assistance for the aged, the state department shall disregard such resources as are necessary to meet the subsistence needs of the applicant for himself and his legal dependents. The amount of resources so disregarded shall not exceed twenty-five hundred dollars in net value of personal property of which not more than five hundred dollars shall be in cash or maturity value of stocks or bonds for an applicant who is unmarried or not living with the spouse nor more than one thousand dollars for a married applicant and spouse living together. The limit in net value of personal property shall not include household goods, wearing apparel, or personal effects, nor shall the resources in real property other than the home exceed twenty-five hundred dollars in current net value for a married or unmarried applicant.

§ 2. Amendment.) Section 50-24-15 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24-15. Homestead of Applicant for Assistance Not Encumbered.) An applicant for assistance to the aged, blind or disabled under the provisions of this chapter in no case shall be required to transfer a homestead occupied by him as such unless he or she desires to do so. A recipient of old-age assistance, aid to the blind or aid to the permanently and totally disabled shall not be permitted to encumber or convey such homestead without the approval in writing of the state department. When an application for old-age assistance, aid to the blind or aid to the permanently and totally disabled is granted and it appears that the applicant occupies a homestead, which he owns, the state department shall cause to be recorded, in the office of the register of deeds of the county in which such homestead is located, a statement in writing to the effect that the owner of such homestead is receiving or is about to receive assistance payments. Such written statement shall be signed by the executive director of the state department. After the recording of such statement, any instrument of conveyance or encumbrance executed by such applicant for assistance without the approval of the state department shall be null and void. No fee shall be charged by the register of deeds for recording such statement. This section shall not apply to:

1. Any applicant or recipient of medical assistance for the aged;
2. Any applicant or recipient of assistance to the aged, blind or disabled who owns a homestead which is held in trust for him by the federal government.

§ 3. Amendment.) Section 50-24-33 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24-33. Recovery from Estate of Recipient of Assistance to the Aged, Blind or Disabled.) On the death of any recipient of assistance to the aged, blind, or disabled under the provisions of this chapter the total amount of assistance paid under this chapter shall be allowed as a preferred claim against the estate of such person in favor of the state, after funeral expenses for recipient and his or her spouse, not to exceed in each individual case two hundred and fifty dollars, and such expenses of the last illness of recipient and spouse as are authorized or paid by the county agency, have been paid, and after the expenses of administering the estate, including the attorney's fees approved by the court, have been paid. No claim shall be enforced against the following:

1. Real estate of a recipient for the support, maintenance or comfort of the surviving spouse or a dependent;

2. Personal property necessary for the support, maintenance or comfort of the surviving spouse or a dependent;

3. Personal effects, ornaments, or keepsakes of the deceased, not exceeding in value two hundred dollars;

4. Any real or personal property of a recipient which is held in trust for him by the federal government.

Approved March 2, 1965.

CHAPTER 327

H. B. No. 539
(Haugland, Aamoth, Anderson, Wagner, Powers (Cass), Gietzen)
(From LRC Study)

REPORTING ABUSE OF CHILDREN

AN ACT

Relating to the reporting of physical injury and neglect to children by physicians and other persons, providing immunity from liability, and presentation of privileged communication.

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

§ 1. Reports by Physicians and Other Persons.) Any physician, including any licensed doctor of medicine, licensed osteopathic physician, licensed chiropractor, intern and resident, or public health nurse, having reasonable cause to believe that a child under the age of eighteen years coming before him for medical examination, attendance, care, or treatment has suffered serious injury or physical neglect not explained by the available medical history as being accidental in nature, shall make written report of such fact to the director of the division of child welfare of the public welfare board of North Dakota. If circumstances are such as may warrant immediate action, the report, by telephone or otherwise, may be made to the appropriate juvenile commissioner or state's attorney, who shall take immediate and suitable action and shall make written report of the circumstances to the director of the division of child welfare. The written report to the director of child welfare shall contain certain known information regarding the child's name, address, age, parents, or person having custody of such child; the nature and extent of the child's injury or physical neglect, including any evidence of previous injury or neglect; and any other information which may be

helpful in establishing the cause of injury or neglect and identity of the perpetrator.

§ 2. **Investigation and Report to the Court.)** The director of the division of child welfare shall forthwith investigate, or cause to be investigated, any initial report of injury or neglect made directly to him, including the home of the minor, the circumstances surrounding the reported injury or neglect, and in each case promptly make a written report to a juvenile court judge having jurisdiction of the matter.

§ 3. **Protective and Other Services To Be Provided.)** The division of child welfare and the county welfare board shall provide protective services for the injured or neglected child and his siblings as may be necessary for their well-being, and shall offer such other social services, as the circumstances warrant, to the parents or other persons serving in loco parentis with respect to such child or siblings.

§ 4. **Immunity from Liability.)** Any person who, in good faith, participates in the making of a report pursuant to this Act or participates in any criminal or civil action or other judicial proceeding founded upon it shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for perjury.

§ 5. **Evidence Not Privileged.)** Neither the physician-patient privilege provided for by subsection 3 of section 31-01-06, nor the husband-wife privilege provided for by section 31-01-02, may be asserted to exclude evidence regarding a child's injury or neglect or the cause thereof, in any criminal or civil action or proceeding founded upon the report.

Approved March 15, 1965.

CHAPTER 328

H. B. No. 811
(Williamson, Opedahl, Jungroth, Haugland, Powers (Cass), Hauf,)
(Sanstead, Hilleboe, Montplaisir, Meschke, Erickson (Ward),)
(Rosendahl, Poling)

GOVERNOR'S COUNCIL ON HUMAN RESOURCES

AN ACT

Establishing the governor's council on human resources and providing for committees which will constitute such council, and for an executive committee, providing for the appointment of such committees by the governor, providing for powers and duties of such council and the employment of a director and staff, providing that the council shall function in the fields of aging, children and youth, employment of the handicapped and related fields, and making an appropriation.

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

§ 1. 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. 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. Powers and Duties of Governor's Council on Human Resources.) The council on human resources shall have the responsibility for coordinating the activities of the various governor's committees and serving as a clearing house for information related to these committees:

1. In the fields of aging, employment of the handicapped, children and youth, and related fields designated by the

governor, to prepare for and perform follow-up duties in connection with state, regional, and national conferences; to encourage citizen interest, participation, and cooperation with state departments, agencies, and other organizations in developing needed services, facilities and opportunities; and to provide consultant help to local organizations created for the purpose of coordinating activities in their respective fields.

2. To carry on such other activities as may appear desirable in related fields.

§ 3. **Human Resources Committees—Organization—Expenses.)** The governor's committees on aging, children and youth, the employment of the handicapped and such other committees who have a related interest in human resources, at their first meetings after July first of each year, shall elect from their executive committee membership a chairman and vice chairman. Every meeting of each committee shall be called by the chairman of such committee and shall be presided over by such chairman unless he is unable to act, in which case the vice chairman shall succeed to the powers and duties of the chairman. Each of the committee members shall be paid for all necessary mileage and other actual expenses incurred in the performance of their official duties as members of such committees in the same amount and in the same manner as other state officials are paid.

§ 4. **Executive Committee—Powers—Employment of Executive Director.)** The executive committee of the governor's council on human resources shall consist of the respective chairmen 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 3 of this Act. 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.

§ 5. **Expenses of Council — Payment — Offices.)** All expenses of any member of any committee of the governor's council on human resources or any employee thereof and any other expenses of the council shall be paid upon voucher signed by the chairman of the council's executive committee or other member of the executive committee if the chairman is unable to act. Upon approval of such vouchers by the state auditing board, warrant-checks shall be prepared by the department of accounts and purchases. Suitable office space shall be made available to the governor's council on human resources in the state capitol building.

§ 6. **Appropriation.)** There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of $32,000.00, of which the amount of $16,000.00 shall be allocated for the governor's committee on children and youth and the sum of $16,000.00 allocated for the governor's committee on employment of the handicapped. The public welfare board, through state and federal funds, shall provide the costs, in the amount of $16,000.00 for the governor's committee on aging. These moneys shall be used for the biennium beginning July 1, 1965, and ending June 30, 1967.

Approved March 15, 1965.

SALES AND EXCHANGE

CHAPTER 329

S. B. No. 57
(Morgan, Roen, Torgerson, Nelson, Weber, Robinson)

LABELING OF IMPORTED MEATS

AN ACT

Requiring the display of signs and labels when imported meats are sold and providing for penalty for the violation thereof.

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

§ 1. Labeling Imported Meats Sold.) No person, firm, or corporation shall knowingly sell or offer for sale in the state of North Dakota any meat, whether fresh, frozen, or cured which is imported from outside the boundaries of the United States, or any meat product containing in whole or in part such imported meat, without first indicating this fact by placing labels on each quarter, half, or whole carcass of such meat, or on each case, package, tray or display containing such imported meat.

§ 2. Penalty.) Any person, firm, or corporation who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and upon the first conviction 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 thirty days, or by both such fine and imprisonment. For each second or successive conviction of such offense against the provisions of this Act, the fine shall not be less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than ninety days, or by both such fine and imprisonment.

Approved March 19, 1965.

CHAPTER 330

H. B. No. 800
(Dornacker, Dick, Hardmeyer, Olienyk, Elkin, Strand, Streibel,)
(Fossum, Bowles, Opedahl, Glaspey, Loerch, Collette, Staven,)
(Vogel, Gudajtes, Krenz, Lundene, Schaffer, Welder, Bergman,)
(Knudsen, Stenhjem, Wagner, Haugen, Coles, Boustead,)
(Stallman, Tweten, Dahlen)

NORTH DAKOTA TRADE COMMISSION

AN ACT

Amending section 51-10-06 of the North Dakota Century Code, relating to enforcement of the provisions of the unfair trade practices law, and creating the North Dakota Trade Commission, its powers, duties, and procedures, providing for licensure of retailers, and providing penalties and an appropriation.

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

§ 1. Amendment.) Section 51-10-06 of the North Dakota Century code is hereby amended and reenacted to read as follows:

51-10-06. Injunctional Relief May be Had in Addition to Other Penalties—Duty to Commence Actions.) In addition to the penalties provided in this chapter, the courts of this state are invested with the jurisdiction to prevent and restrain violations of this chapter by injunctional proceedings. The attorney general and the several state's attorneys shall institute suits in behalf of this state, to prevent and restrain violations of the provisions of this chapter. Any person damaged, or who is threatened with loss or injury, by reason of a violation of the provisions of this chapter, shall be entitled to sue for and have injunctive relief in the district court against any damage or threatened loss or injury by reason of a violation hereof.

1. The North Dakota trade commission shall have the administration of this Act; and the members thereof shall not receive any additional compensation for their services other than ten dollars per day and their necessary expenses in attending meetings. Said commission is empowered and directed to prevent any person, firm or corporation from violating any of the provisions of this chapter.
2. Whenever the commission shall have reason to believe that any such person, firm or corporation has been or is engaging in any course of conduct or doing any act

or acts in violation of the provisions of this chapter and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, firm or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed not less than five days after the service of said complaint. Any such complaint may be amended by the commission in its discretion at any time upon at least five days' notice to the parties and at least five days prior to the issuance of an order based thereon. The person, firm or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, firm or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, firm or corporation may make application, and upon good cause shown may be allowed by the commission, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission. If upon such hearing the commission shall be of the opinion that the act or conduct in question is prohibited by this chapter, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, firm or corporation an order requiring such person, firm or corporation to cease and desist from such acts or conduct. Until a transcript of the record in such hearing shall have been filed in a district court, as hereinafter provided, the commission may, upon notice, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

3. Any person, firm or corporation required by an order of the commission to cease and desist from any such act or conduct may obtain a review of such order in any district court of the state of North Dakota within any district where the act or conduct in question was done or carried on, or where such person, firm or corporation resides or carries on business, by filing in the court, within sixty days from the date of the service of such order, a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and

order of the commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite.

4. To the extent that the order of the commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by sufficient evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the supreme court upon appeal as in other cases of judgments of such courts; provided, however, that said appeal shall be taken within thirty days from the date of the entry of such judgment or decree.

5. Complaints, orders, and other processes of the commission under this section may be served by anyone duly authorized by the commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership or corporation at his or its

residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

6. An order of the commission to cease and desist shall become final (a) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; (b) upon the expiration of the time allowed for filing a notice of appeal to the supreme court, if the order of the commission has been affirmed, or the petition for review dismissed by the district court and no notice of appeal to the supreme court has been duly filed, or (c) upon the expiration of thirty days from the date of issuance of the remittitur of the supreme court, if such court directs that the order of the commission be affirmed or the petition for review dismissed.

7. If the supreme court directs that the order of the commission be modified or set aside, the order of the commission rendered in accordance with the mandate of the supreme court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the commission shall become final when so corrected.

8. If the order of the commision is modified or set aside by the district court and if (a) the time allowed for filing a notice of appeal to the supreme court has expired and no such notice of appeal has been duly filed or (b) the decision of the district court has been affirmed by the supreme court, then the order of the commission rendered in accordance with the mandate of the district court shall become final on the expiration of thirty days from the time such order of the commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the commission shall become final when so corrected.

9. If the supreme court orders a rehearing; or if the case is remanded by the district court to the commission for a rehearing, and if (a) the time for filing a notice of appeal to the supreme court has expired and no such notice of

appeal has been duly filed, or (b) the decision of the court has been affirmed by the supreme court, then the order of the commission rendered upon such rehearing shall become final in the same manner as though no prior order of the commission had been rendered.

10. Any person, firm or corporation who violates an order of the commission to cease and desist after it has become final, and while such order is in effect shall forfeit and pay to the state of North Dakota a penalty of not more than five hundred dollars for each violation, which shall accrue to the state of North Dakota and may be recovered in a civil action brought by the state of North Dakota.

The remedies and method of enforcement of this chapter provided for in this section shall be deemed concurrent and in addition to the other remedies provided in this chapter.

§ 2. **Proof of Intent—Cost Surveys.)** In any injunction proceeding or in the prosecution of any person as officer, director or agent, it shall be sufficient to allege and prove the unlawful intent of the person, firm or corporation for whom or which he acts. Where a particular trade or industry, of which the person, firm or corporation complained against is a member, has an established cost survey for the locality and vicinity in which the offense is committed, the said cost survey shall be deemed competent evidence to be used in proving the costs of the person, firm or corporation complained against within the provisions of this Act.

§ 3. **Procedure for Establishing Cost Survey—Hearing—Notice.)** The North Dakota trade commission is hereby empowered and directed whenever application therefor shall have been made by ten or more persons, firms or corporations within any particular retail trade or business to establish the cost survey provided for in section 2 of this Act. When petition for such cost survey has been so presented to the commission, the commission shall, as soon as possible, fix a time for a public hearing upon the question of whether such cost survey should be established. Such hearing shall be held at the office of said commission and upon such notice as the commission may by rule require; provided, however, that notice of such hearing shall be published for at least two successive weeks in such daily newspaper or newspapers as the commission may designate as most commonly circulated in the counties to be affected by such cost survey. Said notice shall further state the locality or area in respect to which said cost survey is proposed to be established and the particular trade or business to be affected thereby.

1. At the time fixed in said notice any person, firm or corporation shall be entitled to appear and be heard by the commission upon all questions to be determined by it as provided in this section. If the commission shall determine that a cost survey shall be established, it shall at the same hearing proceed to classify and define the particular trade or business, or parts thereof, to be affected thereby, determine and delimit the particular area within which such trade or business shall be so affected, and find and determine the probable "cost of doing business" or "overhead expense", stated in percentage or percentages of invoice or replacement cost which would probably be incurred by an efficient person, firm or corporation within such trade or business within such area.

2. Provided, however, that where the commission shall determine that the probable "cost of doing business" or "overhead expense", stated in percentage or percentages of invoice or replacement cost which would probably be incurred by an efficient person, firm or corporation in such trade or business is the same for the entire state, then and in that event the commission may, upon proper notice having been given as hereinbefore provided, create one trade area which shall embrace the entire state.

3. The percentage or percentages so fixed and determined shall be presumed to be the actual "cost of doing business" and "overhead expense" of any person, firm or corporation in such trade or business and within the area, affected by such cost survey.

§ 4. Hearings and Investigations—Contempts.) The North Dakota trade commission for the purpose of conducting hearings and investigations which, in the opinion of the commission, are necessary and proper for the exercise of the powers vested in it by this chapter shall have the following powers:

1. The commission, or its duly authorized agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. Any member of the commission shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question, before the commission, or before its duly authorized agent conducting the investigation. Any member of the

commission or any agent, duly authorized by the commission for such purposes, may administer oaths and affirmations, examine witnesses and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place within the state of North Dakota at any designated place of hearing.

2. In any case of contumacy or refusal to obey a subpoena issued to any person, any district court of the state of North Dakota, within any district where the inquiry is carried on or where a person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commission shall have jurisdiction to issue to such person, an order requiring such person to appear before the commission, or its duly authorized agent, and there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

The provisions of section 51-10-08 shall apply to the administration and enforcement of this Act.

§ 5. **North Dakota Trade Commission.)** The North Dakota trade commission shall consist of five retail distributors, each of whom shall have had at least three consecutive years of practical experience in North Dakota as a retail distributor immediately preceding his appointment, and shall be actively engaged in the distribution of retail products.

§ 6. **Appointment and Term of Members.)** The members of the trade commission shall be appointed by the governor, one in each year, each to serve for a term of five years and until his successor shall have been appointed and qualified except that the first five appointees hereunder shall be appointed for a staggered term of from one to five years so that one term expires each year. Vacancies shall be filled by appointment for the unexpired term. Any member of the commission who, during his incumbency, ceases to be actively engaged in the distribution of goods in this state, shall be automatically disqualified from membership. Any member may be removed from office by the governor upon proof of malfeasance or misfeasance in office. Each North Dakota association of retailers shall recommend three names for each appointment to be made, from which list the governor shall select the membership of the commission which shall have as broad a representation of the retailers of the state as practical. The commission shall annually elect from its members a

president, a vice president, a treasurer, and a secretary, who may or may not be a member. The office of treasurer or secretary may be held simultaneously by any other officer. The secretary shall receive a salary to be fixed by the commission and all expenses necessarily incurred by him in the performance of his duties. He shall give such a bond as the commission may from time to time require, which bond shall be approved by the commission.

§ 7. **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. Every person, firm, or corporation engaging in business as a retailer without procuring a current and valid license as provided in this Act shall be guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars.

§ 8. **Disbursement of Funds.)** The secretary shall collect the fees provided by this Act and deposit such funds in the state treasury in a special fund to be known as the Trade Commission Fund. Expenditures, within the limits of legislative appropriation, shall be made upon vouchers approved by the secretary after approval by the state auditing board upon warrant-checks prepared by the department of accounts and purchases.

§ 9. **Appropriation.)** There is hereby appropriated out of any moneys in the trade commission funds the sum of $50,000.00, or so much thereof as may be necessary, for expenditure during the biennium beginning July 1, 1965, and ending June 30, 1967, for the purpose of carrying out the provisions of this Act.

Approved March 20, 1965.

CHAPTER 331

H. B. No. 813
(Wagner, Welder)

FAIR TRADE LAW

AN ACT

To create and enact section 51-11-02.1 and to amend and reenact section 51-11-04 of the North Dakota Century Code, relating to fair trade.

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

§ 1.) Section 51-11-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

51-11-02.1. Contract by Acts of the Parties.) A producer and a buyer may become subject to the provisions of this chapter and a contract shall result by the following acts:

1. Annual notification from the producer to a buyer by certified mail giving notice to the buyer of those commodities which are allowed by this chapter to be sold at a stipulated selling price; and
2. The buyer upon receipt of such notice sells such commodity.

§ 2. Amendment.) Section 51-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-11-04. Unfair Competition — What Constitutes — Action for Damages.) Willfully and knowingly advertising, offering for sale, or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of this chapter is unfair competition and is actionable at the suit of any person damaged thereby.

Approved March 19, 1965.

CHAPTER 332

H. B. No. 568
(Brown, Boustead, Wagner, Lang)

CONSUMER FRAUD AND UNLAWFUL CREDIT PRACTICES

AN ACT

Relating to the prevention of consumer fraud and unlawful credit practices.

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

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

1. "Advertisement" includes the attempt by publication, dissemination, solicitation or circulation, oral or written, to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise;
2. "Merchandise" means any objects, wares, goods, commodities, intangibles, real estate, or services;
3. "Person" means any natural person or his legal representative, partnership, corporation, company, trust, business entity, or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee, or cestui que trust thereof;
4. "Sale" means any sale, offer for sale, or attempt to sell any merchandise for any consideration;
5. "Attorney general" means the attorney general of North Dakota or his authorized delegate.

§ 2. Unlawful Practices—Fraud—Misrepresentation.) The act, use, or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is dclared to be an unlawful practice.

§ 3. Advertising Media Excluded.) Nothing herein contained shall apply to the owner or publisher of newspapers, magazines, publication of printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement

when the owner, publisher, or operator has no knowledge of the intent, design, or purpose of the advertiser.

§ 4. **Powers of Attorney General.)** When it appears to the attorney general that a person has engaged in, or is engaging in any practice declared to be unlawful by this Act or any of the provisions of chapter 51-13 or 51-14 or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in, or is about to engage in, any such practice, he may:

1. Require such person to file on such forms as he prescribes a statement or report in writing, under oath or otherwise, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as he may deem necessary;

2. Examine under oath any person in connection with the sale or advertisement of any merchandise;

3. Examine any merchandise or sample thereof, record, book, document, account, or paper as he may deem necessary;

4. Pursuant to an order of a district court impound any record, book, document, account, paper, or sample of merchandise material to such practice and retain the same in his possession until the completion of all proceedings undertaken under this section or in the courts.

§ 5. **Subpoena—Hearing—Rules.)** To accomplish the objectives and to carry out the duties prescribed as this Act and the provisions of chapter 51-13 or 51-14, the attorney general, in addition to other powers conferred upon him by this Act, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, and prescribe such forms and promulgate such rules and regulations as may be necessary, which rules and regulations shall have the force of law.

§ 6. **Failure to Supply Information or Obey Subpoena.)** If any person fails or refuses to file any statement or report, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to a district court and, after hearing thereon, request an order:

1. Granting injunctive relief, restraining the sale or advertisement of any merchandise by such persons;

2. Vacating, annulling, or suspending the corporate charter of a corporation created by or under the laws of this state or revoking or suspending the certificate of authority to do business in this state of a foreign corporation or revoking or suspending any other licenses, permits, or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice;

3. Granting such other relief as may be required;

until the person files the statement or obeys the subpoena.

§ 7. Remedies — Injunction — Other Relief — Receiver.) Whenever it appears to the attorney general that a person has engaged in, or is engaging in any practice declared to be unlawful by this Act or the provisions of chapter 51-13 or 51-14, he may seek and obtain in an action in a district court an injunction prohibiting such person from continuing such practices or engaging therein or doing any acts in furtherance thereof after appropriate notice to such person. Such notice shall state generally the relief sought and be served at least ten days prior to the hearing of such action. The court may make such orders or judgments as may be necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any moneys, or property, real or personal, which may have been acquired by means of any practice in this Act declared to be unlawful, including the appointment of a receiver.

When it appears to the attorney general that a person has engaged in or is engaging in a practice declared to be unlawful by this Act or the provisions of chapter 51-13 or 51-14 and that such person is about to conceal his assets or his person or leave the state, the attorney general may apply to the district court, ex parte, for an order appointing a receiver of the assets of such person. Upon a showing made by affidavit or other evidence that such person has engaged in or is engaging in a practice declared to be unlawful by this Act and that such person is about to conceal his assets or his person or leave the state, the court shall order the appointment of a receiver to receive the assets of such person.

§ 8. Powers of Receiver.) When a receiver is appointed by the court pursuant to this Act, he shall have the power to sue for, collect, receive, or take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, derived by means of any practice declared to be unlawful by this Act or the provisions of chapter 51-13 or 51-14, including property

with which such property has been mingled if it cannot be identified in kind because of such commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. Any person who has suffered damages as a result of the use or employment of any unlawful practices and submits proof to the satisfaction of the court that he has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent he has sustained out-of-pocket losses. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as may be required.

§ **9. Claims Not Barred.)** The provisions of this Act shall nor bar any claim against any person who has acquired any moneys or property, real or personal, by means of any practice herein declared to be unlawful.

§ **10. Costs Recoverable.)** In any action brought under the provisions of this Act, the attorney general is entitled to recover costs for the use of the state.

Approved March 19, 1965.

SOCIAL SECURITY

CHAPTER 333

H. B. No. 754
(Hertz, Jungroth, Sanstead, Meschke, Obie, Loerch, Gietzen,)
(Meyer, Myhre, Shorma, Hoffner, Olson, Williamson,)
(Giffey, Gengler)

EMPLOYMENT SECURITY BUREAU

AN ACT

To create and enact subsection 26 of section 52-01-01, and to amend and reenact subsections 6, 7, and 25 of section 52-01-01, sections 52-01-04, 52-02-01, 52-06-14, 52-08-03, 52-09-03, subsection d of section 52-10-02 and to repeal sections 52-08-04, 52-08-05, 52-08-06, and 52-08-07, of the North Dakota Century Code, relating to definitions and creation of employment security bureau.

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

§ 1.) Subsection 26 of section 52-01-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

26. "Executive director" means the executive director of the employment security bureau.

§ 2. Amendment.) Subsections 6, 7, and 25 of section 52-01-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

6. "Bureau" means the North Dakota employment security bureau;

7. "Division" means the unemployment compensation division of the employment security bureau;

25. "Base-period employers" means the employers by whom an individual was paid his base-period wages;

§ 3. Amendment.) Section 52-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-01-04. Penalty for Disclosure of Information or Use of List of Names.) Any employee, appeals referee, member of any appeals tribunal, executive director, or any employee of said bureau, who in violation of the provisions of section 52-01-03 makes any disclosure of information obtained from any employing unit or individual in the administration of

this title, or any person who has obtained any list of applicants for work, or of claimants or of recipients of benefits under this chapter, who uses or permits the use of such list for any political purpose, is guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not longer than ninety days, or by both such fine and imprisonment.

§ 4. **Amendment.)** Section 52-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-02-01. Employment Security Bureau Created.)

1. There is hereby created a bureau to be known as the Employment Security Bureau, which shall be administered by a full-time salaried executive director, who shall be subject to the supervision and direction of the governor. The governor is authorized to appoint, fix the compensation of, and prescribe the duties of such executive director, provided that such appointment shall be made on a nonpartisan, merit basis, in accordance with the previsions set forth at chapter 54-42, North Dakota Century Code.

2. There is hereby established in the employment security bureau two (2) coordinate divisions, the North Dakota unemployment compensation division and the North Dakota state employment service division, each to be administered by a full-time salaried director, selected on a nonpartisan, merit basis, who shall be subject to the supervision and direction of the bureau. Each division shall be responsible for the discharge of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budget, and duties, except insofar as the executive director may find that such separation is impracticable.

§ 5. **Amendment.)** Section 52-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-14. Appeal Tribunals — How Comprised — Duties — Fees — Alternates — Chairman.) The bureau shall appoint one or more impartial appeal examiners known as the appeal tribunal, who shall hear and decide appealed claims. Each such tribunal shall consist of a referee selected in accordance with the provisions of chapter 52-02, or a body composed of three members, one of whom shall be a referee who shall serve as chairman and who shall be a salaried full-time member of the staff of the unemployment compensation division, and one of whom shall be a representative of employers,

and the other of whom shall be a representative of employees. Each of the latter two members may be selected without regard to section 52-02-06 and shall serve at the pleasure of the bureau and be paid a fee of twenty-five dollars per day of active service on such tribunal, plus necessary expenses. The bureau may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member or his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

§ 6. Amendment.) Section 52-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-08-03. North Dakota State Employment Service a Division of Employment Security Bureau — Offices Maintained.) The North Dakota state employment service shall constitute a division of the employment security bureau. The executive director, through such division, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of chapters 52-01 through 52-08.

§ 7. Amendment.) Section 52-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***52-09-03. Administration.)** The North Dakota unemployment compensation division of the employment security bureau hereinafter called the "bureau" shall be vested with authority to administer the old age and survivors insurance system. Expenses for the administration of the old age and survivor insurance system shall be within the limits of legislative appropriation and funds shall be expended by warrant-checks prepared by the department of accounts and purchases after the approval by the state auditing board.

§ 8. Amendment.) Subsection d of section 52-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

d. The term "state agency" means the unemployment compensation division of the employment security bureau;

§ 9. Repeal.) Sections 52-08-04, 52-08-05, 52-08-06, and 52-08-07 of the North Dakota Century Code are hereby repealed.

Approved March 19, 1965.

***Note:** Section 52-09-03 was also amended by section 24, chapter 181, 1965 S.L.

CHAPTER 334

H. B. No. 834
(Haugland, Shablow, Stockman, Meschke, Anderson, Bloom,)
(Connolly, Burk)

OLD AGE AND SURVIVOR INSURANCE SYSTEM

AN ACT

To amend and reenact section 52-09-09 of the North Dakota Century Code, as amended by chapter 338, Session Laws 1963, pertaining to rate of contribution of the old age and survivor insurance system.

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

§ **1. Amendment.)** Section 52-09-09 of the North Dakota Century Code, as amended by chapter 338, Session Laws 1963, is hereby amended and reenacted to read as follows:

52-09-09. Rate of Contribution.) In addition to all other taxes there is hereby levied upon each employer, as defined in section 52-09-20, and also upon each employee, as defined in section 52-09-20, a tax, equal to one percentum of the wages paid before July 1, 1955, and two percentum of the wages paid after June, 1955, up to July 1, 1957, to be paid by each employer and each employee. The above tax imposed by this chapter shall be collected by the employer from the employee by deducting the amount of the tax from the wages as and when paid. From and after July 1, 1957, and until July 1, 1959, the tax upon each employer shall be equal to four percent of the wages paid to each employee, and after June 30, 1959, up to July 1, 1961 such tax shall be equal to three and one-half percent, and after June 30, 1961, and until July 1, 1963, such tax shall be equal to three percent, and after June 30, 1963 such tax shall be equal to two percent, and after December 31, 1965 such tax shall be equal to one percent. After June 30, 1957, there shall be no tax hereunder upon the employee.

Approved March 17, 1965.

CHAPTER 335

H. B. No. 778
(Fossum, Hoffner)

SOCIAL SECURITY COVERAGE FOR SCHOOL DISTRICTS

AN ACT

To create and enact section 52-10-10 of the North Dakota Century Code, relating to continuation of social security coverage for enlarged or reorganized public school districts.

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

§ 1.) Section 52-10-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-10-10. Identification of Enlarged or Reorganized Public School District, Liability of Surviving District.)

1. As used in this section "most populous district" means the public school district involved in annexation or reorganization of school districts:
   a. Which maintained an elementary school;
   b. More than one-half of which is included in the enlarged or reorganized public school district; and
   c. Which had a larger number of children of school age at the school census next preceding the inclusion of such district in the enlarged or reorganized public school district than any other public school district of the type described in paragraphs a and b of this subsection which is included in the enlarged or reorganized public school district.
2. For the purpose of this chapter when an enlarged or reorganized school district is formed:
   a. The most populous district shall be deemed to be the surviving district for social security purposes.
   b. The enlarged or reorganized public school district shall retain the same identification number which was previously assigned to the most populous district, as defined in subsection 1 of this section.
   c. The school districts, or parts thereof, included in the enlarged or recognized district shall be deemed to be annexed to the most populous district, or the part of the most populous district included in the enlarged

or reorganized district, and to become identified with it, and the employees of the public school districts included in the enlarged or reorganized district, or if only part of a district is included in the enlarged or reorganized district, the employees who are employed in schools included within the enlarged or reorganized district, shall be deemed to be employees of the most populous district, which shall succeed the other districts in such enlarged district as a party to their respective contracts of employment.

Approved March 8, 1965.

SPORTS AND AMUSEMENTS

CHAPTER 336

S. B. No. 51
(Mahoney, Trenbeath)
(From LRC Study)

OUTDOOR RECREATION AGENCY

AN ACT

Designating an outdoor recreation agency for the purpose of planning and coordinating recreational projects, and declaring an emergency.

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

§ 1. Outdoor Recreation Agency—Composition—Functions.) The State Outdoor Recreation Agency is hereby created and shall be composed of the state engineer of the water commission, commissioner of the state game and fish department, superintendent of the state historical society, commissioner of the state highway department, executive secretary of the North Dakota state soil conservation committee, state parks director, chairman of the state water commission, state health officer, director of the economic development commission, state forester, director of the North Dakota travel service, and the state adjutant general. The governor or his designee shall be agency chairman, and the governor shall appoint the executive officer of the agency whose responsibility it shall be to carry out the policies and directives of the agency and shall, within the limits of personnel and funds available, perform such other duties as may be assigned to him by the outdoor recreation agency. The agency shall serve as the focal point within the state for the many activities related to outdoor recreation. Its principal function shall be that of a planning and coordinating agency for the related programs on all governmental levels, encouraging the full development of existing and future acquisition of outdoor recreation areas. The agency, without limiting the generality thereof, shall be vested with the power, authority, duty, and general jurisdiction to:

1. Undertake the development of broad recreation policies for the state as a whole and a long-range plan for their implementation;

2. Initiate a continuing appraisal of the total state recreation resources, potentials, and needs and the adequacy of current efforts to meet the demands;

3. Provide for the coordination and appraisal of related programs administered by all levels of government and by private enterprise;

4. Cooperate with the United States or any appropriate agency thereof, particularly in connection with the distribution and use of federal aid funds which the state may become eligible to receive;

5. Encourage cooperation among public, voluntary, and commercial agencies and organizations; and

6. Apply for and receive federal grants-in-aid for recreation purposes. It shall approve their allocation to specific projects only after it has determined that sufficient funds, including those funds necessary for adequate maintenance, are and will be available from the state or political subdivisions as the case may be for meeting the state's share of project costs. If for any reason it shall become necessary for any department or agency of the state to expend state funds in order to fulfill any obligation of a political subdivision which it has agreed to perform in the construction or maintenance of such projects, the state shall have a claim against the subdivision for such money expended. All funds allocated to the state for recreation purposes shall be distributed to the departments, agencies, or political subdivisions entitled thereto; and

7. Keep financial and other records relating thereto, and furnish to appropriate officials and agencies of the United States and the state of North Dakota such reports and information as may be reasonably necessary to enable such officials and agencies to perform their duties under such programs.

§ 2. Expenditures Through Existing Departments or Agencies.) All state funds, grants-in-aid from federal allocations, and other moneys or funds contributed or matched, for developing or providing public outdoor recreation facilities and opportunities made available to existing departments or agencies, shall be expended through such departments or agencies using their established procedures. Direct or force construction activities shall be undertaken and conducted only by those departments or agencies having basic authorization for such work.

§ 3. Adoption of Rules and Regulations.) Subject to the approval of the governor, the agency shall adopt and promulgate, and it may amend, modify and revise such rules and regulations for the conduct of its affairs as may be deemed necessary, including the time, place and notice of regular meetings, call and notice of special meetings, and number of members required for a quorum to transact business.

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

Approved March 6, 1965.

CHAPTER 337

S. B. No. 312
(Becker, Solberg, Morgan, Trenbeath, Mahoney)

LIMITING LIABILITY OF LANDOWNERS

AN ACT

To encourage landowners to make available to the public, land and water areas and other property for recreational purposes by limiting their liability toward users.

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

§ 1. Definitions.) In this Act unless the context or subject matter shall otherwise require:

1. "Land" includes roads, water, water courses, private ways and buildings, structures and machinery or equipment thereon when attached to the realty;

2. "Owner" includes tenant, lessee, occupant, or person in control of the premises;

3. "Recreational purposes" includes, but is not limited to, any one or any combination of the following: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and visiting, viewing, or enjoying historical, archeological, geological, scenic, or scientific sites, or otherwise using land for purposes of the user; and

4. "Charge" means the amount of money asked in return for an invitation to enter or go upon the land.

§ 2. **Duty of Care of Landowner.)** Subject to the provisions of section 5 of this Act, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

§ 3. **Not Invitee or Licensee of Landowner.)** Subject to the provisions of section 5 of this Act, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

1. Extend any assurance that the premises are safe for any purpose;
2. Confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

§ 4. **Leased Land to State or Political Subdivisions.)** Unless otherwise agreed in writing, an owner of land leased to the state or its political subdivisions for recreational purposes owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon such land of any hazardous conditions, uses, structures, or activities thereon. An owner who leases land to the state or its political subdivisions for recreational purposes shall not by giving such lease:

1. Extend any assurance to any person using the land that the premises are safe for any purpose;
2. Confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a person who enters upon the leased land.

The provisions of this section apply whether the person entering upon the leased land is an invitee, licensee, trespasser, or otherwise.

§ 5. **Willful or Malicious Failure to Warn Against Dangerous Conditions—Charge to Enter.)** Nothing herein limits in any way any liability which otherwise exists for:

1. Willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity; or

2. Injury suffered in any case where the owner of land charges the person or persons who enter or go on the land other than the amount, if any, paid to the owner of the land by the state.

§ 6. Duty of Care or Liability for Injury.) Nothing in this Act shall be construed as creating a duty of care or grounds of liability for injury to person or property. Nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in his use of such land and in his activities thereon.

Approved March 15, 1965.

STATE GOVERNMENT

CHAPTER 338

H. B. No. 566
(Giffey, Streibel, Hoffner, Fossum)

LEGISLATIVE APPORTIONMENT

AN ACT

To provide for the numbering of legislative districts and staggered terms in the senate and to amend and reenact section 54-03-01 of the 1963 Supplement to the North Dakota Century Code, relating to legislative apportionment.

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

§ 1. Amendment.) Section 54-03-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-01. State Legislative Apportionment.) The legislative districts of the state shall be formed, and senators and representatives shall be apportioned as folows:

1. The first legislative district shall consist of the county of Pembina and shall be entitled to one senator and two representatives;
2. The second legislative district shall consist of the county of Cavalier and townships one hundred sixty-one, one hundred sixty-two, one hundred sixty-three, and one hundred sixty-four north of ranges sixty-five, sixty-six, sixty-seven, and sixty-eight west lying within the county of Towner and shall be entitled to one senator and two representatives;
3. The third legislative district shall consist of the county of Rolette and shall be entitled to one senator and two representatives;
4. The fourth legislative district shall consist of the county of Bottineau and shall be entitled to one senator and two representatives;
5. The fifth legislative district shall consist of the county of Renville and township one hundred fifty-seven north of ranges eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, and eighty-six west; township one

hundred fifty-nine north of ranges eighty-seven, eighty-eight, and eighty-nine west; township one hundred sixty north of ranges eighty-seven, eighty-eight, and eighty-nine west, and township one hundred sixty-one north of range eighty-eight west lying within the county of Ward and shall be entitled to one senator and two representatives;

6. The sixth legislative district shall consist of the counties of Divide and Burke and shall be entitled to one senator and two representatives;

7. The seventh legislative district shall consist of the county of Williams and shall be entitled to two senators and four representatives;

8. The eighth legislative district shall consist of the county of Mountrail and townships one hundred fifty-seven and one hundred fifty-eight north of range eighty-seven west lying within the county of Ward and shall be entitled to one senator and two representatives;

9. The ninth legislative district shall consist of townships one hundred fifty-one, one hundred fifty-two, one hundred fifty-three, one hundred fifty-four, one hundred fifty-five, and one hundred fifty-six north of ranges eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six, and eighty-seven west lying within the county of Ward and shall be entitled to four senators and eight representatives;

10. The tenth legislative district shall consist of the county of McHenry and shall be entitled to one senator and two representatives;

11. The eleventh legislative district shall consist of the county of Pierce and townships one hundred fifty-one, one hundred fifty-two, one hundred fifty-three, one hundred fifty-four, one hundred fifty-five, and one hundred fifty-six north of ranges sixty-nine, seventy, and seventy-one west lying within the county of Benson and shall be entitled to one senator and two representatives;

12. The twelfth legislative district shall consist of townships one hundred fifty-seven, one hundred fifty-eight, one hundred fifty-nine, and one hundred sixty north of ranges sixty-five, sixty-six, sixty-seven, and sixty-eight west lying within the county of Towner; township one hundred fifty-one north of ranges sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, and sixty-eight west; township one hundred fifty-two north of

ranges sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, and sixty-eight west; township one hundred fifty-three north of ranges sixty-five, sixty-six, sixty-seven, and sixty-eight west; township one hundred fifty-four north of ranges sixty-five, sixty-six, and sixty-seven west; and townships one hundred fifty-five and one hundred fifty-six north of ranges sixty-seven and sixty-eight west lying within the county of Benson and townships one hundred fifty-two and one hundred fifty-three north of range sixty-five west; township one hundred fifty-four north of ranges sixty-five and sixty-six west; townships one hundred fifty-five, one hundred fifty-six, one hundred fifty-seven, and one hundred fifty-eight north of range sixty-four west; and townships one hundred fifty-five and one hundred fifty-six north of ranges sixty-five and sixty-six west lying within the county of Ramsey and shall be entitled to one senator and two representatives;

13. The thirteenth legislative district shall consist of townships one hundred fifty-five, one hundred fifty-six, one hundred fifty-seven, and one hundred fifty-eight north of ranges sixty, sixty-one, sixty-two, and sixty-three west; townships one hundred fifty-three and one hundred fifty-four north of ranges sixty-one, sixty-two, sixty-three, and sixty-four west; and township one hundred fifty-two north of ranges sixty-two, sixty-three, and sixty-four west lying within the county of Ramsey and shall be entitled to one senator and two representatives;

14. The fourteenth legislative district shall consist of the county of Walsh and township one hundred fifty-three north of range fifty west; and townships one hundred fifty-two, one hundred fifty-three, and one hundred fifty-four north of ranges fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, and fifty-six west lying within the county of Grand Forks and shall be entitled to two senators and four representatives;

15. The fifteenth legislative district shall consist of townships one hundred forty-nine and one hundred fifty north of range forty-nine west; and townships one hundred forty-nine, one hundred fifty, one hundred fifty-one, and one hundred fifty-two north of range fifty west; and townships one hundred forty-nine, one hundred fifty, and one hundred fifty-one north of ranges fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, and fifty-six lying within the county of Grand Forks and shall be entitled to four senators and eight representatives;

16. The sixteenth legislative district shall consist of the county of Traill and townships one hundred forty-four, one hundred forty-five, one hundred forty-six, one hundred forty-seven, and one hundred forty-eight north of ranges fifty-four and fifty-five west lying within the county of Steele 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 forty-five, one hundred forty-six, one hundred forty-seven, and one hundred forty-eight north of ranges fifty-six and fifty-seven west lying within the county of Steele; and townships one hundred forty-four, one hundred forty-five, one hundred forty-six, one hundred forty-seven, and one hundred forty-eight north of ranges fifty-eight, fifty-nine, and sixty; and township one hundred forty-four north of range sixty-one west lying within the county of Griggs and shall be entitled to one senator and two representatives;

18. The eighteenth legislative district shall consist of the counties of Eddy and Foster and townships one hundred forty-five, one hundred forty-six, one hundred forty-seven, and one hundred forty-eight north of range sixty-one west lying within the county of Griggs; and townships one hundred forty-five, one hundred forty-six, one hundred forty-seven, one hundred forty-eight, one hundred forty-nine, and one hundred fifty north of range sixty-eight west lying within the county of Wells and shall be entitled to one senator and two representatives;

19. The nineteenth legislative district shall consist of the county of Sheridan and townships one hundred forty-five, one hundred forty-six, one hundred forty-seven, one hundred forty-eight, one hundred forty-nine, and one hundred fifty north of ranges sixty-nine, seventy, seventy-one, seventy-two, and seventy-three west lying within the county of Wells; and townships one hundred forty-nine and one hundred fifty north of range seventy-eight west lying within the county of McLean and shall be entitled to one senator and two representatives;

20. The twentieth legislative district shall consist of townships one hundred forty-five, one hundred forty-six, one hundred forty-seven, one hundred forty-eight, one hundred forty-nine, and one hundred fifty north of range seventy-nine west; township one hundred forty-three north of ranges eighty and eighty-one west; and townships one hundred forty-four, one hundred forty-five,

one hundred forty-six, one hundred forty-seven, one hundred forty-eight, one hundred forty-nine, and one hundred fifty north of ranges eighty, eighty-one, eighty-two, eighty-three, and eighty-four west; and townships one hundred forty-seven, one hundred forty-eight, one hundred forty-nine, and one hundred fifty north of ranges eighty-five, eighty-six, eighty-seven, eighty-eight, eighty-nine, ninety, and ninety-one west lying within McLean County and shall be entitled to one senator and two representatives;

21. The twenty-first legislative district shall consist of the counties of Golden Valley, Billings, and McKenzie and shall be entitled to one senator and two representatives;

22. The twenty-second legislative district shall consist of the counties of Dunn and Mercer, and shall be entitled to one senator and two representatives;

23. The twenty-third legislative district shall consist of the county of Burleigh and shall be entitled to three senators and six representatives;

24. The twenty-fourth legislative district shall consist of the counties of Kidder and Emmons and shall be entitled to one senator and two representatives;

25. The twenty-fifth legislative district shall consist of the county of Stutsman and shall be entitled to two senators and four representatives;

26. The twenty-sixth legislative district shall consist of townships one hundred forty, one hundred forty-one, one hundred forty-two, and one hundred forty-three north of ranges fifty-eight, fifty-nine, sixty, and sixty-one west; and townships one hundred thirty-seven, one hundred thirty-eight, and one hundred thirty-nine north of ranges sixty and sixty-one west lying within the county of Barnes and shall be entitled to one senator and two representatives;

27. The twenty-seventh legislative district shall consist of township one hundred and forty-four north of ranges fifty-six and fifty-seven west lying within the county of Steele; and townships one hundred thirty-seven, one hundred thirty-eight, and one hundred thirty-nine north of ranges fifty-six, fifty-seven, fifty-eight, and fifty-nine west; and townships one hundred forty, one hundred forty-one, one hundred forty-two, and one hundred forty-three north of ranges fifty-six and fifty-seven west lying within the county of Barnes; and townships one hundred

thirty-seven, one hundred thirty-eight, one hundred thirty-nine, one hundred forty-one, one hundred forty-two, and one hundred forty-three north of range fifty-two west; and townships one hundred thirty-seven, one hundred thirty-eight, one hundred thirty-nine, one hundred forty, one hundred forty-one, one hundred forty-two, and 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;

28. The twenty-eighth legislative district shall consist of township one hundred thirty-seven north of ranges forty-eight, forty-nine, fifty, and fifty-one west; township one hundred thirty-eight north of ranges forty-eight, forty-nine, fifty, and fifty-one west; sections three, four, five, six, seven, eight, nine, ten, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, and thirty-four in township one hundred thirty-nine north of range forty-nine west; township one hundred thirty-nine north of ranges fifty and fifty-one west; sections three, four, five, six, seven, eight, nine, ten, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, and thirty-four in township one hundred forty north of range forty-nine west; township one hundred forty north of ranges fifty, fifty-one, and fifty-two west; township one hundred forty-one north of ranges forty-nine, fifty, and fifty-one west; township one hundred forty-two north of ranges forty-nine, fifty, and fifty-one west; township one hundred forty-three north of ranges forty-nine, fifty, and fifty-one west, lying within the county of Cass and shall be entitled to one senator and two representatives;

29. The twenty-ninth legislative district shall consist of the city of Fargo, the township of Fargo sections one, two, eleven, twelve, thirteen, fourteen, twenty-three, twenty-four, twenty-five, twenty-six, thirty-five, and thirty-six of township one hundred forty north of range forty-nine west; sections one, two, eleven, twelve, thirteen, fourteen, twenty-three, twenty-four, twenty-five, twenty-six, thirty-five, and thirty-six of township one hundred thirty-nine north of range forty-nine west; township one hundred thirty-nine north of range forty-eight west lying within the county of Cass and shall be entitled to four senators and eight representatives;

30. The thirtieth legislative district shall consist of townships one hundred twenty-nine, one hundred thirty, one hundred thirty-one, one hundred thirty-two, and one hundred thirty-three north of range forty-seven west; townships one hundred twenty-nine, one hundred thirty, one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, one hundred thirty-four, one hundred thirty-five, and one hundred thirty-six north of ranges forty-eight and forty-nine west; and townships one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, one hundred thirty-four, one hundred thirty-five, and one hundred thirty-six north of range fifty west located within the county of Richland and shall be entitled to one senator and two representatives;

31. The thirty-first legislative district shall consist of the county of Sargent and townships one hundred twenty-nine and one hundred thirty north of range fifty west and townships one hundred twenty-nine, one hundred thirty, one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, one hundred thirty-four, one hundred thirty-five, and 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;

32. The thirty-second legislative district shall consist of the county of Ransom and townships one hundred thirty-three, one hundred thirty-four, one hundred thirty-five, and 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;

33. The thirty-third legislative district shall consist of the county of Dickey and townships one hundred thirty-three, one hundred thirty-four, one hundred thirty-five, and 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;

34. The thirty-fourth legislative district shall consist of the counties of McIntosh and Logan and shall be entitled to one senator and two representatives;

35. The thirty-fifth legislative district shall consist of township one hundred thirty-three north of range eighty-two west; township one hundred thirty-four north of ranges seventy-nine, eighty, eighty-one, eighty-two, eighty-

three, and eighty-four west; township one hundred thirty-five north of ranges seventy-nine, eighty, eighty-one, eighty-two, eighty-three, and eighty-four west; township one hundred thirty-six north of ranges seventy-nine, eighty, eighty-one, eighty-two, eighty-three, and eighty-four west; township one hundred thirty-seven north of ranges seventy-nine, eighty, eighty-one, and eighty-two west; township one hundred thirty-eight north of ranges eighty, eighty-one, and eighty-two west; township one hundred thirty-nine north of ranges eighty, eighty-one, and eighty-two west; and township one hundred forty north of ranges eighty-one and eighty-two 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 county of Oliver, and township one hundred thirty-seven north of ranges ninety-one, ninety-two, ninety-three, ninety-four and ninety-five west; township one hundred thirty-eight north of ranges ninety-one, ninety-two, ninety-three, ninety-four, and ninety-five west; township one hundred thirty-nine north of ranges ninety-one, ninety-two, ninety-three, ninety-four, and ninety-five west; township one hundred forty north of ranges ninety-one, ninety-two, ninety-three, ninety-four, and ninety-five west; and township one hundred forty-one north of ranges ninety-one, ninety-two, and ninety-three west, lying within the county of Stark, and township one hundred thirty-seven north of ranges eighty-three, eighty-four, eighty-five, eighty-six, and eighty-seven west; township one hundred thirty-eight north of ranges eighty-three, eighty-four, eighty-five, eighty-six, eighty-seven, eighty-eight, eighty-nine, and ninety west; township one hundred thirty-nine north of ranges eighty-three, eighty-four, eighty-five, eighty-six, eighty-seven, eighty-eight, eighty-nine, and ninety west; and township one hundred forty north of ranges eighty-three, eighty-four, eighty-five, 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;

37. The thirty-seventh legislative district shall consist of township one hundred thirty-seven north of ranges ninety-six, ninety-seven, ninety-eight, and ninety-nine west; township one hundred thirty-eight north of ranges ninety-six, ninety-seven, ninety-eight, and ninety-nine west; township one hundred thirty-nine north of ranges ninety-six, ninety-seven, ninety-eight, and ninety-nine

west; and township one hundred forty north of ranges 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 counties of Bowman, Slope, and Adams; and township one hundred thirty-three north of ranges ninety-four, ninety-five, ninety-six, and ninety-seven west; township one hundred thirty-four north of ranges ninety-four, ninety-five, ninety-six, and ninety-seven west; township one hundred thirty-five north of ranges ninety-four, ninety-five, ninety-six, and ninety-seven west; township one hundred thirty-six north of ranges ninety-four, ninety-five, ninety-six, and ninety-seven west, lying within the county of Hettinger, and shall be entitled to one senator and two representatives;

39. The thirty-ninth legislative district shall consist of the counties of Sioux and Grant; and township one hundred thirty-two north of ranges ninety-one, ninety-two, ninety-three, and ninety-four west; township one hundred thirty-three north of ranges ninety-one, ninety-two, and ninety-three west; township one hundred thirty-four north of ranges ninety-one, ninety-two, and ninety-three west; township one hundred thirty-five north of ranges ninety-one, ninety-two, and ninety-three west; township one hundred thirty-six north of ranges ninety-one, ninety-two, and ninety-three west, lying within the county of Hettinger, and shall be entitled to one senator and two representatives.

§ 2. Numbering Legislative Districts—Classes of Senators to Provide Staggered Terms.) Except in the case of legislative districts having more than one senator, 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 year 1966 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 and shall certify in writing the results of such lot to the secretary of state within thirty days after the effective date of this Act. In the case of legislative districts having more than one senator, the term of senators within each such district shall be determined and certified by lot in the presence of the

majority and minority floor leaders of the senate in the same manner as provided for the two classes of senators above, so that one-half of the senators from each such district, as nearly as practicable, may be elected biennially.

§ 3. Legislative Subdistricting—Methods.) Upon a petition accompanied by a map showing the boundaries of the proposed subdistricts and accompanied by a written description thereof filed with the secretary of state containing the signatures of at least twenty-five percent of the qualified electors of a legislative district as determined by the total number of votes cast for the office of governor at the most recent general election at which such office was voted upon, asking that such legislative district be subdistricted into single-member representative districts or, in legislative districts with more than one senator, to be subdistricted into single-member senatorial districts, or both, the secretary of state shall determine and count the number of signatures and if such petitions contain the required number of signatures, such petition shall be submitted to the qualified electors of the district for their approval or rejection at the next special, primary, or general election held in such district.

§ 4. Election on Petition — Ballot Form — Vote Required.) The ballots used for submitting the question of subdistricting legislative districts in all cases wherein an election is required shall be in substantially the following form:

"Shall the (number of legislative district) legislative district be subdivided into (senatorial or representative districts or both) described as follows:

(here insert description of subdistrict as described in the petition)?

YES..... ☐
NO ..... ☐

If there shall be more than one petition for subdistricting of the same legislative district, each different description of the subdistricts shall be placed upon such ballot and the ballot shall be marked "VOTE FOR ONE ONLY".

If one of the subdistricting descriptions as presented on the ballot shall receive a majority of the legal votes cast at such election, the secretary of state shall issue a proclamation stating such legislative district to be subdistricted pursuant to such description. Thereafter, senators or representatives shall reside in and be elected from such subdistricts as set forth in the approved petition for subdistricting. The question of subdistricting a legislative district shall not be voted upon more than once every two years.

§ 5. **Amendment to United States Constitution — Results.)** Upon the effective date of any amendment to the United States Constitution which delegates to the states the right to apportion their legislatures in a manner to be determined by each state or its citizens or in accordance with the amendment to the United States Constitution, the provisions of sections 1 and 2 of this Act shall become null and void and the apportionment of the representatives and senators of the legislative assembly of this state shall be as provided by the laws of North Dakota in effect on July 1, 1963, except that if the effective date of such amendment be a date after a primary election in which candidates for the legislative assembly are voted upon, then sections 1, 2, 3, and 4 of this Act shall not become null and void until the following primary election.

Filed March 20, 1965.

Not approved or disapproved by governor.

CHAPTER 339

S. B. No. 32
(Lips, Van Horn)
(Recommended by Legislative Audit and Fiscal Review Committee)

POWERS AND DUTIES OF LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

AN ACT

To amend and reenact section 54-03-06 of the North Dakota Century Code and section 54-35.1-02 of the 1963 Supplement to the North Dakota Century Code, relating to powers and duties of the legislative audit and fiscal review committee.

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

§ 1. **Amendment.)** Section 54-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-06. Chairman of Committee May Administer Oath.) Any member of a committee or interim committee of the legislative assembly, while acting as chairman of such committee, may administer oaths to such persons as shall be examined before the committee of which he is a member.

§ 2. **Amendment.)** Section 54-35.1-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-35.1-02. Powers and Duties.) It shall be the duty of the committee to study and review audit reports submitted by the state auditor, confer with the auditor and deputy auditors in regard to such reports, and when necessary to confer with representatives of the department, agency, or institution audited in order to obtain full and complete information in regard to any and all fiscal transactions and governmental operations of any department, agency, or institution of the state. Each department, agency, or institution shall furnish to the committee such aid, information, and assistance in regard to fiscal transactions and governmental operations as it may from time to time request. Whenever the committee may determine or have reason to believe that there may have been a violation of law relating to the receipt, custody, or expenditure of public funds by any state officer or employee, the committee shall present such evidence or information as may be in its possession to the attorney general. The attorney general shall receive and accept such evidence or information, and shall immediately commence such additional investigation as he shall deem necessary. Upon completion of the investigation, if the evidence supplied by the committee and through the investigation shall indicate the probability of a violation of law by any state official or employee, the attorney general shall immediately prosecute such official or employee as provided by law. The committee, through its members or such persons as may be directed or employed by it, shall be authorized, within the limits of legislative appropriations, to make such additional or supplemental audits, examinations, or studies of the fiscal transactions or governmental operations of departments, agencies, or institutions of the state as it may deem necessary.

Approved March 2, 1965.

CHAPTER 340

H. B. No. 891
(Ruddy, Haugland, Borstad, Bergman, Schoenwald, Christopher,)
(Unruh, Hertz, Brown, Lundene, Staven, Tough)

LEGISLATORS' EXPENSES

AN ACT

To amend and reenact section 54-03-20 of the North Dakota Century Code, providing for the members of the legislative assembly to receive thirty-five dollars for each month of the biennium for which they were elected for uncompensated expenses incurred while carrying out their legislative duties, and providing an effective date.

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

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

*54-03-20. **Allowance for Living Expenses of Members of Legislative Assembly.)** Each member of the legislative assembly of the state of North Dakota shall be entitled to, and shall receive the sum of twelve hundred dollars as reimbursement for his living expenses, including meals, lodging and uncompensated travel, and other necessary expense during the legislative session and thirty-five dollars for each month of the biennium for which he was elected for uncompensated expenses incurred in the execution of his public duties during the biennium and while the legislative assembly is not in session, which total sum of two thousand forty dollars shall be payable as follows: One-half of said sum payable at the end of the thirtieth day of the session and the remaining one-half thereof to be paid at the close of the legislative session. Attendance at the biennial session of the legislative assembly by any member thereof shall be a conclusive presumption of the expenditure of such expense allowance for the purposes set forth in this section and shall be excluded from gross income for income tax purposes. Said sum shall be paid in the same manner as the regular per diem of the members of the legislative assembly is paid. The provisions of this Act shall be retroactive to January 1, 1965.

Approved March 4, 1965.

*__Note:__ See subdivision 20, section 3, chapter 28, 1965 S.L., page 39.

CHAPTER 341

S. B. No. 36
(Reichert, Longmire, Sinner)
(From LRC Study)

MANNER OF CALLING SPECIAL LEGISLATIVE SESSION

AN ACT

To provide for a procedure whereby the legislative assembly may call itself into special session and providing an effective date.

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

§ 1. Special Session—Manner of Calling by Members of the Legislative Assembly.) When one-sixth of the members of the legislative assembly, in writing, request the legislative research committee to conduct a poll by mail of all members of the legislative assembly on the question of whether a special session of the legislative assembly should be called at a designated date, the legislative research committee shall forthwith conduct such poll. If two-thirds of all members of the legislative assembly approve the calling of such special session, the special session shall be called at the time requested. The necessary proclamation calling a special session of the legislative assembly shall be given by the legislative research committee in the name of the legislative assembly, and the legislative research committee shall make the necessary preparations for such special session.

§ 2. Effective Date of Act.) This Act shall not become operative unless and until the people approve the constitutional amendment submitted for approval to the electorate of this state at the general election in 1966 as designated in Senate Concurrent Resolution "A"* of the Thirty-ninth Legislative Assembly.

Approved February 26, 1965.

***Note:** See section 13, chapter 483, 1965 S.L.

CHAPTER 342

S. B. No. 44
(Longmire, Becker, Reichert, Luick, Thompson)
(From LRC Study)

LEGISLATIVE MEETING PRIOR TO REGULAR SESSION

AN ACT

Providing for meetings of legislators and legislators-elect in advance of regular legislative sessions.

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

§ 1. Declaration of Purpose.) As a result of the growth of modern government and the increasingly complex problems with which the legislative assembly must deal in almost one thousand measures placed before it in every session, it has become apparent that insufficient time exists in a hurried and limited sixty-day session to give full and adequate consideration to each bill and problem with which the legislative assembly is confronted. In order that the beginning days of the legislative assembly can be more profitably and fully utilized there is hereby created a pre-session legislative conference.

§ 2. Time and Place of Meeting—Who Must Attend.) In each even numbered year on the first Tuesday after the first Monday in the month of December, all persons elected at the previous November general election as members of the succeeding legislative session, and members of the senate whose terms do not expire during the following session of the legislative assembly, shall meet in the state capitol in the city of Bismarck, or at such other place as may be designated, at the hour of nine o'clock a.m. for the purpose of conducting a pre-session legislative conference. The legislative research committee shall call such conference and make such arrangements as may be necessary for the operation of the conference.

§ 3. Agenda.) The agenda of the pre-session legislative session shall include, but not be limited to, the following:

1. Orientation classes upon legislative rules and procedure for new legislators;
2. Presentation of reports by legislative interim boards or committees;
3. Party caucuses to determine which party has a majority in each house of the legislative assembly and thereafter

proceed to select party nominees for officers of each body;

4. Appointment of pre-session employment committees to process applications for positions of employment with the legislative assembly and make recommendations for hiring the selected employees when the legislature convenes;

5. Appointment of an interim senate committee on committees;

6. Each legislator shall present his committee appointment preferences to the nominee for speaker of the majority party or the chairman of the interim senate committee on committees; and

7. All other similar matters, in order that the legislative assembly be fully organized and ready to begin its business by the second day of the session.

§ 4. **Compensation for Attending Legislators.)** Each person attending the orientation conference shall be entitled to receive the sum of twenty dollars per day as reimbursement for his living expenses, including meals, lodging and uncompensated travel, and other necessary expense and, in addition thereto, shall be paid the sum of five dollars per day, and ten cents for every mile of necessary travel in going to and returning from the state capitol on the most usual route. Per diem and expense allowances shall be payable for a maximum period of five days, including travel time.

Provided, however, if the amendments to the Constitution of the state of North Dakota as contained in Senate Concurrent Resolution "A"* authorizing a meeting of the legislative assembly for organizational and orientation purposes shall be approved by the electorate at the general election held in November 1966, then and in that event the legislative assembly shall convene at nine o'clock a.m. on the eighth day of December 1966 for not more than three calendar days for organizational and orientation purposes as provided in the Constitution.

Approved March 17, 1965.

*Note: See section 12, chapter 483, 1965 S.L.

CHAPTER 343

S. B. No. 239
(Kadlec, Sinner)

PETTY CASH FUNDS OF STATE DEPARTMENTS

AN ACT

To authorize all departments, institutions or agencies of the state that collect money which is required to be paid over to the state treasurer, to maintain, subject to approval of the director of the department of accounts and purchases, the state auditor and the state treasurer, such reasonable minimum balances as may be necessary, and to authorize minimum petty cash funds and the establishment of bank accounts, which may be in the Bank of North Dakota, for the clearing or cashing of checks and making change, and declaring an emergency.

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

§ 1.) All departments, institutions or agencies of the state that collect money which is required to be paid over to the state treasurer may, subject to approval of the director of the department of accounts and purchases, the state auditor, and the state treasurer, maintain such reasonable minimum balance as may be necessary for clearing or cashing of checks and making change. Such departments are hereby authorized, subject to approval of director of the department of accounts and purchases, the state auditor and the state treasurer, to maitnain minimum petty cash funds and may establish bank accounts in the Bank of North Dakota. It is not the intent hereof to deny to any state institution or agency located outside of Bismarck the right to establish bank accounts in other state or federally chartered banks.

§ 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, 1965.

CHAPTER 344

S. B. No. 263
(Holand, Reichert)

SALARIES OF ELECTED STATE OFFICIALS

AN ACT

To amend and reenact sections 4-01-21, 15-21-02, 26-01-03, 49-01-05, 54-07-04, 54-08-03, 54-09-05, 54-10-10, 54-11-13, 54-12-11, and 57-01-04 of the North Dakota Century Code, relating to salaries of elected state officials and providing an effective date.

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

§ 1. **Amendment.)** Section 4-01-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-01-21. Salary of Commissioner of Agriculture and Labor.) The commissioner of agriculture and labor shall receive an annual salary of eleven thousand dollars.

§ 2. **Amendment.)** Section 15-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-21-02. Salary and Traveling Expenses.) The superintendent of public instruction shall receive an annual salary of twelve thousand dollars. He shall be allowed in addition thereto his expenses incurred in the discharge of his official duties, such expenses to be paid monthly on a warrant prepared by the department of accounts and purchases and signed by the state auditor, upon the filing of an itemized and verified statement of expenses.

§ 3. **Amendment.)** Section 26-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-01-03. Salary of Commissioner of Insurance.) The annual salary of the commissioner of insurance shall be eleven thousand dollars.

§ 4. **Amendment.)** Section 49-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-01-05. Salary of Commissioners.) The salary of each commissioner shall be eleven thousand dollars per annum which shall be full compensation for all official services. All

fees received or charged by any such commissioner for any act or service rendered in any official capacity, shall be accounted for and paid over by him monthly to the state treasurer and shall be credited to the general fund of the state.

§ 5. Amendment.) Section 54-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-07-04. Salary of Governor.) The governor shall receive an annual salary of eighteen thousand dollars for all services performed by him.

§ 6. Amendment.) Section 54-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-08-03. Salary of Lieutenant Governor.) The lieutenant governor shall receive an annual salary of two thousand dollars for all services performed by him.

§ 7. Amendment.) Section 54-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-09-05. Salary of Secretary of State.) The secretary of state shall receive an annual salary of eleven thousand dollars.

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

54-10-10. Salary of State Auditor.) The state auditor shall receive an annual salary of eleven thousand dollars.

§ 9. Amendment.) Section 54-11-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-11-13. Salary of State Treasurer.) The state treasurer shall receive an annual salary of eleven thousand dollars.

§ 10. Amendment.) Section 54-12-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-11. Salary of Attorney General.) The attorney general shall receive an annual salary of thirteen thousand dollars.

§ 11. Amendment.) Section 57-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-04. Salary.) The annual salary of the state tax commissioner shall be twelve thousand dollars.

§ 12. Effective Date.) Consistent with the provisions of section 84 of the Constitution the provisions of this Act shall not become effective until January 1, 1969, and shall thereafter apply to salaries of officials whose terms of office commence on or after such date.

Approved March 15, 1965.

CHAPTER 345

S. B. No. 220
(Holand)

FISCAL RECORDS

AN ACT

To amend and reenact sections 54-11-04 and 54-44-05 of the North Dakota Century Code, relating to the keeping of permanent records by the state treasurer and the information to be contained on warrants.

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

§ 1. Amendment.) Section 54-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-11-04. Records of State Treasurer.) The state treasurer shall keep as permanent records of the state the following:

1. A cash book in which shall be entered the amount of all moneys received or paid out, showing from whom received or to whom paid and on what account or fund;
2. A ledger in which shall be kept an account with each fund;
3. A daily balance book in which shall be shown the amount in state depositories and the amount in cash on hand; and
4. Such other books as the state examiner shall prescribe.

§ 2. Amendment.) Section 54-44-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44-05. Warrants — Numbered — Show Funds on Which Drawn — Not Drawn Unless Authorized.) Warrants drawn by the department of accounts and purchases and signed by the state auditor on the state treasurer shall be numbered consecutively in the order in which they are drawn. Every warrant shall be drawn upon the fund out of which it is payable. A warrant shall not be drawn by the department of accounts and purchases and signed by the state auditor unless authorized by law, and unless there are funds in the treasury applicable to the payment thereof to meet the same. In case of an emergency, and in anticipation of taxes already levied and in the process of collection, the department of accounts and purchases may prepare warrants to be signed by the state auditor in payment of duly authorized vouchers even though funds at such time do not exist to honor the warrants. Warrants so issued shall be payable by the state treasurer out of any funds in his hands other than sinking funds, or funds dedicated by the Constitution of this state for other purposes.

Approved March 6, 1965.

CHAPTER 346

H. B. No. 530
(Christensen, Poling)
(Recommended by Legislative Audit and Fiscal Review Committee)

REPORTING OF SALARIES OF ATTORNEYS GENERAL

AN ACT

Requiring that all departments that pay salaries or expenses of special assistant attorneys general, report monthly such expenditures to the attorney general upon such forms as attorney general may prescribe.

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

§ 1. Special Assistant Attorneys General Report of Salaries and Expenses.) All departments that pay salaries or expenses of special assistant attorneys general shall report all such expenditures monthly to the attorney general upon such forms as shall be prescribed by the attorney general. And all such salaries and expenses shall be approved by the attorney general.

Approved March 17, 1965.

CHAPTER 347

S. B. No. 31
(Lips, Van Horn)
(Recommended by Legislative Audit and Fiscal Review Committee)

USE OF EMERGENCY COMMISSION FUNDS

AN ACT

To amend and reenact sections 54-16-04 and 54-16-09 of the North Dakota Century Code, relating to the emergency commission and use of emergency funds, and declaring an emergency.

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

§ 1. Amendment.) Section 54-16-04 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 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.

§ 2. Amendment.) Section 54-16-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-09. Warrant on Contingency Fund—Requirements Before Drawn.) The state emergency commission, before directing the department of accounts and purchases to prepare any warrants upon the state contingency fund, shall require the department or institution for whose benefit such warrant is issued to file with the emergency commission and with the department of accounts and purchases a written and itemized statement of the material, services, purposes, or other considerations for which the warrant is required and the necessity

therefor. The commission shall certify that the material, services, purposes, or other considerations therein named are necessary and proper materials to be paid from such fund, and if an appropriation for such purpose was made by the legislative assembly that the appropriation for such purpose is insufficient. The department of accounts and purchases and commission shall file such statement and certificate as authority for issuing the warrant therein directed.

§ 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 24, 1965.

CHAPTER 348

H. B. No. 545
(Fossum, Hoffner, Reimers, Streibel)
(From LRC Study)

EMERGENCY COMMISSION GRANTS TO BOARD OF HIGHER EDUCATION

AN ACT

To create and enact section 54-16-12 of the North Dakota Century Code, relating to the granting by the state emergency commission of funds to institutions of higher education.

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

§ 1.) Section 54-16-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-16-12. Grants to Board of Higher Education.) Whenever it is made to appear to the satisfaction of the state emergency commission upon application by the board of higher education that real property is available in close proximity to one of the state institutions of higher education, the emergency commission may approve the acquisition of such property, and if requested and found necessary may make funds available from the state contingency fund to the board of higher education for the purpose of acquiring such property if the following shall appear:

1. The property is needed for expansion in the foreseeable future;
2. The property in all probability will not again be offered for sale at a similar price in the foreseeable future; and

3. The legislative assembly has not previously rejected a similar request, and the time during which such purchase must be consummated does not permit the obtaining of a legislative appropriation.

The provisions of this chapter shall govern the granting of funds under this section wherever consistent with this section, but a determination of an existing emergency shall not be a condition precedent to the approval of such purchase or the approval of a grant of funds from the contingency fund for the purchase of such real property except as is provided in this section.

Approved February 24, 1965.

CHAPTER 349

H. B. No. 722
(Brown)

REPEAL OF INDUSTRIAL ALCOHOL PLANT

AN ACT

To repeal chapter 54-19 of the North Dakota Century Code, relating to the establishment of a state industrial alcohol plant.

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

§ 1. Repeal.) Chapter 54-19 of the North Dakota Century Code is hereby repealed.

Approved February 24, 1965.

CHAPTER 350

H. B. No. 608
(Anderson, Miller, Tough, Bruner, Wilkie)

STATE CONSTRUCTION SUPERINTENDENT

AN ACT

To amend and reenact section 54-21-17 of the North Dakota Century Code, relating to the employment of a state construction superintendent.

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

§ 1. **Amendment.)** Section 54-21-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21-17. Construction Superintendent — Appointment — Duties.) The secretary of state may employ a qualified construction superintendent for the purpose of giving professional advice in purchasing, planning, setting depreciation schedules, evaluation for insurance and assisting in and coordinating the construction of buildings by departments, institutions, and agencies of the state. A person so employed shall possess a minimum of ten years experience in construction methods and procedures. The person so employed may be called upon by a state agency to approve, before the letting of bids, plans, and specifications for any building construction. And may maintain such surveillance during construction as might be necessary to insure insofar as is practicable that:

1. The building will be suitable to meet the needs it is intended to serve;
2. Plans and specifications will meet any construction requirements of the state and assure economical construction consistent with sound construction practices;
3. Expenditures for the construction are kept within the limits of legislative appropriation; and
4. Plans and specifications will harmonize with a master plan for future growth and development of any state institution in regard to matters of architectural style.

§ 2.) The provisions of this Act shall also require compliance by the board of higher education and all other agencies of the state of North Dakota.

Approved March 19, 1965.

CHAPTER 351

S. B. No. 346
(Van Horn, Lips)

INVENTORIES OF INSTITUTIONS UNDER BOARD OF ADMINISTRATION

AN ACT

To amend and reenact sections 54-23-24, 54-23-25, 54-23-38, of the North Dakota Century Code, relating to inventory of assets of a permanent nature, moneys remitted to state treasurer, supplies of institutions and duties of officers of institutions under the board of administration.

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

§ 1. **Amendment.)** Section 54-23-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-24. Inventory of Assets of a Permanent Nature (or Inventory of Fixed Assets.) 1. The board, annually on June thirtieth of each year, shall require the chief executive officer of each institution under its charge to make a complete, minute, and accurate inventory of all assets of a permanent nature or fixed assets, and such inventory shall be in accordance with the provisions of section 44-04-07 of the North Dakota Century Code. The inventory of the twine plant shall be taken September first of each year.

§ 2. **Amendment.)** Section 54-23-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***54-23-25. Moneys Remitted to State Treasurer.)** All moneys belonging to the state, derived from any source at any of the institutions under the control of the board shall be accounted for and remitted to the state treasurer on the tenth day of each month for the preceding month. The state treasurer shall maintain a special operating fund within the state treasury for each remitting institution. All rents, interest, or income from land, money or property donated or granted by the United States and allocated to specific penal or charitable institutions under the terms of the Enabling Act and the state Constitution shall be deposited in such special operating fund of each institution and expended in accordance with the provi-

***Note:** Section 54-23-25 was also amended by section 27, chapter 181, 1965 S.L.

sions of section 159 of the Constitution. The state treasurer upon direction of accounts and purchases and institutions shall make periodic transfers from each institutional general fund appropriation to the appropriate institutional special operating fund whenever its balance falls so low as to require supplementation. All funds for necessary expenditures of such institutions shall be drawn from the special operating fund in the state treasury as provided by this chapter.

§ 3. **Amendment.)** Section 54-23-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-38. Supplies of Institutions—Duty of Officers.) The officer of each institution who is designated by the board to have charge of and to be accountable for all the supplies and stores of the institution shall be charged therewith at their invoice value, and shall:

1. Direct all purchases of such institution as may be ordered by the department of accounts and purchases under the estimates as provided in section 54-23-30, in conjunction with the chief executive officer of each institution;
2. Issue all the supplies upon requisition approved by the superintendent or other officer designated by the board. The requisition shall be his voucher therefor;
3. Examine and register all goods delivered, according to their amount and quality, and if found to correspond with the samples and in good order and correct in charge, he shall certify the bills, and
4. Make a consolidated report of all purchases to the department of accounts and purchases and the board of administration and all other transactions of his department to the board as of June thirtieth of each year.

Approved March 15, 1965.

CHAPTER 352

S. B. No. 270
(Longmire)

STATE AND LOCAL LIBRARIES

AN ACT

To provide for the deposit of state publications with the state library commission for distribution to certain depository libraries; to provide a means for the consolidation of library services; to amend and reenact sections 26-24-09, 40-38-01, 40-38-02, 40-38-03, 40-46-09, 54-24-03, and 57-15-08 of the North Dakota Century Code, to provide insurance against damage caused by vandalism; to provide for the mandatory establishment of public libraries when approved by the people; to provide higher mill levy limitations for libraries; to provide a limitation on the number of terms a member of a public library board can serve; to provide a retirement pension for librarians; and to provide additional duties for the state library commission and to repeal sections 54-24-04, 54-24-05, and 54-24-06 of the North Dakota Century Code, relating to the rules, administration and duties of the state library commission.

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

§ 1. Distribution of Certain State Publications for Certain Libraries Required.) All state departments, offices, and agencies shall deposit with the state library commission ten copies of all publications issued by them, whether printed, mimeographed or duplicated in any way, which are not issued solely for use within the issuing office. The state library commission shall transmit these copies to depository libraries distributed geographically over the state, which libraries shall be those of the state historical society, North Dakota state university, the university of North Dakota, Minot public library, and Dickinson state college, plus five others which the state library commission shall determine.

§ 2. Consolidation of Library Services Allowed if Approved by the Voters Affected.) In accordance with section 54-40-08 an agreement for the merger or consolidation of the public library services of any political subdivision of this state with other existing library services in that political subdivision or any other political subdivision may be executed and thereafter such public library services may be provided in accordance with such agreement.

§ 3. **Amendment.)** Section 26-24-09 of the 1963 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 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.

§ 4. Amendment.) Section 40-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-01. Public Library and Reading Room — Establishment — Election.) The governing body of any municipality or county upon petition of not less than fifty-one percent of the voters of such municipality or county as determined by the total number of votes cast at the last general election shall have power to establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service, either singly or in cooperation with the state library commission, or with one or more municipalities or counties, or by participation in an approved state plan for rendering public library service under the Library Services Act, Public Law 597, 84th Congress, 2nd Session, and Act amendatory thereof.

§ 5. Amendment.) Section 40-38-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-02. Library Fund—Levy—Collection—Kept Separate.) For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund by annually

levying and causing to be collected as other taxes are collected, a municipal or county tax not to exceed four mills on the net taxable assessed valuation of property in such municipality and not to exceed two mills on the net taxable assessed valuation of property in such county. The treasurer of the municipality or county shall keep such fund separate and apart from the other money of the county or municipality, and it shall be used exclusively for the establishment and maintenance of public library service. Whenever a tax for county library service is levied, any municipality already levying a tax for public library service under the provisions of this section, shall upon written application to the county board of such county be exempted from such county tax levy to the extent that the municipality making such application levies taxes for a library fund during the year for which such tax levy is made. If such municipality has been totally exempted from participation in any prospective county library program, the phrase "not less than fifty-one percent of the voters of such municipality or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in such county less the total number of votes cast at the last general election in such municipality.

§ 6. **Amendment.)** Section 40-38-03 of the 1963 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 or village establishing a public library and reading room, or of the school district within which such city or village 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, city or village 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.

§ 7. **Amendment.)** Section 40-46-09 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-09. Who May Be Retired on Pension—Amount Paid to Retiring Employee.) Any appointed full-time employee, including but not limited to librarians and other employees of a public library, of a city having an employees' pension fund who shall have served two hundred forty months or more, whether or not consecutive, as an employee and shall have reached the age of sixty years, or who, while employed by such city, shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he shall be paid out of the pension fund of such city a monthly pension of not to exceed sixty percent of one-twelfth of his highest five-year average annual earnings as provided for in the plan adopted by the governing body of the city. If any member shall have served two hundred forty months in such city employment but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years.

§ 8. **Amendment.)** Section 54-24-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-03. Powers and Duties of Library Commission.) The state library commission shall:

1. Make rules and regulations according to which the business of the state library commission shall be done;

2. Provide and care for all books and library materials in all collections of the state library commission, general, reference, and special, and make all rules regarding the loaning and returning of library materials;

3. Employ qualified library personnel to care for all library procedures;

4. Make library materials available to libraries throughout the state, to individuals connected with departments of state, and to citizens of North Dakota who do not have adequate library facilities, under the rules and regulations of the state library commission;

5. Promote and assist by counsel and encouragement the formation of libraries and the improvement of those already established, in keeping with state and national standards, and be available to librarians and trustees of libraries in the state for assistance in organization, maintenance, or administration of the libraries;

6. Coordinate the efforts of librarianship throughout the state, advising and assisting the extension of qualified public libraries into centers of county or regional (multicounty) libraries;

7. Compile statistics of the free public libraries of North Dakota and their larger counterparts of county and regional libraries, and of the work done at the state library commission, and make a full biennial report to the state board of administration and the governor;

8. Collect, maintain, and make available a reference and reading collection of books, slides, films and other graphic materials such as will supplement and support the needs of all libraries in the state, either by direct loan or by consultation, and such as will form a reference source for the officers of the state in the performance of their duties;

9. Collect and maintain a collection of the publications of the departments and agencies of state government, including the enacted laws of this state, current session laws and journals appertaining, distributing copies of such publications to depository libraries throughout the state as the board of administration shall determine;

10. Conduct, or arrange to have conducted, research into the conditions of library service in the state and produce written plans for the development and betterment of such service;

11. Compile, or arrange to have compiled, union lists of resources of libraries throughout the state, and make such lists available for consultation;

12. Establish levels of certification for librarians of the state such as will meet the standards recommended by the American Library Association.

§ 9. Amendment.) Section 57-15-08 of 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 twenty-six mills on the net taxable assesed 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 twenty-eight 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.

§ 10. Repeal.) Sections 54-24-04, 54-24-05, and 54-24-06 of the North Dakota Century Code are hereby repealed.

Approved March 17, 1965.

CHAPTER 353

S. B. No. 269
(Longmire)

INTERSTATE LIBRARY COMPACT

AN ACT

Entering into the interstate library compact.

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

§ 1. Interstate Library Compact.) The Interstate Library Compact is hereby enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

ARTICLE I

Policy and Purpose

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis, and to authorize cooperation and sharing among localities, states, and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

ARTICLE II

Definitions

As used in this compact:

1. "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.

2. "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library.

3. "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

ARTICLE III

Interstate Library Districts

1. Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain, and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor, Any private library agency or agencies within an interstate

library district may cooperate therewith, assume duties, responsibilities, and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

2. Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

3. If a library agreement provides for joint establishment, maintenance, or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

a. Undertake, administer, and participate in programs or arrangements for securing, lending, or servicing of books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof.

b. Accept for any of its purposes under this compact any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and receive, utilize, and dispose of the same.

c. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.

d. Employ professional, technical, clerical, and other personnel, and fix terms of employment, compensation, and other appropriate benefits; and, where desirable, provide for the in-service training of such personnel.

e. Sue and be sued in any court of competent jurisdiction.

f. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

g. Construct, maintain, and operate a library, including any appropriate branches thereof.

h. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

ARTICLE IV

Interstate Library Districts Governing Board

1. An interstate library district which establishes, maintains, or operates any facilities or services in its own right shall have a governing board of not more than five members to be selected by the boards of the participating agencies which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement; but, in no event shall a governing board meet less often than twice a year.

2. Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

ARTICLE V

State Library Agency Cooperation

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing, and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services, or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service, or arrangement shall contain provisions covering the subjects detailed in Article VI of the compact for interstate library agreements.

ARTICLE VI

Library Agreements

1. In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

a. Detail the specific nature of the services, programs, facilities, arrangements, or properties to which it is applicable.

b. Provide for the allocation of costs and other financial responsibilities.

c. Specify the respective rights, duties, obligations, and liabilities of the parties.

d. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

2. No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement, any power prohibited to such agency by the Constitution or statutes of its state.

3. No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with Article VII of this compact.

ARTICLE VII

Approval of Library Agreements

1. Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder

within ninety days of its submission shall constitute approval thereof.

2. In the exent that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to subsection 1 of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

ARTICLE VIII

Other Laws Applicable

Nothing in this compact or in any library agreement shall be construed to supersede, alter, or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

ARTICLE IX

Appropriations and Aid

1. Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

2. Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

ARTICLE X

Compact Administrator

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed.

The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

ARTICLE XI

Entry Into Force and Withdrawal

1. This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

2. This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

ARTICLE XII

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 party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§ 2. Must Comply with State and Local Laws.) No city, township, or county of this state shall be party to a library agreement which provides for the construction or maintenance of a library pursuant to subdivision g of subsection 3 of Article III of the compact, nor pledge its credit in support of such a library, or contribute to the capital financing thereof, except after compliance with any laws applicable to such cities,

townships, or counties relating to or governing capital outlays and the pledging of credit.

§ 3. **Definition.)** As used in the compact, "state library agency", with reference to this state, means the state library commission.

§ 4. **Entitled to State Aid.)** An interstate library district lying partly within this state may claim and be entitled to receive state aid in support of any of its functions to the same extent and in the same manner as such functions are eligible for support when carried on by entities wholly within this state. For the purposes of computing and apportioning state aid to an interstate library district, this state will consider that portion of the area which lies within this state as an independent entity for the performance of the aided function or functions and compute and apportion the aid accordingly. Subject to any applicable laws of this state, such a district also may apply for and be entitled to receive any federal aid for which it may be eligible.

§ 5. **Interstate Library Compact Director—Appointment—Deputy.)** The governor shall appoint an officer of this state who shall be the compact administrator pursuant to Article X of the compact. The governor shall also appoint one or more deputy compact administrators pursuant to said article.

§ 6. **Duties of Governor in Case of Withdrawal.)** In the event of withdrawal from the compact the governor shall send and receive any notices required by subsection 1 of Article XI of the compact.

Approved March 6, 1965.

CHAPTER 354

S. B. No. 64
(Morgan, Ringsak, Chesrown)

SERVING OLEOMARGARINE OR SEPARATED MILK AT STATE INSTITUTIONS

AN ACT

To amend and reenact section 54-25-03 of the North Dakota Century Code, relating to the serving of oleomargarine or separated milk at state institutions.

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

§ 1. Amendment.) Section 54-25-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-25-03. Officer or Employee of State Institution Prohibited from Purchasing Oleomargarine or Serving Separated Milk.) No officer, agent, or employee of any state institution shall:

1. Purchase for use for any inmate of such institution any oleomargarine or substitute for butter except upon the order or prescription of a physician; or
2. Serve as a beverage, to any inmate thereof under the age of sixteen years, any separated milk, except upon the order or prescription of a physician.

Approved March 6, 1965.

CHAPTER 355

H. B. No. 840
(Williamson, Opedahl, Bloom, Sanstead, Johnson (Barnes),)
(Boustead, Gietzen)

OFFICE OF ECONOMIC OPPORTUNITY

AN ACT

To provide an agency for the implementation of and state and local participation in Public Law 88-452 known as the Economic Opportunity Act of 1964, and declaring an emergency.

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

§ 1. **Office of Economic Opportunity.)** There is hereby created the Office of Economic Opportunity as a division of and under the supervision of the economic development commission of the state of North Dakota in order that the state may participate in the program provided under Public Law 88-452 and amendments thereto known as the Economic Opportunity Act of 1964. The economic development commission shall employ such other personnel as may be necessary in order to carry out the provisions of this Act.

The economic development commission shall be authorized to accept federal funds available for the operation of this program and for such state projects or programs under Public Law 88-452, as amended, as may be available to departments, institutions, and agencies of the state. It shall aid and assist political subdivisions of this state in matters pertaining to their participation in projects and programs under such law. All departments, institutions, and agencies, within the limits of personnel and legislative appropriations available, shall provide such assistance to the economic development commission as may be requested by it to insure the maximum utilization of all resources available in carrying out projects and programs under the provisions of Public Law 88-452 as amended.

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

Approved March 18, 1965.

CHAPTER 356

S. B. No. 121
(Bopp, Hernett, Sorlie, Holand)
(Budget Board Recommendation)

LEGISLATIVE SUPPLIES

AN ACT

To provide that the legislative research committee shall make necessary preparations prior to each legislative session; for the custody of legislative equipment; and approval of delayed expense vouchers after the adjournment of the legislative assembly.

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

§ 1. **Preparation for Legislative Assembly — Custody of Equipment—Approval of Delayed Vouchers.)** The legislative research committee is hereby authorized, on behalf of the legislative assembly, to make all necessary arrangements prior to each legislative session, for the procurement of necessary supplies, equipment, services, excluding the employment of legislative employees, building space, or any other preparations or arrangements it deems necessary or desirable to be made prior to the commencement of each legislative session in order to facilitate the proper convening and operation of the legislative assembly. The legislative research committee shall act as the custodial agency to ensure the proper storage and safekeeping of legislative supplies and equipment during the interim periods between legislative sessions, and shall be authorized to approve vouchers on behalf of the legislative assembly, or may authorize its director to do so, for the payment from legislative appropriations of delayed billings for legislative expenses after the adjournment of the legislative session.

Approved February 26, 1965.

CHAPTER 357

S. B. No. 324
(Holand)

LEGISLATIVE BUDGET ANALYST AND AUDITOR

AN ACT

To provide for a legislative budget analyst and auditor and describing the powers and duties of such office and making an appropriation.

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

§ 1. **Legislative Budget Analyst and Auditor.)** The legislative research committee shall appoint a legislative budget analyst and auditor. No person shall be eligible for such appointment unless he holds a baccalaureate degree from a recognized institution of higher learning or is a certified public accountant or has had five years' experience in government accounting. The appointment of the legislative auditor shall be based upon qualifications of eligible persons without reference to partisan politics. His salary shall be determined by the committee and it may employ such additional persons as may be necessary to carry out the provisions of this Act.

§ 2. **Personnel—Compensation—Expenses.)** The salaries, travel, and other expenses of the legislative budget analyst and auditor and other personnel within his office shall be submitted, approved, and paid in the same manner as other employees of the legislative research committee.

§ 3. **Powers and Duties of Legislative Budget Analyst and Auditor.)** The legislative budget analyst and auditor shall attend all budget hearings carried on by the executive budget officer and shall have access to all budget material submitted to the executive budget officer and all studies carried on by him; he shall analyze the executive budget when prepared, with special reference to sources of revenue, trends in governmental spending and finance, policies followed and inconsistencies in such policies, and proposed new or substantially expanded or reduced areas of spending and prepare a report of his analysis for the legislative assembly. He shall report thereon to the committees of the senate and house of representatives in joint meeting and shall perform such services for such committees during the legislative session as they shall reasonably request. The legislative audit and fiscal review committee may call upon the legislative budget analyst and auditor for such assistance as it may deem necessary in the

analysis of any audit submitted to such committee. Each department, institution, and agency shall furnish such records and information to the legislative budget analyst and auditor as he may request in the performance of his duties.

§ 4. **Appropriation.)** There is hereby appropriated out of any unappropriated moneys in the state treasury the sum of thirty-five thousand dollars, or so much thereof as may be necessary, for the purpose of implementing this Act for the biennium beginning July 1, 1965, and ending June 30, 1967, to wit:

Salaries and wages	$ 30,300.00
Fees and services	3,600.00
Supplies and equipment	400.00
Office equipment	700.00
Total	$ 35,000.00

Approved March 10, 1965.

CHAPTER 358

S. B. No. 222
(Holand)

EXECUTIVE OFFICE OF THE BUDGET

AN ACT

To provide for an office of the budget within the department of accounts and purchases for the executive branch of state government and to amend and reenact sections 15-10-15, 15-12-06.1, 18-03-05, 18-03-06, and 54-42-04 of the North Dakota Century Code, relating to the state budget board, and to repeal subsections 1, 2, 3, 4, 6, and 7 of section 54-44-04, chapter 54-15, and section 54-27-09 of the North Dakota Century Code, relating to the state budget board and providing for 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, the term "budget unit" means a department, institution, board, commission, agency, or other unit of government for which separate or distinct appropriations are made.

§ 2. **Office of the Budget—Director—Employees—Powers.)** The office of the budget is hereby established in the department of accounts and purchases, for the purpose of promoting economy and efficiency in the fiscal management of the state

government. The director of the department of accounts and purchases shall be ex officio director of the budget.

The director of the budget shall appoint a budget analyst who shall hold a baccalaureate degree from a recognized institution of higher learning and such appointment shall be based upon the qualifications of eligible persons, without reference to partisan politics. Special consideration shall be given to persons who hold a degree in law, political science, business administration, or a combination thereof and who are experienced in governmental processes. The budget analyst shall serve at the pleasure of the director of the budget. The budget director shall employ such other professional, technical, and clerical personnel as he may deem necessary to carry out the duties prescribed in this Act and shall fix the salary of all employees within the office of the budget and within the limits of the legislative appropriations. All personnel within the office of the budget shall be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

§ 3. Powers and Duties of the Director of the Budget.) The director of the budget, or such subordinate officer as he shall designate shall:

1. Be vested with the duties, powers, and responsibilities involved in securing budget estimates and work programs from the several departments and agencies of the state government;

2. Be vested with the duties, powers, and responsibilities involved in the preparation of revenue and fixed expense estimates;

3. Develop financial policies and plans as the basis for budget recommendations to the legislature, and prepare detailed documents in accordance with such financial policies and plans for presentation to the legislature;

4. Coordinate the fiscal affairs and procedures of the state to assure the carrying out of the financial plans and policies approved by the legislature;

5. Exercise continual control over the execution of the budget affecting the departments, institutions, and agencies of the executive branch of the state government involving approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and control of the rate of expenditures through a system of semiannual, quarterly, or monthly allotments;

6. Investigate, examine, and make exhaustive studies:
   a. Of the structure and operation of the entire executive branch of government and of every office, institution, and agency thereof;
   b. Of all the functions, duties, and services of all executive branch offices, departments, institutions, industries, boards, bureaus, and commissions;
   c. Of all the books, records, and methods of accounting of each office or agency of the executive branch to ascertain and determine whether their policies, practices, and systems of accounting are sound, necessary, practical, and efficient;
7. Develop a long-term capital improvements budget for consideration by the legislature;
8. Have the authority to procure from the various officers, departments, agencies, and employees such information as may be necessary for the preparation and execution of the budget;
9. Provide such assistance as the legislature may request and be available to assist its appropriations committees with any needed information or material and make its records and information available at all times to the legislature and its committees and designees; and
10. Perform all other necessary duties to carry out the provisions of this Act.

§ 4. Budget Estimates of Budget Units Filed with the Office of the Budget—Deadline.) The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of his budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The estimates so submitted shall bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget in his discretion may extend the filing date for any budget unit for not more than forty-five days if he finds there is some unusual circumstance which makes it absolutely impossible to file an estimate of financial requirements for such budget unit. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the

budget shall prepare such budget unit's estimate of financial requirements except such estimate shall not exceed ninety percent of such budget unit's previous biennial appropriation. The director of the budget or such subordinate officer as he shall designate shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which shall be open to the public.

§ 5. Federal Aid Budget Requests—Filed with the Office of the Budget.) Every agency of the state government when making requests for budgets to be submitted to the federal government for funds, equipment, material, or services shall have such request or budget filed in the office of the budget before submitting it to the proper federal authority. When such federal authority has approved the request or budget, in whole or in part, the agency of the state government shall resubmit it to the office of the budget for recording before any allotment or encumbrance of the federal funds can be made.

§ 6. Preparation of the Budget Data — Contents.) The director of the budget, through the office of the budget, shall prepare budget data which shall contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by such detailed schedules of assets and liabilities as the director of the budget deems desirable, which shall include, but not be limited to, the following:

   a. A comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium;

   b. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years;

   c. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated

revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statements of revenue and estimated revenue shall be classified by sources and by budget unit collecting them. Existing sources of revenue shall be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue shall be explained.

3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.

4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there shall be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with such descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there shall be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.

6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the

next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.

7. Drafts of a proposed general appropriations Act and special appropriations Acts embodying the budget data and recommendations of the governor for appropriations for the next biennium, and drafts of such revenues and other Acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit shall be specified in a separate section of the general appropriations Act.

8. Such other information as the director of the budget deems desirable or as is required by law.

§ 7. Presentation of Budget Data—How Presented to the Legislature.) The director of the budget or his designated subordinate shall present the budget data information in section 6 of this Act, including the budget and revenue proposals recommended by the governor, and make available sufficient copies thereof to a special subcommittee of the legislative research committee on budget review. The budget data shall be completed and made available to the legislative research committee in such form as may be acceptable to it by December first of each year next preceding the session of the legislature. The chairman of the legislative research committee or its subcommittee on budget review shall set the time and place at which such budget data is to be presented.

§ 8. 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 contain the budget and revenue proposals recommended by the governor and the information required in subsections 1, 2, 3, 5, and 6 of section 6 of this Act 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.

§ 9. All Expenditures Must Be Appropriated.) All expenditures of the state and of its budget units of moneys drawn from the state treasury shall be made under authority of biennial appropriations Acts, which shall be based upon a budget as provided by law, and no money shall be drawn from the treasury, except by appropriation made by law as required by section 186 of the Constitution of the state of North Dakota.

§ 10. Payments Made Pursuant to Law Only.) No payment shall be made and no obligation shall be incurred against any appropriation unless such payment or obligation has been authorized as provided by law. Every official authorizing payments in violation of this Act shall be subject to the penalties and provisions of chapter 12-10.

§ 11. Department of Accounts and Purchases to Cancel Unexpended Appropriations—When They May Continue.) The department of accounts and purchases, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn after the expiration of the biennial period during which they became available under the law. The chairman of the appropriations committees of the senate and house of representatives of the legislative assembly with the auditing board may continue appropriations or balances in force for new construction projects and for major repair or improvement projects for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget.

§ 12. Control Over Rate of Expenditures.) The director of the buget shall exercise continual control over the execution of the budget affecting the departments and agencies of the executive branch of the state government, involving approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and control of the rate of expenditures through a system of semiannual, quarterly, or monthly allotments.

§ 13. Budget Requests for Legislative and Judicial Branches.) The budget requests and expenditures for the legislative and judicial branches of this state shall not be subject to the provisions of this Act and such budget requests shall be submitted directly to the legislative assembly with informational copies of such budgets provided to the director of the budget not later than November fifteenth in each year preceding a session of the legislative assembly.

§ 14. Biennial Report to Legislature.) The director of the budget or such member of that office as he shall designate may

prepare and transmit to the governor and upon approval by him may transmit to the members of the legislative assembly at least sixty days prior to the commencement of an ensuing legislative session a report which shall contain definite and specific proposals and recommendations to accomplish the following purposes:

1. To simplify thhe governmental structure of the state so as to render it more economical and efficient;
2. To eliminate all obsolete and unnecessary offices, departments, institutions, boards, bureaus, and commissions of the state;
3. To consolidate the functions, services, and activities of state offices and agencies thereof so as to eliminate duplication of service and expense wherever it exists;
4. To correlate the functions and services of the several offices and agencies of the state government;
5. To eliminate obsolete methods, unnecessary functions and services carried on by the state government and to render those functions and services which are determined to be absolutely essential and more economical and efficient.

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

15-10-15. Budget Requests—Duties of Institution Heads.) The heads of the several institutions under the control of the state board of higher education shall submit to the board budget requests for the biennial appropriations for said institutions, respectively, and the board shall consider the budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state. Thereafter, the board shall prepare and present to the director of the budget a single unified budget request covering the needs of all of the institutions under its control. The appropriations for all of the institutions shall be contained in the same legislative measure.

§ 16. Amendment.) Section 15-12-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-12-06.1. Treasurer to Receive Funds Appropriated by Congress.) Pursuant to section 2 of an Act of Congress of the United States signed August 30, 1890, providing for the further endowment and support of colleges of agriculture and

the mechanic arts, the treasurer of the North Dakota agricultural college, Fargo, North Dakota is hereby designated as the officer to receive from the secretary of the treasury, all funds appropriated for North Dakota by the Congress under authority of the said Act and of any amendments to said Act, and of any enactments supplementary to said Act. He shall make quarterly reports of all funds so received to the director of the budget.

§ 17. **Amendment.)** Section 18-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-03-05. Statement of Desired Appropriation Submitted to Office of the Budget.) Not later than July first of each year next preceding a regular session of the legislative assembly, the director of the budget shall send to the secretary of the North Dakota firemen's association a suitable blank form to be filled out by such secretary with an itemized statement of the amount of money he considers necessary to promote the efficiency and growth of the different fire departments of the association, and to conduct the regional fire schools to be held during the succeeding biennium under the direction of the association. The secretary shall return the blanks properly filled out as provided in section 54-15-05.

§ 18. **Amendment.)** Section 18-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-03-06. Director of the Budget to Prepare Estimate for Firemen's Association.) The director of the budget shall include with its estimates, an estimate of the amounts necessary to be appropriated to promote the efficiency and growth of the different fire departments of the association and to conduct regional fire schools.

§ 19. **Amendment.)** Section 54-42-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-42-04. Budget — Acceptance of Federal Funds.) The merit system council shall submit a budget to the director of the budget in the same manner as other state agencies and any and all funds provided by the state of North Dakota for the operation of the merit system council may be appropriated by the legislative assembly in one bill of appropriation or as separate items of appropriation in the appropriation measures of the agencies served by the merit system council. The merit system council shall be authorized to accept federal funds provided through grant-aided agencies for the purpose of oper-

ating a merit system and expend such funds to carry out the provisions of this chapter. A full and complete statement of all federal grants of funds received during any biennium for the operation of the merit system council shall be included in the budget request submitted to the director of the budget, and shall include an estimate of anticipated future federal grants of funds that will become available during the succeeding biennium for use of the merit system council.

§ 20. Repeal.) Section 54-27-09, subsections 1, 2, 3, 4, 6, and 7 of section 54-44-04, and chapter 54-15 of the North Dakota Century Code are hereby repealed.

Approved March 6, 1965.

CHAPTER 359

S. B. No. 214
(Becker, Sorlie)

NATURAL RESOURCES COUNCIL MEMBERSHIP

AN ACT

To amend and reenact sections 54-49-03 and 54-49-05 of the North Dakota Century Code, relating to the membership and funds of the natural resources council.

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

§ 1. Amendment.) Section 54-49-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-49-03. Membership.) There is hereby created a natural resources council of state agencies consisting of the governor as chairman, the chairmen of both senate and house natural resources committees, the commissioner of agriculture and labor, the attorney general, executive secretary of state soil conservation committee, the game and fish commissioner, the state land commissioner, the state geologist, the secretary of the state water commission, the state forester, the dean of agriculture of the North Dakota state university of agriculture and applied science, the superintendent of the state historical society, the director of the economic development commission, the state highway commissioner, the state health officer, or the duly assigned staff representative of any herein named.

§ 2. **Amendment.)** Section 54-49-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-49-05. Funds.) No funds shall be appropriated for the functioning of the council except funds may be appropriated for the per diem and expenses of the council's legislative members. Members of the council and subcommittees thereof shall receive no salary as such members but shall be reimbursed for their travel and other expenses incurred in attendance upon meetings of the council or while in the performance of their duties, as such members, by the agency which they represent. State agency members of the council may contribute and the council may accept funds for purposes of compiling, publishing and distributing information gathered by the council.

Aproved March 19, 1965.

CHAPTER 360

H. B. No. 807
(Shorma, Sanstead, Obie, Hauf, Hardmeyer, Stallman,)
(Erickson (Ward))

INTERCHANGE OF GOVERNMENT EMPLOYEES

AN ACT

Relating to the state of North Dakota; providing for the interchange of government employees.

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

§ 1. **Declaration of Policy.)** The state of North Dakota recognizes that intergovernmental cooperation is an essential factor in resolving problems affecting this state and that the interchange of personnel between and among governmental agencies at the same or different levels of government is a significant factor in achieving such cooperation, and increasing the skills and efficiency of governmental personnel.

§ 2. **Definitions.)** For the purposes of this Act the following words and phrases have the meanings ascribed to them in this chapter:

1. "Sending agency" means any department or agency of the federal government or a state government which sends any employee thereof to another government agency under this Act.

2. "Receiving agency" means any department or agency of the federal government or a state government which receives an employee of another government under this Act.

§ 3. Authority to Interchange Employees.) Any department, agency, or instrumentality of the state is authorized to participate in a program of interchange of employees with departments, agencies, or instrumentalities of the federal government, or another state, as a sending or receiving agency.

§ 4. Duration of Exchange.) The period of individual assignment or detail under an interchange program shall not exceed twelve months, nor shall any person be assigned or detailed for more than twelve months during any thirty-six month period. Details relating to any matter covered in this Act may be the subject of an agreement between the sending and receiving agencies. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency.

§ 5. Status of Employees of This State.) Employees of a sending agency participating in an exchange of personnel as authorized in section 3 may be considered during such participation to be on detail to regular work assignments of the sending agency.

§ 6. Salary and Benefits.) Employees who are on detail shall be entitled to the same salary and benefits to which they would otherwise be entitled and shall remain employees of the sending agency for all other purposes except that the supervision of their duties during the period of detail may be governed by agreement between the sending agency and the receiving agency.

§ 7. Death or Injury of Employee.) Any employee who participates in an exchange under the terms of this section who suffers disability or death as a result of personal injury arising in the course of an exchange, or sustained in performance of duties in connection therewith, shall be treated, for the purposes of the sending agency's employee compensation program, as an employee, as defined in such Act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that Act for any period for which he is entitled to and elects to receive similar benefits under the receiving agency's employee compensation program.

§ 8. Travel Expenses of Employees of This State.) A sending agency in this state may, in accordance with the travel regulations of the state, pay the travel expenses of employees assigned to a receiving agency on either a detail or leave basis, but shall not pay the travel expenses of such employees

incurred in connection with their work assignments at the receiving agency. During the period of assignment, the sending agency may pay a per diem allowance to the employee on assignment or detail.

§ 9. **Status of Employees of Other Governments.)** The following provisions shall control the status of any employees within the state by virtue of this Act:

1. When any unit of government of this state acts as a receiving agency, employees of the sending agency who are assigned under authority of this Act may be considered to be on detail to the receiving agency.

2. Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving agency. Such person shall be in the unclassified service of the state.

3. Employees who are detailed to the receiving agency shall not by virtue of such detail be considered to be employees thereof, except as provided in subsection 4, nor shall they be paid a salary or wage by the receiving agency during the period of their detail. The supervision of the duties of such employees during the period of detail may be governed by agreement between the sending agency and the receiving agency.

4. Any employee of a sending agency assigned in this state who suffers disability or death as a result of personal injury arising out of and in the course of such assignment, or sustained in the performance of duties in connection therewith, shall be treated for the purpose of receiving agency's employee compensation program, as an employee, as defined in such Act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that Act for any period for which he elects to receive similar benefits as an employee under the sending agency's employee compensation program.

§ 10. **Travel Expenses of Employees of Other Governments.)** A receiving agency in this state may, in accordance with the travel regulations of the state, pay travel expenses of persons assigned thereto under this Act during the period of such assignments on the same basis as if they were regular employees of the receiving agency.

§ 11. **Reports of Participating Agencies.)** Each department, agency or instrumentality of the state which participates in the interchange of employees as provided in this Act shall annually

report the details of the travel expenses of each employee and same shall be reported to the department of the accounts and purchases.

Approved March 15, 1965.

CHAPTER 361

S. B. No. 164
(Lips, Trenbeath, Becker, Urdahl, Mahoney, Sinner)

STATE EMPLOYEES' RETIREMENT PROGRAM

AN ACT

To provide for the general welfare of state employees by authorizing the adoption by the state of North Dakota and all of its departments, boards, institutions, commissions, and agencies of a retirement plan supplementary to social security in accordance with the provisions of this Act.

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

§ 1. Definition of Terms.) As used in this Act, unless the context otherwise requires:

1. "Beneficiary" shall mean any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits;
2. "Eligible employee" shall mean all permanent employees who meet all of the eligibility requirements set by this Act and who are twenty-one years or more of age, and shall include appointive and elective officials at their sole election;
3. "Employee" shall mean any person employed by the state of North Dakota whose compensation is paid out of state funds or funds controlled or administered by a state department, or paid by the federal government through any of its executive or administrative officials;
4. "Funding agent" or "agents" shall mean the insurance company, trust bank or other financial institution whom the retirement board selects to hold and invest the employers, and members, contributions and pay certain benefits;
5. "Participating member" shall mean all eligible employees who through payment into the plan have established a claim against the plan;

6. "Permanent employee" shall mean a state employee who has been employed by the state for five continuous months, is employed for more than twenty hours per week and more than five months each year;

7. "Prior service" shall mean state service or state employment prior to January 1, 1965;

8. "Prior service credit" shall mean such credit toward a retirement benefit as the retirement board may determine under the provisions of this Act;

9. "Retirement board" or "board" shall mean the five persons designated by this Act as the governing authority for the retirement system created;

10. "Retirement" shall mean the acceptance of a retirement allowance under this Act upon termination of employment;

11. "Vested interest" shall mean all of the employee's contribution, plus credited earnings thereon, and that part of the agency contribution, plus credited earnings thereon, as shown on the vesting schedule provided for in this Act; and

12. "Wages" and "salaries" shall mean the actual dollar compensation paid to or for an employee for his services.

§ 2. Formulation of Plan—Exclusion of Employees Covered by Plans in Existence.) All departments, boards, institutions, commissions or agencies of the state of North Dakota, hereinafter referred to as agency, shall participate in a retirement system which will provide for the payment of benefits to state employees or to their beneficiaries thereby enabling the employees to care for themselves and their dependents and which by its provisions will improve state employment, reduce excessive personnel turnover and offer career employment to high grade men and women. Employees presently covered by a pension plan or retirement plan to which the state has contributed, except social security, shall not be eligible for duplicate coverage.

§ 3. Governing Authority.) There is hereby created a 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 a 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, non-voting, and advisory members of the board.

§ 4. **Board Authority.)** The board shall have the following powers and duties:

1. The board shall have the power and duty, subject to the limitations of this Act, of managing the system. It shall have the powers and privileges of a corporation, including the right to sue and be sued in its own name as such board. The venue of all actions in which the board is a party shall be Burleigh County, North Dakota.

2. The board shall appoint an executive secretary to serve at its discretion. The executive secretary shall be bonded by a commercial carrier as may be required by the board and shall perform such duties as assigned by the board.

3. The board shall authorize the creation of whatever staff it deems necessary for sound and economical administration of the system. The executive secretary shall hire the staff, subject to the approval of the board.

4. The board shall arrange for actuarial and medical advisors for the system. It shall cause a qualified, competent actuary to be retained on a consulting basis. During the first year of operation of the system and at least once every three years thereafter, the actuary shall make a general investigation of the stability of the system. The actuary shall also perform such other duties as may be assigned by the board.

5. The board shall be provided by the state with the retirement systems office or offices to be used for the meetings of the board and for the general purposes of the administrative personnel.

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.

§ 5. Membership Fee and Assessments.) Every eligible permanent state employee concurring in the plan shall so state in writing and all future eligible employees shall be participating members. Each member shall pay to the treasurer of the retirement fund a membership fee to be fixed by the retirement board in an amount not exceeding five dollars, which shall be paid into the administrative expense and benefit fund. An eligible employee shall be a permanent employee who has been employed by the state for five months, has reached age twenty-one, and is employed for more than twenty hours per week for more than five months each year. Each member shall be assessed and required to pay monthly four percent of the monthly salary or wage paid to him, and such assessment shall be deducted and retained out of such salary in equal monthly installments.

§ 6. Agency's Contribution to Retirement Plan — Limitations.) Each agency shall match four percent of the monthly salary or wage of a participating member, but not to exceed a matching payment in excess of three hundred dollars annually. Each agency shall pay such contributions into the retirement fund from its funds appropriated for payroll and salary or any other funds available for such purposes.

§ 7. Agency Contribution Retirement Contribution.) The agency contribution to a retirement plan shall be considered a retirement contribution and not an additional compensation. This shall apply specifically to elected and appointed officials where maximum annual compensation is set by the statute or by state boards or commissions. The retirement contribution shall not be considered by the employee as income in computing his net income for purposes of state income tax until such time as the moneys come under the control of the employee.

§ 8. State Income Tax Deductions.) For the purposes of state income tax, the assessment imposed by this Act on the employee shall be treated in accordance with existing state statutes on state income tax.

§ 9. State Premium Tax.) Premiums, consideration for annuities and membership fees shall be construed as being exempt from premium taxes payable pursuant to section 26-01-11 of the North Dakota Century Code.

§ 10. Allocation of Funds.) For the purpose of internal accounting records of the board, and not for the purpose of the segregation of moneys on deposit, or investment, there shall be created:

1. An "employee account fund", consisting of the employee contribution plus credited earnings thereon;
2. A "vesting fund", consisting of three of each four dollars of agency contribution plus credited earnings thereon; and
3. An "administrative expense and benefit fund", consisting of one of each four dollars of agency contribution.

Any and all expenses incurred by or for the operation of the retirement plan shall be paid from the latter fund. From the latter fund the board shall have the authority to provide prior service benefits and such other benefits as the board may determine, provided the board provides such benefits as a part of sound retirement planning, and that portion of such fund not needed for administrative expense shall be used to provide for such benefits. The funds allocated in subsections 1 and 2 hereof shall constitute the "employees' retirement fund".

§ 11. Vesting—Vesting Schedule of Agency Contribution.) Upon severance of the employment of a participating member, either voluntarily or involuntarily, for any reason other than set forth in this section, the contribution of the participant plus credited earnings thereon shall be vested in him. Three out of every four dollars of agency contribution shall be

vested in the employee according to years of state employment including state employment prior to this Act. The employees' vested interest in the "vesting fund" shall be as follows:

Years of State Employment	Percentage of Vesting Fund Interest
0 years through 3 years	None
Over 3 years through 7 years	20% plus credited earnings thereon
Over 7 years through 11 years	30% plus credited earnings thereon
Over 11 years through 15 years	40% plus credited earnings thereon
Over 15 years through 18 years	60% plus credited earnings thereon
Over 18 years through 20 years	80% plus credited earnings thereon
Over 20 years	100% plus credited earnings thereon

An employee's one hundred percent vesting fund interest plus credited earnings thereon shall be vested, and nonforfeitable, when the employee reaches the age of sixty-five, or is permanently disabled; and an employee's one hundred percent vesting fund interest shall be vested in the beneficiary of the employee in case of the employee's death. At the age of sixty-five, or less as may be determined by the board, all interests vested in an employee shall be available to him for payment of retirement benefits as may be provided for under this Act. Amounts forfeited under the vesting fund interest shall be paid into the administrative expense and benefit fund.

§ 12. **Exemption from Taxation and Judicial Process — Assignability.)** The right of a person to retirement benefits, any optional benefits, any other rights accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all money and investments and income thereof, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever.

§ 13. **Deposit of Moneys.)** All moneys committed by any agency based on total payroll of participating members, all moneys received as employee contribution and all moneys received from grants, donations, legacies and devises for the benefit of such fund, shall be paid into the Bank of North Dakota to the credit of the board, which board shall disburse the same in accordance with the plan adopted hereunder.

§ 14. Acceptance of Money and Property by the Board.) The board may take by gift, grant, devise or bequest, any money or real or personal property or any other thing of value for the benefit of the employees' retirement fund, and when received, said property shall become a part of such fund.

§ 15. Accounting Requirements.) The board shall have all accounts and funds under their control audited by a firm of certified public accountants once in each four-year period or at a more frequent interval if so desired. Funds and accounts to be audited shall be those held by the board and not those held by a trust company, insurance company or other money management firm with whom a management contract exists. The results of each audit made shall be filed with the state auditor, the state examiner, and the legislative audit and fiscal review committee.

§ 16. Insurance Contracts—Trust Agreements.) 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, for the purpose of carrying out this Act.

§ 17. Formulation of Plan.) The board in formulation of the retirement plan shall make provisions in such plan for:

1. Eligibility for retirement;
2. Eligibility for retirement because of disability, and the method of determining disability;
3. Provisions for optional retirement benefits;
4. Provisions for payments to a surviving widow, surviving husband, and surviving children upon death of a participating member;
5. Provisions for the re-examination of a member retired by reason of physical or mental disability; and
6. Provisions for credit of time to participating members while serving in the armed forces of the United States or the armed forces reserve thereof when the United States is involved in organized conflict, or crisis within the country.

Together with such other provisions deemed advisable to the board which are not in conflict with the terms and provisions of this Act.

§ 18. **Apportionment of Benefits.)** Should the sums of money in the employees' retirement fund ever be insufficient to meet the demands of the withdrawals due to disability or retirement benefits, the board shall apportion on a pro rata basis, the interests described in section 11, in accordance with such section, as may be available, among the persons entitled to payments.

§ 19. **Prior Service.)** The retirement board shall from any funds committed to the administrative expense and benefit fund but not needed for administrative expense provide prior service minimum benefits to long term employees. As of January 1, 1965, a prior service credit shall be computed for all employees who have been employed continuously since December 31, 1959. Prior service credit shall be given for years of state employment while the employee was age fifty but not over age sixty-four, provided that five years of service will not count. The five years not to be counted may be before, after or during the period between age fifty through age sixty-four.

§ 20. **Prior Service — Register — Benefits.)** This provision is to provide benefits to long term state employees. The board shall maintain a register of members for whom a prior service benefit has been computed. Prior service minimum benefits shall be as determined by the retirement board, but shall not provide benefits to other than the employee member and then only at time of retirement.

§ 21. **Plan Not Employment Contract.)** The adoption of or participation in a retirement plan by an agency shall not be deemed to give an employee the right to be retained in the employ of the state or to interfere with the right of the agency to discharge any employee at any time.

§ 22. **Interpretation Clause.)** This Act 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.

§ 23. **Savings Clause—Internal Revenue Service.)** If the internal revenue service shall not approve of certain sections or phraseology of certain sections of this Act as being in compliance with the statutes or rules governing the internal revenue service, the board in the adoption of the plan shall adopt such terminology with respect to such sections as will comply therewith.

§ 24. **Planning and Organizing Funds.)** The board is hereby granted authority to negotiate a loan of twenty 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.

Approved March 17, 1965.

CHAPTER 362

S. B. No. 356
(Committee on Delayed Bills)

EMERGENCY GRANT OF FUNDS BY EMERGENCY COMMISSION

AN ACT

Relating to the grant of funds by the emergency commission from the contingency fund for the protection of life and property from conditions caused by natural disasters, providing for the termination of the Act, and declaring an emergency.

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

§ 1. Natural Disaster Assistance.) Notwithstanding other provisions of chapter 54-16, the state emergency commission is hereby authorized to make grants from the state contingency fund, in the case of emergencies caused by natural disasters, to political subdivisions of this state or to expend such funds in their behalf to aid them in meeting their extraordinary emergency expenses in protecting life and property from conditions resulting from natural disasters. Such grants shall specifically not be subject to limitations contained in section 54-16-04 in regard to increases in appropriations and shall not be limited to agencies or purposes for which appropriations have been made by the Thirty-eighth Legislative Assembly.

The emergency commission, by rules adopted by it, shall determine the basis of grants under this section, and shall to the extent practical and feasible require the prior expenditure of funds by the political subdivision in protecting life and property and the matching of state funds granted under this section by funds of the political subdivision concerned to the maximum extent feasible.

Funds granted or expended under the provisions of this section shall not exceed the sum of fifty thousand dollars.

§ 2. Disaster Operations of the National Guard.) Notwithstanding any limitation contained in chapter 54-16, and specifically in section 54-16-04 in regard to grants increasing appro-

priations, the state emergency commission shall make grants of funds from the contingency fund to the national guard for the purpose of reimbursing such agency for costs incurred, or as anticipated will be incurred, in carrying out emergency operations in the case of natural disasters for the protection of life and property. Such grants may be made for expenditures incurred or anticipated to be incurred by the national guard through the use of its own personnel and equipment or incurred or anticipated to be incurred by contract or agreement with any state department, agency, political subdivision, or private contractor in carrying out its duties in the protection of life and property from conditions resulting from natural disasters. Funds granted to the national guard under the provisions of this section shall be over and above limitations upon grants prescribed in section 1 of this Act.

§ 3. **Termination of Act.)** The provisions of this Act shall be in effect through June 30, 1965, and shall expire in all respects upon such date, except that grants for obligations incurred prior to such date may be made by the emergency commission prior to August 1, 1965.

§ 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 1, 1965.

Note: See chapter 363, 1965 S.L.

CHAPTER 363

S. B. No. 357
(Committee on Delayed Bills)

MANNER OF COLLECTING EMERGENCY FUNDS

AN ACT

Providing for the collection of funds expended under the provisions of Senate Bill No. 356 of the 1965 Legislative Session for disaster relief on private land and declaring an emergency.

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

§ 1. **Natural Disaster Assistance — Collection of Certain Expenditures.)** Any funds expended under the provisions of Senate Bill No. 356 of the 1965 Legislative Session for snow removal or other action in the protection of life and property on private land for which reimbursement by the owner or

lessee of such private land may be required by the governor or emergency commission, the county share under Senate Bill No. 356 may be charged against such land by the board of county commissioners of the county in which such land is located in the same manner as personal or real estate taxes are collected.

§ 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, 1965.

Note: See chapter 362, 1965 S.L.

CHAPTER 364

H. B. No. 773
(Wagner)

"WIDE AREA TELEPHONE SERVICE"

AN ACT

To amend and reenact section 2 of chapter 320 of the 1963 Session Laws, relating to "wide area telephone service".

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

§ 1. **Amendment.)** Section 2 of chapter 320 of the 1963 Session Laws is hereby amended and reenacted to read as follows:

§ 2.) Each office, agency, or institution provided with "wide area telephone service" shall pay to the board of administration a proportionate share of the cost of such service, as determined by the board of administration based upon studies and recommendations made by the company furnishing such service. Each office or institution located on the capitol grounds shall subscribe to "wide area telephone service" and shall pay such charge as determined by the board of administration on July 1, 1965, and on July 1, 1966. "Wide area telephone service" shall be made available to all departments, agencies, and institutions not located upon the capitol grounds on an optional basis and in such cases where this service is determined to be economical and feasible by the board of administration. The board of administration is authorized to expend funds received hereunder for the payment of "wide area telephone service" charges during the biennium begin-

ning July 1, 1965 and ending June 30, 1967, and within thirty days after the end of such biennium any unexpended balance shall be transferred to the general fund.

Approved March 15, 1965.

CHAPTER 365

H. B. No. 943
(Delayed Bills Committee)

HIGHER EDUCATION LANDS QUITCLAIM TO HIGHWAY DEPARTMENT

AN ACT

To authorize the state board of higher education to quitclaim 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 quitclaim to the state of North Dakota for the use and benefit of the state highway department, its interest in certain lands described as follows:

A portion of the northeast quarter of section five, township one hundred and fifty-one north, range fifty west.

All necessary documents to accomplish the transfer of the above described land may be executed by the governor and attested by the secretary of state.

Approved March 15, 1965.

CHAPTER 366

H. B. No. 803
(Fossum, Anderson, Solberg, Rosendahl)

LAND CONVEYANCE BY BOARD OF HIGHER EDUCATION

AN ACT

To authorize the state board of higher education to sell and convey certain land owned by the state of North Dakota used for the raising of trees, the proceeds of which shall be used to buy land for the same 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 sell and convey certain land owned by the state of North Dakota by public bids, except that such board may negotiate sales with local park districts, which land is described and located in the

East half of the southwest quarter and the west half of the southeast quarter of section twenty-five of township one hundred sixty-two north, range seventy-six west, Bottineau County, North Dakota,

which land is presently used to raise trees for windbreaks and shelterbelt purposes. Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed. The board of higher education may subdivide and sell such land by tracts or in such a manner that the present program of raising trees shall not be unduly interrupted.

§ 2.) Upon the sale of any part or all of such land, the proceeds shall be deposited in a special fund in the state treasury and are hereby appropriated to the state board of higher education for the purpose of acquiring and developing a new tree nursery site, which site shall be developed in such a manner as to maintain the level of the present tree production program on the land being sold.

§ 3.) Any proceeds from such sale which shall be in excess of the amount needed to comply with sections 2 and 3 of this Act as determined by the board of higher education shall be used for other capital improvements for the state forestry program in the manner authorized by such board and are hereby appropriated for such purpose.

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

§ 5.) The state shall not be responsible for the payment of any special assessments levied and assessed by any taxing district against property subject to sale and conveyance pursuant to this Act unless such special assessments have been spread prior to the effective date of this Act.

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

Approved March 17, 1965.

CHAPTER 367

H. B. No. 786
(Schoenwald, Hauf, Hertz, Gengler, Haugland, Williamson,)
(Erickson (Ward), Meschke)

CONVEYANCE OF LANDS TO CITY OF MINOT

AN ACT

To authorize the state board of higher education to convey the title to certain land owned by the state of North Dakota to the city of Minot for road purposes.

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

§ 1.) Authorization is hereby granted to the state board of higher education for the conveyance of the title to certain land owned by the state of North Dakota to the city of Minot for the consideration of one dollar, such land presently having a roadway upon it built by the city of Minot, which land is located and described as follows:

Beginning at the southeast corner of the plat of Marian Heights Second Addition; thence north zero (0) degrees, six (6) minutes east a distance of four hundred sixty-nine and two-tenths (469.2) feet; thence south eighty-nine (89) degrees, fifty-four (54) minutes east a distance of sixty-six (66) feet to the southwest corner of lot 10, block 1, Marian Heights First Addition; thence southwesterly along a fourteen (14) degree, thirty-nine (39) minute curve a distance of one hundred ninety-five and sixty-eight hundredths (195.68) feet to a point which is thirty-three (33) feet east

of the first described line; thence south zero (0) degrees, six (6) minutes west to a point on the north line of the southwest quarter of the northeast quarter of section fourteen (14), township one hundred fifty-five (155) north, range eighty-three west; thence west along the last described line a distance of thirty-three (33) feet to the point of beginning,

and all documents necessary to make such conveyance shall be executed by the governor and attested by the secretary of state.

Approved February 24, 1965.

CHAPTER 368

H. B. No. 787
(Olienyk, Gengler, Elkin, Bier)

SALE OF LAND TO DICKINSON PUBLIC SCHOOL DISTRICT No. 1

AN ACT

To authorize the state board of higher education to sell and transfer certain land owned by the state of North Dakota for the benefit and use of the North Dakota state university of agriculture and applied science to Dickinson Public School District No. 1, Dickinson, North Dakota, and appropriating the proceeds of sale to the state board of higher education for the purpose of acquiring other land.

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

§ 1.) The state board of higher education is hereby authorized to sell and transfer to Dickinson Public School District No. 1, Dickinson, North Dakota, for a purchase price of $1,000.00 per acre, land owned by the state of North Dakota and held for the benefit and use of the Dickinson experiment station of the North Dakota state university of agriculture and applied science, which land is located in the northwest quarter (NW¼) of section four (4), township one hundred thirty-nine (139), range ninety-six (96), Stark County, North Dakota, and is more particularly described as follows:

Beginning at a point 33 feet east and 33 feet south of the northwest corner of said section 4; thence south and parallel to the west line of said section 4 a distance of 1,235.1 feet; thence east and parallel to the north line of said section 4 a distance of 1,372 feet more or less to the west line of a

certain roadway which is a northerly extension of 13th avenue west, Dickinson, North Dakota; thence along the west line of said north and south roadway a distance of 1,235.1 feet more or less to a point 33 feet south of the north line of said section 4; thence west and parallel to the north line of said section 4 a distance of 1,372 feet more or less to the point of beginning. Tract contains 38.9 acres more or less. Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed.

Upon the sale of such land, the proceeds of sale are hereby appropriated to the state board of higher education for the purpose of acquiring replacement land, as determined by the state board of higher education, in the name of the state of North Dakota for the use and benefit of the Dickinson branch experiment station of the North Dakota state university of agriculture and applied science. Upon the sale of the above-described land, the deed to the purchaser shall be executed by the governor and attested by the secretary of state, and shall contain a proviso that when said lands are no longer used as a location for public school buildings and public uses related to public education and training, excepting portions of the lands above described which may be needed and used for public rights-of-way or public utility installations, that in such event the state board of higher education, or its successor, shall have the first option to repurchase such property, or any part thereof, within a period of four years after notice, at a purchase price constituting the then value of the property as negotiated by the parties but not greater than one thousand dollars per acre for the acreage reacquired.

Approved March 17, 1965.

CHAPTER 369

S. B. No. 99
(Kelly, Beck, Strinden)

CONVEYANCE OF LANDS TO VALLEY CITY

AN ACT

Authorizing the state board of higher education to grant and convey certain state-owned lands to the city of Valley City, and declaring an emergency.

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

§ 1. Grant and Conveyance.) In consideration of the benefit to be derived by Valley City state college from the construction of a road across a portion of the campus, the state board of higher education is hereby authorized to grant and convey to the city of Valley City, Barnes County, North Dakota, a municipal corporation, all its interest in certain tracts of land described as follows for the construction of said road:

A tract of land in block 8 of Andrus and Siftons Addition to Valley City, North Dakota, more particularly described as follows: beginning at the southeast corner of said block, thence north along the east line of said block 105 feet; thence north 89°29′ west 297.9 feet; thence south 58°35′ west 198.5 feet to a point on the south line of said block; thence south 89°29′ east along said south line 466.4 feet to the point of beginning. Said tract of land contains 0.92 acres more or less. A strip of land lying in that tract of land owned by the state of North Dakota in the south half of the northeast quarter of section twenty-eight, township one hundred forty north, range fifty-eight west of the fifth principal meridian; said strip of land being 160 feet wide, 80 feet on either side of a center line more particularly described as follows: beginning at a point which is the intersection of the east line of the said northeast quarter and the center line of Seventh Street southeast in the city of Valley City, North Dakota; thence north 89°29′ west along said center line extended 1.5 feet; thence by a 6° curve to the left 532.2 feet; thence south 58°35′ west 173.9 feet; thence by a 4° curve to the right 780.8 feet; thence south 89°49′ west parallel with and with a width of 80 feet more or less on the left from the south line of the above described tract 575.1 feet; thence by a 14° curve to the left 258.8 feet to a point on said south line, excepting therefrom all that part lying within that part of block 8 of Andrus and Siftons Addition to Valley

City, North Dakota, described as follows: beginning at the southeast corner of said block 8, thence north along the east line of said block 105 feet; thence north 89°29′ west 297.9 feet; thence south 58°35′ west 198.5 feet to a point on the south line of said block; thence south 89°29′ east along said south line 466.4 feet to the point of beginning. The above strip of land contains 7.60 acres more or less.

The grant and conveyance of such land 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. As a condition of this conveyance the state shall not be subject to nor responsible for any special assessments hereinafter levied for the construction of a roadway upon the conveyed premises, nor the surfacing thereof.

Approved March 17, 1965.

CHAPTER 370

S. B. No. 206
(Ecker)

SALE OF LANDS TO HETTINGER SCHOOL DISTRICT No. 13

AN ACT

To authorize the state board of higher education to sell and transfer certain land owned by the state of North Dakota for the benefit and use of the North Dakota state university of agriculture and applied science to Hettinger Public School District No. 13, Hettinger, North Dakota, and appropriating the proceeds of sale to the state board of higher education for the purpose of acquiring other land.

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

§ 1.) The state board of higher education is hereby authorized to sell and transfer to Hettinger Public School District No. 13, Hettinger, North Dakota, for a purchase price of $500.00 per acre, land owned by the state of North Dakota and held for the benefit and use of the Hettinger experiment station of the North Dakota state university of agriculture and applied science, which land is located in the southeast quarter (SE¼) of section eleven (11), township one hundred twenty-nine (129), range ninety-six (96), Adams County, North Dakota, and is more particularly described as follows:

Beginning at a point 186 feet north and 33 feet west of the southeast corner of said section 11; thence north and parallel to the east line of said section 4 a distance of 900 feet; thence west and parallel to the south line of said section 11 a distance of 400 feet; thence south and parallel to the east line of said section 11 a distance of 900 feet; thence east and parallel to south line of said section 11 a distance of 400 feet to the point of beginning. Tract contains 8.2 acres more or less.

The purchaser agrees to install a six-foot cyclone fence around the area bordering the experiment station property.

Upon sale of such land, the proceeds of sale are hereby appropriated to the state board of higher education for the purpose of acquiring replacement land, as determined by the state board of higher education, in the name of the state of North Dakota for the use and benefit of the Hettinger branch experiment station of the North Dakota state university of agriculture and applied science. Upon the sale of the above-described land, the deed to the purchaser shall be executed by the governor and attested by the secretary of state, and shall contain a proviso that title to the lands above described, or any portion of the lands above described, shall revert to the state of North Dakota for the use and benefit of the Hettinger branch experiment station of the North Dakota state university of agriculture and applied science when said lands are no longer used as a location for public school buildings and public uses related to public education and training, with the exception of any portions of the lands above described which may be needed and used for public rights-of-way or public utility installations. Any such reversions shall be at no cost to the state of North Dakota.

Approved February 26, 1965.

CHAPTER 371

S. B. No. 354
(Committee on Delayed Bills)

SALE OF ARMORY TO HILLSBORO

AN ACT

To authorize the state board of armory supervisors to convey certain described property by quitclaim deed to the city of Hillsboro, North Dakota.

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

§ 1.) WHEREAS, the state of North Dakota conveyed certain land to the city of Hillsboro, North Dakota, in March, 1927, to be used for public purposes and which was used as an armory and for public purposes and that such property has since ceased to be used for such purposes and under a questionable reversion clause in the deed the property has possibly reverted to the state of North Dakota; and

WHEREAS, the armory building has become a dilapidated and hazardous building not worthy of repair and the city of Hillsboro desires to obtain a clear title to such property in order to dispose of such building. For these reasons the state of North Dakota declares its policy to assist in every manner in curing any defects which may now exist in the title to such property.

§ 2.) The state board of armory supervisors is hereby authorized to convey by quitclaim deed in behalf of the state of North Dakota, to the city of Hillsboro, North Dakota, disclaiming all right, title, and interest in and to such property, for the purpose of curing the title to the property described as follows:

The real property in the city of Hillsboro, Traill County, North Dakota, described as commencing at the northwest corner of lot 12, in block 6, White's First Addition to Hillsboro, thence running southerly on the west boundary line of said lot 12, 125 feet, thence running easterly at right angles 52 feet, thence running northerly on a line parallel to and 2 feet distant from the westerly line of lot 10 in said block 125 feet to the north boundary line of said lot 10, thence westerly on the north boundary line of lots 10, 11, and 12, 52 feet to the place of beginning, according to the plat thereof on file in the office of the register of deeds in and for said county and state,

such conveyance to be free of all reservations, restrictions, or rights of reversion. All necessary documents to accomplish the transfer of the above-described lands shall be executed by the governor and attested by the secretary of state.

Approved March 15, 1965.

CHAPTER 372

S. B. No. 91
(Urdahl, Van Horn, Trenbeath)

SALE OF LANDS TO JAMESTOWN

AN ACT

Authorizing the board of administration to sell, convey and transfer to the city of Jamestown, North Dakota, certain described real properties for the purpose of a proposed James River diversion plan and which includes the construction of a new bridge over the James River as access to the state hospital of North Dakota, and exchange of lands with R. J. Linn as a part of said plan, and declaring an emergency.

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

§ 1.) The board of administration of the state of North Dakota is hereby authorized for the consideration of one dollar and other good and valuable considerations, to convey to the city of Jamestown, Stutsman County, North Dakota, for the purpose of a proposed James River diversion plan which includes the construction of a new bridge giving access to the state hospital of North Dakota and covering the following described parcels, to wit:

All that portion of the north half of the northeast quarter of section one, township one hundred thirty-nine north, range sixty-four west of the fifth meridian, lying southerly of the south bank of the James River, and within a strip of land two hundred feet wide, said strip lying one hundred feet on each side and measured at right angles to the following described centerline; beginning at the northeast corner of the northeast quarter of said section one, thence south along the east line of said northeast quarter a distance of three hundred feet, thence south sixty-eight degrees, thirty-five minutes west, a distance of six hundred fifty feet, more or less, until said centerline crosses the northeasterly line of board of administration property, which is the point of beginning; thence continuing south sixty-eight degrees. thirty-five minutes west, a distance of three hundred feet

more or less until said strip crosses the south bank of the James River as it is today. Tract contains one and thirty-eight hundredths acres, more or less; and all that portion of the north half of the northwest quarter of section six, township one hundred thirty-nine north, range sixty-three west of the fifth meridian, lying within a strip of land of various widths, lying on both sides and measured at right angles to the following described centerline; beginning at the northwest corner of the northwest quarter of said section six, thence south along the west line of said northwest quarter a distance of three hundred feet to a point of beginning, thence a strip of land two hundred feet wide, lying one hundred feet on each side of a line running north sixty-eight degrees, thirty-five minutes east a distance of four hundred seventy-five feet to a point where the width of the strip changes to one hundred fifty feet, lying seventy-five feet on each side and measured at right angles to a centerline running from the aforementioned point easterly parallel to the north line of said section six a distance of nine hundred fifty feet, more or less, until said strip crosses the westerly bank of the James River as it is today, excepting that portion of the north half of the northwest quarter of section six previously deeded to the city of Jamestown as a public thoroughfare. Tract contains four and twenty-five hundredths acres, more or less.

As an additional part of the said river diversion plan the board of administration is further authorized to convey to R. J. Linn of Jamestown, North Dakota, the following described parcels for the consideration of a conveyance by the said R. J. Linn to the state of North Dakota, which real property is described as follows, to wit:

All that portion of the southwest quarter of section thirty-one, township one hundred forty north, range sixty-three west of the fifth meridian, lying east of James River and west of state hospital road and south of a line four hundred fifty-four and two-tenths feet north of and parallel to the south section line. Said tract contains seventy-eight hundredths acres more or less; and

All that portion of the northwest quarter of section six, township one hundred thirty-nine north, range sixty-three west of the fifth meridian, more particularly described as follows: beginning at the northwest corner of section six, township one hundred thirty-nine north, range sixty-three west of the fifth meridian, thence south zero degrees, zero minutes east along the west section line a distance of one hundred eighty and eleven hundredths feet, thence north seventy degrees, forty-eight minutes east a distance of three

hundred feet, more or less to the west right-of-way line of the state hospital road, thence northerly along said right-of-way line a distance of one hundred feet more or less to the north line at said section six, thence west along said north line to the point of beginning. Tract contains eighty-five hundredths acres more or less.

Said real property to be conveyed by R. J. Linn to the state of North Dakota being described as follows, to wit:

Beginning at the northeast corner of section one, township one hundred thirty-nine north, range sixty-four west of the fifth meridian, thence south zero degrees, zero minutes east along the east line of said section six a distance of three hundred ninety-one and eight-nine hundredths feet to the point of beginning, thence continuing south zero degrees, zero minutes east a distance of three hundred fifty-two and eleven hundredths feet, thence north sixty-eight degrees, thirty-five minutes west a distance of four hundred eighty feet more or less to a point, thence north seventy degrees, forty-eight minutes east a distance of four hundred eighty feet more or less to the point of beginning. Tract contains two and two hundredths acres more or less.

§ 2.) The board of administration shall reserve in favor of the state of North Dakota the right of ingress and egress to the James River as diverted over and across said above-described real property for the purpose of obtaining water from the James River for irrigation purposes.

§ 3.) That all conveyances above authorized, excepting the conveyance to R. J. Linn, 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 located thereon may be removed at the time of such reversion, and that said real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor, and attested by the secretary of state.

§ 4.) That all state agencies, departments, or municipalities involved in this conveyance are authorized to accept and receive, and to share and participate in federal and state funds and projects, when such funds are available.

§ 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 1, 1965.

CHAPTER 373

S. B. No. 92
(Urdahl, Van Horn, Trenbeath)

SALE OF LAND TO CITY OF JAMESTOWN

AN ACT

Authorizing the board of administration to sell, convey and transfer to the city of Jamestown, North Dakota, certain described real property for the purpose of a proposed recreational area and providing access to a proposed James River diversion area and declaring an emergency.

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

§ 1.) The board of administration of the state of North Dakota is hereby authorized for the consideration of one dollar and other good and valuable considerations, to convey to the city of Jamestown, Stutsman County, North Dakota, for the purpose of a proposed recreational area and access to the proposed James River diversion area and covering the following described real property, to wit:

A portion of the north half of the northeast quarter of section one, township one hundred thirty-nine north, range sixty-four west of the fifth meridian, more particularly described as follows: beginning at the northwest corner of the northeast quarter of section one, township one hundred thirty-nine north, range sixty-four west of the fifth meridian, which is the point of beginning, thence south zero degrees, zero minutes east along the quarter line a distance of six hundred thirty feet, thence north ninety degrees, zero minutes east a distance of three hundred feet, thence south zero degrees, zero minutes east parallel to the quarter line a distance of six hundred feet, thence north ninety degrees, zero minutes east a distance of eight hundred feet, thence north zero degrees, zero minutes east a distance of three hundred feet, thence north seventy degrees, forty-eight minutes east a distance of seven hundred feet, thence north nineteen degrees, twelve minutes west a distance of one hundred forty feet, more or less to the southerly bank of the James River, thence westerly along the southerly bank of the James River to the point of beginning. Tract contains twenty-four and three-tenths acres, more or less.

§ 2.) The board of administration shall reserve in favor of the state of North Dakota the right of ingress and egress to the James River over and across said above-described real

property for the purpose of obtaining water from the James River for irrigation purposes.

§ 3.) 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 located thereon may be removed at the time of such reversion, and that said real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor, and attested by the secretary of state.

§ 4.) That all state agencies, departments, or municipalities involved in this conveyance are authorized to accept and receive, and to share and participate in federal and state funds and projects, when such funds are available.

§ 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 1, 1965.

CHAPTER 374

H. B. No. 774
(Wagner)

BOARD OF ADMINISTRATION SALE OF LAND TO STATE WATER COMMISSION

AN ACT

Authorizing the board of administration to sell, transfer and convey certain real property now owned by the board of administration for the benefit of the state penitentiary and to convey certain real property to the state water commission.

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

§ 1. **Authorizing the Board of Administration to Sell, Transfer and Convey Certain Real Property Owned by the State for the Benefit of the State Penitentiary.)** The board of administration may sell, transfer and convey, and is hereby authorized to sell, transfer and convey certain real property owned by the state for the use and benefit of the state penitentiary, or so much thereof as is necessary to effect the purpose of this Act, said property being described as follows:

In the north ½ of section two, township one hundred thirty-eight north range eighty west of the fifth principal meridian, Burleigh County, North Dakota, and beginning at the northwest corner of said section two, which shall be called the point of beginning, thence running in a southerly direction along the west boundary of said section two for a distance of seven hundred seventy-four and six tenths feet; thence running, in section two, for a distance of three thousand three hundred feet, more or less, on a line parallel to the north boundary of said section two, to the west right-of-way boundary of the Minneapolis, St. Paul and Sault Ste. Marie Railroad; thence running along that right-of-way boundary in a northerly and easterly direction to the north boundary of said section two; thence running in a westerly direction along the north boundary of said section two, to the northwest corner of said section two, which is the point of beginning.

Less all rights-of-way and easements heretofore granted. The above-described tract of land contains fifty-four and seven-tenths acres of land, more or less.

§ 2.) The proceeds from the sale of such land shall be used by the board of administration to purchase additional land for the state penitentiary.

§ 3.) The board of administration shall transfer the following described land to the state water commission: A tract of land lying in the northwest quarter of section two, township one hundred thirty-eight north, range eighty west of the fifth principal meridian, Burleigh County, North Dakota, and described as follows:

Commencing at the northwest corner of said section two; thence running in a southerly direction along west boundary of said section two for a distance of nine hundred twenty-four and six-tenths feet to a point which shall be called the point of beginning; thence running in an easterly direction with an interior angle of 90°22′ for a distance of eight hundred eighty-nine and nine-tenths feet; thence running in a southerly direction with an interior angle of 89°38′ to intersect the Minneapolis, Saint Paul and Sault Ste. Marie Railroad right-of-way; thence running in a westerly direction along said railroad right-of-way to a point of intersection with the west boundary of said section two; thence running in a northerly direction along the west boundary of said section two for a distance of four hundred seventy-two and one-tenth feet to the point of beginning. Including all of the property bounded by the above described line, less existing rights-of-way and less a 2.41 acre tract of land

presently owned by the North Dakota state water commission, and containing 6.46 acres of land, more or less.

§ 4.) Any such property, sold, transferred and conveyed, shall be conveyed by quitclaim deed executed in the name of the state of North Dakota, by the governor and the board of administration, and attested by the secretary of state.

Approved March 8, 1965.

CHAPTER 375

H. B. No. 821
(Poling)

CONVEYANCE OF FORT UNION HISTORIC SITE

AN ACT

To amend and reenact chapter 365, House Bill No. 744, conveyance of Fort Union historic site, to permit the state historical society to transfer by deed and title the parcel of land known as Fort Union Historic Site.

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

§ 1. Amendment.) Section 1 of chapter 365 of the 1963 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

Authorization for the transfer by deed and title, ten and twenty-six hundredths acres, more or less of land in township one hundred fifty-two, range one hundred four west, section seven, Williams County to that division of federal government, normally the National Park Service, Department of Interior with the understanding that they shall further develop the area as a national historic landmark.

Approved February 24, 1965.

CHAPTER 376

H. B. No. 529
(Christensen, Poling)
(Recommended by Legislative Audit and Fiscal Review Committee)

TRANSFER OF MINERAL RIGHTS BY STATE EXAMINER

AN ACT

Granting authority to the state examiner to transfer certain mineral rights now in his custody.

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

§ 1. Transfer of Mineral Rights Authorized.) The state examiner may transfer to the state treasurer, or may transfer to the Bank of North Dakota as agent for the state examiner for purposes of administration or sale, those mineral rights now in the custody of the state examiner and more particularly described as the mineral rights in the north half of section seventeen, township two north of range thirty-two west of the first principal meridian in the Province of Saskatchewan, Canada.

Approved March 2, 1965.

CHAPTER 377

H. B. No. 947
(Committee on Delayed Bills)

ACQUISITION OF FORT ABRAHAM LINCOLN

AN ACT

Relating to the acquisition of Fort Abraham Lincoln by the state.

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

§ 1. Statement of Legislative Intent.)

WHEREAS, Fort Abraham Lincoln, located 2 miles south and east of the city of Bismarck is scheduled to be deactivated as a military post, and will be turned over to the General Services Administration for disposal; and

WHEREAS, the legislative assembly of the state of North Dakota finds that it may be to the advantage of the state to

acquire the buildings and grounds of Fort Lincoln for the use of the state, its departments, agencies, and political subdivisions; and

WHEREAS, it is the desire of the legislative assembly to explore all avenues relating to the use for Fort Lincoln for the benefit of the state and its political subdivisions and thereafter to acquire such property for such purposes if it shall be determined that such acquisition is in the best interests of the state.

§ 2. **Authority to Acquire Fort Lincoln.)** Upon a determination by the emergency commission, including the legislative members thereof, that the state or its political subdivisions have need for the buildings and grounds of Fort Lincoln and that it is to the advantage of the state to acquire such property, the emergency commission may take such action as may be necessary to acquire such property from the United States upon such terms and conditions as it shall deem to be in the best interests of the state. Notwithstanding other provisions of chapter 54-16, the emergency commission shall be authorized to grant funds from the contingency fund for the purpose of carrying out such acquisition and the maintenance and preservation of the property. Such property shall be under the jurisdiction of the state board of administration for the purpose of management, maintenance, and preservation if it shall be acquired.

Approved March 15, 1965.

CHAPTER 378

H. B. No. 913
(Brown, Wagner, Boustead, Coles)

ANNUAL LEAVE FOR STATE EMPLOYEES

AN ACT

To provide for annual leave and sick leave for state employees.

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

§ 1. **Annual Leave and Sick Leave for State Employees To Be Provided.)** Annual leave and sick leave shall be provided for all persons in the permanent employment of this state who are not employed under a written contract of hire setting forth the terms and conditions of their employment, within the limitations, terms and provisions of this Act. Annual leave for an employee entitled thereto shall be within a range of a mini-

mum of one working day per month of employment to a maximum of two working days per month of employment, based on tenure of employment, to be fixed by rules and regulations adopted by the employing unit. Sick leave for an employee entitled thereto shall be within a range of a minimum of one working day per month of employment to a maximum of one and one-half working days per month of employment, based on tenure of employment, to be fixed by rules and regulations adopted by the employing unit. Annual leave shall be compensated for on the basis of full pay for the number of working days leave credited to the employee. Sick leave shall be compensated for on the basis of full pay for absence due to illness on working days during tenure of employment. Any state agency, unit or entity which has such employee or employees is authorized and directed to formulate and adopt such rules and regulations governing the granting of annual leave and sick leave as will effectuate the purpose of this Act and best suit the factors of employment of that particular employing unit. Each employee shall be required to take an annual leave, as provided for in this section. The accumulation of sick leave shall be limited to a total of 120 days.*

§ 2. Rules and Regulations To Be Filed with Department of Accounts and Purchases.) Each employing unit, upon passage of this Act, shall file with the department of accounts and purchases a copy of the rules and regulations adopted. Thereafter, any amendments or additions thereto shall also be so filed.

Approved March 20, 1965.

*__Note:__ The Senate and House Journals indicate that the last two sentences of section 1 of House Bill No. 913 were inserted by the adoption by the House of Representatives of a Conference Committee report that was rejected by the Senate. These sentences read as follows: "Each employee shall be required to take an annual leave, as provided for in this section. The accumulation of sick leave shall be limited to a total of 120 days." Subsequently, the Senate receded from its amendments through the adoption of a second Conference Committee report, which Conference Committee report was also approved by the House of Representatives. The Senate approved House Bill No. 913 on final passage as amended by its approved Conference Committee report and a communication from the House of Representatives indicated that the House of Representatives had already approved the bill in that form and no approval by the House was necessary. The Journals, therefore, indicate that the last two sentences of section 1 of House Bill No. 913 were not intended to be a part of the bill.

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 379

H. B. No. 541
(Solberg, Mueller, Winge, Breum, Bowman, Glaspey)
(From LRC Study)

HISTORICAL BOARD AND PARKS SERVICE

AN ACT

To create and enact sections 55-01-10, 55-02-07, 55-08-01, 55-08-02, 55-08-03, 55-08-04, 55-08-05, 55-08-06, 55-08-07, 55-08-08, 55-08-09, 55-08-10, 55-08-11, 55-08-12, 55-08-13, and 55-08-14, and to amend and reenact sections 55-01-01, 55-01-02, 55-01-03, 55-01-04, 55-01-05, 55-01-06, 55-01-07, 55-02-01, 55-02-01.1, 55-02-01.2, 55-02-02, 55-02,03, 55-02-04, 55-02-05, 55-02-06, 55-03-01, 55-03-02, 55-03-03, 55-03-04, 55-03-05, 55-03-06, 55-03-07 and subsection 7 of section 55-05-02, and to repeal sections 55-07-01, 55-07-02, 55-07-03, 55-07-04 of the 1963 Supplement to the North Dakota Century Code, to provide for a state historical board and a superintendent for the state historical board; to provide for the protection of prehistoric and historic artifacts and sites found, located, or in the possession of another department of the state, county, or local government; to provide for the protection and licensing of paleontological sites, deposits, and materials; to establish a North Dakota park service, to provide for a director of state parks, powers and duties, operation, administration and maintenance of the state parks and the issuance and payment of revenue bonds.

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

§ 1. Amendment.) Section 55-01-01 of the 1963 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 of-

fice 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, commissioner of agriculture and labor, 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.)** Section 55-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-01-02. State Historical Board — Powers — Limitations.) The state historical board shall be authorized to:

1. Faithfully expend and apply all money received from the state, to the uses and purposes directed by law;
2. Hold all its present and future historical collections and property for the state;
3. Sell or exchange any duplicates of any article that the board may have or obtain;
4. Permit withdrawal from its collections and property of such articles as may be needed for exhibition purposes;
5. Permit the withdrawal of books and collections from the library and museum temporarily under such rules as the board may prescribe;
6. Select and appoint a superintendent to carry out the policies and directives of the board;
7. Acquire in behalf of the state of North Dakota, by lease, purchase, gift, or by the exercise of eminent domain, state monuments;
8. Set aside for monuments, such lands as are now owned by the state and not held or acquired for some other purpose;
9. Supervise, control, care for, maintain, and develop any such state monuments as trustees for the state; and

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.

The secretary of the board shall have power to withdraw for temporary use such of the collections as shall be needed for the compilation and editing of the publications of the board. The board, however, shall not sell, mortgage, transfer, or dispose of any of its collections or property except as authorized by law, nor shall it, without authority of law, remove from the historical rooms in the capitol any article contained therein.

§ 3. **Amendment.)** Section 55-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-01-03. Meetings—When Held—Quorum—Compensation and Expenses of Members.) The state historical board shall meet at the call of the president not less than every three months and seven members shall constitute a quorum. The ex officio members shall receive no additional compensation for service upon the board but shall be paid their expenses when engaged in the discharge of their official duties as members of the commission, in the same manner and amounts as other state officers are paid, from funds available to the board.

§ 4. **Amendment.)** Section 55-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-01-04. Acceptance of Gifts, Grants, Devises, Bequests, Donations, and Assignments—Deposited with the State Treasurer—How Expended.) Whenever any grant, devise, bequest, donation, gift, or assignment of money, bonds, or choses in action, or of any property, real or personal, is made to the state historical board or either division under it, such board shall receive and accept the same, and the right and title thereto, in the name of the state. All moneys coming into the hands of the board as donations, gifts, grants, and bequests, unless by the terms of the donation, gift, grant, or bequest such moneys are required to be maintained in another manner, shall be maintained within the state treasury. All rent, interest, or income from land, money, or property received by the board by donation, gift, grant, or bequest, shall also be maintained within the state treasury unless by the terms of their acquisition such moneys are required to be maintained in a different manner. Such moneys shall be paid out for the purposes prescribed by the donor upon the approval of the state historical board by warrant-check prepared by the department of accounts and purchases.

§ 5. Amendment.) Section 55-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-01-05. Land Acquired for Historical Purposes—Title—Placed in Custody of Old Settlers' Associations and County Historical Societies.) When land shall be contributed or purchased as herein provided for historical purposes, the title shall vest in the state of North Dakota. Such land may be placed in the custody of the old settlers' associations of the respective counties in which such sites are located, and may be improved and used by them for the accumulation and care of relics of historical interest. Where it appears that the use and purpose of such land is a matter of primarily local or regional interest, the state historical board may, upon such terms, conditions, and consideration as the board may require, transfer and convey the land to a political subdivision or nonprofit corporation where such interest lay.

§ 6. Amendment.) Section 55-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-01-06. Relics—Loan to Old Settlers' Association—Preservation.) When relics are contributed or purchased, they shall be placed in the custody of the state historical board, and those of a local historical nature may be loaned to the county old settlers' associations when proper provision has been made for their care and preservation.

§ 7. Amendment.) Section 55-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-01-07. Claims Incurred by Board—How Paid.) All bills or claims against the state, arising by reason of expenditures authorized by the state historical board for the purposes provided by law, shall be submitted on vouchers to the state auditing board for approval and paid by warrant-check prepared by the department of accounts and purchases.

§ 8.) Section 55-01-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

55-01-10. Exchange of Lands with Other Divisions of State Government.) The state historical board may transfer and convey certain lands held by the board to another agency of the state in exchange for lands held by such other agency, and such other agency may make the necessary conveyance to transfer and convey lands held by it to the state historical board to effect such exchange. Such transfers may be made at any time

the board and another agency deem such exchange to be mutually advantageous.

§ 9.) The title of chapter 55-02 is hereby amended to read as follows: STATE MONUMENTS.

§ 10. Amendment.) Section 55-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-02-01. State Historical Board—Appointment of Superintendent—Duties.) The board shall appoint a superintendent who shall act as chief administrative and executive officer in carrying out the policies and directives of the board and shall have charge of all employees and activities and shall perform such other duties as may be assigned to him by the board.

§ 11. Amendment.) Section 55-02-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-02-01.1. Term of Office—Vacancy—Salary and Expenses—Bond.) The superintendent shall serve at the pleasure of the state historical board and until his successor is appointed and qualified. In case of vacancy by death, removal, resignation, or any other cause, the board shall fill the vacancy by appointment. The salary shall be determined by the board within the limits of legislative appropriation and the superintendent shall be entitled to compensation for his expenses incurred while in the discharge of his official duties, paid in the same manner and amounts as other state officials are paid, from funds available to the board. Before entering upon their duties, each shall furnish a bond in the penal sum of ten thousand dollars.

§ 12. Amendment.) Section 55-02-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-02-01.2. Duties of the Superintendent.) The superintendent shall:

1. Collect books, maps, charts, and other papers and materials illustrative of the history of this state in particular and of the west generally;
2. Obtain from the early pioneers narratives of their exploits, perils, and adventures;
3. Procure facts and statements relative to the history, progress, and decay of our Indian tribes so as to exhibit faithfully the antiquities and the past and present resources and conditions of this state;

4. Purchase books to supply deficiencies in the various departments of its collection, and especially reports on the legislation of other states, on railroads, and geological surveys and on educational and humane institutions for legislative reference, and such other books, maps, charts, and materials as will facilitate the investigation of historic, scientific, and literary subjects. The secretary of state shall furnish to the superintendent for reference and exchange purposes, as many copies as requested by the superintendent of every state publication;

5. Catalogue all of the collections of the board for the more convenient references of all persons who have occasion to consult the same. The state shall bind the unbound books, documents, manuscripts, and pamphlets, and especially newspaper files containing legal notices, in the possession of the board;

6. Prepare annually for publication four quarterly reports of its collections and such other matters relating to the transactions of the board as may be useful to the public. Such report shall be in such form and in such binding as the state historical board shall determine, and shall be printed by the state. The board shall have charge of the distribution and sale of such reports and shall account for the proceeds received therefrom to the state auditing board; and

7. Keep its rooms open at all reasonable hours on business days for the reception of the citizens of this state who may wish to visit the same, without fee.

§ 13. **Amendment.)** Section 55-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-02-02. Transfer of Property from State Historical Society Board to North Dakota Park Service.) Upon the effective date of this Act the superintendent and the director of the North Dakota park service shall meet for the purpose of determining which land or other property presently held by the state of North Dakota for the use and benefit of the state historical society should be transferred to the North Dakota park service. All land presently held by the state of North Dakota for the use and benefit of the state historical society shall remain for the use and benefit of the board if such land is for predominantly historical purposes. All other land presently held by the state of North Dakota for the use and benefit of the state historical society and which is not of predominantly his-

torical value, shall be transferred to the North Dakota park service. If for any reason the superintendent of the state historical board and the North Dakota park service director cannot agree upon which lands are held predominantly for historical purposes and which lands are primarily for park purposes, the governor shall make the determination.

§ 14. Amendment.) Section 55-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-02-03. Rules and Regulations to Protect State Monuments.) The superintendent of the state historical board, when so authorized by the board, shall have the power to make and enforce suitable rules and regulations relating to the protection, care, and use of any state monument and the violation of any such regulation shall constitute a misdemeanor and shall be punishable by a fine of not exceeding one hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment.

§ 15. Amendment.) Section 55-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-02-04. Fees for Use of Facilities—Concession Agreements —Duration.) The superintendent of the state historical board when so authorized by the state historical board shall:

1. Fix and collect such fees as it may deem reasonable for the use of the facilities of any state monument; and

2. Enter into concession agreements or leases with private persons, firms, or corporations for the operation of any services, including without limitation motels, cabins or other lodging places, within the areas of any such state monument but no such concession agreement or lease shall run for more than twenty years.

All moneys collected as fees, compensation for concession agreements, or otherwise, shall be placed in the general fund for the purpose of reimbursing such fund for appropriations made to the state historical board, except that funds received in the normal course of business from concession operations actually carried on by the state as a proprietor shall be deposited in the state treasury in a special revolving fund, and all moneys in such fund are hereby appropriated on a continuing basis for expenditure in the course of carrying on the business activities of such concession operations. If at the end of any fiscal year the balance in the special fund shall exceed fifty thousand dollars, the state treasurer upon order of the director

of accounts and purchases, shall transfer such portion of the balance of the special fund as exceeds fifty thousand dollars to the general fund.

§ **16. Amendment.)** Section 55-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-02-05. Contracting Supervision and Maintenance with Other Divisions of Federal and State Government—Compensation for Expenses Incurred.) The superintendent of the state historical board, when so authorized by the state historical board, shall, for the purpose of avoiding undue expense or inconvenience by contract with divisions of federal and state governments or political subdivisions, make suitable arrangements whereby one shall supervise and maintain the holdings and property of the other. The board, service, department or division providing such services shall be entitled to compensation for actual and necessary expenses incurred in such amounts, if any, as may be agreed upon.

§ **17. Amendment.)** Section 55-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-02-06. State Historical Museum at Pembina.) The superintendent of the state historical board shall maintain and operate the state historical museum located at or near the city of Pembina, in the county of Pembina, and shall have custody of the preserve in the museum at Pembina, for the people of the state of North Dakota, objects of primitive Indian art and other articles of historical value to the state which are acquired for such purpose. The state historical society board may accept gifts, donations, or contributions to be used or expended in the maintenance and operation of the historical museum and may transfer the operation of the museum to the city of Pembina upon such terms and conditions as the state historical board may require. The Chateau de Mores at Medora and Camp Hancock at Bismarck shall be maintained and operated as historic house museums under the direction of the state historical board.

§ **18.)** Section 55-02-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

55-02-07. Protection of Prehistoric or Historic Artifacts or Sites.) Any historical, archaeological, or paleontological artifact or site that is found or located upon any land owned by the state of North Dakota or its political subdivisions or otherwise comes into its custody or possession shall be cared for, handled, protected, excavated, or stored under the direction of or in the

manner prescribed by the superintendent of the state historical society board.

§ 19. Amendment.) Section 55-03-01 of 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 shall 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.

§ 20. Amendment.) Section 55-03-02 of 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 owned by the state until the superintendent shall be satisfied that the applicant has the scientific training and fitness to make such investigation, exploration, or excavation. Such permit shall not be granted until the applicant has agreed to deliver to the state historical society one-half of all articles, fossil remains, and archaeological, paleontological, or historical materials found and removed from such state land.

§ 21. **Amendment.)** Section 55-03-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-03-03. Period for Which Permit Granted — Renewal — Revocation.) Each permit or license issued as is provided by section 55-03-01 shall terminate on December thirty-first of the year in which it is issued but may be renewed within thirty days after the expiration thereof upon payment of two dollars. Any permit or license to explore or excavate on any land belonging to the state of North Dakota, or any county or municipality, may be revoked by the superintendent of the state historical board at any time, if it appears that explorations or excavations authorized by the permit or license are being conducted negligently or improperly, and without regard for the careful preservation and conservation of the archaeological, paleontological, or historical material contained in such location, site, or deposit.

§ 22. **Amendment.)** Section 55-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-03-04. Fees Deposited in Revolving Fund—Use.) All fees collected by the superintendent of the state historical board under the provisions of this chapter shall be deposited in the revolving fund of the state historical board and shall be used by the superintendent in making investigations of applicants for such permits or licenses and of the sites or locations sought to be explored by such applicants.

§ 23. **Amendment.)** Section 55-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-03-05. Landowner May Explore on His Own Land.) Nothing contained in this chapter shall be construed to limit or prohibit any person owning land in this state from exploring or excavating for archaeological or paleontological material on his own land or by written consent to any other person.

§ 24. **Amendment.)** Section 55-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-03-06. Upon Sale of Land by State or Municipality Archaeological or Paleontological Materials Retained.) Where land is sold, conveyed, transferred, or leased by the state of North Dakota, or by any department or agency thereof, or by any municipal subdivision thereof, the title to any and all archaeological or paleontological materials, whether such

materials are found upon the surface or below the surface of such land, shall be retained by the state or by the municipal subdivision thereof, as the case may be.

§ 25. Amendment.) Section 55-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-03-07. Violation of Provisions of Chapter—Penalty.) Any person violating any provision of this chapter is guilty of a misdemeanor and shall forfeit to the state all archaeological, paleontological, or historical articles and materials discovered by him, and shall be fined not more than one hundred dollars. In case of failure to pay such fines, he shall be imprisoned in the county jail for a period of not more than thirty days. Any such violation shall be held to be committed in the county where the exploration or excavation for archaeological, paleontological, or historical material was undertaken.

§ 26. Amendment.) Subsection 7 of section 55-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. That the state historical board of the state of North Dakota, as trustee for the state of North Dakota, shall have general supervision of the lands herein described and comprising that part of the International Peace Garden located within the state of North Dakota, and the United States of America, for the purpose of seeing that the terms of this chapter, and the trust imposed by this chapter, are complied with by the International Peace Garden, Inc., and for the purpose of cooperating with such corporation in the promulgation, promotion, and development of the International Peace Garden, in accordance with the original plans and purposes for the establishment of an International Peace Garden upon the International Boundary Line between the United States and Canada for the purpose of furthering international peace among the nations of the world;

§ 27.) Chapter 55-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

NORTH DAKOTA PARK SERVICE

55-08-01. North Dakota Park Service.) There shall be a North Dakota Park Service. The service shall be under the supervision and control of a director of state parks who shall be appointed by the governor and shall serve at the will of the governor. The director shall be chosen with regards to his

knowledge, training, experience and ability in administration of park work.

The director shall give a bond to the state in the sum of ten thousand dollars. The director may employ personnel as may be necessary for the work of his service. The director may designate one of his employees as a deputy to serve at his pleasure who may exercise all the powers of the director, subject to his direction and control. The deputy shall give a bond to the state in the sum of five thousand dollars. In case of a vacancy in the office of the director, his deputy shall have all of the powers and perform all of the duties thereof until a successor, either as an acting or regular incumbent has been appointed. While serving in such vacated office the deputy shall receive the same salary as the regular incumbent.

The salary of the director of state parks and any deputy of the service head hereafter established whose salary is not specifically prescribed by law shall be fixed by the governor in amount comparable to the salary of a department head, commissioner or a deputy of a department head having similar duties and responsibilities.

Except as otherwise prescribed or required by law, the originals of all official records, orders, and other documents made, executed or issued by or under the authority of the director of state parks shall be filed and kept in the respective offices where the same were made, executed or issued, or in such other office in the service as the director or deputy may direct.

55-08-02. State Park Advisory Council.) There shall be a state park advisory council made up of five members appointed by the governor and they shall act as an advisory council to the North Dakota park service. The advisory council members shall meet at least four times a year and shall be entitled to travel compensation at state expense. The director of state parks shall furnish the necessary reports and information requested by the council.

55-08-03. Duties — Powers — Limitations.) The director of the state parks shall be the administrative and executive head of the service. Subject to the provisions hereof and other applicable laws, he shall have the following powers and duties:

1. The director and his authorized agents and employees shall have charge and control full powers of management over all state parks, state campgrounds, state recreation areas and reserves of the state, included, but not limited to, site selection and planning, setting of fees and charges, setting hours and seasons of operation, regu-

lating the conduct of guests and visitors, employment and bonding of personnel, compensation of employees, acquisition, construction, reconstruction, betterment, improvement, operation and maintenance of facilities, and promotion of wide utilization of and the use, sale, leasing and disposition of facilities and of all records pertaining to the performance of his functions relating thereto.

2. The director shall have all the powers and duties prescribed for the state auditor with respect to the receipt, filing, keeping, and certification of reports, lists and records of descriptions of lands, reserving to the state auditor all other powers and duties prescribed for him by law.

3. The director may accept in behalf of the state all gifts or grants or lands or personal property tendered to the state for any purpose pertaining to the activities of the North Dakota park service.

4. The North Dakota park service shall have seals in the form and design prescribed by the director, bearing the words "North Dakota Park Service." The seals may be used to authenticate the official acts of the director or the deputy, respectively, but omission or absence of the seal shal not affect the validity or force of any such act.

5. The director may provide for the issuance at state expense of such badges and uniforms as he may deem necessary and suitable for officers, supervisors, rangers or employees of the North Dakota park service.

6. The director is hereby authorized to rent or lease to employees of the service such cabins, buildings, or living quarters as are now or may hereafter be constructed upon state-owned or leased property, under the control of the service, when this occupancy is found to be necessary or beneficial to the work of the service. These leases or rental agreements shall be upon a month to month basis and provide for surrender by the lessee upon demand at any time his services with the state may be terminated, without the necessity of any written notice. All receipts from rents shall be paid in to the state treasurer and credited to the state park fund.

7. The director of state parks may use for any project herein authorized any land of the state under his jurisdiction or control so far as is not inconsistent with the laws governing the same, may acquire by purchase, gift, or

condemnation any additional lands or interests in lands required for such projects, including lands or interests in adjacent states if authorized by the laws thereof, may accept gifts or grants of money or property from the United States or any other source for such projects, may use and apply any money or property so received in accordance with the terms of the gift or grant so far as is not inconsistent with the provisions of this Act or other lands, may act in behalf of the state as sponsor for any such project undertaken or authorized by the United States, may make any sponsor's contribution required for any such projects out of moneys appropriated or otherwise made available therefor, and may cooperate with the United States or any adjacent state or any authorized agency of either in planning, acquiring, constructing, maintaining and operating any such project upon such terms and conditions as he may deem proper, not inconsistent with the laws of this state.

8. The director of state parks shall have the power to make and enforce suitable rules and regulations relating to the protection, care and use of any state park, state campground, state recreation area or reserve, and the violation of any such regulation shall constitute a misdemeanor and shall be punishable by a fine of not exceeding one hundred dollars or by imprisonment for more than thirty days or both such fine and imprisonment.

55-08-04. Employees as Peace Officers.) All supervisors, guards, custodians, rangers, keepers, and caretakers, of state parks, state campgrounds, state recreation areas or reserves shall have and possess the authority and powers of peace officers while in their employment, provided, however, that the police powers shall only be on the park grounds.

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, and to charge fees therefor as follows:

1. Provide special parking space for automobile 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 accomodation of visitors in any particular park and with similar facilities offered for tourists 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 camp sites and charge a reasonable fee.

5. Provide concessions or contract for the lease of any such facilities to a concessionaire to be operated on such terms and compensation basis as the director shall determine to be in the best interests of the state. A bond shall be required of all concessionaires in such amount as the director shall determine, conditioned upon the faithful performance of all duties under the contract and proper accounting for all funds.

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 performance 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 one 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 twenty-five or more to any organization at twenty-five cents per permit covering the use of state parks, state recreational area or reserves under such conditions as the director may prescribe for a designated period of not more than two days. The fees collected shall be deposited in the state park fund in the state treasury.

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 shall be used and disbursed solely for the following purposes:

1. 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 transfer from this fund 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.

2. To finance the acquisition, construction, reconstruction, improvement, betterment or extension of park properties, for 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 budget and authorize the disbursement from time to time of bond proceeds and revenues received in the fund, 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 1 of this section 55-08-07.

3. For any park purpose for which funds have been appropriated by the legislative assembly to the North Dakota park service, in reimbursement of the funds expended pursuant to such appropriation, provided that no such reimbursement shall be made at any time when the balance in the revenue bond fund is less than specified in subsection 1 of this section 55-08-07.

55-08-08. State Park Revenue Bonds.) For the purpose of paying all or part of the cost of acquisition, construction, reconstruction, improvement, betterment or extension of park properties for state parks, state campgrounds, state recreation areas and reserves, as described in section 55-08-07, subsection

2, which may, from time to time, be authorized by the legislative assembly of the state of North Dakota, the money may be borrowed on the credit of the revenues to be received in the state park fund. Such borrowing shall be authorized by a board consisting of the governor, the treasurer and the director of state parks, by resolution or resolutions duly adopted by the vote of a majority of all members of such board. In anticipation of the collections of such revenues, negotiable bonds may be issued in such amount as, in the opinion of the board, may be necessary for such purpose, within the limits of the authority granted by the legislative assembly in each instance, and the board may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. The bonds 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 fully registered or registered as to ownership of principal, 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, not exceeding six percent per annum, as may be provided by resolution or resolutions to be adopted by the board, subject to the further provisions of this section 55-08-08. 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 the average annual interest rate thereon, computed to their stated maturities, shall not exceed six percent per annum. Such bonds shall have all of the qualities and incidents of negotiable paper, and such bonds and the income therefrom shall be exempt from any taxes, except inheritance, estate, and transfer taxes. The board may in its discretion authorize one series of bonds hereunder for more than one project, at more than one state park, state campground, state recreation area or reserve. It may also issue series of bonds hereunder for the refunding of outstanding bonds issued hereunder when such action is desirable in its judgment and is consistent with the terms of the resolution or resolutions authorizing the outstanding bonds.

55-08-09. Revenue Bond Fund.) From and after the issuance of any bonds under the provisions of section 55-08-08, the state treasurer shall transfer revenues at the times and in the amounts directed in section 55-08-07 to a special trust fund to be known as the "State Park Revenue Bond Fund", which shall be maintained in the state treasury until all bonds issued under section 55-08-08 and all interest thereon are fully paid and discharged. This fund shall be disbursed by the state

treasurer solely for the purpose of paying principal and interest when due on said bonds, and the treasurer shall also maintain therein, by the transfer of revenues from the state parks fund whenever necessary and available, a reserve at all times equal to the total amount of principal and interest to become due on all such bonds within the then next succeeding period of twelve months. As principal and interest become due from time to time, the director of the department of accounts and purchases, not less than fifteen days prior to the payment dates, shall issue warrants upon the state treasurer against said revenue bond fund for the amount of such payment coming due, and the state treasurer shall make payments from such fund of the amounts due.

55-08-10. Covenants of Board.) The board is authorized and directed to pledge irrevocably the revenues appropriated by section 55-08-07 to the state park fund for the payment of principal and interest due on all bonds issued pursuant to section 55-08-08 and for the accumulation and maintenance of the reserve in the state park revenue bond fund as provided in section 55-08-09. 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 to covenant as to the use and disposition of the proceeds of the sale of such bonds; 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; the issuance of any other obligation payable from said revenues; and any other matters other than and in addition to those herein expressly mentioned, as to which covenants may be considered necessary or advisable to effect 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.

55-08-11. Limitation on Use of Bond Proceeds.) No buildings or additions shall be erected, and no bonds shall be issued or the proceeds used for the payment of the cost of any projects under the provisions of section 55-08-08, save and except for such specified projects as may be from time to time designated and authorized by legislative act, or the board if the legislative assembly shall so provide, nor shall any such project be erected at a cost exceeding the amount fixed by the legislative assembly in such act or by the board if the legislative assembly shall so provide, as the maximum to be expended therefor. The proceeds of all bonds credited to the state parks fund shall be used solely for the purpose or purposes for which

the bonds are authorized. The board is empowered to make and execute all instruments which may be deemed necessary or advisable to provide for the completion of any project 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 director of the department of accounts and purchases is authorized and directed to issue warrants upon the state treasury against said fund 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. The state park fund and revenue bond fund may be deposited by the state treasurer with the Bank of North Dakota or in a bank which is a duly designated depository for state funds, or may be invested under direction of the board in securities which are direct obligations of the United States of America, except to the extent that such investment may be prohibited or restricted by any covenant made with or for the benefit of bondholders.

55-08-12. Contracts with Federal Agencies.) The director of state parks may enter into any agreements or contracts with the United States of America or any agency or instrumentality thereof, when the director considers such action 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 a project.

55-08-13. Construction of Chapter—Statement To Be Included in Bonds.) Nothing in this chapter shall be construed to authorize or permit any state board or agency or any officer thereof to create any indebtedness of the state, or to incur any obligation of any kind or nature except such as shall be payable solely from the special trust funds to be created under the terms and provisions of this chapter and the revenues herein appropriated to said funds, nor shall the state of North Dakota or any funds or moneys of the state other than said special trust funds ever be deemed obligated for the payment of bonds issued under section 55-08-08 or any part thereof. All such bonds shall include or shall have endorsed thereon a statement to the effect that the same do not constitute an indebtedness of the state of North Dakota and are payable solely from the revenues appropriated to the state park fund and revenue bond fund.

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 financing the acquisition, construction, reconstruction, improvement, betterment, and extension of park

properties for state parks, state campgrounds, state recreation areas and reserves at the following and in the following maximum amounts:

Garrison Lake State Park, five hundred thousand dollars;

Fort Lincoln State Park, four hundred fifty thousand dollars;

Lake Metigoshe State Park, four hundred thousand dollars;

Turtle River State Park, three hundred fifty thousand dollars;

Totten Trail State Park, one hundred twenty-five thousand dollars;

Icelandic State Park, one hundred twenty-five thousand dollars;

Beaver Lake State Park, fifty thousand dollars.

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. 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.

§ **28. Repeal.)** Sections 55-07-01, 55-07-02, 55-07-03, and 55-07-04 of the 1963 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 20, 1965.

CHAPTER 380

H. B. No. 888
(Breum, Christopher, Burk, Boustead)

LOCATION OF PIONEER BUILDINGS

AN ACT

To authorize the state historical society to locate pioneer buildings on the grounds of the Camp Hancock Museum.

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

§ 1. State Historical Society to Locate Pioneer Buildings.) The state historical society, with the approval of its board of directors, may locate or place pioneer buildings or structures on the grounds of the Camp Hancock Museum in the city of Bismarck. The maintenance, supervision, and promotion of such pioneer buildings shall be under the control and direction of the state historical society.

Approved March 15, 1965.

CHAPTER 381

H. B. No. 914
(Solberg, Anderson)

NORTH DAKOTA HERITAGE COMMISSION

AN ACT

To establish the North Dakota Heritage Commission and to plan and design a heritage center and making an appropriation.

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

§ 1. Establishment of the North Dakota Heritage Commission.) There shall be a North Dakota Heritage Commission consisting of the governor, the director of the state department of accounts and purchases, the chairman of the North Dakota state historical board, and two members of the current North Dakota legislature to be selected by the membership of each house.

§ 2. Powers and Duties.) The commission shall:

1. Plan and design a permanent heritage center building on the North Dakota state capitol building grounds, but located outside of the state capitol building itself;
2. Conduct, promote, and finance, in full or in part, studies, investigations, and research into development and construction of such a center;
3. The state historical board of North Dakota shall approve any plan for the preservation and display of material and mementos of North Dakota's heritage.

§ 3. **Executive Director—Appointment—Salary.)** The commission may appoint an executive secretary and fix his salary.

§ 4. **Funds and Grants Received—Expenditures.)** The commission may accept funds, property, or services from any source, and all revenue received by the commission from gifts and grants in aid shall be deposited in the state treasury in a special heritage center fund. All expenditures from such fund shall be within the limits of legislative appropriations and shall be made upon vouchers, signed and approved by the governor and chairman of the historical board. Upon approval of such vouchers by the state auditing board, warrant-checks for such expenditures shall be prepared by the department of accounts and purchases.

§ 5. **Meetings—When Held—Compensation and Expenses of Commission Members.)** The governor shall act as chairman of the commission. It shall meet at the call of the chairman and a majority of the commission shall constitute a quorum. The commission members shall receive no compensation but shall be allowed their actual traveling, meals, and lodging expenses when engaged in the discharge of their official duties as members of the commission, paid as other state officials are paid, from funds available to the commission.

§ 6. **Records—Reports.)** The commission shall keep minutes of its meetings and a record of all its transactions and shall at the beginning of each biennial legislative session, and may at any other time, make a report of its activities and recommendations to the members of the legislature.

§ 7. **Appropriation.)** There is hereby appropriated the sum of ten thousand dollars from the permanent capitol building fund for the purpose of planning and designing a heritage center building to be located on the capitol building grounds.

Approved March 17, 1965.

TAXATION

CHAPTER 382

H. B. No. 854
(Dornacker, Lundene)

LIMITING SALES ASSESSMENT RATIO STUDY

AN ACT

To limit the scope of any sales assessment ratio study which may be made and to provide an effective date for use of it for determination of state payments to county equalization funds.

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

§ 1. Sales Assessment Ratio Study—Contents Not To Be Included.) Any sales assessment ratio study which may be made by the state tax commissioner shall not include the following:

1. Property owned or used by public utilities;
2. Property classified as personal property;
3. A sale where the grantor and the grantee are of the same family or corporate affiliate (if known);
4. A sale which resulted as a settlement of an estate;
5. All sales to or from a government or governmental agency;
6. All forced sales, mortgage foreclosures, and tax sales;
7. All sales to or from religious, charitable, or nonprofit organizations;
8. All sales where there is an indicated change of use by the new owner;
9. All transfer of ownership of property for which is given a quit claim deed;
10. Sales of property not assessable by law;
11. Agricultural lands of less than eighty acres.

§ 2. Review of Sales Ratio Study by State Tax Commissioner—Appeal.) The state tax commissioner shall notify each county board of commissioners of a scheduled hearing of the sales assessment ratio study before him. Such notice shall set

forth the time and date and place of such hearing. After hearing objections to using certain sales in the sales assessment study, the state tax commissioner shall be authorized to withdraw such sales which he deems are not representative sales from the study. Within 30 days after the close of such formal hearing, the state tax commissioner shall notify each county board of commissioners, in writing, as to the action taken as a result of such hearing. Within 10 days after receiving such notice from the state tax commissioner, each board of county commissioners may appeal the decision of the state tax commissioner to the state board of equalization. Such board will review the findings of the state tax commissioner and render its final decision on such appeal.

§ 3. County Equalization Fund Payments — Sales Assessment Ratio — When Effective.) The provisions of section 15-40-18 of the North Dakota Century Code as amended relating to the use of a certification of assessment levels by the state tax commissioner to the superintendent of public instruction for the purpose of adjusting the twenty-one mill county equalization fund is hereby suspended for the years 1965 and 1966 and shall again become effective for the year 1967. The purpose of such suspension is to provide the state supervisor of assessments with more time to develop the sales assessment ratio study.

Approved March 15, 1965.

CHAPTER 383

S. B. No. 286
(Tuff)

MAINTENANCE OF CASH FUND IN TAX DEPARTMENT

AN ACT

To authorize the tax commissioner to maintain a cash fund in the tax department for making necessary change.

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

§ 1. Tax Commissioner's Cash Change Fund Authorized.) For the purpose of promptly and efficiently accommodating taxpayers who make payments of taxes in person to the cashier in the state tax department, the tax commissioner may maintain, out of collections made, a cash fund in the cashier's office in an amount reasonably necessary for making change.

The tax commissioner shall obtain the written approval of the director of accounts and purchases of the amount of money to be maintained in such cash change fund.

Approved March 2, 1965.

CHAPTER 384

H. B. No. 908
(Erickson (Ward))

PREPARATION OF TAX MANUALS

AN ACT

Authorizing the tax commissioner to prepare and distribute for a reasonable charge looseleaf tax manuals, relating to tax laws administered by him.

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

§ 1. Tax Manuals—Distribution.) The state tax commissioner is hereby authorized to prepare a manual or manuals in looseleaf form in which is compiled the provisions of any or several of the tax laws administered by him together with the rules, regulations, opinions and other information relating to the administration of the particular law or laws included in each manual. He shall make each manual available for sale at a charge that will cover the cost of preparing and mailing it and also may prepare and have available for sale, at an amount sufficient to cover all costs, periodic supplements to each manual so as to provide the purchaser with current information relating to the interpretation and administration of the various tax laws he administers.

All moneys received by him from the sale of such manuals and the supplements for them shall be transmitted by him at the end of each month to the state treasurer for deposit by him to the credit of the general fund.

Approved March 15, 1965.

CHAPTER 385

H. B. No. 856
(Glaspey)

TAXPAYER'S HEARING AND APPEAL

AN ACT

Relating to a taxpayer's right to a hearing on and to appeal from the assessment of or determination of tax liability by the tax commissioner.

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

§ 1. Assessment of or Determination of Additional Tax Liability by Tax Commissioner—Hearing—Appeal.) In any case where the provisions of any tax law are administered by the tax commissioner and the tax is collected by him or the amount thereof is certified by him to any other official for collection and the law providing for such tax authorizes the tax commissioner to assess or to determine a tax liability that is in addition to that reported by the taxpayer, the taxpayer shall have a right to a hearing before the tax commissioner on such assessment or determination and shall have a right to appeal to the courts from the decision of the tax commissioner on such hearing and all of the provisions of chapter 28-32 relating to proceedings before an administrative agency, including the right to appeal to the courts from the decision of the tax commissioner in such a proceeding, shall be applicable to and shall govern the notice of hearing, the hearing, and the right of appeal from the tax commissioner's decision thereon. Notwithstanding the provisions of any other law heretofore or hereafter enacted, it is the intent and purpose of this Act to provide that in those circumstances hereinbefore described every taxpayer shall have both the right to a hearing before the tax commissioner and the right to appeal to the courts from the tax commissioner's decision on such hearing in accordance with the provisions of chapter 28-32 unless the provisions of any such law expressly provide that the decision of the tax commissioner shall be final or expressly provide that the provisions of chapter 28-32 shall not be applicable.

Approved March 15, 1965.

CHAPTER 386

H. B. No. 698
(Giffey, Hoffner, Backes)

THE 1965 ACT FOR TAX SIMPLIFICATION AND EQUALIZATION

AN ACT

Relating to tax equalization and simplification and declaring legislative intent; 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 57-40.1 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 the 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.

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

§ 1. Short Title—Declaration of Legislative Intent.)

1. This Act may be referred to as "The 1965 Act for Tax Simplification and Equalization".

2. It is the intent of the legislative assembly to equalize, in part, taxation by replacing taxes on personal property, to the extent provided in this Act, with taxes on incomes, with privilege taxes on building and loan associations and on banks and trust companies, and with retail sales taxes and excise or use taxes.

It is the further intent of the legislative assembly to simplify the state income tax laws so that every person, including every corporation, required to file a North Dakota income tax return is able to compute the amount of income tax liability, if any, to this state in the easiest and most simple way feasible.

§ 2. 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 anywise 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.

§ 3. Amendment.) Section 57-02-08 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection thereto to read as follows:

All 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, including mobile homes or house trailers, that is subjected to a tax imposed pursuant to any other provision of law. If any part of this Act is invalidated or disapproved in any way other than by action of the legislative assembly or by the action of any court, this section shall then have no effect.

§ 4. 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 Act and chapter or other provisions of law;

§ 5. 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 especially made applicable to nonresidents, shall govern the levy and collection of income taxes from nonresident individuals.

§ 6. 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.

§ 7. **Amendment.)** Section 57-38-29 of the 1961 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-29. Rate of Tax on Individuals, Estates and Trusts.) A tax is hereby imposed upon every individual, estate and trust, to be levied, collected, and paid annually with respect to the taxable income of such individual, estate or trust as defined in this chapter, computed at the following rates:

1. On taxable income not in excess of two thousand dollars, a tax of one and one-half percent;
2. On taxable income in excess of two thousand dollars and not in excess of five thousand dollars, a tax of two percent;
3. On taxable income in excess of five thousand dollars and not in excess of six thousand dollars, a tax of three percent;
4. On taxable income in excess of six thousand dollars and not in excess of seven thousand dollars, a tax of four percent;
5. On taxable income in excess of seven thousand dollars and not in excess of eight thousand dollars, a tax of five percent;
6. On taxable income in excess of eight thousand dollars, a tax of eight percent.

If any part of this Act is invalidated or disapproved in any way other than by action of the legislative assembly or by the action of any court, this section shall then have no effect.

§ 8. **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, except that in no case shall the tax be less than ten dollars:

1. For the first two thousand dollars of taxable income, at the rate of three percent;

2. On all taxable income above two 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, at the rate of five percent.

If any part of this Act is invalidated or disapproved in any way other than by action of the legislative assembly or by the action of any court, this section shall then have no effect.

§ 9. 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 constitutionally 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 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.

§ 10. 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 Return.) 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.

§ 11. **Amendment.)** Chapter 57-38 is hereby amended by creating and enacting a new section thereto to read as follows:

Withholding Tax on Wages.) 1. Every employer who makes any payment of wages on or after the first day of July, 1965, to a resident of this state or to a nonresident performing services in this state shall deduct and withhold from such payment a percentage or amount of such wages or a percentage of the federal income tax withheld from such wages as determined by the tax commissioner. The amount of tax withheld shall be computed without regard to any other amount withheld from such wages and shall be computed from tables or schedules prescribed from time to time by the tax commissioner but such tables or schedules shall be computed so that the tax withheld shall, as closely as possible, pay any tax liability imposed by this Act.

2. The terms "wages", "employer", "employee", "withholding exemption certificate" and other terms peculiar to an income tax withholding law shall have the same meaning as prescribed for withholding of income taxes on wages by the United States Internal Revenue Code of 1954, as amended; the term "wages" as used in this section specifically excludes wages paid to agricultural labor or to employees performing domestic service.

3. The employee shall be required to file with the tax commissioner an annual return and pay any tax, in addition to that withheld by the employer, which may be due from him, all in accordance with the applicable provisions of this chapter.

If the amount withheld from an employee's wages exceeds the amount of his income tax liability under this chapter, he shall be entitled to a refund of the excess. In order to facilitate issuance of refund checks or warrants to such taxpayers, the tax commissioner and the director of accounts and purchases shall make such arrangements as may be necessary to permit the refund checks or warrants to be prepared by the tax commissioner and mailed by him or by the director of accounts and purchases to the taxpayers entitled thereto.

§ 12. **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:

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 employees during the preceding calendar quarter under the provisions of section 11 of this Act, 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 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 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 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 11 of this Act, 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 11 of this Act, and the employee shall not thereafter be liable to any person for the amount of such payment. For the purpose of making penalty provisions of this Act 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 11 of this Act shall hold the same in trust for the state of North Dakota for the payment thereof to the tax commissioner in the manner and at the time provided for in this section, and the state of North Dakota shall have a lien on the property of the employer to secure the payment of any amounts withheld and not remitted as provided herein, which lien shall attach at the time prescribed and to the property described in section 57-38-40 and shall be subject to the provisions of sections 57-38-49, 57-38-50, and 57-38-51.

§ **13. 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:

Declaration of Estimated Income—Payment of Estimated Tax—Amendment of Declaration—Effective Date.) 1. Every taxpayer shall, at the time prescribed in this section make a declaration of his estimated tax on taxable income from sources from which no income tax was withheld pursuant to this Act if his tax thereon can reasonably be expected to exceed forty dollars.

2. 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 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 day of the following months of June, September, and January.

3. Any taxpayer may amend a declaration of estimated income and make the adjusted payments of tax due thereon under the regulations of the tax commissioner.

4. Notwithstanding any other provision of this section, a taxpayer shall not be required to file a declaration of estimated tax if, by compliance with the provisions of the United States Internal Revenue Code of 1954, as amended, such taxpayer does not file a declaration of estimated income for federal income tax purposes.

5. The provisions of this section shall become effective for wages paid and income received after June 30, 1965.

§ 14. 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.) The taxable income of an individual, estate, trust or corporation as computed pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended, shall be—

1. 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, provided that the taxpayer elects to use such form of return as may be prescribed by the tax commissioner for the purpose of entering such adjustment;

2. Reduced by any other income included in the taxable income, or in the computation thereof, on the federal return which is exempt from taxation because of the provisions of the Constitutions of this state or the United States.

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.

§ 15. Amendment.) Section 57-35-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35-02. Imposition of Tax.) An annual tax is imposed hereby upon every national banking association or corporation and upon every banking corporation or association other than a national bank, and upon every trust company, 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; provided that federal income taxes and taxes

imposed under this chapter, whether paid or accrued, shall not be deducted for the purpose of computing the net income of any such banking association or corporation or of any such trust company.

§ 16. Amendment.) Subsection 2 of section 57-35.1-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Net income" means gross income less the following deductions:
   a. Ordinary and necessary expenses paid or incurred in carrying on association business:
   b. Interest or dividends paid;
   *c. Taxes, other than federal income taxes and taxes imposed under the provisions of this chapter, paid or accrued within the taxable year; and
   d. Losses incurred during the taxable year not compensated for by insurance or other reimbursement.

§ 17. Official Records—Availability for Income Tax Purposes.) For the purpose of administration of the income tax laws of this state, the state tax commissioner, notwithstanding any provision of sections 52-01-03 and 65-04-15, is hereby authorized to examine any records, reports, returns and statistical information gathered or maintained by the workmen's compensation bureau and the unemployment compensation division of that bureau. The tax commissioner shall not disclose or make public any information obtained from such records, except that such records or information may be subject to subpoena by the tax commissioner or by any court for use in any proceeding or action to establish the amount of or enforce the collection of any income tax administered by the tax commissioner.

§ 18. Effective Dates.) The provisions of sections 4 through 10, inclusive, of this Act shall apply to all income years of income taxpayers beginning after December 31, 1964. In the case of corporations or associations taxed under the provisions of chapter 57-35 or chapter 57-35.1 the provisions of sections 15 and 16 of this Act shall apply to the returns filed by them in which the net income for the year 1965 and each year thereafter is reported.

§ 19. Amendment.) Subsections 1, 2, 3, 5, and 6 of section 57-39-01 of the 1963 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

*__Note:__ Subdivision c of subsection 2 of section 57-35.1-01 was also amended by section 1 of chapter 402, 1965 S.L.

*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 and shall also include the state of North Dakota or any other state or any subdivision, department, institution or political subdivision of the state of North Dakota or of any other state which furnishes or sells to members of the public in its proprietary capacity any article, service, amusement, accommodation, or any other thing that is subject to taxation under the provisions of this chapter or chapter 57-40 of the North Dakota Century Code;

2. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes the furnishing of services relating to personal property, the furnishing of personal, business or professional services, the furnishing or sale of advertising, the furnishing of services relating to any property that is attached to a building and thereby becomes real property but which remains distinct from the building to which attached, 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; provided further that the furnishing of a service shall not include a service furnished to a consumer or user by an employee of the consumer or user; provided further that the words "the furnishing or sale of advertising" shall mean the furnishing or sale of advertising whether by newspapers, magazines, periodicals, radio, television, billboard or otherwise, including charges made by advertising agencies for preparing or placing advertising in media;

***Note:** Subsection 1 of section 57-39-01 was also amended by section 1, chapter 420, 1965 S.L.

*3. "Retail sale" or "sale at retail" means the sale, including the sale for the purpose of leasing or renting and 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 normally carried in stock by a retailer; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting or aiding a customer to select any goods, wares or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, services relating to personal property, the furnishing or sale of personal, business or professional services, the furnishing or sale of advertising, the furnishing or sale of services relating to any property that is attached to a building and thereby becomes real property but which remains distinct from the building to which attached, 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; "retail sale" or "sale at retail" shall not mean the furnishing of a service to a consumer or user by an employee of a consumer or user; as used in this subsection the word "consumer" shall include any hospital, infirmary, sanatorium, nursing home, home for the aged or

*__Note:__ Subsection 3 of section 57-39-01 was also amended by section 3, chapter 422, 1965 S.L.

similar institution that furnishes services to any patient or occupant;

*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 services relating to personal property, or personal, business or professional services, the furnishing or sale of advertising, or services relating to any property that is attached to a building and thereby becomes real property but which remains distinct from the building to which attached, or magazines, or other periodicals; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this chapter; but "retailer" shall not include an employee of a consumer or user;

***Note:** Subsection 5 of section 57-39-01 was also amended by section 2 of chapter 420, 1965 S.L.

*6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, including any excises or taxes that are a part of or added to the price paid or to be paid by the purchaser at retail except retail excise taxes imposed by the United States, 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

***Note:** Subsection 6 of section 57-39-01 was also amended by section 1, chapter 421, 1965 S.L.

sale taxable under this chapter, if the tangible personal property traded in will be subject to the sales tax imposed by this chapter 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 chapter, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the fair rental value of leasing or renting of such tangible personal property the transfer of title to which has been subjected to a retail sales tax in this state, provided, however, any person purchasing tangible personal property for the purpose of leasing or renting may credit the actual amount of sales or use tax paid against the tax due on the leasing or rental of such property if adequate records are maintained substantiating such leasing or rental transactions in accordance with such rules and regulations as the tax commissioner shall prescribe. "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;

§ 20. Amendment.) Section 57-39-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-02. Tax Imposed.) Except as otherwise expressly provided in this chapter, there is hereby imposed, beginning the first day of July, 1965, a tax of two 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, including, but not limited to, liquor,

beer, wine, tobacco, cigars, cigarettes, cigarette papers, snuff, and oleomargarine;

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 the harvesting, including threshing, of any crop;

7. The purchase of tangible personal property for the purpose of leasing or renting and the fair rental value of the leasing or renting of tangible personal property, provided, however, any person purchasing tangible personal property for the purpose of leasing or renting may credit the actual sales or use tax paid on such personal property against the tax due on the leasing or renting of such property if adequate records are maintained substantiating such leasing or rental transactions in accordance with such rules and regulations as the tax commissioner shall prescribe;

8. The following personal, business or professional services: legal; accounting, bookkeeping and auditing; title abstracting; architectural; engineering; veterinarian; sign painting and artistic; photographic; photofinishing; printing, mailing and duplicating; appraisal; barber and beautician; credit bureau; collections; brokers or agents of tangible personal property or of real property provided that the value of such services shall not include the price paid to the seller for the property; auctioneering; janitorial and custodian; stenographic, secretarial, including reporting or transcribing; garbage and sewer; parking; storage of personal property; disinfecting and exterminating;

9. The furnishing or sale of advertising of anything, except that the sale or furnishing of advertising which is designed to promote the sale of any product on a national or multistate basis shall not be taxed hereunder if such advertising does not solicit sales for any expressly named or identifiable business in this state; and

10. Services furnished in repairing, altering, restoring or cleaning of any property, which by attachment to a building constitutes real property but which remains distinct from the building to which attached such as furnaces, air conditioning units, water heaters, humidifiers, stoves, ranges, refrigeration units, disposals, dishwashers, awnings, venetian blinds, draperies, carpeting and other like items of a nature that may ordinarily be built in or constitute an accessory to a building but which do not lose their identity as accessories when attached or installed therein.

If any part of this Act is invalidated or disapproved in any way other than by action of the legislative assembly or by the action of any court, this section shall then have no effect.

§ 21. Amendment.) Subsections 5 and 10 of section 57-39-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

*5. Gross receipts from the sale of books and school supplies to regularly enrolled students when sold at cost by any school board of this state or by any parochial or private nonprofit school conducting courses of study similar to those in public schools in this state;

10. Gross receipts from the sale of gasoline, insurance premiums, or any other article or product upon which the state of North Dakota imposes a special tax except gross receipts from the sale of liquor, beer, wine, cigarettes, cigars, cigarette papers, snuff, other tobacco products, oleomargarine and aircrafts shall not be exempt from the tax imposed by this chapter.

§ 22. Amendment.) Section 57-39-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-06. Tax To Be Added to Purchase Price and Be A Debt.) Retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge and when added such taxes shall constitute a part of such

***Note:** Subsection 5 of section 57-39-03 was also amended by section 1, chapter 422, 1965 S.L.

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.

§ 23. Amendment.) Section 57-39-03 of the North Dakota Century Code is hereby amended by creating and enacting thereto a new subsection to read as follows:

*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.

***Note:** A new subsection identical to section 23, chapter 386, 1965 S.L., was also created by section 2, chapter 422, 1965 S.L.

§ 24. Amendment.) Subsections 1, 2, 4, 7 and 8 of section 57-40-01 of the North Dakota Century Code and subsections 5 and 10 of section 57-40-01 of the 1963 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

*1. "Persons," "sale", "retail sale," "business," "relief agency," "commissioners," "local government unit" each shall have the meaning given to it in section 57-39-01;

***Note:** Subsection 1 of section 57-40-01 was also amended by section 2, chapter 421, 1965 S.L.

*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. "Use" shall also include the purchasing of advertising for dissemination in this state. The words "the purchasing of advertising" shall mean the furnishing or purchase of advertising whether by newspapers,

***Note:** Subsection 2 of section 57-40-01 was also amended by section 1, chapter 432, 1965 S.L.

magazines, periodicals, radio, television, billboards or otherwise, including charges made by advertising agencies for preparing or placing advertising in media;

*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, including but not limited to the receipt of advertising services and the receipt of services furnished by advertising agencies for preparing or placing advertising in media. "Purchase" shall also mean the severing of sand or gravel from the soil of this state;

***Note:** Subsection 4 of section 57-40-01 was also amended by section 1, chapter 432, 1965 S.L.

*5. "Purchase price" means the total amount without any deduction for trade-in allowances for which tangible personal property sold, leased, or rented, and includes the total amount for which advertising is sold, or the charges made for preparing or placing advertising in media valued in money, whether paid in money or otherwise, but cash discounts allowed and taken on sales shall not be included. "Purchase price" shall also mean, in those instances where sand and 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 of the sand or gravel 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 chapter that one and one-half tons of sand or gravel of two thousand pounds per ton shall be equal to one cubic yard of sand or gravel;

***Note:** Subsection 5 of section 57-40-01 was also amended by section 1, chapter 432, 1965 S.L., and section 3, chapter 421, 1965 S.L.

*7. "Retailer" includes every person engaged in the business of selling tangible personal property or advertising service including the preparing or placing advertising in media for use within the meaning of this chapter, every vendor who makes deliveries into this state in his own vehicle or by contract carrier as defined in subsection 9 of section 49-18-01, and every vendor sending catalogs

***Note:** Subsection 7 of section 57-40-01 was also amended by section 1, chapter 434, 1965 S.L.

or other circulars into this state offering merchandise for sale to North Dakota customers but, when in the opinion of the commissioner, it is necessary for the efficient administration of this chapter 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 or advertising service 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 this chapter;

*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, any vendor making deliveries into this state by his own vehicle or by contract carrier as defined in subsection 9 of section 49-18-01, and any vendor sending catalogs or other circulars into this state offering merchandise for sale to North Dakota customers, 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;

***Note:** Subsection 8 of section 57-40-01 was also amended by section 1, chapter 434, 1965 S.L.

*10. "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 purchase of tangible personal property for the purpose of leasing or renting and the fair rental value of the leasing or renting of tangible personal property, provided, however, any person purchasing tangible personal property for the purpose of leasing or renting may credit the actual amount of sales or use tax paid against the tax due on the leasing or

***Note:** Subsection 10 of section 57-40-01 was also amended by section 1, chapter 432, 1965 S.L.

rental of such property if adequate records are maintained substantiating such leasing or rental transactions in accordance with such rules and regulations as the tax commissioner shall prescribe;

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 purchase of advertising including the furnishing or purchase of advertising whether by newspapers, magazines, periodicals, radio, television, billboard or otherwise, including charges made by advertising agencies for preparing or placing advertising in media;

e. The severing of sand or gravel for use in this state.

§ 25. Amendment.) Subdivision a of subsection 6 of section 57-40-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*a. Tangible goods, wares and merchandise, including but not limited to, liquor, beer, wine, tobacco, cigars, cigarettes, cigarette papers, snuff, and oleomargarine; and gas, electricity, and water, when furnished or delivered to consumers or users within this state;

***Note:** Subdivision a of subsection 6 of section 57-40-01 was also amended by section 1, chapter 432, 1965 S.L.

§ 26. Amendment.) Subsection 6 of section 57-40-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended by creating and enacting a new subdivision to read as follows:

*Sand or gravel severed from the soil.

***Note:** A new subdivision to subsection 6 of section 57-40-01, designated as subdivision d and identical in language to section 26 of chapter 386, was also created by section 1 of chapter 432, 1965 S.L.

***§ 27. Amendment.)** Section 57-40-01 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection thereto to read as follows:

***Note:** This subsection was also created by section 4, chapter 421, 1965 S.L. The language found in both chapters is identical.

"Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this chapter, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription.

§ **28. Amendment.)** Section 57-40-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40-02. Tax Imposed.) Beginning July 1, 1965, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use or consumption in this state, at the rate of two percent of the purchase price of such property. Except as limited by section 57-40-10, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of two percent of the fair market value of such property at the time it was brought into this state. An excise tax is imposed on the use, storage or consumption in this state of advertising of anything, including the preparing or placing of advertisng in media, purchased at retail for use in this state, at the rate of two percent of the purchase price of such advertising. Purchase or furnishing of advertising which

is designed to promote the sale of any product on a national or multistate basis shall not be taxed hereunder if such advertising does not solicit sales for any expressly named or identifiable business in this state.

§ 29. Amendment.) Subsection 5 of section 57-40-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Tangible personal property, except for liquor, beer, wine, cigarettes, cigars, cigarette papers, snuff, other tobacco products, oleomargarine, and aircrafts, upon which the state now imposes and collects a special tax, whether in the form of license tax, stamp tax, or otherwise;

§ 30. Amendment.) Section 57-40-17 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40-17. 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, co-partnership, 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 chapter 57-40. 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 beginning July 1, 1965.

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.

§ 31. **Amendment.)** Section 57-40.1-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40.1-02. Tax Imposed.)** There is hereby imposed beginning July 1, 1965, an excise tax of two percent of the purchase price of any motor vehicle purchased or acquired 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, and a like rate of tax upon the purchase price of any mobile home purchased or acquired for use in this state.

§ 32. **Amendment.)** Chapter 57-39 of the North Dakota Century Code is hereby amended by creating and enacting a section thereto to read as follows:

*__Note:__ Section 57-40.1-02 was also amended by section 10, chapter 431, 1965 S.L.

Separate and Additional Tax on Retail Sales—Collection—Allocation of Revenue—Appropriation.)

1. There is hereby imposed, beginning on July 1, 1965, an additional tax of one percent upon the gross receipts of retailers from all sales at retail that are subject to the tax imposed by section 57-39-02, which additional tax of one percent shall be collected by the tax commissioner in the same way that the tax imposed by section 57-39-02 is collected, and which shall be subject to all of the provisions for definitions, delinquency, enforcement of collection, exemptions, assessments, penalties, refund, notice and appeals to which the tax imposed by section 57-39-02 is subject. If any part of this Act is invalidated or disapproved in any way other than by action of the legislative assembly or by the action of any court, this section shall then have no effect.

2. All moneys collected and received by the tax commissioner pursuant to this section shall be paid into the state treasury and credited to a special fund to be known as the "personal property tax replacement fund". Out of this fund the state treasurer shall first provide for payment of any refunds of the tax that are allowed. The net amount of moneys remaining in said personal property tax replacement fund are hereby appropriated for allocation and distribution annually as follows:

a. The state tax commissioner, with the aid and assistance of the county auditor of each county, shall determine for each of the years 1962, 1963 and 1964 the cost to the county and to the various political subdivisions in the county of assessing and of equalizing the assessments of all personal property assessed in the county on an ad valorem basis by locally appointed or elected assessors or other officers performing assessment duties and the cost of levying and collecting the taxes levied thereon. The total amount of such costs in each political subdivision in each county for each of the three years then shall be added together and the total divided by three to obtain the average yearly cost of personal property tax administration for the three years in each political subdivision in each county, which amounts shall be certified to the state treasurer by the state tax commissioner.

b. For the purposes of administration of this subsection 2, the state tax commissioner, with the aid and assistance of the county auditor of each county, shall, on or before the first day of December, 1966, deter-

mine and certify to the auditor of each county the following two kinds of proportions applicable to the county: the first kind of proportion shall be known as "proportion A" and shall be, as to the state, as to each county, and as to each taxing district or part thereof in each county, the proportion of the assessed value of personal property in such taxing district that is exempted from taxation by this Act to the assessed value of all taxable property within the taxing district that is not exempted from taxation by this Act; the second kind of proportion shall be known as "proportion B" and shall be, as to the state, as to each county, and as to each taxing district or part thereof in each county, the proportion of the assessed value of the personal property in such taxing district that is exempted from taxation by this Act to the assessed value of all taxable property within the taxing district; for the purposes of computing these proportions the term "assessed value" shall mean the value at which the assessments were finally equalized in the year 1964. These proportions shall be used in computing the amount to be allocated and distributed to each of the various taxing districts, including the state, in the year 1967 and in each year thereafter until changed by law and shall be calculated to the nearest five place decimal amount.

c. For the purpose of ascertaining the amount to be allocated and distributed in 1967 and in each year thereafter to the state and its political subdivisions for replacement of taxes on the personal property exempted by this Act, the county auditor shall increase the total of the assessed value of all taxable property in such political subdivision in 1966 and in each year thereafter by proportion A for the political subdivision as determined in subdivision b of this subsection. The county auditor shall then multiply one-half of the assessed value of the political subdivision as so increased by proportion A by the mill rate necessary to raise the amount in dollars of taxes actually levied against such taxable property in the political subdivision for that year; the amount so obtained shall then be multiplied by proportion B to determine the amount allocable to the political subdivision in the following year, which amount for each political subdivision in the county shall be certified to the state treasurer by the auditor of the county.

d. The state treasurer, after receiving the certificates provided for in the preceding subdivision and after correcting any errors that may have been made therein, shall transfer from the personal property tax replacement fund to the state general fund ninety-five percent of the total amount allocable to the state pursuant to the preceding subdivision; and of the amount so transferred the part which is allocable to the North Dakota state medical center and the part which is allocable to the Korean veterans adjusted compensation bond principal and interest fund shall be transferred to the credit of those respective funds.

e. The state treasurer shall allocate and distribute from the personal property tax replacement fund to the treasurer of each county an amount computed as follows: the amount allocated to each taxing district in the county by the county auditor's certificate furnished to the state treasurer pursuant to subdivision c of this subsection shall be reduced by the cost of personal property tax administration for that political subdivision as certified by the state tax commissioner pursuant to subdivision a of this subsection; ninety-five percent of the difference so computed shall be allocated by the state treasurer for the credit of the political subdivision and the total of such amounts for the political subdivisions in the county shall be distributed by the state treasurer to the county treasurer, except that no part of the amount transferred to the state general fund pursuant to the preceding subdivision shall be allocated or distributed to the county. The county treasurer, after receiving the amount distributed by the state treasurer, shall credit to each political subdivision the amount allocated to the political subdivision in the certificate of the state treasurer and the amount so credited shall be apportioned and credited to each of the various funds in the proportion that the actual tax levies made the preceding year by the political subdivision on the taxable property therein is apportioned to the various funds, except that any amount that would be apportioned and credited to the retirement of a bonded indebtedness existing in 1966 for which a tax levy was made in 1966 and in any year thereafter, shall be credited instead to the general fund of the political subdivision.

f. The formula for allocation and distribution of moneys out of the personal property tax replacement fund

shall be the same for each year after 1967 as that used for the year 1967 until such time as it may be changed by law. The allocation and distribution of moneys out of the personal property tax replacement fund shall be made as soon after January first of 1967 and of each year thereafter as can reasonably be done.

g. It is hereby provided that any political subdivision which has an existing bonded indebtedness for which a tax levy must be made in 1966 or any year thereafter shall reduce its levy in each such year for current operating purposes by the amount which its tax levy on taxable property in that year for retirement of the bonded indebtedness is increased because of the exemption of personal property by this Act.

§ 33. **Amendment.)** Chapter 57-40 of the North Dakota Century Code is hereby amended by creating and enacting a new section thereto to read as follows:

Separate and Additional Excise Tax—Collection—Allocation of Revenue—Appropriation.) 1. There is hereby imposed, beginning July 1, 1965, an additional tax of one percent upon the storage, use or consumption in this state of all tangible personal property and advertising that is subject to the excise tax imposed by section 57-40-02, which additional tax of one percent shall be collected by the tax commissioner in the same way that the taxes imposed by section 57-40-02 are collected and which shall be subject to all of the provisions for definitions, delinquency, enforcement of collection, exemptions, assessments, penalties, refund, notice and appeals to which the taxes imposed by section 57-40-02 are subject.

2. All moneys collected and received by the tax commissioner pursuant to this section shall be paid into the state treasury and credited to the "personal property tax replacement fund" established by section 32 of this Act and such moneys are hereby appropriated for allocation and distribution in accordance with the provisions of subsection 2 of section 32 of this Act.

§ 34. **Amendment.)** Chapter 57-40.1 of the 1963 Supplement to the North Dakota Century Code is hereby amended by creating and enacting a new section thereto to read as follows:

Separate and Additional Excise Tax—Collection—Allocation of Revenue—Appropriation.) 1. There is hereby imposed, beginning July 1, 1965, an additional excise tax of one percent of the purchase price of any motor vehicle purchased or

acquired for use on the streets and highways of this state and required to be registered under the laws of this state, and a like rate of additional tax upon the purchase price of any mobile home purchased or acquired for use in this state, which additional tax of one percent shall be collected by the motor vehicle registrar in the same way that the taxes imposed by section 57-40.1-02 are collected and which shall be subject to all of the provisions for definitions, exemptions, enforcement of collection, presumptions and penalties to which the taxes imposed by section 57-40.1-02 are subject.

2. All moneys collected and received by the motor vehicle registrar pursuant to this section shall be paid into the state treasury and credited to the "personal property tax replacement fund" established by section 32 of this Act and such moneys are hereby appropriated for allocation and distribution in accordance with the provisions of subsection 2 of section 32 of this Act.

§ 35. Separate and Additional Excise Tax — Collection — Allocation of Revenue — Appropriation.) There is hereby imposed, beginning July 1, 1965, an additional excise tax of one percent of the purchase price of any motor vehicle purchased or acquired in 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, which additional tax of one percent shall be collected by the motor vehicle registrar in the same way that the tax imposed by House Bill Number 692* of the Thirty-ninth Legislative Assembly is collected and which shall be subject to all of the provisions for definitions, exemptions, enforcement of collection, and penalties to which the tax imposed by said House bill is subject.

2. All moneys collected and received by the motor vehicle registrar pursuant to this section shall be paid into the state treasury and credited to the "personal property tax replacement fund" established by section 32 of this Act and such moneys are hereby appropriated for allocation and distribution in accordance with the provisions of subsection 2 of section 32 of this Act.

§ 36. Repeal.) Subsections 9, 10, and 11 of section 57-02-05, relating to definitions of personal property for property tax purposes, sections 18-03-09, 37-01-27 and 57-15-23, relating to the per capita school tax and exemptions therefrom, sections 57-38-20, 57-38-21, 57-38-22, 57-38-24, 57-38-26, 57-38-27, and 57-38-28, relating to definitions, to the basis for reporting income, and to deductions and exemptions, all for income tax purposes, of the North Dakota Century Code, and section 5-03-26,

*__Note:__ See chapter 431, 1965 S.L.

providing for an excise tax on commodities used in mixed drinks, section 15-39-23, relating to payments from the county equalization fund, and sections 57-38-22.1 and 57-38-36, relating to deductions and to installment payments of tax for income tax purposes, of the 1963 Supplement to the North Dakota Century Code, are hereby repealed.

Chapters 57-03 and 57-31 of the North Dakota Century Code, relating to taxation of grain and to taxation of transient stocks of merchandise, of the North Dakota Century Code are hereby repealed, provided that the repeal of such chapters shall not become effective until January 1, 1966.

§ **37. Appropriation.)** There is hereby appropriated on a continuing basis out of any moneys in the general fund the annual amount of two million eight hundred thousand dollars to be transferred and credited on the first day of January, 1967 and of each year thereafter to the personal property tax replacement fund created by this Act, such moneys to be available for allocation and distribution pursuant to the provisions of this Act relating to that fund.

Approved March 19, 1965.

CHAPTER 387

S. B. No. 167
(Ringsak, Torgerson, Becker, Chesrown, Dahlund, Saumur,)
(Longmire, Mutch)

DISABLED VETERAN'S HOMESTEAD PROPERTY EXEMPTION

AN ACT

To amend and reenact subsection 20 of section 57-02-08 of the North Dakota Century Code, relating to disabled veteran's homestead general property assessment.

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

§ **1. Amendment.)** Subsection 20 of section 57-02-08 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

20. Fixtures, buildings and improvements upon lots in any city or village up to a net assessed valuation of ten thousand dollars for paraplegic disabled veterans, and four thousand dollars or in the alternative personal property up to an assessed valuation of four thousand

dollars, used and owned as a homestead, as defined in section 47-18-01, by any other disabled veteran who was discharged under honorable conditions or who has been retired from the armed forces of the United States with a service connected disability greater than fifty percent, or his unremarried widow if such veteran is deceased, provided, however, that such veteran and his wife, or if such veteran is deceased his unremarried widow, do not earn more than three thousand dollars net income exclusive of any pension for service connected disability from the United States government during the calendar year for which such exemption is claimed, and who shall have a certificate from the United States veterans administration, or its successors, certifying the amount of his disability. To obtain such exemption, an affidavit accompanied by such certificate, showing the facts herein required and a description of the property, shall be filed with the county auditor. Such affidavit and accompanying certificate shall be opened to public inspection. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which such veteran shall have held title to such exempt property;

Approved March 19, 1965.

CHAPTER 388

H. B. No. 849
(Leer, Meyer)

ASSESSMENT OF LEASED OR RENTED PERSONAL PROPERTY

AN ACT

To create and enact a new subsection to section 57-02-12, relating to the assessment of leased or rented personal property.

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

1. Amendment.) Section 57-02-12 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection thereto to read as follows:

Any item of personal property that is held under a lease or rental agreement shall be assessed in the assessment district where it is ordinarily kept by the person in possession of it but it shall be listed and assessed to its owner unless the person in possession does not disclose to the assessor the name of the owner, in which case it shall be assessed to

the person in possession of it under the lease or rental agreement. Such personal property shall not be assessed as a part of a stock of merchandise held for sale but shall be assessed in such other classification as is appropriate.

Approved March 6, 1965.

CHAPTER 389

H. B. No. 688
(Dornacker)

PERSONAL PROPERTY TAX EXEMPTION OF FARM MACHINERY

AN ACT

To amend and reenact section 57-02-20 of the 1963 Supplement to the North Dakota Century Code, relating to the personal property tax exemption on certain farm machinery.

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

§ 1. Amendment.) Section 57-02-20 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-20. Exemption of Farm Machinery for One Year.) The part of the value of farm machinery on which sales or use tax is paid, to be used by the buyer in his farming operations or rented by the buyer for farming purposes, shall be exempt to the buyer from the personal property tax which would be assessed and levied against it in the first year after its purchase were this section not in force. No exemption shall be allowed, however, unless the buyer exhibits to the assessor satisfactory written proof, on a form furnished by the state tax commissioner to retail sales or use tax permit holders only, that the North Dakota sales or use tax has been paid on such farm machinery. A duplicate copy of such form shall be attached to the assessment sheet which is filed with the county auditor. In addition, for each unit of farm machinery with a value exceeding three hundred dollars, if any buyer shall fail or refuse to exhibit such proof of the payment of such sales or use tax, the assessor shall report such fact, together with a description of the farm machinery involved to the tax commissioner on forms to be prescribed by the commissioner. The commissioner shall promptly proceed to determine the amount of any sales or use tax due with respect to the sale or purchase of such farm machinery and shall have

available any of the methods provided in chapter 57-39 or 57-40 to secure collection of the amount due, including the authority to collect from the consumer or user any sales tax due; provided that any assessment made by the assessor on such farm machinery may be abated, and the personal property tax refunded if paid, pursuant to the provisions of chapter 57-23 if the machinery was assessed because sales or use tax was not paid but was thereafter collected from the consumer or user by the retailer or tax commissioner. Any dealer in farm machinery may not claim the exemptions provided for in this section even though farm machinery owned by him is used in farming operations, but this restriction shall not prevent any dealer or person from claiming the exemption as provided in this section if such farm machinery is rented by him in the course of a bonafide rental business where fair rental value is charged.

Approved March 15, 1965.

CHAPTER 390

H. B. No. 837
(Anderson, Bruner)

DEFINITION OF PIPELINE COMPANY AND ASSESSMENT OF PUBLIC UTILITIES

AN ACT

To amend section 57-06-02 of the North Dakota Century Code by creating and enacting a new subsection to it relating to the definition of a pipeline, and to amend and reenact section 57-06-05 of the North Dakota Century Code, relating to annual assessments of the state board of equalization.

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

§ 1. Amendment.) Section 57-06-02 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection thereto to read as follows:

"Pipeline company" means a company owning, holding, or operating under a lease or otherwise, any property in this state for the purpose of transporting crude oil, natural gas, processed gas, manufactured gas, refined petroleum products, or coal and related products for public use.

§ 2. Amendment.) Section 57-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-06-05. Annual Assessment.) The state board of equalization, at its annual meeting in August, shall assess the franchises and all operative property of sleeping car, telephone, telegraph, power, gas, pipeline, and other companies, covered by this chapter, with reference to the value thereof on the first day of January of that year.

Approved March 15, 1965.

CHAPTER 391

S. B. No. 243
(Van Horn)

ASSESSMENT OF PUBLIC UTILITIES

AN ACT

To amend and reenact sections 57-06-07 and 57-06-08, subsection 5 of section 57-06-14, and subsection 2 of section 57-06-19 of the North Dakota Century Code, relating to information required from various companies, definition of "mileage", and certification of assessments by tax commissioner, all with respect to companies whose property is assessed by the state board of equalization.

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

§ 1. Amendment.) Section 57-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-06-07. Additional Information from Telephone, Telegraph, and Power Companies.) Each telephone, telegraph, and power company shall report further as follows:

1. Number of miles of pole line in each taxing district in each county in the state, separated and classified as to location and character, as the tax commissioner may require;

*4. Cost of construction of such lines fully equipped, together with the present value per mile of such lines in each taxing district in each county.

§ 2. Amendment.) Section 57-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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*__Note:__ The designation of subsection 4 of section 57-06-07 is incorrect since subsections 2 and 3 were deleted by amendment. Subsection 4 of section 57-06-07 will be designated as subsection 2 in the 1965 Supplement to the North Dakota Century Code.

57-06-08. Additional Information from Gas Companies.) Each gas and pipeline company shall report further as follows:

1. The number of miles of pipeline in each taxing district in each county in the state, separated and classified as to location, size and character as may be required by the tax commissioner;

*3. The cost of construction of such lines, fully equipped, together with the present value per mile of such lines in each taxing district in each county.

§3. Amendment.) Subsection 5 of section 57-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. In the case of a telephone or telegraph company, the term "mileage" shall mean miles of pole line or cable; and

§ 4. Amendment.) Subsection 2 of section 57-06-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The number of miles of line, valuation per mile, and total valuation of any property constituting a single and continuous line within each taxing district in each county.

Approved March 15, 1965.

***Note:** In section 57-06-08 the designation of subsection 3 is in error since subsection 2 was deleted by amendment. Subsection 3 of section 57-06-08 will be designated as subsection 2 in the 1965 Supplement to the North Dakota Century Code.

CHAPTER 392

H. B. No. 682
(Belquist, Frank, Linderman, Staven)

APPEALS TO AND HEARINGS BEFORE STATE BOARD OF EQUALIZATION

AN ACT

To create and enact a new subsection to section 57-12-06 of the 1963 Supplement to the North Dakota Century Code, providing a right of appeal to the state board of equalization from any assessment as equalized by a county board of equalization, and to amend and reenact sections 57-13-04 and 57-13-05 of the North Dakota Century Code, relating to the duties and powers of the state board of equalization and the right to a hearing before such board.

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

§ 1. **Amendment.)** Section 57-12-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended by creating and enacting a new subsection thereto to read as follows:

The owner of any separate piece or parcel of real estate that has been assessed and any person to whom any particular item or classification of personal property has been assessed may appeal the assessment thereon to the state board of equalization as provided in subdivision a of subsection 4 of section 57-13-04; provided, however, that such owner or person has first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed.

§ 2. **Amendment.)** Section 57-13-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-13-04. General Duties and Powers of Board.) The state board of equalization shall equalize the valuation and assessment of property throughout the state, and shall have power to equalize the assessment of property in this state between assessment districts of the same county, and between the different counties of the state. It shall:

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. Village and city lots shall be equalized in the manner provided for equalizing other lands;

2. Equalize the assessment of personal property by adding to the aggregate assessed value of any class of personal property in any assessment district in a county and in every county in the state in which it believes such valuation to be too low, such rate percent as will raise the same to its proper relative value, and by deducting from the aggregate assessed value of any class of personal property in any assessment district in a county and in every county in the state in which the board may believe the valuation to be too high, such percent as will reduce the same to its proper relative value;

3. In making such equalization, add to or deduct from the aggregate assessed valuation of lands, village or 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

4. In equalizing individual assessments:

   a. The board may, if it believes an assessment to be too high, reduce the assessment on any separate piece or parcel of real estate or the assessment to any person of any particular item or classification of personal property if the taxpayer has appealed such assessment to the board 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; provided, however, that the board shall not have authority to reduce an assessment until the taxpayer has established to the satisfaction of the board that he had first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county

board of equalization of the county in which the property was assessed;

b. The board may, if it believes an assessment to be too low, increase the assessment on any separate piece or parcel of real estate or the assessment to any person of any particular item or classification of personal property; the secretary of the board shall, by mail send to the last known address of the owner or person to whom the property was assessed, notify such person of the amount of increase made by the board in such assessment;

c. The percentage of reduction or increase made by the board under this subsection in any assessment shall be even and not fractional.

§ 3. **Amendment.)** Section 57-13-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-13-05. Hearing Before State Board of Equalization.) The board of county commissioners of any of the several counties, or any representative thereof in its place or stead, or any city council or board of city commissioners or any representative thereof, any board of village trustees or township supervisors, or representative groups of taxpayers or taxpayers' associations, or any individual representing the same, may appear before the state board of equalization to be heard for the purpose of opposing any unreasonable or unjust increase or decrease in the valuation of the taxable property of the county, city, village or township represented as equalized by the county board of equalization, or of opposing any increase or decrease in such valuation as proposed by the state board of equalization, to the end that all valuations of like taxable property may be uniform and equal throughout the state.

Approved March 15, 1965.

CHAPTER 393

S. B. No. 198
(Hernett, Trenbeath, Reichert)

NOTICE OF INCREASE OF ASSESSMENT

AN ACT

To provide written notice to a real estate owner by the assessor that his assessment has been increased.

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

§ 1. Written Notice of Increased Assessment to Real Estate Owner.) When any assessor or county board of equalization has increased the assessed valuation of any lot or tract of land by more than fifteen percent of the last assessment on any lot or tract of real estate on which no taxable improvements had been made since the last assessment of it, written notice of the amount of increase over the last assessment and the amount of the last assessment shall be given by him to the property owner at his last known address. The tax commissioner shall prescribe suitable forms for this notice and such notice shall be mailed at county expense.

Approved March 15, 1965.

CHAPTER 394

H. B. No. 621
(Borstad, Bruner, Wastvedt)

REASSESSMENT OF PROPERTY

AN ACT

To amend and reenact subsection 1 of section 57-14-08 of the North Dakota Century Code, relating to reassessment of property.

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

§ 1. Amendment.) Subsection 1 of section 57-14-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Upon the filing of a petition signed by not less than ten freeholders in any political subdivision, or by the governing body of any such subdivision, requesting a reassess-

ment of property in such subdivision or upon investigation by the board of county commissioners, the board of county commissioners, in its discretion, before October first, may order a reassessment of any class of property, or of all property, located within such subdivision or within any subdivision if, in its opinion, taxable property located within such subdivision has escaped assessment in whole or in part, or has been assessed unfairly, or has not been assessed according to law;

Approved March 2, 1965.

CHAPTER 395

H. B. No. 616
(Montplaisir, Sanstead, Stockman)

TAX EXEMPTIONS

AN ACT

To amend and reenact subsection 3 of section 57-15-14 of the North Dakota Century Code, relating to tax limitations on tax 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 1963 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 twenty-seven 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 10, 1965.

CHAPTER 396

H. B. No. 925
(Unruh, Hertz, Johnson (Barnes), Schoenwald)

EMERGENCY TAX LEVIES

AN ACT

Providing for a tax levy for emergency purposes by municipal corporations.

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

§ 1. Tax Levy for Emergency Purposes.) The governing body of any municipal corporation by a two-thirds vote may levy a tax annually for snow removal, natural disaster, or other emergency conditions not in excess of one mill on the net taxable assessed valuation of property within such municipal corporation, which levy shall be in addition to and not restricted by the levy limitations prescribed by law. No city shall make such levy after the amount of the unexpended funds raised by such levy shall equal three dollars per capita.

Approved March 19, 1965.

CHAPTER 397

S. B. No. 256
(Larson)

CANCELLATION OF TAXES

AN ACT

To amend and reenact sections 57-22-11 and 57-28-21 of the North Dakota Century Code, relating to furnishing of notices of cancellations of taxes to state director of accounts and purchases.

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

§ 1. Amendment.) Section 57-22-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-11. Cancellation of Uncollectible Taxes.) At its regular meeting in January of each year, the board of county commissioners shall examine the sheriff's report on personal property taxes and compare the same with the tax lists of the auditor and treasurer, and, upon such report, may cancel such taxes as the board is satisfied cannot be collected. The items of tax so canceled shall be noted on the tax lists of the treasurer and auditor, and the auditor forthwith shall make a report to the sheriff of the tax items canceled and also shall certify to the director of the state department of accounts and purchases the amount of state taxes canceled, and the same shall be credited to the county.

§ 2. Amendment.) Section 57-28-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-21. Cancellation of Taxes.) After any real estate has been sold for cash or upon a contract for deed which has been fully performed and a deed has been issued and delivered to the purchaser thereof, the board of county commissioners, by general resolution, shall provide for the cancellation of all general taxes, hail indemnity taxes, and special assessments remaining of record against the premises sold at the date of such sale. It shall be the duty of the county auditor immediately to send a copy of the said resolution to the state hail insurance department and the state department of accounts and purchases and to notify the county treasurer of the cancellation of such taxes.

Approved March 15, 1965.

CHAPTER 398

H. B. No. 828
(Shablow, Bowles)

ABATEMENTS AND REFUNDS

AN ACT

To amend and reenact section 57-23-03 of the 1963 Supplement to the North Dakota Century Code, and sections 57-23-06 and 57-23-08 of the North Dakota Century Code, relating to abatements and refunds of taxes.

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

§ 1. **Amendment.)** Section 57-23-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-03. Abatement of Invalid, Inequitable, or Unjust Assessments.) When the board of county commissioners is satisfied beyond a doubt that the assessment of real or personal property described in an application for abatement is invalid, inequitable, or unjust, the board, if application is filed on or before the first day of November in the year in which such taxes become delinquent, may abate any part thereof in excess of a just, fair, and equitable assessment if such application for correction complies with requirements of this chapter. Any person aggrieved by any decision of said board of county commissioners may appeal to the district court in the manner provided by law.

An application for refund of taxes paid with respect to any part of an assessment abated under this section shall be granted regardless of whether or not such taxes were paid under protest, oral or written.

§ 2. **Amendment.)** Section 57-23-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-06. Hearing on Application.) At the next regular meeting of the board of county commissioners following the filing of an application for abatement, the applicant may appear, in person or by his representative or attorney, and may present such evidence as may bear on the application. He shall furnish any additional information or evidence requested by the board of county commissioners. Any abatement or refund of any special assessment must be approved by the governing body of the municipality in which the special assess-

ment was made and such abatement or refund shall be effective when approved by the board of county commissioners. The recommendations of the governing body of the municipality in which such assessed property is located shall be endorsed upon or attached to every application for an abatement or refund, and the board of county commissioners shall give consideration to such recommendations. The board of county commissioners, by a majority vote, either shall approve or reject the application, in whole or in part. If rejected, a statement of the reasons for such rejection, signed by the chairman of the board, shall be attached to the application, and a copy thereof shall be mailed by the county auditor to the applicant at the post office address specified in the application.

§ 3. **Amendment.)** Section 57-23-08 of 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.

Approved March 6, 1965.

CHAPTER 399

H. B. No. 944
(Lundene, Opedahl, Lang)
(Committee on Delayed Bills)

TAXATION OF RURAL ELECTRIC COOPERATIVES BY CITY OR VILLAGE

AN ACT

To amend and reenact section 57-33-04 of the North Dakota Century Code, relating to taxation of rural electric cooperatives and to the imposition of a privilege tax by a city or village on a rural electric distribution cooperative.

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

§ 1. Amendment.) Section 57-33-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-33-04. Tax Imposed in Lieu of Personal Property Tax—Privilege Tax Imposed by City or Village.)

1. The tax commissioner shall levy on each cooperative a tax upon its gross receipts for the preceding calendar year. Each year for the first five years during which such cooperative is engaged in business the tax shall be one percent and thereafter the tax shall be two percent of its gross receipts. For the purpose of determining when the two percent rate shall be applied, the first year the cooperative is engaged in business shall be the first year in which the cooperative was engaged in business prior to April first of that year. The tax hereby imposed shall be in lieu of any other taxes levied on the personal property of such cooperatives.

2. a. In addition to and notwithstanding any other provisions of this chapter, the governing body of any incorporated city or village in which electric power is furnished to consumers in the city or village by a rural electric distribution cooperative may, by ordinance, elect to impose an annual tax upon the rural electric distribution cooperative for the privilege of distributing and furnishing such power to consumers within the city or village. The amount of such tax shall be measured and limited in the manner hereinafter provided.

b. The assessing officer responsible for the local ad valorem assessment of property in the city or village shall annually determine the value of the distribution system within the geographic limits of the incorporated city or village that is operated by the rural electric distribution cooperative and is reasonably necessary for the distribution by it of electric power to consumers in the city or village. As used in this subdivision and subsection the term "distribution system" shall not include buildings, equipment, tools and supplies that are necessary and are used in the operation of the entire rural electric cooperative system, both within and outside the incorporated limits of the city or village. The assessing officer in determining such valuation may request the aid and assistance of personnel in the office of the state tax commissioner who are charged with the duty of assembling and evaluating the information that is used by the tax commissioner in making tentative valuations pursuant to the provisions of chapter 57-06. In determining such valuation, the assessing officer shall value it at an amount that is, insofar as reasonably possible, equal to the amount at which it would be valued pursuant to the provisions of chapter 57-06 if it were subject to assessment thereunder.

c. After the assessing officer has determined the value of such property of the cooperative, he shall send by mail to the cooperative a notice in which the amount of such valuation is stated and in which a day approved by the governing body of the city or village is specified on which the representatives of the cooperative may appear and present information relating to the amount and value of the property of the cooperative that is valued for the purposes of this subsection. The notice shall be mailed at least ten days prior to the day prescribed by law for the governing body to convene as a board of equalization. After considering such information as may be presented by the representatives of the cooperative and by the assessing officer, the governing body shall, within ten days after the day specified in the notice, approve or adjust the valuation made by the assessing officer and shall immediately notify the cooperative by mail of the amount of valuation determined by it. If such cooperative is dissatisfied with the valuation set by the governing body, it may bring an action for review of the valuation in district court of the county in which the city or village is located, provided such

action is brought before the privilege tax imposed pursuant to this subsection becomes due.

d. The governing body of the city or village shall, on or before the first day of December of each year, compute and assess the amount of the privilege tax due from the cooperative by multiplying one-half of the valuation of the cooperative's property as determined by it by the total amount of mills levied by it for all purposes on other property in the city or village that is assessed and taxed pursuant to the ad valorem property tax laws of this state; from such amount there shall then be subtracted that amount of tax levied on the cooperative pursuant to the provisions of section 57-33-04 that is allocable and distributable to the city or village pursuant to section 57-33-07; and the difference then remaining shall be the amount of tax levied on the cooperative by the governing body of the city or village for the privilege of distributing and furnishing electric power to consumers in the city or village. The county auditor, when requested, shall notify the governing body of the city or village of the amount of tax allocated by him to the city or village pursuant to section 57-33-06. The tax shall be paid by the cooperative to the treasurer of the city or village which levies the tax and shall be credited to its general fund.

e. The provisions of this subsection shall not be construed as subjecting the cooperative to the jurisdiction of the public service commission nor as classifying such cooperative as a public utility company.

3. All of the provisions of law with respect to the due date, the date of delinquency, interest rate, penalty, and enforcement of collection of personal property taxes, generally shall be equally applicable to any tax provided for in this chapter.

Approved March 19, 1965.

CHAPTER 400

S. B. No. 42
(Becker, Hernett, Holand, Kisse, Van Horn)
(From LRC Study)

TAXATION OF ELECTRIC GENERATING PLANTS

AN ACT

To provide for the taxation of electric generating plants with a generating capacity of over one hundred thousand kilowatts, and transmission lines of 230 kilovolts or larger capacity, owned or operated by nonprofit cooperative corporations, providing for reports by said cooperative corporations, computation of taxes due and notice thereof, providing a due date for payment of taxes, providing for enforcement of payment, the deposit and allocation of revenues received, duties of the state and county treasurers, promulgation of rules, appeals, and penalties, and to amend section 57-33-01 of the North Dakota Century Code to exclude large electric generating cooperatives from the provisions thereof.

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. "Cooperative" or "cooperatives" shall mean nonprofit corporations owning or operating an electrical generation plant or plants located within this state;

2. "Gross receipts" shall mean all revenue valued in money, whether received in money or otherwise, derived by a cooperative subject to the provisions of this Act from the sale of electrical energy generated by an electrical energy generation plant, and shall further include, but not be limited to, the fair market value of all electrical energy from such plant or plants traded by a cooperative subject to the provisions of this Act, to any person, firm, corporation, association, or other organization whether or not subject to the provisions of this Act, and, in addition shall include the fair market value of electrical energy generated and consumed by the generating plant or cooperative;

3. "Generating capacity" shall mean the actual amount of electrical energy measured in kilowatts an electrical energy generating plant is capable of generating, and not necessarily the generation or name plate rating placed upon generation equipment by its manufacturer;

4. "Electrical energy generating or generation plant" shall mean all buildings, fixtures, machinery, tools, appliances, or all other things, located within a confined site in the state of North Dakota, used, useful, or necessary in the generation of electrical energy and which has at least one single electrical energy generation unit with a capacity of one hundred thousand kilowatts or more; which property and any transmission lines with a carrying capacity of two hundred thirty kilovolts or larger and related substations owned by cooperatives subject to the provisions of this Act and carrying energy the gross receipts of which are subject to the tax imposed by subsection 1 of section 2 of this Act, shall be classified as personal property; and

5. "Commissioner" shall mean the state tax commissioner.

§ 2. Imposition of Taxes—In Lieu of Ad Valorem Taxes.) Each cooperative operating an electrical energy generating plant shall pay an annual franchise tax for the privilege of operating such plant, which shall be computed and determined according to the following procedures:

1. Each year for the first two years during which a cooperative operates an electrical energy generating plant the tax commissioner, on or before April fifteenth, shall levy a tax of one percent upon the gross receipts derived from the operation of such electrical energy generating plant or plants for the preceding calendar year and thereafter the tax imposed shall be levied upon the gross receipts derived from the operation of such plant or plants at the rate of two percent of the gross receipts. The taxes levied by this subsection shall be in lieu of any ad valorem taxes upon personal property, except transmission lines, of an electrical energy generating plant the gross receipts of which have been subjected to such tax, and the procedures relating to the ad valorem method of levying property taxes shall not be applicable to the taxation of such electrical energy generating plants. For the purpose of determining when the two percent rate shall be applied, the first calendar year in which a cooperative is operating an electrical energy generating plant shall be the first year in which such plant earns gross receipts.

2. In addition to the tax imposed under subsection 1, the tax commissioner shall levy a tax upon transmission lines of two hundred thirty kilovolts or larger, owned by cooperatives subject to the provisions of this Act and carrying electrical energy the gross receipts of

which have been subjected to the tax imposed by subsection 1, at the rate of one hundred fifty dollars per mile or fraction thereof of such lines located in this state. The tax imposed by this subsection shall be in lieu of any property tax on such lines and any substation used in delivering electrical energy, the gross receipts of which have been subjected to the tax imposed by subsection 1. The proceeds derived from the taxing of transmission lines shall be allocated to each county in which such transmission lines are located in the proportion that the miles of such lines in a county bear to the total miles of such transmission lines located within this state. Revenues received by each county shall be deposited in the county general fund.

§ 3. **Report.)** Each cooperative annually on or before April first in each year shall file a report with the tax commissioner in such form and containing such information as the commissioner may prescribe and demand. Such report shall state the total amount of gross receipts derived by such cooperative from each electrical energy generating plant it may own or operate during the preceding calendar year and the total miles of transmission lines of two hundred thirty kilovolts or larger, owned by such cooperative and carrying electrical energy the gross receipts of which are subject to the tax imposed by subsection 1 of section 2 of this Act, located within this state and within each county of this state. Gross receipts derived from electrical energy traded or consumed shall be listed separately and the value thereof shall be determined by each cooperative by applying the fair market value to the power at such time as it was traded or consumed. The determination of the fair market value of power traded or consumed shall be reviewed by the tax commissioner and shall be subject to change by him if found to be unreasonable.

§ 4. **Notification of Tax Liability—Appeal to Commissioner.)** On or before May first of each year the tax commissioner shall notify in writing each cooperative whose electrical generating plant or plants and transmission lines are to be taxed under the provisions of this Act of the amount of tax levied against each plant and the transmission lines. Any cooperative aggrieved by the amount of tax levied against its plant or plants or transmission lines may make application in writing within fifteen days of its notification to the tax commissioner for an abatement hearing which shall be granted not later than fifteen days after the receipt of the application. The tax commissioner may grant or reject in whole or in part any plea for abatement and upon conclusion of the hearing shall proceed to make a final levy against the applicant.

§ 5. Date When Taxes Due—Payable to Tax Commissioner —Penalties.) The taxes levied under the provisions of this Act shall become due and payable to the tax commissioner on the fifteenth day of June following the year in which such taxes were levied. Such taxes shall become delinquent on the first day of July following and, if not paid on or before such date, shall be subject to a penalty of one percent, and on August first following an additional penalty of one percent, and on September first following an additional penalty of one percent, and for every month thereafter of the year in which such taxes are due and payable an additional penalty of two percent shall be levied. From and after January first of the year following the year in which the taxes become due and payable, simple interest at the rate of six percent per annum upon the principal of the unpaid taxes shall be charged until such taxes and penalties are paid, with such interest charges to be prorated to the nearest full month for a fractional year of delinquency.

§ 6. Lien for Tax.) The tax herein provided for shall, at all times, be and constitute a first and paramount lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to the taxpayer and such lien may be foreclosed in the same manner provided for mortgages on real or personal property.

§ 7. Moneys To Be Deposited with State Treasurer.) It shall be the duty of the commissioner to immediately deposit with the state treasurer all moneys collected by him under this Act and to accompany each remittance with the necessary information to allow the state treasurer to allocate the moneys received as provided by this Act.

§ 8. Allocation by State Treasurer.) The state treasurer, on or before July fifteenth of each year, shall allocate all moneys received under the provisions of this Act in the following manner:

1. During the first two years during which a cooperative operates an electrical energy generating plant, all of the annual revenue received from the taxation thereof in each county shall be allocated to that county.

2. Thereafter, the first fifty thousand dollars of annual revenue received from the taxation of electrical energy generation plants located in each county, pursuant to subsection 1 of section 2 of this Act, shall be allocated one hundred percent to that county. The second fifty thousand dollars of annual revenue received from the taxation of electrical energy generation plants, pursuant to subsection 1 of section 2 of this Act, located in each

county shall be allocated fifty percent to that county and fifty percent to the state general fund. All annual revenue in excess of $100,000 received from the taxation of electrical energy generation plants, pursuant to subsection 1 of section 2 of this Act, located in each county shall be allocated twenty-five percent to that county and seventy-five percent to the state general fund.

3. All revenue derived from the taxation of transmission lines shall be allocated as provided in subsection 2 of section 2.

§ 9. Duty of County Treasurer—Allocation to Political Subdivisions.) Moneys received by counties under the provisions of subsection 1 of section 8 of this Act shall be apportioned as follows:

1. Fifteen percent of all revenues allocated to any county shall be paid by the county treasurer to the incorporated cities and villages of the county based upon the population of each incorporated city and village according to the last official decennial federal census;

2. Forty percent of the revenues allocated to any county shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes; and

3. Forty-five percent of all revenues allocated to any county shall be apportioned by the county treasurer to school districts within the county on the average daily attendance distribution basis, as certified to him by the county superintendent of schools.

§ 10. Rules and Regulations — Bond — Reports — Actions.) The commissioner is hereby authorized and empowered to prescribe and promulgate all necessary rules and regulations for the purpose of making and filing of all reports required hereunder and otherwise necessary to the enforcement of this Act; and may, at his option and discretion, require a sufficient bond from any cooperative charged with the making and filing of reports and the payment of the taxes herein imposed; and said bond shall run to the state of North Dakota and shall be conditioned upon the making and filing of reports as required by law or regulation, and for the prompt payment, by the principal therein, of all taxes justly due the state by virtue of the provisions of this Act. When any reports required have not been filed, or may be insufficient to furnish all the information required by the commissioner, he may institute any necessary action or proceedings in the courts having jurisdiction, to enjoin such person from continuing operations

until such reports have been filed as required, and in all proper cases, injunction shall issue without bond from the state of North Dakota. Upon showing that the state is in danger of losing its claims or the property is mismanaged, dissipated, or concealed, a receiver shall be appointed at the suit of the state.

§ 11. **Appeals from Decision of Tax Commissioner.)** Any person aggrieved because of any action or decision of the tax commissioner under the provisions of this Act may appeal therefrom to the district court of Burleigh County in accordance with the provisions of chapter 28-32.

§ 12. **Penalty.)** Any person who willfully fails to comply with the provisions of this Act or willfully delivers or makes a false statement of a material fact to the tax commissioner is guilty of a misdemeanor punishable by a fine of not more than five thousand dollars or by imprisonment in the county jail for nor more than one year, or by both such fine and imprisonment.

§ 13. **Amendment.)** Section 57-33-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-33-01. Cooperatives Subject to Taxation—Classification.) Cooperatives subject to taxation under the provisions of this chapter shall be nonprofit cooperative corporations engaged in the distribution or transmission of electric energy primarily for consumption in rural areas, and nonprofit cooperative corporations engaged in the generation of electric energy primarily for consumption in rural areas, provided, however, that any electrical energy generation plant which has at least one, single electrical energy generation unit with a generating capacity in excess of one hundred thousand kilowatts, owned or operated by a nonprofit cooperative corporation, and the gross receipts from such plant shall not be taxable pursuant to the provisions of this chapter but shall be taxed pursuant to section 2 of this Act. The property of nonprofit cooperative corporations engaged in the distribution, transmission, or generation of electrical energy primarily for consumption in rural areas and to be taxed under the provisions of this chapter is hereby expressly classified as personal property for the purpose of taxation. Such corporations are hereinafter referred to as "cooperatives".

Approved March 19, 1965.

CHAPTER 401

H. B. No. 533
(Davis, Dornacker, Giffey, Hauf, Knudsen, Shablow, Wilkie)
(From LRC Study)

RURAL TELEPHONE ASSOCIATION TAXATION

AN ACT

To create and enact section 57-34-12 and to amend and reenact sections 57-34-01, 57-34-02, 57-34-03, 57-34-05, 57-34-06, 57-34-10, and 57-34-11 of the North Dakota Century Code, relating to the taxation of mutual and cooperative telephone associations and private or commercial telephone companies exclusively engaged in providing telephone service to rural areas and cities and villages with a population of five hundred persons or less, and to repeal sections 57-34-07 and 57-34-09 of the North Dakota Century Code, relating to reports to county auditors and distribution of funds within taxing districts, and providing an effective date.

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

§ **1. Amendment.)** Section 57-34-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-01. Definitions.) As used in this chapter, unless the context or subject matter otherwise clearly requires:

1. "A telephone company" means all mutual associations and cooperative organizations or cooperative corporations engaged in the business of furnishing communication by telephone, and shall further mean all other persons, firms, corporations, or other organizations which are engaged in the busines of furnishing means of communication by telephone within this state exclusively to rural areas or to rural areas and cities and villages provided that each city or village served has a population of five hundred persons or less; and

2. "Telephone operating receipts" shall consist of all revenue received, including but not limited to assessments collected from members of mutual associations, or organizations, in place of rentals less switching charges and tolls paid to other companies; and

3. "Station" shall mean a telephone station located in this state with a distinct call number designation or distinct extension number designation.

§ 2. Amendment.) Section 57-34-02 of 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. 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.

§ 3. Amendment.) Section 57-34-03 of 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 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.

§ 4. Amendment.) Section 57-34-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-05. Certification of Tax—Allocation to Counties.) The tax commissioner shall certify to the county auditor of each county in which the company assessed maintains a telephone station or stations, the gross receipts of the company, the number of telephone stations within the county and the number within each school district of the county belonging to the said company and the amount of tax to be collected from said company.

The tax commissioner shall allocate the tax to be collected from each telephone company, as determined by the state board of equalization, to the counties upon a pro rata basis to be determined according to the proportion that each company's stations in a county bear to the total number of stations maintained by such company.

§ 5. Amendment.) Section 57-34-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-06. Duties of County Auditor.) It shall be the duty of the county auditor after receiving such statement from the tax commissioner to certify such taxes to the county treasurer for collection at the time that real and personal property taxes are required to be certified. Such certification shall give the amount allocated to each school district in which the company maintains a station or stations. The county auditor shall make such allocation and pay such funds to the various school districts upon a pro rata basis according to the proportion that each company's stations in a school district bear to the total number of stations of such company in the county.

§ 6. Amendment.) Section 57-34-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-10. Penalty for Failure to Furnish Statement.) In case any company refuses or neglects to make the reports

required by this chapter, or refuses or neglects to furnish any information requested, the tax commissioner shall inform himself as best he may on the facts necessary to be known in order to discharge his duties with respect to the taxation of the property of such company, and the tax shall be imposed upon the basis of such information, and the state board of equalization shall add a penalty of one-quarter of the tax due for failure to make the required report, which shall be collected as a part of the tax.

§ 7. **Amendment.)** Section 57-34-11 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-11. Exemption from Other Taxation.) The taxes imposed by this chapter shall be in lieu of all real and personal property taxes levied by the state or any of its political subdivisions upon real or personal property directly used by any telephone company subject to the provisions of this chapter in its telephone operations and in lieu of real and personal property taxes on property leased or rented to any other person or company when the revenue derived from such leases or rentals is included in the telephone operating receipts of the company deriving the revenue. Real and personal property directly used by a telephone company subject to the provisions of this chapter and owned by any other person or company shall not be assessed or taxed under the provisions of this chapter; provided that any such property held under a contract for the purchase thereof by any telephone company subject to the provisions of this chapter shall be considered for all purposes of taxation as property owned by that telephone company.

§ 8.) Section 57-34-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-34-12. Rules and Regulations—Appeals.) 1. The state tax commissioner may promulgate any rules and regulations that are necessary to carry out the provisions of this chapter. The provisions of chapter 28-32 shall govern the promulgation of all rules and regulations, the holding of hearings thereon, and the appeal therefrom. All such appeals shall be taken to the district court of Burleigh County.

2. Any person aggrieved by a decision of the state board of equalization may appeal to the district court of Burleigh County after the hearing provided for in section 57-34-04.

§ 9. **Repeal.)** Sections 57-34-07 and 57-34-09 of the North Dakota Century Code are hereby repealed.

§ 10. **Effective Date.)** The provisions of this Act shall become effective on and after January 1, 1966, provided that taxes levied and certified to the county treasurer in 1965 for collection in 1966 shall be collected pursuant to such certification.

Approved February 26, 1965.

CHAPTER 402

H. B. No. 794
(Whittlesey, Boustead)

BUILDING AND LOAN ASSOCIATION TAX

AN ACT

To amend and reenact subdivision c of subsection 2 of section 57-35.1-01 and sections 57-35.1-02, 57-35.1-03, 57-35.1-04, and 57-35.1-05 of the 1963 Supplement to the North Dakota Century Code, relating to the definition of "net income" for taxation purposes of building and loan associations and relating to the changing of time for reporting income for taxation of building and loan associations, and declaring an emergency.

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

§ 1. **Amendment.)** Subdivision c of subsection 2 of section 57-35.1-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*c. Taxes, other than taxes imposed under this chapter, paid or accrued within the taxable year; and

§ 2. **Amendment.)** Section 57-35.1-02 of the 1963 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

*__Note:__ Subdivision c of subsection 2 of section 57-35.1-01 was also amended by section 16, chapter 386, 1965 S.L.

of four 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.

§ 3. Amendment.) Section 57-35.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-03. Report of Income.) On or before the fifteenth day of March in each year, each association shall file with the state tax commissioner, on forms to be provided by him, a report under oath showing the net income of the association for the preceding calendar year, including such information as the commissioner may require relating to the computation of such net income. A duplicate original of such report shall be simultaneously filed with the county auditor of the county in which such association is located.

§ 4. Amendment.) Section 57-35.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-04. Computation and Certification of Tax.) On or before the first day of August in each year, the state tax commissioner shall compute the total tax to be assessed under this chapter, and shall certify the same to the county auditor of each county in which each taxpaying association is located. The county auditor after receiving the computation of such tax from the commissioner shall promptly certify the same to the county treasurer for collection.

§ 5. Amendment.) Section 57-35.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-05. Tax Payment—Delinquency Penalty.) The taxes levied and assessed under this chapter shall be payable on the thirty-first day of December following the report to the state tax commissioner under section 57-35.1-03, and shall become delinquent if not paid on or before the first day of March next following; thereafter a penalty of five percent shall attach and be charged at the rate of three-fourths of one percent per month of the original amount of the tax until the same is paid.

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

Approved March 19, 1965.

CHAPTER 403

H. B. No. 671
(Aamoth, Olienyk, Stenhjem)

TOBACCO TAXES

AN ACT

To provide for an excise tax on the wholesale price of snuff and to amend and reenact sections 57-36-01, 57-36-02, 57-36-06, 57-36-07, 57-36-08, 57-36-09, 57-36-11, 57-36-12, 57-36-13, 57-36-14, 57-36-17, 57-36-20, 57-36-24, 57-36-25, and 57-36-26 of the North Dakota Century Code; to create and enact sections 57-36-09.1, 57-36-09.2, 57-36-27, 57-36-28, 57-36-29, 57-36-30, and 57-36-31 of the North Dakota Century Code; to repeal sections 57-36-15, 57-36-16, 57-36-22, and 57-36-23 of the North Dakota Century Code; all of which sections relate to excise taxes imposed with respect to the sale or use of cigarettes and snuff; to the licensing of dealers therein and distributors thereof, and to the administration of the provisions relating to such tax impositions and licensing and providing for penalties.

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

§ 1. **Amendment.)** Section 57-36-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-01. Definitions.) As used in this chapter, unless the context or subject matter otherwise requires:

1. "Person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

2. "Distributor" shall include any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, cigars, snuff, or other tobacco products, or importing into this state cigarettes, cigarette papers, cigars, snuff, or other tobacco products, for the purpose of distribution and sale thereof to dealers and retailers;

3. "Licensed distributor" shall mean a distributor licensed under the provisions of this chapter;

4. "Dealer" shall include any person other than a distributor who is engaged in the business of selling cigarettes, cigarette papers, cigars, snuff, or other tobacco products;

5. "Licensed dealer" shall mean a dealer licensed under the provisions of this chapter;

6. "Sale" or "sell" shall apply to gifts, exchanges, and barter;

7. "Stamp" shall mean the stamps prepared by the tax commissioner as provided in section 57-36-08;

8. "Insignia" shall include or mean the impression or mark made on the cigarettes, or the package containing the same, approved by the tax commissioner, as provided in section 57-36-11;

9. "Cigar" means any roll of tobacco wrapped in tobacco;

10. "Other tobacco products" means any product except cigarettes, cigarette papers, cigars, or snuff which is made up or composed of tobacco, in whole or in part;

11. "Consumer" means any person who has title to or possession of cigarettes, snuff, cigars or other tobacco products in storage, for use or other consumption in this state;

12. "Storage" means any keeping or retention of cigarettes, snuff, cigars or other tobacco products for use or consumption in this state; and

13. "Use" means the exercise of any right or power incidental to the ownership or possession of cigarettes, snuff, cigars or other tobacco products.

§ 2. **Amendment.)** Section 57-36-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-02. Distributors and Dealers To Be Licensed.) Each person engaged in the business of selling cigarettes, cigarette papers, snuff, cigars, or tobacco in this state, including any distributor or dealer, shall secure a license from the attorney general before engaging in such business or continuing to engage therein. A separate application and license shall be required for each distributor at each outlet or place of business within the state, and a separate dealer's license shall be required for each retail outlet when a person shall own or control more than one place of business dealing in cigarettes, cigarette papers, snuff, cigars, or tobacco. No retailer shall be granted a distributor's license except a retailer who also performs, in the usual course of business, a distributor's or wholesaler's function, and has performed such functions for at least one year prior to filing application for said license. Such license shall be issued by the attorney general on applications stating, on a form prescribed by him, the name and address of the applicant, the address and place of business

at which it is proposed to engage in such business, the type of business, and such other information as may be required for the proper administration of this chapter. Each application for a wholesale or distributor's outlet license shall be accompanied by a fee of fifteen dollars and a surety bond to be approved by the attorney general in the sum of not less than one thousand dollars or more than five thousand dollars. Each application for a dealer's outlet license shall be accompanied by a fee of ten dollars. Stamps or insignia provided for in this chapter shall be sold to and affixed by licensed distributors only. Licensed dealers may sell or buy or have in their possession only cigarettes upon which such stamps or insignia have been previously affixed. A distributor's license does not authorize the holder thereof to make sales at retail. Each license issued shall be prominently displayed on the premises covered by the license.

§ 3. **Amendment.)** Section 57-36-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-06. Cigarettes—Amount of Tax.) There are levied and assessed, and there shall be collected and paid to the state tax commissioner, upon all cigarettes sold in this state, the following excise taxes, payment thereof to be made prior to the time of the sale and delivery thereof:

1. Class A. On cigarettes weighing not more than three pounds per thousand, three and one-half mills on each such cigarette;

2. Class B. On cigarettes weighing more than three pounds per thousand, four mills on each such cigarette.

§ 4. **Amendment.)** Section 57-36-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-07. Packaging — Presumption from Possession — Stamps To Be Affixed.) Cigarettes shall be packaged and stamped as follows:

1. All cigarettes sold in this state shall be put up in packages containing five, eight, ten, twelve, fifteen, sixteen, twenty, twenty-four, forty, fifty, eighty, or one hundred cigarettes each.

2. Immediately upon receipt by the licensee, each package of cigarettes, except as otherwise provided in this chapter, shall have affixed thereto securely a suitable stamp denoting the tax thereon, and such stamp shall be properly canceled prior to sale or removal for con-

sumption, under such regulations as the tax commissioner shall prescribe.

3. Each package of cigarettes displayed, exhibited, stored, or possessed in original cartons or containers or otherwise, within or upon the premises from which sale thereof may be made to consumers shall be presumed conclusively to be intended for sale to consumers and to be displayed, exhibited, stored, or possessed for such purpose, and each package of cigarettes, at the time the same is displayed, exhibited, stored, or possessed upon such premises, except as hereinafter provided, shall have affixed thereto securely a suitable stamp, or stamps, denoting the tax thereon. Such stamp or stamps shall be canceled as provided in this chapter, and the possession of any unstamped package of cigarettes, within or upon any premises, shall be prima facie evidence of a violation of this chapter.

§ 5. Amendment.) Section 57-36-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-08. Stamps Prepared by Commissioner.) The tax commissioner shall prepare and have suitable stamps for use on each kind of package prescribed in this chapter, and shall keep an accurate record of all stamps delivered, and a further accurate record of all stamps coming into and leaving his hands. The tax commissioner shall sell the stamps herein provided for only to dealers holding a "distributor's license", issued as provided in this chapter, but wholesale distributors of cigarettes located outside of this state, may apply for and receive a "distributor's license", as provided in section 57-36-02, and may purchase stamps from the tax commissioner and affix the same on cigarettes to be sold in this state, and shall cancel the same in the manner prescribed by the regulations of the tax commissioner. In such case, the purchaser within this state receiving such stamped cigarettes will not be required to purchase and affix stamps thereon.

§ 6. Amendment.) Section 57-36-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-09. Records To Be Kept by Distributors and Reports Made—Penalty.) Distributors shall keep records and make reports relating to purchases and sales of cigarettes, cigarette papers, snuff, cigars or other tobacco products made by them, and shall be punished for failure so to do, as follows:

1. Each distributor who shall dispose of cigarettes, cigarette papers, snuff, cigars or other tobacco products, shall keep and preserve for one year all invoices of cigarettes, cigarette papers, snuff, cigars or other tobacco products purchased by him, together with all receipts issued by the state for stamps purchased by him, and shall permit the state tax commissioner, his assistants, authorized agents, or representatives, to inspect and examine all taxable merchandise, invoices, receipts, books, papers, and memoranda as may be deemed necessary by the state tax commissioner, his assistants, authorized agents, or representatives, in ascertaining whether the stamps required by this chapter have been purchased and used, or in determining the amount of such tax as may be yet due. Each person selling or otherwise disposing of cigarettes, cigarette papers, snuff, cigars or other tobacco products as a distributor shall keep a record of all sales made within the state showing the name and address of the purchaser and the date of sale;
2. On or before the tenth day of January, April, July, and October of each year, each licensed distributor, on such form as the state tax commissioner shall prescribe, shall report to such officer all purchases and sales of cigarettes, cigarette papers, snuff, cigars or other tobacco products made from or to any persons either within or without this state during the preceding three months, provided, however, that the tax commissioner shall have authority to prescribe monthly returns upon the request of the licensee distributor and such returns accompanied with any remittance which might be due shall be filed before the tenth day of the month following the month for which the returns are filed, showing the names and addresses of the seller and of the buyer, the date of such sale or purchase, and the quantity and make of all cigarettes, cigarette papers, snuff, cigars or other tobacco products;
3. Any person violating any provision of this section shall be guilty of a misdemeanor and 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 more than sixty days, or by both such fine and imprisonment. The attorney general at the request of the state tax commissioner may revoke any license if the licensee does not make the report herein provided for.

§ 7. Amendment.) Section 57-36-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-11. Tax Meter Machines.) 1. The tax commissioner, in lieu of selling stamps, may authorize any manufacturer or distributor located within or without the state to stamp cigarettes 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 or distributor, and for supervising and checking the operation thereof. In such case, the tax commissioner shall collect and receive the tax prescribed by this chapter on all cigarettes sold in or delivered to dealers in the state for sale, barter, gifts, or any other purpose, and any cigarette 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. Any manufacturer or distributor who stamps cigarettes with a tax meter machine, pursuant to the provisions of this section, shall be entitled to the discount provided for in section 57-36-10.

2. The tax commissioner may 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. Any county auditor so designated shall transmit each amount of tax collected and report each meter machine setting to the tax commissioner on or before the next business day, provided that a business day shall not include Saturday; he shall perform such duties in accordance with the procedure prescribed by the tax commissioner. The duties of the county auditor pursuant to this section shall be within the coverage of his official bond. Any county auditor 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 of two dollars for each meter setting and all such fees received by the county auditor shall be payable to him personally for his services and shall not be credited to any county fund or to any other public fund.

§ 8. Amendment.) Section 57-36-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-12. Distributors May Not Sell Stamps.) No distributor or wholesale dealer shall resell to any other distributor or dealer any stamps purchased by him from the tax commissioner, and any distributor who has on hand any unused and canceled stamps at the time of discontinuing the business of selling cigarettes may return such stamps to the tax commissioner and receive ninety-five percent of the face value thereof.

§ 9. Amendment.) Section 57-36-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-13. Unlawful to Transport Unstamped Cigarettes.) 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 cigarettes, and any such automobile, truck, boat, airplane, conveyance, vehicle, or other means of transportation in which any cigarettes are transported or carried in violation of this chapter, and any cigarettes 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 57-36-14.

§ 10. Amendment.) Section 57-36-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-14. Procedure in Case of Seizure — Determination — Judgment.) The procedure in case of seizure of cigarettes or equipment as provided in section 57-36-13, or any other product taxed pursuant to this chapter, shall be as follows:

1. Upon the seizure of any cigarettes 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 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 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 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 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 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 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 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 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.

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

57-36-17. Hearing—Appeals from Decision of the Tax Commissioner.) Except as provided in section 57-36-14, any person aggrieved because of any action or decision of the tax commissioner under the provisions of this chapter shall have the right to a hearing by the tax commissioner and shall have the right to appeal from the decision of the tax commissioner on such hearing, all in accordance with the provisions of chapter 28-32 of the title Judicial Procedure, Civil.

§ 12. Amendment.) Section 57-36-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-20. Penalties for Violation of Chapter.) Except as otherwise provided in this chapter:

1. Any person who violates any provision of this chapter shall be punished by a fine of not less than one hundred dollars nor more than three hundred dollars and shall be committed to the county jail until such fine and the costs of prosecution are paid, but for a period not exceeding six months, and all cigarettes, cigarette papers, snuff, cigars or other tobacco products in his possession or in his place of business shall be confiscated and forfeited to the state;

2. Any consumer who purchases any package of cigarettes which does not bear the stamp or insignia placed thereon pursuant to the provisions of this chapter, and any person who shall use or consume within this state any cigarette, unless the same shall be taken from a package or container having attached thereto the stamp or insignia required by this chapter, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars and not more than three hundred dollars, and the costs of prosecution, and shall be committed to the county jail until such fine and costs are paid, but for a period not exceeding six months;

3. Any person violating any provision of this chapter, or maintaining a place where cigarettes, cigarette papers, snuff, cigars or other tobacco products are sold, or kept with intent to sell the same, in violation of the provisions of this chapter, is guilty of keeping and maintaining a nuisance, and the building or place used for the sale or keeping for sale of cigarettes, cigarette papers, snuff, cigars or other tobacco products in violation of such provisions, shall be deemed to be a nuisance, and the maintenance of such place and the keeping and sale of any such items therein shall be enjoined, and such building or place shall be abated as a nuisance.

§ 13. **Amendment.)** Section 57-36-24 of 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, and which are exempt from the excise taxes levied under the provisions of this chapter.

§ 14. Amendment.) Section 56-36-25 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-25. Cigars, Snuff and Other Tobacco Products—Excise Tax on Wholesale Purchase Price—Penalty—Reports—Collection—Allocation of Revenue.)

1. There is hereby levied and assessed upon all cigars, snuff and other tobacco products, sold in this state an excise tax at the rate of eleven percent of the wholesale purchase price at which such cigars, snuff and other tobacco products are purchased by distributors. For the purposes of this section the term "wholesale purchase price" shall mean the established price for which a manufacturer sells cigars, snuff or other tobacco products to a distributor exclusive of any discount or other reduction. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the distributor on a calendar quarterly basis on or before the tenth day of the month following the quarterly period for which paid. The tax commissioner shall, however, have authority to prescribe monthly returns upon the request of the licensee distributor and such returns accompanied with remittance shall be filed before the tenth day of the month following the month for which the returns are filed.

2. Any person failing to file any prescribed forms of return or to pay any tax within the time required or permitted by this section shall be subject to a penalty of three percent of the amount of tax due, plus one percent of such tax for each month of delay or fraction thereof excepting the portion of the month within which such return was required to be filed or such tax became due. The tax commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.

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

4. All the provisions of this chapter, specifically including the penalties prescribed by subsection 1 and 2 of section 57-36-20 not in conflict with the provisions of this section

shall govern the administration of the taxes levied in this section.

§ 15. **Amendment.)** Section 57-36-26 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-26. Cigars, Snuff and Other Tobacco Products—Excise Tax Payable by Dealers — Reports — Penalties — Collection — Allocation of Revenue.)

1. There is hereby levied and assessed upon all cigars, snuff and other tobacco products, purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of eleven percent of the wholesale purchase price at the time such products were brought into this state. For the purposes of this section the term "wholesale purchase price" shall mean the established price for which a manufacturer sells cigars, snuff or other tobacco products to a distributor exclusive of any discount or other reduction, provided that the dealer may elect to report and remit the tax on his cost price of such products rather than on the wholesale purchase price. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the dealer on a calendar quarterly basis on or before the tenth day of the month following the quarterly period for which it is paid.

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 ten 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.

3. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section shall be subject to a penalty of three percent of the amount of tax due, plus one percent of such

tax for each month of delay or fraction thereof excepting the month within which such return was required to be filed or such tax became due. The tax commissioner, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.

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

5. All the provisions of this chapter, specifically including the penalties prescribed by subsections 1 and 2 of section 57-36-20 not in conflict with the provisions of this section shall govern the administration of the taxes levied in this section.

§ 16.) Section 57-36-09.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-09.1. Warehouse — Record of Deliveries and Shipments.) Records of all deliveries of shipments of cigarettes and snuff from a licensed public warehouse to persons within this state shall be kept by the warehouse and be available to the tax commissioner for inspection. They shall show the name and address of the consignee, the date, the quantity of cigarettes, snuff, cigars or other tobacco products delivered, and such other information as the tax commissioner may require. These records shall be preserved for one year from the date of delivery of the cigarettes, snuff, cigars or other tobacco products.

§ 17.) Section 57-36-09.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-09.2. Examination and Correction of Returns—Collection of Taxes.) 1. As soon as practicable after any return required by this chapter is filed, the tax commissioner shall examine the return and correct it, if necessary, according to his best judgment and information. The return, together with the tax commissioner's corrections, if any, shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. Proof of any such correction by the tax commissioner may be made at any hearing before him or in any legal proceeding by a copy of the pertinent record of the tax commissioner under the certificate of the custodian of the original official record. Such a certified copy shall, without further proof, be admitted into evidence before the tax commissioner or in any legal proceeding and

shall be prima facie proof of the correctness of the amount of tax due, as shown therein. If the tax commissioner finds that any amount of tax is due under this chapter from any person and is unpaid, he shall notify such person of the deficiency, stating that he proposes to assess the amount due together with interest and penalties as hereinafter provided. If a deficiency disclosed by the tax commissioner's examination cannot be allocated by him to a particular month or months, he shall notify such person of the deficiency, stating his intention to assess the amount due for a given period without allocating it to any particular month or months, together with the penalty provided in the case of other corrected returns. If any person making any return shall die or shall become incompetent at any time before the tax commissioner issues his notice that he proposes to assess an amount due, that notice shall be issued to the administrator, executor, or other legal representative, as such, of that person.

2. If, within fifteen days after mailing of notice of the proposed assessment, the person to whom such notice is sent or his legal representative shall file a written protest to said proposed assessment and request a hearing thereon, the tax commissioner shall give notice to such person or legal representative of the time and place fixed for the hearing. Such notice of hearing and the hearing, together with any appeal therefrom, shall be governed by the provisions of chapter 28-32.

3. The tax commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action.

§ 18.) Section 57-36-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-27. Consumer's Use Tax—Cigarettes—Reports—Remittances.)

1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such consumers, at the following rates:

   a. On cigarettes weighing not more than three pounds per thousand, three and one-half mills on each such cigarette.

   b. On cigarettes weighing more than three pounds per thousand, four mills on each such cigarette.

2. This tax shall not apply if the tax imposed by section 57-36-06 has been paid.

3. This tax shall not apply to the use or storage of cigarettes in quantities of two hundred or less in the possession of

any one consumer nor to cigarettes exempt pursuant to section 57-36-24.

4. On or before the tenth day of each calendar quarter, every consumer who during the preceding calendar quarter has acquired title or possession of cigarettes for use or storage in this state, upon which cigarettes the tax imposed by section 57-36-06 has not been paid, shall file a return with the tax commissioner showing the quantity of cigarettes so acquired. The return shall be made upon a form furnished and prescribed by the tax commissioner and shall contain such other information as the tax commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

5. As soon as practicable after any return is filed, the tax commissioner shall examine the return and correct it, if necessary, according to his best judgment and information.

6. In case any consumer required to pay the tax levied by this section fails to file a return or remit the tax as herein required, the tax commissioner shall have the authority to make an assessment of tax against him according to the commissioner's best judgment and information.

7. All of the provisions of this chapter relating to corrections of returns, deficiency assessments, protests thereto, hearings thereon, interest and penalties, and collections of taxes, shall be applicable to consumers under this section in like manner as though set out in full herein.

§ 19.) Section 57-36-28 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-28. Consumer's Use Tax — Cigars, Snuff and Other Tobacco Products—Reports—Remittances.)

1. A tax is hereby imposed upon the use or storage by consumers of cigars, snuff and other tobacco products in this state, and upon such consumers, at the rate of eleven percent of the cost to the consumer of such products.

2. This tax shall not apply if the tax imposed by section 14 or section 15 has been paid nor shall it apply to cigars, snuff or other tobacco products exempt pursuant to section 57-36-24.

3. On or before the tenth day of each calendar quarter, every consumer who during the preceding calendar quarter has acquired title to or possession of cigars, snuff or other tobacco products for use or storage in this state, upon which products the tax imposed by either section 14 or section 15 has not been paid, shall file a return with the tax commissioner showing the quantity of such products so acquired. The return shall be made upon a form furnished and prescribed by the tax commissioner and shall contain such other information as the tax commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

4. As soon as practicable after any return is filed, the tax commissioner shall examine the return and correct it, if necessary, according to his best judgment and information.

5. In case any consumer required to pay the tax levied by this section fails to file a return or remit the tax as herein required, the tax commissioner shall have authority to make an assessment of tax against him according to the tax commissioner's best judgment and information.

6. All of the provisions of this chapter relating to corrections of returns, deficiency assessments, protests thereto, hearings thereon, interest and penalties and collections of taxes, shall be applicable to consumers under this section in like manner as though set out in full herein.

§ 20.) Section 57-36-29 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-29. Correction of Errors.)

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.

2. Whenever a distributor destroys cigarettes 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.

§ 21.) Section 57-36-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-30. Issuance of Credit or Refund.) Whenever by any provisions of this chapter a credit or refund is authorized, the tax commissioner shall issue a credit applicable to future obligations under this chapter or certify the amount of the refund, the reason 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.

§ 22.) Section 57-36-31 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-36-31. Transfer and Allocation of Revenues.)

1. All moneys received by the tax commissioner under the provisions of this chapter shall be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund, except as hereinafter provided.

2. All moneys received from the levy and assessment of one mill on each of the classes of cigarettes provided in this chapter are hereby appropriated and shall be distributed on or before the thirtieth day of June and the thirty-first day of December of each year on a per capita basis to the incorporated cities and villages for such purposes as are now or may be hereafter authorized by law, the allocation to be based upon the population of each incorporated city and village according to the last official federal census, or the census taken in accordance with the provisions of chapter 40-02 in the case of a city or village incorporated subsequent to the last federal census, and warrants shall be drawn payable to the treasurers of such cities and villages.

§ 23. **Repeal.)** Sections 57-36-15, 57-36-16, and 57-36-22 of the North Dakota Century Code and section 57-36-23 of the 1963 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 19, 1965.

CHAPTER 404

H. B. No. 697
(Giffey, Hoffner, Backes)

DISCOUNTS ON CIGARETTE STAMPS

AN ACT

To amend and reenact section 57-36-10 of the North Dakota Century Code, relating to the discount on the sales of cigarette stamps by the tax commissioner.

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

§ 1. Amendment.) Section 57-36-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-10. Stamps May Be Purchased at Discount.) Any licensed distributor located within or without this state may purchase stamps at a discount of five percent of the face value thereof for the first $100,000.00 of such purchases each fiscal year, and at a discount of four percent of the face value thereof for purchases exceeding that amount each fiscal year, and the tax commissioner may allow such discount in the settlement of the account of such wholesale distributor upon the payment to him of any moneys which may be or become due to the state by reason of the sale, delivery, or consignment to such distributor of such stamps.

Approved March 19, 1965.

CHAPTER 405

H. B. No. 695
(Giffey, Hoffner, Backes)

TAXATION OF CIGARETTES

AN ACT

To levy and collect a separate and additional tax of one-half mill per cigarette for crediting to the general fund.

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

§ 1. Separate and Additional Tax on the Sale of Cigarettes — Collection — Allocation of Revenue — Tax Avoidance Prohibited—Penalty.) There is hereby levied and assessed and

there shall be collected by the proper officer and paid to the state treasurer for crediting to the general fund, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of one-half mill on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures.

No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state treasurer.

Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor.

Approved March 2, 1965.

CHAPTER 406

H. B. No. 929
(Hardmeyer)

GROSS ESTATES FOR TAX PURPOSES

AN ACT

To amend and reenact subsection 4 of section 57-37-02 of the North Dakota Century Code, relating to the inclusion of life insurance proceeds within the gross estate of a resident decedent for estate tax purposes.

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

§ 1. Amendment.) Subsection 4 of section 57-37-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The net proceeds of all life insurance carried by the decedent at the time of his death in excess of twenty-five thousand dollars, whether made payable to his estate, the widow, heirs, individuals, or trusts. For the purpose of determining whether life insurance was carried by the decedent, the words "net proceeds of all life insurance carried by the decedent at the time of his death" shall include the proceeds of any policy with respect to which the decedent possessed at his death any of the incidents of ownership, exercisable either alone or in conjunction with any other person; provided

that for the purposes of this sentence the term "incident of ownership" includes a reversionary interest, whether arising by the express terms of the policy or other instrument or by operation of law, only if the value of such reversionary interest exceeded 5 percent of the value of the policy immediately before the death of the decedent. As used in this subsection, the term "reversionary interest" includes a possibility that the policy, or the proceeds of the policy, may return to the decedent or his estate, or may be subject to a power of disposition by him. The value of a reversionary interest at any time shall be determined, without regard to the fact of the decedent's death, by usual methods of valuation, including the use of tables of mortality and actuarial principles, pursuant to regulations prescribed by the tax commissioner. In determining the value of a possibility that the policy or proceeds thereof may be subject to a power of disposition by the decedent, such possibility shall be valued as if it were a possibility that such policy or proceeds may return to the decedent or his estate.

Approved March 10, 1965.

CHAPTER 407

S. B. No. 261
(Reichert)

POWERS OF APPOINTMENT

AN ACT

To amend and reenact subsection 2 of section 57-37-07 of the 1963 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 1963 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, 1964.

Approved March 6, 1965.

CHAPTER 408

H. B. No. 838
(Anderson, Bruner)

ESTATE TAX PAID ON PRIOR ESTATE

AN ACT

To amend and reenact section 57-37-09 of the North Dakota Century Code, relating to credit for estate tax paid in the prior gross estate of a decedent on property that is included again in the gross estate of a second decedent.

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

§ 1. **Amendment.)** Section 57-37-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-09. Property Previously Taxed.) Whenever property can be identified as having been received by a decedent by gift, bequest, devise, or inheritance within five years prior to decedent's death, or can be identified as having been acquired in exchange for property so received, a credit for any transfer taxes paid pursuant to the provisions of this chapter within five years upon such property shall be allowed upon the transfer tax at his death, but this credit shall not exceed the tax due under the present appraisement of such property for transfer tax purposes.

Approved February 25, 1965.

CHAPTER 409

H. B. No. 930
(Hardmeyer)

SURVIVING SPOUSE EXEMPTION

AN ACT

To amend and reenact subdivision h of subsection 2 of section 57-37-11 of the North Dakota Century Code, relating to an exemption to a surviving spouse for estate tax purposes.

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

§ 1. Amendment.) Subdivision h of subsection 2 of section 57-37-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

h. The aggregate amount of the deductions allowed under this subsection, computed without regard to this subdivision, shall not exceed fifty per centum of the value of the adjusted gross estate or twenty thousand dollars, whichever is the larger. The adjusted gross estate shall, for the purposes of this subdivision, be computed by subtracting from the entire value of the gross estate the aggregate amount of the deductions allowed by subsections three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, and fourteen of this section.

Approved March 10, 1965.

CHAPTER 410

S. B. No. 322
(Holand)

APPRAISALS FOR ESTATE TAX PURPOSES

AN ACT

To amend and reenact section 57-37-21 of the North Dakota Century Code, relating to the basis of appraisals for estate tax purposes.

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

§ 1. Amendment.) Section 57-37-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-21. Basis of Appraisal—Alternate Valuation Date.)

1. The value of the gross estate of the decedent shall be determined by including to the extent provided in this chapter, the value at the time of his death of all property, real or personal, tangible or intangible.

2. In the case of stock and securities of a corporation the value of which, by reason of their not being listed on an exchange and by reason of the absence of sales thereof, cannot be determined with reference to bid and asked prices or with reference to sales prices, the value thereof shall be determined by taking into consideration, in addition to all other factors, the value of stock or securities of corporations engaged in the same or a similar line of business which are listed on an exchange.

3. a. As an alternate method of valuation, the value of the gross estate may be determined, if the executor, administrator, trustee, or other person responsible for obtaining a determination of the tax imposed by this chapter, so elects, by valuing all the property included in the gross estate as follows:

(1) In the case of property distributed, sold, exchanged, or otherwise disposed of, within one year after the decedent's death such property shall be valued as of the date of distribution, sale, exchange, or other disposition.

(2) In the case of property not distributed, sold, exchanged, or otherwise disposed of, within one year after the decedent's death such property shall be valued as of the date one year after the decedent's death.

(3) Any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death, instead of the later date, with adjustment for any difference in its value as of the later date not due to mere lapse of time.

b. Special rules for valuing property under the alternate method are: No deduction under this chapter of any item shall be allowed if allowance for such item is in effect given by the alternate valuation provided by this section. Wherever in any other subsection or section of this chapter reference is made to the value of property at the time of the decedent's death, such reference shall be deemed to refer to the value of

such property used in determining the value of the gross estate. In case of an election made by the executor under this section, then

(1) For the purposes of the deductions provided in subsection 3 of section 57-37-11, any bequest, legacy, devise, or transfer enumerated therein, and

(2) For the purpose of the marital deduction, the exemption provided in subsection 2 of section 57-37-11, any interest in property passing to the surviving spouse, shall be valued as of the date of the decedent's death with adjustment for any difference in value, not due to mere lapse of time or the occurrence or nonoccurrence of a contingency, of the property as of the date one year after the decedent's death, substituting, in the case of property distributed by the executor, administrator, or trustee, or sold, exchanged, or otherwise disposed of, during such one year period, the date thereof.

c. The election provided for in this subsection shall be exercised by the executor, administrator, trustee, or other person responsible for obtaining a determination of the tax imposed by this chapter, on his return if filed within the time the tax imposed by this chapter becomes due and payable.

Approved March 19, 1965.

CHAPTER 411

H. B. No. 830
(Linderman, Wilkie)

LIENS FOR ESTATE TAX PURPOSES

AN ACT

To amend and reenact section 57-37-23 of the North Dakota Century Code, relating to liens for estate tax purposes and the prorating, to beneficiaries, of the amount of the estate tax.

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

§ **1. Amendment.)** Section 57-37-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-23. Lien for Taxes—Beneficiaries to Share Burden of Tax.) 1. Any taxes imposed by this chapter shall be and shall 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 or until the taxes are paid or a bond is given for their payment, whichever occurs first, but such lien shall not affect any tangible or intangible personal property after it has passed to a bona fide purchaser for value; except that nothing herein contained shall give the owner of any securities the right to have the same transferred to him by the corporation, association, company, or trust issuing the same, until a permit from the county court shall have been filed.

2. The lien charged upon any real estate or separate parcel thereof may be discharged by the payment of all taxes due and to become due on said real estate or separate parcel, or by the filing and acceptance of a bond for their payment, or by an order of the county court transferring such lien to other real estate owned by the person to whom said real estate or any separate parcel thereof passes.

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, unless the same is made an expense of administration by the will or other instrument shall have the right to recover such tax or any other tax from the beneficiary acquiring such real estate. In case of a resident decedent, beneficiaries shall share the burden of the tax in proportion to benefits received, unless otherwise provided by will. If a resident decedent leaves property outside of this state, beneficiaries shall share the aggregate burden of the estate tax payable in this state and transfer taxes payable in other states in proportion to aggregate benefits received here and elsewhere, unless otherwise provided by will.

4. If a nonresident decedent leaves property in this state, the entire tax imposed by this state shall be enforceable against any property of the estate, but the court, in its discretion, may make such order or orders as may be best calculated to distribute the aggregate burden equitably in proportion to benefits received. Any unpaid taxes imposed by this chapter prior to the effective date of this section 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 or one year after the effective date of this section, whichever event is the latest in the point of time.

5. Any liens which may have attached to real property pursuant to the provisions of any of the various inheritance tax laws or death tax transfer laws that were in effect prior to the enactment of the provisions of this chapter shall terminate upon July 1, 1965.

Approved February 25, 1965.

CHAPTER 412

H. B. No. 701
(Hardmeyer, Boustead, Aamoth, Shorma)

COLLECTION AND DISTRIBUTION OF ESTATE TAXES

AN ACT

To amend and reenact section 57-37-24 of the 1963 Supplement to the North Dakota Century Code, relating to collection and distribution of estate tax and refunds.

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

§ **1. Amendment.)** Section 57-37-24 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-24. Collection and Distribution of Tax — Refunds.) The county treasurer in the county where the probate is had shall collect the tax levied under this chapter, and shall certify the same to the county auditor at the end of each calendar month. He shall pay over to the state treasurer thirty-five percent of such tax, and the balance of sixty-five percent of such tax is hereby appropriated and shall be distributed by the county treasurer collecting the same among the counties, cities or villages in which any part of the decedent's property was located at the time of his death. If any part of decedent's property was located within the limits of a city or village the share of tax based on such property shall be divided between city or village and the county in proportion to their respective total mill levies, except school levies. If any part of decedent's property was located outside the limits of a city or village, the share of tax based on said property shall go entirely to the county. Real property and tangible personal property shall be deemed located where it has its actual situs at the time of decedent's death, and all other property shall be deemed located at decedent's residence. The share of a city, village or county of the tax shall be deposited to the credit of its general fund. In all cases wherein no county court has jurisdiction, the

amount of the tax shall be determined and collected by the tax commissioner, and the state treasurer shall receive the amount collected from the tax commissioner, deposit thirty-five percent of the amount received to the credit of the general fund of the state and apportion the remaining sixty-five percent thereof to the respective county treasurers of the counties in which is located the property base of such tax, who in turn shall then distribute the tax received in the same manner and amounts as if the tax had been originally collected by said county treasurer, to the county, city or village, as the case may be. No executor, administrator, or trustee shall be entitled to a final discharge in an estate in settlement of which taxes are due, unless he shall produce a receipt showing the payment of such tax. In case an overpayment of such tax has been made, such overpayment shall be repaid out of any estate tax funds in the hands of the county treasurer, upon an order of the county court approved by the tax commissioner. The county treasurer shall thereupon present and file with the state treasurer a verified claim for thirty-five percent of such overpayment of estate taxes accompanied by a certified copy of the order of the county court for such refund and the approval of the state tax commissioner and a copy of the receipt of such refund by the person or persons to whom such refund was paid. The state treasurer shall present such verified claim to the department of accounts and purchases and the same shall be paid upon approval by the state auditing board. In addition, if a portion of the tax has been distributed to another county, or a city or a village, and a refund has been made, the county treasurer making the refund shall file with the treasurer of the county, city or village to which such distribution has been made a copy of the county court's order for such refund and a verified claim for such portion of the amount refunded as is attributable to property located in such other county, city or village.

In any case where the state tax commissioner has collected the entire estate tax, a refund of the whole overpayment shall be made by the state treasurer upon receipt of a verified claim by the party making such overpayment accompanied by a certified copy of the order of refund made by the state tax commissioner. The state treasurer thereupon shall file a certified copy of such order with the county treasurer of the county, city or village which had received any of said tax and the county, city or village treasurer as the case may be shall remit to the state treasurer the city, village or the county's proportionate liability of such refund.

Approved March 18, 1965.

CHAPTER 413

S. B. No. 303
(Reichert, Holland)

TAX DETERMINATION WITHOUT PROBATE

AN ACT

To amend and reenact section 57-37-27 of the North Dakota Century Code, relating to the determination of estate tax on estates when there is no probate proceeding within this state.

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

§ **1. Amendment.)** Section 57-37-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-27. Determination of Tax on Estate When There Is No Probate Proceeding Within the State.) 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.

2. If property of any deceased resident is subject to taxation under the provisions of this chapter, and when, for any reason, no administration of said decedent's estate is being had, or likely to be had, within this state, the county court which would have jurisdiction of said property if an administration was being had shall, upon its own motion or upon the

application of any interested party, proceed to make determination of any tax liability in the same manner and with the same effect as if the determination were made in connection with an administration or determination of heirship. Provided, further, that if the circumstances render it impractical or impossible to determine values by the usual practice of three appointed appraisers, the court may hear such proof as is available and make its findings of value in lieu of an appraisal.

Approved March 1, 1965.

CHAPTER 414

H. B. No. 673
(Ganser, Burk)

RELEASE OF MONEYS IN JOINT ACCOUNTS

AN ACT

To amend and reenact section 57-37-29 of the North Dakota Century Code, relating to the release of moneys in joint accounts in cases where one of the joint holders dies.

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

§ 1. Amendment.) Section 57-37-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-29. Depositaries—Attention of Securities—Exemption, How Secured.) 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. 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. 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. Provided, however, in the case 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.

Approved March 2, 1965.

CHAPTER 415

H. B. No. 857
(Glaspey)

INCOME TAX DEFINITIONS

AN ACT

To create and enact new subsections to section 57-38-01 of the 1963 Supplement to 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.) Section 57-38-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended by creating and enacting new subsections to read as follows:

"Employer" means any person including, individuals, fiduciaries, estates, trusts, partnerships and corporations

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. The term includes the United States, the state and all political subdivisions thereof and all agencies or instrumentalities of any of them. The term employer as used in this chapter shall also mean taxpayer as used in this chapter.

"Employee" means and includes any resident individual performing services for an employer, either within or without, or both within and without the state of North Dakota, and every nonresident individual performing services within the state of North Dakota, the performance of which services 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.

"Wages" means wages as defined in the United States Internal Revenue Code of 1954, as amended, for the purpose of collection of income tax at the source, on wages.

"Calendar quarter" means the period of three consecutive months ending March 31, June 30, September 30 or December 31.

"Payroll period" means a period for which a payment of wages is ordinarily made to the employee, whether weekly, biweekly, semimonthly, quarterly or daily or any other fixed period.

Approved March 15, 1965.

CHAPTER 416

H. B. No. 615
(Meschke)

DEFINITION OF INTERNAL REVENUE CODE

AN ACT

To amend and reenact subsection 21 of section 57-38-01 of the 1963 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 1963 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, 1964.

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 1964 and for fiscal years ended during 1964 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 25, 1965.

CHAPTER 417

H. B. No. 853
(Glaspey)

TAX COMMISSIONER EXEMPT FROM FEES

AN ACT

To amend and reenact section 57-38-49 and 57-38-50 of the North Dakota Century Code, exempting the tax commissioner from paying filing and recording fees for the filing and recording of notices of income tax liens and satisfactions thereof.

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

§ 1. Amendment.) Section 57-38-49 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-49. Preservation of Lien.) In order to preserve the lien provided in section 57-38-48 against subsequent mortgages, purchasers or judgment creditors, for value and without notice of the lien, on any property situated in any 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. The register of deeds of each county shall prepare and keep in his office a book to be known as index of tax liens, so ruled as to show in appropriate columns the following data, under the names of taxpayers arranged alphabetically:

1. The name of the taxpayer;
2. The name "State of North Dakota" as claimant;
3. Time notice of lien was received;
4. Date of notice;
5. Amount of lien then due;
6. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and shall preserve the same, and forthwith shall index said notice in the index book and shall record the lien in the manner provided for recording real estate mortgages. Such lien shall be effective as against subsequent creditors, purchasers, and encumbrancers from the time of the recording thereof. The register of deeds shall accept any such lien for filing and recording when it is received with no payment of fees or costs to be made on behalf of the tax commissioner.

§ 2. **Amendment.)** Section 57-38-50 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-50. Satisfaction of Lien.) Upon the payment of a tax, together with any penalties and interest attached, as to which the tax commissioner has filed a notice of lien with the register of deeds, the tax commissioner forthwith shall file with said register of deeds a satisfaction of such tax and lien and the register of deeds shall enter such satisfaction on the notice on file in his office and shall indicate that fact on the index with no payment of fees or costs to be made on behalf of the tax commissioner.

Approved February 25, 1965.

CHAPTER 418

H. B. No. 829
(Linderman, Wilkie)

INCOME TAX COLLECTIONS AND REFUNDS

AN ACT

Relating to limitation of income tax refunds to amounts over one dollar and income tax assessments and collections to amounts over one dollar; application of refunds and credits to delinquent income taxes; provide for an effective date.

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

§ 1. **Minimum Refunds and Collections.)**

1. No income tax refunds shall be made by the tax commissioner to any taxpayer unless the amount to be refunded shall exceed one dollar.

2. No remittance of income tax need be made nor any assessment or collection of tax should be made unless the amount exceeds one dollar, including penalties and interest.

§ 2. **Application of Refunds and Credits.)** All refunds and credits for overpayment to any taxpayer may be applied to payment of taxpayer's delinquent income taxes or delayed until taxpayer's delinquent returns have been filed.

§ 3.) The provisions of this section to be effective for all returns filed after December 31, 1964.

Approved March 15, 1965.

CHAPTER 419

S. B. No. 306
(Becker, Solberg)

UNIFORM DIVISION OF INCOME TAX ACT

AN ACT

To provide for a uniform division of income for tax purposes for taxpayers engaged in multistate business activities.

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. "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations;

2. "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed;

3. "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services;

4. "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

5. "Nonbusiness income" means all income other than business income;

6. "Public utility" means any business entity which owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, oil, oil products, or gas;

7. "Sales" means all gross receipts of the taxpayer not allocated under sections 4 through 8 of this Act; and

8. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

§ 2. **Taxpayers—Applicability.)** Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this Act.

§ 3. **Nonresident Taxpayer.)** For purposes of allocation and apportionment of income under this Act, a taxpayer is taxable in another state if:

1. In that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

2. That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

§ 4. **Certain Items—Allocation.)** Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in sections 5 through 8 of this Act.

§ 5. **Rent and Royalties.)** 1. Net rents and royalties from real property located in this state are allocable to this state.

2. Net rents and royalties from tangible personal property are allocable to this state:

a. If and to the extent that the property is utilized in this state; or

b. In their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

3. The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by

the taxpayer tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

§ 6. **Property—Capital Gains and Losses.)** 1. Capital gains and losses from sales of real property located in this state are allocable to this state.

2. Capital gains and losses from sales of tangible personal property are allocable to this state if:

a. The property had a situs in this state at the time of the sale; or

b. The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

3. Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

§ 7. **Interest and Dividends.)** Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

§ 8. **Patents and Copyrights.)** 1. Patent and copyright royalties are allocable to this state:

a. If and to the extent that the patent or copyright is utilized by the payer in this state; or

b. If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

2. A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

3. A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

§ 9. **Business Income.)** All business income shall be apportioned to this state by multiplying the income by a fraction, the

numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

§ 10. **Property Factor.)** The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

§ 11. **Property Owned and Rented.)** Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

§ 12. **Average Value of Property.)** The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax commissioner may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

§ 13. **Payroll Factor.)** The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

§ 14. **Compensation.)** Compensation is paid in this state if:

1. The individual's service is performed entirely within the state; or

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and:

   a. The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

   b. The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

§ 15. **Sales Factor.)** The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this

state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

§ 16. Local Tangible Personal Property Sales.) Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and:

   a. The purchaser is the United States government; or

   b. The taxpayer is not taxable in the state of the purchaser.

§ 17. Other Sales.) Sales, other than sales of tangible personal property, are in this state if:

1. The income-producing activity is performed in this state; or

2. The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

§ 18. Additional Methods of Determining Business Situs.) If the allocation and apportionment provisions of this Act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

1. Separate accounting;

2. The exclusion of any one or more of the factors;

3. The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

4. The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

§ 19. Purpose.) This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 20. Citation of Act.) This Act may be cited as the "Uniform Division of Income for Tax Purposes Act".

§ 21. Effective Date.) The provisions of this Act shall apply to all income accruing after January 1, 1965, for taxpayers operating on a calendar year basis, and shall apply to income accruing in 1965 after the beginning of their fiscal year for taxpayers operating on a fiscal year basis.

Approved March 15, 1965.

CHAPTER 420

H. B. No. 862
(Wilkie, Larson (Richland), Linderman)

SALES TAX DEFINITIONS

AN ACT

To amend and reenact subsection 1 of section 57-39-01 of the 1963 Supplement to the North Dakota Century Code and subsection 5 of section 57-39-01 of the 1963 Supplement to the North Dakota Century Code, relating to the definition of the terms "person" and "retailer" for sales tax purposes.

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

§ 1. Amendment.) Subsection 1 of section *57-39-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 and shall also include the state of North Dakota or any other state or any subdivision, department, institution or political subdivision of the state of North Dakota or of any other state which furnishes or sells to members of the public in its proprietary capacity any article, service, amusement, accommodation, or any other thing that is subject to taxation under the provisions of this chapter or chapter 57-40 of the North Dakota Century Code;

§ 2. Amendment.) Subsection 5 of section *57-39-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accom-

***Note:** The provisions of chapter 420 were also amended by section 19, chapter 386, 1965 S.L.

modations, 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 services relating to personal property, or magazines, or other periodicals; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in manner provided in this chapter;

Approved March 6, 1965.

CHAPTER 421

H. B. No. 809
(Dornacker)

SALES AND USE TAX DEFINITIONS

AN ACT

To amend and reenact subsection 6 of section 57-39-01 of the 1963 Supplement to the North Dakota Century Code, subsection 1 of section 57-40-01 of the North Dakota Century Code, subsection 5 of section 57-40-01 of the 1963 Supplement to the North Dakota Century Code, and to create and enact subsection 11 of section 57-40-01, all relating to definitions for sales and use tax purposes.

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

§ 1. Amendment.) Subsection 6 of section 57-39-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money

***Note:** Subsection 6 of section 57-39-01 was also amended by section 19, chapter 386, 1965 S.L.

or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, however, that when tangible personal property is taken in trade or in a series of trades as a credit or part payment on a retail sale taxable under this chapter, if the tangible personal property traded in will be subject to the sales tax imposed by this chapter 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 chapter, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription;

§ 2. **Amendment.)** Subsection 1 of section 57-40-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*1. "Persons," "sale," "retail sale," "business," "relief agency," "commissioner," "local government unit," each shall have the meaning given to it in section 57-39-01;

§ 3. **Amendment.)** Subsection 5 of section 57-40-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*__Note:__ Subsection 1 of section 57-40-01 was also amended by section 24, chapter 386, 1965 S.L.

*5. "Purchase price" means the total amount without any deduction for trade-in allowances for which tangible personal property is sold, leased, or rented, valued in money, whether paid in money or otherwise, but cash discounts allowed and taken on sales shall not be included. "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 of the sand or gravel 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 chapter that one and one-half tons of sand or gravel of two thousand pounds per ton shall be equal to one cubic yard of sand or gravel;

*Note: Subsection 5 of section 57-40-01 was also amended by section 24, chapter 386, 1965 S.L., and section 1, chapter 432, 1965 S.L.

§ 4.) Subsection 11 of section 57-40-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

*11. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this chapter, as has actually been received in cash by the retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which

*Note: Subsection 11 was also created by section 27, chapter 386, 1965 S.L.

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.

Approved March 19, 1965.

CHAPTER 422

S. B. No. 348
(Kisse)

SALES TAX DEFINITIONS AND EXEMPTIONS

AN ACT

To amend and reenact subsection 5 of section 57-39-03 of the North Dakota Century Code, relating to the exemption of gross receipts from sales of books and school supplies by public school boards, parochial or private nonprofit schools to create and enact a new subsection to section 57-39-03 of the North Dakota Century Code, to provide an exemption of gross receipts of hospitals, infirmaries, sanatoriums, nursing homes, homes for the aged and like institutions from sales of services to patients or occupants; and to amend and reenact subsection 3 of section 57-39-01 of the 1963 Supplement to the North Dakota Century Code, relating to definition of "retail sale".

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

§ 1. Amendment.) Subsection 5 of section 57-39-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*5. Gross receipts from the sale of books and school supplies to regularly enrolled students when sold at cost by any school board of this state or by any parochial or private nonprofit school conducting courses of study similar to those in public schools in this state;

§ 2. Amendment.) Section 57-39-03 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection thereto to read as follows:

*__Note:__ Subsection 5 of section 57-39-03 was also amended by section 21, chapter 386, 1965 S.L.

*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.

***Note:** A new subsection identical to section 2, chapter 422, 1965 S.L., was also created by section 23, chapter 386, 1965 S.L.

§ 3. Amendment.) Subsection 3 of section 57-39-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*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, services relating to personal property, tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale. As used in this subsection the word "consumer" shall include any hospital, infirmary, sanatorium, nursing home, home for

***Note:** Subsection 3 of section 57-39-01 was also amended by section 19, chapter 386, 1965 S.L.

the aged or similar institution that furnishes services to any patient or occupant;

Approved March 15, 1965.

CHAPTER 423

H. B. No. 631
(Kvasager, Bergman, Unruh)

SALES TAX EXEMPTIONS OF GOVERNMENTAL BODIES

AN ACT

To amend and reenact subsection 6 of section 57-39-03 of the North Dakota Century Code, relating to the exemption of gross receipts from all sales to the United States, and states thereof, including institutions, departments or political subdivisions thereof.

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

§ 1. **Amendment.)** Subsection 6 of section 57-39-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Gross receipts from all sales otherwise taxable under this chapter 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;

Approved February 26, 1965.

CHAPTER 424

S. B. No. 117
(Berube, Walz, Tuff, Kadlec, Bopp)

SALES TAX EXEMPTION FOR AGRICULTURAL FEED

AN ACT

To create and enact a subsection of section 57-39-03 of the North Dakota Century Code providing an exemption for livestock and poultry feed for sales tax purposes.

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

§ 1.) Section 57-39-03 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection, to read as follows:

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.

Approved March 6, 1965.

CHAPTER 425

H. B. No. 921
(Obie, Larsen (Grand Forks), Stockman, Froeschle, Hilleboe,)
(Ruddy, Kvasager, Olafson, Aamoth, Whittlesey, Duncan)

NONRESIDENT SALES TAX EXEMPTION

AN ACT

To create and enact a new subsection to section 57-39-03 of the North Dakota Century Code, relating to exemptions from sales taxes.

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

§ 1.) Section 57-39-03 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection to read as follows:

Gross receipts from all sales otherwise taxable under this chapter 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.

Approved March 6, 1965.

CHAPTER 426

H. B. No. 676
(Stenhjem, Aamoth, Lundene, Obie, Elkin, Krenz)

SALES TAX CREDITS AND REFUNDS

AN ACT

To amend and reenact sections 57-39-04 and 47-40-16 of the North Dakota Century Code, relating to credits and refunds for sales or use taxes paid on worthless accounts and repossessed merchandise.

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

§ 1. Amendment.) Section 57-39-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-04. 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 57-39-01, 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.

§ 2. **Amendment.)** Section 57-40-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40-16. Provisions of Sales Tax Law Applicable.) The provisions of chapter 57-39, pertaining to the administration of the retail sales tax, including provisions for refund or credit provided therein, not in conflict with the provisions of this chapter, shall govern the administration of the tax levied in this chapter.

Approved March 6, 1965.

CHAPTER 427

H. B. No. 534
(Backes, Davis, Dornacker, Giffey, Hauf, Knudsen,)
(Miller, Shablow, Wilkie)
(From LRC Study)

SALES TAX ADMINISTRATION

AN ACT

To amend and reenact subsection 2 of section 57-39-09, sections 57-39-12 and 57-39-13, subsection 1 of section 57-39-14, subsection 1 of section 57-39-16, subsection 5 of section 57-40-06, and subsection 1 of 57-40-18 of the North Dakota Century Code, relating to the administration of and hearings upon sales and use tax returns, the issuance and fees for sales tax permits, and civil penalties for failure to file returns or pay taxes due within the proper time.

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

§ 1. **Amendment.)** Subsection 2 of section 57-39-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The commissioner, if he deems it necessary or advisable in order to insure the payment of the tax imposed by this chapter, 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 chapter 57-39 to the contrary notwithstanding; and

§ 2. **Amendment.)** Section 57-39-12 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-12.) 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, co-partnership, 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 this chapter or any rules or regulations prescribed by the commissioner and adopted under this chapter, or whenever the holder of a permit shall file returns showing no tax due for four consecutive quarters, the commissioner upon hearing after giving ten days' notice of the time and place of the hearing to show cause why his permit should

not be revoked, may revoke the permit. The commissioner also shall have the power to restore licenses after such revocation.

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; and

6. All permits in effect at the time this chapter takes effect are hereby continued and shall remain in full force and effect unless revoked as herein provided; provided that the commissioner may issue a new form of permit to replace, at no charge to the permit holders, all permits previously granted and issued that have not been revoked or surrendered.

§ 3. **Amendment.)** Section 57-39-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-13. Failure to File Return—Incorrect Return.) If a return required by this chapter 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.

§ 4. **Amendment.)** Subsection 1 of section 57-39-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 57-39-13;

§ 5. **Amendment.)** Subsection 1 of section 57-39-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person failing to file a return or corrected return or to pay any tax within the time required by this chapter,

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 chapter. Unpaid penalties may be enforced in the same manner as the tax imposed by this chapter;

§ 6. Amendment.) Subsection 5 of section 57-40-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 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 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 insure 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 chapter to the contrary notwithstanding. A return shall be signed by the taxpayer or his duly authorized agent and must be verified by oath;

§ 7. Amendment.) Subsection 1 of section 57-40-18 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person failing to file a return or corrected return or to pay any tax imposed pursuant to section 57-40-02, within the time required by this chapter, 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 attached. Unpaid penalties may be enforced in the same manner as is the tax;

Approved March 1, 1965.

CHAPTER 428

H. B. No. 904
(Stenhjem, Ivesdahl)

BONDS REQUIRED BY TAX COMMISSIONER

AN ACT

To amend and reenact subsection 3 of section 57-39-10, subsection 3 of section 57-39-19, and subsection 3 of section 57-39-20, and section 57-39-24 of the 1963 Supplement to the North Dakota Century Code, relating to bonds to secure collection of tax, general powers of the tax commissioner, and bonds for officers, agents and employees of the tax commissioner.

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

§ **1. Amendment.)** Subsection 3 of section 57-39-10 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 this chapter, 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 chapter 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 chapter, 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.

§ 2. **Amendment.)** Subsection 3 of section 57-39-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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;

§ 3. **Amendment.)** Subsection 3 of section 57-39-20 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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. **Amendment.)** Section 57-39-24 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-24. Allocation of Revenue.) All moneys collected and received under this chapter shall be paid into the state treasury and shall be credited by the state treasurer to the general fund. 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 57-39-10.

Approved March 10, 1965.

CHAPTER 429

S. B. No. 242
(Van Horn)

TAX COMMISSIONER EXEMPT FROM FILING FEES

AN ACT

To amend and reenact subsection 5 of section 57-39-11 and subsection 5 of section 57-40-19 of the 1963 Supplement to the North Dakota Century Code to exempt the state tax commissioner from paying filing and recording fees for the filing and recording of notices of sales and use tax liens and satisfactions thereof.

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

§ **1. Amendment.)** Subsection 5 of section 57-39-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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;

§ **2. Amendment.)** Subsection 5 of section 57-40-19 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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;

Approved February 26, 1965.

CHAPTER 430

S. B. No. 247
(Tuff)

DEPOSIT OF FEES AND PENALTIES

AN ACT

To amend and reenact section 57-39-18 of the 1963 Supplement to the North Dakota Century Code, relating to the payment of sales taxes, penalties and other charges to the state tax commissioner and provides for the disposition of funds collected.

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

§ 1. Amendment.) Section 57-39-18 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-18. Tax, Penalties and Other Charges Paid to Commissioner—Disposition.) All fees, taxes, penalties and other charges imposed and collected under this chapter 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.

Approved March 1, 1965.

CHAPTER 431

H. B. No. 692
(Giffey, Hoffner, Backes)

MOTOR VEHICLE EXCISE TAX

AN ACT

Relating to the imposition of an excise tax on motor vehicles acquired in the state of North Dakota upon which retail sales tax has not been paid; providing a penalty, and to amend and reenact section 57-40.1-02 of the 1963 Supplement to the North Dakota Century Code, relating to the imposition of an excise tax on motor vehicles.

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. "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;

2. "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;

3. "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;

4. "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, provided, however, that 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;

5. "Motor vehicle registrar" shall mean the registrar of motor vehicles who is the officer in charge of the motor vehicle department of this state;

6. "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 by a licensed motor vehicle dealer in this state of such a vehicle in the regular course of business.

§ 2. Tax on the Sale of Motor Vehicles.) There is hereby imposed an excise tax of 2% of the purchase price of any motor vehicle purchased or acquired in 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. 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.

§ 4. 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 in this state 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.

§ 5. Exemptions.) There are specifically exempted from the provisions of this Act and from the computation of the amount of tax imposed by it, any motor vehicle upon the sale of which the retail sales tax imposed by the provisions of chapter 57-39 has been paid, provided that this exemption shall not be allowed unless the person making application for title or license registration shall furnish to the motor vehicle registrar a certificate from a retailer in the state of North Dakota, upon a form furnished by the motor vehicle registrar, certifying that such retailer has paid the retail sales tax prescribed by the provisions of chapter 57-39.

§ 6. Title or License Registration Not To Be Issued Unless Tax Imposed by This Act or Certification That the Tax Imposed by Chapter 57-39 of the North Dakota Century Code Has Been Paid.) No title or license registration shall be issued by the motor vehicle registrar for the ownership or operation of any motor vehicle purchased in this state 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 1 of this Act shall be paid by the applicant to the motor vehicle registrar, or unless and until the tax upon the sale and purchase of such vehicle as provided by chapter 57-39 of the North Dakota Century Code has been paid and certification of such payment is furnished to the motor vehicle registrar as provided in this Act.

§ 7. 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.

§ 8. Motor Vehicle Registrar to Administer Act.) The motor vehicle registrar is hereby charged with the administration of this Act and the taxes imposed thereby. The motor vehicle registrar may prescribe all rules and regulations not inconsistent with the provisions of this Act, necessary and advisable for its detailed administration.

§ 9. Allocation of Revenue.) All moneys collected and received under this chapter shall be transmitted monthly by the motor vehicle registrar to the state treasurer and shall be credited by the state treasurer to the general fund.

§ 10. Amendment.) Section 57-40.1-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-40.1-02. Tax Imposed.)** There is hereby imposed an excise tax of two percent of the purchase price of any motor vehicle purchased or acquired 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, and a like rate of tax upon the purchase price of any mobile home purchased or acquired for use in this state.

Approved March 6, 1965.

***Note:** Section 57-40.1-02 was also amended by section 31, chapter 386, 1965 S.L.

Note: See section 35, chapter 386, 1965 S.L.

CHAPTER 432

S. B. No. 266
(Tuff)

USE TAX DEFINITIONS

AN ACT

To amend and reenact subsections 2, 4, 5, 6, and 10 of section 57-40-01 of the North Dakota Century Code, relating to definitions for use tax purposes, and declaring an emergency.

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

§ 1. Amendment.) Subsections 2, 4, 5, 6, and 10 of section 57-40-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

*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;

*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;

***Note:** Subsections 2 and 4 of section 57-40-01 were also amended by section 24, chapter 386, 1965 S.L.

*5. "Purchase price" means the total amount for which tangible personal property is sold, leased, or rented, valued in money, whether paid in money or otherwise, but cash discounts allowed and taken on sales shall not be included. "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 of the sand or gravel 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 chapter that one and one-half tons of sand or gravel of two thousand pounds per ton shall be equal to one cubic yard of sand or gravel;

***Note:** Subsection 5 of section 57-40-01 was also amended by section 24, chapter 386, 1965 S.L., and section 3, chapter 421, 1965 S.L.

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;

***Note:** Subdivision a of subsection 6 of section 57-40-01 was also amended by section 25, chapter 386, 1965 S.L.

b. Machinery, appliances, apparatus, and other like property when leased for use within this state, or when purchased without this state and used or operated by the owner or lessee thereof within this state;

c. Subscriptions to magazines and other periodicals regardless of whether or not such magazines and subscriptions are to be delivered in the future and regardless of whether or not they are in existence at the time of the purchase of any subscriptions;

*d. Sand or gravel severed from the soil;

***Note:** Section 26, chapter 386, 1965 S.L., also provides for a new subdivision for subsection 6 of section 57-40-01, the text of which is identical to subdivision d of subsection 10 of section 57-40-01 as found in this chapter.

*10. "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 severing of sand or gravel for use in this 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 March 19, 1965.

*__Note:__ Subsection 10 of section 57-40-01 was also amended by section 24, chapter 386, 1965 S.L.

CHAPTER 433

H. B. No. 846
(Leer, Meyer)

USE TAX DEFINITION OF TERM "PROCESSING"

AN ACT

To amend and reenact subsection 3 of section 57-40-01 of the 1963 Supplement to the North Dakota Century Code, relating to the definition of "processing" as that term is used for use tax purposes.

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

§ 1. Amendment.) Subsection 3 of section 57-40-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40-01. Definitions.) In this chapter, unless the context and subject matter otherwise require:

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;

Approved February 25, 1965.

CHAPTER 434

H. B. No. 536
(Backes, Davis, Dornacker, Giffey, Hauf, Knudsen,)
(Miller, Shablow, Wilkie)
(From LRC Study)

DEFINITION OF RETAILER

AN ACT

To amend and reenact subsections 7 and 8 of section 57-40-01 of the North Dakota Century Code, relating to the definition of "retailer" and "retailer maintaining a place of business in this state" for use tax purposes.

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

§ 1. Amendment.) Subsections 7 and 8 of section 57-40-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

*7. "Retailer" includes every person engaged in the business of selling tangible personal property for use within the meaning of this chapter, every vendor who makes deliveries into this state in his own vehicle or by contract carrier as defined in subsection 9 of section 49-18-01, and every vendor sending catalogs or other circulars into this state offering merchandise for sale to North Dakota customers; but, when in the opinion of the commissioner, it is necessary for the efficient administration of this chapter 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 this chapter;

*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, any vendor making deliveries

*__Note:__ Subsections 7 and 8 of section 57-40-01 were also amended by section 24, chapter 386, 1965 S.L.

into this state by his own vehicle or by contract carrier as defined in subsection 9 of section 49-18-01, and any vendor sending catalogs or other circulars into this state offering merchandise for sale to North Dakota customers, 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;

Approved March 2, 1965.

CHAPTER 435

H. B. No. 535
(Backes, Davis, Dornacker, Giffey, Hauf, Knudsen,)
(Miller, Shablow, Wilkie)
(From LRC Study)

USE TAX EXEMPTION

AN ACT

To amend and reenact subsection 1 of section 57-40-03 of the North Dakota Century Code, relating to exemptions from the use tax, and declaring an emergency.

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

§ 1. **Amendment.)** Subsection 1 of section 57-40-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any tangible personal property or taxable service upon the sale of which the retail sales tax imposed by section 57-39-02 has been collected by a retailer holding the permit prescribed by section 57-39-12;

§ 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, 1965.

CHAPTER 436

H. B. No. 825
(Meyer, Leer)

REMITTANCE OF USE TAX

AN ACT

To amend and reenact subsection 4 of section 57-40-06 of the 1963 Supplement to the North Dakota Century Code, relating to the due dates and the payment of use tax to the state tax commissioner.

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

§ 1. Amendment.) Subsection 4 of section 57-40-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 57-40-18. 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;

Approved February 25, 1965.

CHAPTER 437

H. B. No. 810
(Dornacker)

USE TAX CREDITS

AN ACT

To amend and reenact section 57-40-10 of the 1963 Supplement to the North Dakota Century Code, relating to articles taxed in other states or political subdivisions thereof.

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

§ 1. Amendment.) Section 57-40-10 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40-10. 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 this chapter, the provisions of this chapter shall apply, but at a rate measured by the difference only between the rate fixed in this chapter and the rate by which the previous tax upon the sale or use was computed. If the tax imposed in such other state is the same or more, then no tax shall be due on such article. The provisions of this section shall apply only if such other state 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.

Approved February 25, 1965.

CHAPTER 438

S. B. No. 40
(Hernett, Holland, Kisse, Lips, Van Horn)
(From LRC Study)

MOTOR VEHICLE USE TAX ADMINISTRATION

AN ACT

To create and enact section 57-40.1-09 of the North Dakota Century Code, and to amend and reenact subsection 2 of section 57-40.1-01 and section 57-40.1-07 of the North Dakota Century Code, to provide that the state tax commissioner shall administer the motor vehicle use tax and that the motor vehicle registrar shall act as the agent of the tax commissioner for the purpose of collecting the motor vehicle use tax, and providing for the deposit of fifty percent of the revenue in the general fund and fifty percent in the motor vehicle registration fund.

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

§ **1. Amendment.)** Subsection 2 of section 57-40.1-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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;

§ **2. Amendment.)** Section 57-40.1-07 of the 1963 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 paid to the state treasurer to be transferred and credited to the general fund and fifty percent to the motor vehicle registration fund.

§ **3).** Section 57-40.1-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-40.1-09. 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 chapter. The tax commissioner may prescribe all rules and regulations, not inconsistent with the provisions of this chapter, necessary and advisable for the proper and efficient

administration of the motor vehicle use tax. The collection of the motor vehicle use 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 chapter, that may be prescribed by the tax commissioner. The provisions of this section shall not be construed as preventing the collection of motor vehicle use taxes by the tax commissioner in the course of any audit carried on by the tax commissioner.

§ 4. 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 use tax deposited in the motor vehicle registration fund shall be distributed by the state treasurer to the county highway funds and the special municipal highway funds of each county in such manner and in such amounts so that each county highway fund and each special municipal highway fund shall receive a total sum out of the motor vehicle registration fund equal to that which it would have received under subsection 3 of section 39-04-39, if all of the motor vehicle use tax had been deposited in the motor vehicle registration fund.

Approved March 6, 1965.

CHAPTER 439

S. B. No. 255
(Larson)

RELEVY OF INVALID PROPERTY TAXES

AN ACT

To amend and reenact section 57-44-03 of the North Dakota Century Code, relating to relevy of invalid property taxes.

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

§ 1. Amendment.) Section 57-44-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-44-03. How Tax Computed and Spread.) After the board of county commissioners has levied such tax, the county auditor shall apply the consolidated mill levy for the year for which such levy is made to the net assessed valuation of property involved and shall spread the proper tax charges upon the tax list of the county.

Approved March 15, 1965.

CHAPTER 440

S. B. No. 251
(Kadlec)

PAYMENT OF OIL AND GAS PRODUCTION TAX

AN ACT

To amend and reenact sections 57-51-05, 57-51-06 and 57-51-17 of the North Dakota Century Code, relating to the due dates and delinquency dates for paying gross production taxes and for the filing of reports by producers, purchasers and carriers pursuant to the provisions of the oil and gas gross production tax law.

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

§ 1. Amendment.) Section 57-51-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-51-05. Payment of Tax on Quarterly Basis — When Tax Due — When Delinquent — Payment by Purchaser—By Producer—How Casinghead Gas Taxed.) 1. The gross production tax on oil or gas, as herein provided, shall be paid on a quarterly basis. Said tax shall become due on the forty-fifth day following the preceding quarterly period on all oil or gas produced in and saved during the preceding quarterly period, and, if the tax is not paid on or before the end of the forty-fifth day, it shall become delinquent and shall be collected as herein provided. The tax commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax and when such a request is granted the tax shall not be delinquent until the extended period has expired.

2. On oil or gas sold at the time of production, the gross production tax thereon shall be paid by the purchaser, and such purchaser shall and is hereby authorized to deduct in making settlement with the producer or royalty owner, the amount of tax so paid; provided, that in the event oil on which such gross production tax becomes due is not sold at the time of production but is retained by the producer, the tax on such oil not so sold shall be paid by the producer for himself including the tax due on royalty oil not sold; provided further, that in settlement with the royalty owner such producer shall have the right to deduct the amount of such tax so paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of the tax paid.

3. Gas when produced and utilized in any manner, except when used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas therefrom, or for repressuring thereon, shall be considered for the purpose of this chapter, as to the amount utilized, as gas actually produced and saved.

4. In case oil or gas is sold under circumstances where the sale price does not represent the cash price thereof prevailing for oil or gas of like kind, character or quality in the field from which such product is produced, the state tax commissioner may require the said tax to be paid upon the basis of the prevailing price then being paid at the time of production thereof in said field for oil, or gas of like kind, quality and character.

§ 2. **Amendment.)** Section 57-51-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-51-06. Tax Paid to Tax Commissioner — Statements by Person Paying Tax—Statements by Producer.) The tax herein provided for shall be paid to the commissioner and the person paying the tax shall file with said commissioner at the time the tax is required to be paid, a statement, under oath, on forms prescribed by said commissioner, giving other information required, the following:

1. Full description of the property by lease name, subdivision of quarter section, section, township and range, from which said oil or gas was produced;
2. The name of the producer;
3. The gross amount of said oil or gas purchased;
4. The total value of such oil or gas at the price paid therefor, if purchased at time of production; and
5. The prevailing market price of oil or gas sold at time of production; provided, that in lieu of such statement, a purchaser, at time of production, may furnish a true verified copy of the regular settlement sheet in use by such purchaser, if such sheet contains all the information required.

Any person engaged in the production within this state of oil or gas, shall on or before the forty-fifth day following the preceding quarterly period file with the commissioner a statement under oath upon forms prescribed by said commissioner, giving, along with other information required, the following:

1. Name of the property, description by subdivision of quarter section, section, township and range;
2. The gross amount of oil or gas produced and saved;
3. The name of the purchaser and the price received therefor; and
4. Each report required hereunder shall be filed on separate forms as to product and county.

Reports from either the purchaser or producer, as the case may be, shall be delinquent after the last day fixed for filing the same, and every person required to file such report shall be subject to penalty of twenty-five dollars per day for each property upon which such person shall fail or refuse to file such reports. The penalties herein prescribed shall be for failure to file reports and shall be in addition to the penalty imposed at the rate of seven percent per annum for delinquent tax, and shall likewise constitute a lien against the assets of such person failing or refusing to file such reports. The penalties prescribed under this section shall be collected in the same manner as gross production taxes and shall be apportioned as other gross production tax penalties; provided that the commissioner may, for good cause shown, remit any penalties imposed under this section. When royalty is claimed to be exempt from taxation by law, the facts on which such claims of exemption are based and such other information pertaining thereto as the commissioner may require shall be furnished in the report.

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

57-51-17. Reports by Carriers of Oil and Gas Transported—Reports of Refiners—Reports by Persons Purchasing or Storing Oil.) It shall be the duty of every railroad company, pipeline or transportation company to furnish to the commissioner, upon forms prescribed by him, any and all information relative to the transportation of oil or gas subject to gross production tax, that may be required to properly enforce the provisions of this chapter; and such report shall contain, along with other information required, the name of shipper, amount of oil and gas transported, point of receipt of shipment and point of destination; said commissioner may require any such pipeline or transportation company to install suitable measuring devices to enable such company to include in such reports the quantity of oil or gas transported within, into, out of, or across the state of North Dakota. It shall be the duty of every person engaged in the operation of a refinery for the processing of oil or gas,

in the state of North Dakota to furnish quarterly to the commissioner, upon forms prescribed by him, any and all information relative to the amount of oil or gas subject to gross production tax that has been processed by it during such quarterly period, and oil on hand at the close of such period, that may be required to properly enforce the provisions of this chapter. It shall be the duty of every person engaged in the purchase or storing of oil subject to gross production tax in the state of North Dakota to furnish quarterly a report to the commissioner, upon forms prescribed by him, showing the amount of such oil in storage, giving, along with other information required, the location, identity, character and capacity of the storage receptacle in which such oil is stored. All such reports shall be filed for each quarter and shall be delinquent if not filed on or before the forty-fifth day following the preceding quarterly period.

The failure of any person to comply with the provisions of this section shall make any such person liable to a penalty of twenty-five dollars for each day it shall fail or refuse to furnish such statement or comply with the provisions of this chapter; and such penalty may be recovered at the suit of the state, on relation of the commissioner; and such penalty so collected shall be apportioned to the state general fund.

Approved March 15, 1965.

CHAPTER 441

S. B. No. 132
(Morgan, Roen, Weber, Reichert)

MOTOR VEHICLE FUEL USE TAX

AN ACT

To create and enact chapter 57-54.1 of the North Dakota Century Code, imposing a tax on motor vehicle fuel imported for use upon public highways in this state, providing for the administration and enforcement thereof and providing a penalty.

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

§ 1.) Chapter 57-54.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-54.1-01. Title.) This chapter may be cited as the Importers for Use Tax Act.

57-54.1-02. Statement of Purpose.) The purpose of this chapter is to supplement chapters 57-52 and 57-54, by imposing a tax upon motor fuel imported for use within this state, not subject to the tax imposed by chapters 57-52 and 57-54.

57-54.1-03. Definitions.) For the purposes of this chapter:

1. "Use" means the consumption of motor fuel by any person in a motor vehicle for the propulsion thereof upon the public highways;
2. "Special fuel" means special fuel as defined in the Special Fuels Tax Act, subsection 4 of section 57-52-03;
3. "Motor vehicle fuel" means motor vehicle fuel as defined in section 57-54-03;
4. "Motor vehicle" means any self-propelled vehicle licensed or required to be licensed under the motor vehicle law, except those operated on or over fixed rails and aircraft;
5. "Person" means every individual, firm, association, joint stock company, syndicate, corporation, city, town, county or other political subdivision of this state, wherever used in any portion of this article prescribing or imposing a fine, imprisonment or both. "Person" as applied to a firm, association, joint stock company or syndicate means the partners or members thereof and as applied to a corporation, the officers or resident managing agent thereof;
6. "Public highway" means every way or place generally open to the use of the public as a matter of right, for the purpose of vehicular travel, notwithstanding that the same may be temporarily closed for construction, reconstruction, repair or maintenance;
7. "Auditor" means the state auditor of this state;
8. "Importer for use" means any person importing motor fuel into this state in the fuel supply tank or tanks of any motor vehicle. In the case of motor vehicles that are leased or rented, the importer for use means the lessee or renter unless the auditor has designated the lessor, rentor or some other person as the importer for use.

57-54.1-04. Levy of Tax.) There is hereby imposed upon all importers for use a tax at the same rate as prescribed by the Motor Vehicle Fuel Tax Act as now or hereafter amended on special fuel and motor vehicle fuel used in the propulsion of motor vehicles upon the public highways in this state. Provided

that credit shall be given for the North Dakota fuel tax paid on all such fuel.

57-54.1-05. Computation.) The amount of fuel used in interstate fleet operations shall be determined by using a factor the numerator of which shall be the total miles operated in this state, and the denominator of which shall be the total miles operated by the importer for use both within and without this state applied to the total such fuel used by the importer for use both within and without this state.

57-54.1-06. Exemptions.) The tax levied hereunder shall not apply to fuel imported into and used in this state in:

1. Operating motor vehicles commonly designated as automobiles which are constructed for and being used solely for the transportation of persons for purposes other than for hire or compensation;

2. Operating a motor vehicle having a motor fuel supply tank or tanks with an aggregate capacity of not more than thirty-five gallons if such vehicle is not being used as a common or contract carrier of persons or property or as a private commercial carrier of property;

3. Operating vehicles of the government of the United States or any of its agencies. No tax is imposed upon the use of motor fuel or special fuel by any state, by any town, city, county or other political subdivision of any state, including specifically any school district therein, in any motor vehicle owned or operated by any state, or by any town, city, county, school district or other political subdivision of any state; provided, no exemption of the tax levied by this article shall be construed as an exemption from the tax levied by the Fuels Tax Act.

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 auditor and shall contain such information as the auditor shall require.

57-54.1-08. Importer for Use Bond.) Before any such application may be approved by the auditor, the applicant must file a bond payable to the state of North Dakota, conditioned upon compliance with the provisions of this article and the rules and regulations of the state auditor 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 article. The amount of any such bond required may be increased or reduced by the auditor at any time. The auditor 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 auditor, 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 Act 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.

57-54.1-09. Issuance and Display.) Upon approval of such bond and investigation by the auditor, if the statements contained in the application shall be found to be true, and if the auditor 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 photo copy 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.

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

57-54.1-11. Revocation, Cancellation and Surrender of License and Bond.) All such licenses issued by the auditor 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 auditor, or until such license is suspended, surrendered, or revoked for cause by the auditor. The auditor may at any time, upon showing of failure to comply with the provisions of this article 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.

57-54.1-12. Occasional Trip Permits.) Any person who occasionally makes trips into or through North Dakota and who elects to secure occasional trip permits as hereinafter provided shall be exempt from the licensing and bonding requirements herein imposed. The word "occasionally" shall

mean no more than one trip in any seventy-two hour period or two trips into or through the state of North Dakota in any one month.

57-54.1-13. Authority of the Auditor.) The auditor 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 auditor 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.

57-54.1-14. Credit for North Dakota Purchases—Refunds.) If the credit for tax paid on fuel purchased or acquired by the importer for use from sources within this state for the propulsion of motor vehicles exceeds the tax which would otherwise apply to fuel used for the propulsion of motor vehicles on the public highways of this state, such excess credit shall be refunded, or credit applied for such amount against any subsequent tax return.

57-54.1-15. Administration, Records, Penalties and Disposition of Funds.) Importer for use tax shall be reported, paid, collected and administered and importers for use subject to the same penal provisions, and importer for use tax collections distributed all as provided in the Fuels Tax Act sections 57-52-09 to 57-52-20, inclusive, and Motor Vehicle Fuel Tax Act sections 57-54-11 to 57-54-23.

Approved March 6, 1965.

CHAPTER 442

H. B. No. 653
(Tweten)

MOBILE HOME TAX

AN ACT

To amend and reenact sections 57-55-01, 57-55-02, 57-55-03, and 57-55-08 of the 1963 Supplement to the North Dakota Century Code, relating to the method of taxation of mobile homes, or trailer houses, and sleeping trailers, and providing for a method of tax refund.

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

§ 1. **Amendment.)** Section 57-55-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-01. County Auditor to Tax Mobile Homes.) On or before January fifteenth of each year all nonself-propelled mobile homes or trailer houses, and sleeping trailers, providing that "sleeping trailers" shall not include trailers of the type that are collapsed or folded for the purpose of moving them, hereinafter referred to as "trailers", shall be taxed by the county auditor of the county of such trailer owner's domicile upon receipt of such owner's tax. The tax shall be valid in any county of this state during the period for which it was issued.

§ 2. **Amendment.)** Section 57-55-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-02. Application for Taxing — Form — Contents.) No trailer tax decal shall be issued unless the trailer owner files an application with the county auditor. Application shall be on duplicate forms, furnished by the county auditor, and shall contain, in addition to any other information the county auditor shall request, a full description of the trailer and its contents including the name of the manufacturer, serial or identification number, age, length, and width of such trailer, owner's name and address, and space for the owner to list his personal property contained in such trailer. The duplicate of each application, the number of the tax decal issued to the applicant shall be retained by the county auditor.

§ 3. **Amendment.)** Section 57-55-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-03. When Taxes Become Due and Delinquent.) The tax for a trailer shall become due upon expiration of fifteen days after such trailer is brought into this state and upon January fifteenth of each year thereafter. If the tax on any mobile home or trailer house, or sleeping trailer becomes due between January fifteenth and March seventeenth and, if not paid on or before March seventeenth, shall become delinquent on the following first day of April, at which time a penalty of two percent of the amount of delinquent tax shall be added. If the tax on any mobile home or trailer house, or sleeping trailer shall become due after March seventeenth, it shall become delinquent on the fifteenth day after it became due and, if not paid on or before that day, shall be subject to a penalty of two percent of the amount of delinquent tax. An additional penalty of one percent of the amount of any delinquent and unpaid tax shall attach on the first day of each calendar month, not including however, the month in which the tax became delinquent. The total penalties shall not exceed ten percent of the amount of tax. Taxes, other than the per capita school tax, may be prorated in three equal installments, if the amount of the tax due is forty dollars or more and upon application of the taxpayer. Upon application for installment payments, the county auditor shall authorize payment of the tax in not to exceed three equal installments, due without penalty, on or before April 1, July 1, and October 1 of the year in which the tax becomes due. The penalty provided in this section shall also apply to installment payments, which shall become delinquent fifteen days after the date of said installment was due and payable.

§ **4. Amendment.)** Section 57-55-08 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-08. Duty of Trailer Park Operators — Duty of Local Law Enforcement Agency.) It shall be the duty of the owner, operator, or manager of each trailer park, or trailer lot, or any person permitting a trailer to be parked on his property to inform each trailer owner applying for admission to such park, lot or property of the requirements of this chapter and the penalties for failure to comply. Such information shall also be posted in a conspicuous place on the premises of such lot or property. The local law enforcement agency shall make inspections at least quarterly of each trailer park, trailer lot, or place where trailers are known to be located for the purpose of determining if the provisions of this chapter are being complied with. If he shall determine that any person is not complying with the provisions of this chapter he shall give such person a warning and inform him that if he fails to

comply within ten days after issuance of such warning, civil action will be taken to collect the delinquent tax. The local law enforcement agency shall then notify the county auditor of such person's name and alleged violation. If the alleged violator does not present proof of his compliance to the county auditor within ten days after issuance of the warning the county auditor shall take the necessary action provided by law to collect the delinquent tax.

§ 5. **Amendment.)** Chapter 57-55 of the 1963 Supplement to the North Dakota Century Code is hereby amended by creating and enacting a new section thereto to read as follows:

Refunds.) 1. If the owner of any trailer house or mobile home has paid the full amount of tax due under this Act and thereafter during the current year permanently removes it from this state to a state in which he is required to pay a tax or fee on it that is substantially the same as that imposed by this Act, he shall be granted a refund of a part of the tax paid under this Act, but not including any penalty paid, which refund shall be computed by dividing the amount of tax paid by the number of months of the year for which it was paid and multiplying that quotient by the number of calendar months remaining in the year during which the trailer house or mobile home was permanently situated outside of this state. The owner may file with the county auditor an application for refund on such form as the state tax commissioner may prescribe and the county auditor, after determining the correct amount of refund, shall approve it for payment.

2. If the owner of any trailer house or mobile home has paid, through mistake or otherwise, a greater amount of tax or penalty than was justly due, he shall be granted a refund of the unjust portion paid. The county auditor and treasurer shall charge all refunds against the taxing districts to which the collection was credited.

3. Application for refunds under the provisions of this Act shall not be subject to the provisions of chapter 57-23.

Approved March 19, 1965.

CHAPTER 443

H. B. No. 660
(Meschke, Aamoth, Erickson (Ward), Schoenwald, Boustead)

AVIATION FUEL TAX

AN ACT

To levy an excise tax on aviation gasoline and jet motor fuel used by aircraft and provide for distribution of the proceeds.

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

§ 1. **Tax Levied.)** There is hereby levied and imposed a special excise tax on all sales of aviation gasoline, jet motor fuel and other motor fuel used by aircraft at the rate of two percent of the sale price of such aviation gasoline, jet motor fuel and other motor fuel used by aircraft on which a tax is levied by chapters 57-54 and 57-52 and which is refunded under the provisions of chapter 57-50.

§ 2. **Administration.)** The state auditor 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.

§ 3. **Distribution of Proceeds.)** The tax collected by the state auditor under this chapter shall be deposited by the state auditor 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 build-

ings, 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.

§ 4. **Conflicting Acts.)** All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 19, 1965.

WAREHOUSING AND DEPOSITS

CHAPTER 444

S. B. No. 295
(Thompson)

REPORTS OF WAREHOUSEMEN

AN ACT

To amend and reenact subsection 2 of section 60-02-24 of the North Dakota Century Code, relating to reports made by warehouseman.

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

§ 1. Amendment.) Subsection 2 of section 60-02-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. File his report not later than the last day of the following month, and failure to file this report promptly will be considered cause for revoking the warehouse license after due notice and hearing;

Approved March 15, 1965.

WATERS

CHAPTER 445

S. B. No. 138
(Trenbeath, Sinner)

STATE WATER RESOURCES POLICY

AN ACT

Declaring a policy concerning the protection, conservation, management, storage and utilization of the state water and related land resources.

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

§ 1. Declaration of State Water Resources Policy.) In view of legislative findings and determination of the ever-increasing demand and anticipated future need for water in North Dakota for every beneficial purpose and use, it is hereby declared to be the water resources policy of the state that:

1. The public health, safety and general welfare, including without limitation, enhancement of opportunities for social and economic growth and expansion, of all of the people of the state, depend in large measure upon the optimum protection, management and wise utilization of all of the water and related land resources of the state;

2. Well-being of all of the people of the state shall be the overriding determinant in considering the best use, or combination of uses, of water and related land resources;

3. Storage of the maximum water supplies shall be provided wherever and whenever deemed feasible and practicable;

4. Accruing benefits from these resources can best be achieved for the people of the state through the development, execution and periodic updating of comprehensive, coordinated and well balanced short- and long-term plans and programs for the conservation and development of such resources by the departments and agencies of the state having responsibilities therefor;

5. Adequate implementation of such plans and programs shall be provided by the state through cost-sharing and cooperative participation with the appropriate federal

and state departments and agencies and political subdivisions within the limitation of budgetary requirements and administrative capabilities;

6. Required assurances of state cooperation and for meeting nonfederal repayment obligations of the state in connection with federal-assisted state projects shall be provided by the appropriate state department or agency;

7. Required assurances of local cooperation and for meeting nonfederal repayment obligations of local interests in connection with federal-assisted local projects may, at the request of political subdivisions or other local interests be provided by the appropriate state department or agency, provided, if for any reason it is deemed necessary by any department or agency of the state to expend state funds in order to fulfill any obligation of a political subdivision or other local interests in connection with the construction, operation or maintenance of any such project, the state shall have and may enforce a claim against the political subdivision or other local interests for such expenditures.

§ 2. **Relation to Existing Laws.)** The provisions of this chapter shall not be construed to in any manner limit, impair or abrogate the rights, powers, duties or functions of any department or agency of the state having jurisdiction or responsibilities in the field of water and related land resources conservation, development or utilization.

Approved March 6, 1965.

CHAPTER 446

H. B. No. 814
(Jungroth, Williamson)

POLLUTION OF WATERS

AN ACT

To amend and reenact section 61-01-14, and subsection 2 of section 61-02-14 of the North Dakota Century Code, relating to pollution of public waters and water conservation.

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

§ 1. **Amendment.)** Section 61-01-14 of 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, 1967.

§ 2. Amendment.) Subsection 2 of section 61-02-14 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To define, declare, and establish rules and regulations:
   a. For the sale of waters and water rights to individuals, associations, corporations, municipalities, and other political subdivisions of the state, and for the delivery of water to users;
   b. For the full and complete supervision, regulation, and control of the water supplies within the state;
   c. For the complete supervision and control of acts tending to pollute watercourses, for the protection of the health and safety of all the people of the state; and to pollute shall mean 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 liquefied, 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; and

d. Establish rules and regulations governing and providing for financing by local participants to the maximum extent deemed practical and equitable in any water development project in which the state participates in cooperation with the United States or with political subdivisions or local entities.

Approved March 19, 1965.

CHAPTER 447

H. B. No. 540
(Solberg, Mueller, Winge, Breum, Bowman, Glaspey)
(From LRC Study)

WATER LAW ADMINISTRATION

AN ACT

To create and enact section 61-04-28 of the North Dakota Century Code, relating to application for and correction of water permits and to amend and reenact sections 15-11-09, 61-01-01.1, 61-02-64, 61-02-64.1, 61-04-02, 61-04-06, 61-04-09, 61-04-14, 61-04-15, 61-04-22, 61-04-23, 61-04-25, 61-16-08, 61-16-15, 61-16-17, 61-16-18, 61-16-22, 61-20-05, 61-20-06. 61-20-07, 61-26-01, and 61-26-02 of the North Dakota Century Code, relating to the application, transfer, and forfeiture of water permits; the terms of office of commissioners of water management districts; the construction and repair of dams; the moneys paid out and reimbursed to the North Dakota state water commission; to provide for the transfer of the supervision of artesian wells to the state water commission; and to provide that the water management districts may make application for joint use of drains located within drainage districts; and to repeal sections 61-02-70, 61-04-08, 61-04-10, 61-04-13, and 61-20-08 of the North Dakota Century Code, relating to applications for water permits, certificates of construction for water works, and the appointment of a deputy state geologist.

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

§ 1. Amendment.) Section 15-11-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-11-09. State Geologist—Appointment of Deputy.) The professor of geology in the university shall be ex officio state geologist. He may appoint a deputy and may remove him at will. The salary of the deputy shall be determined by the state geologist within the limits of legislative appropriation.

§ 2. Amendment.) Section 61-01-01.1 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-01-01.1. Priority of Water Rights—Definitions.) In all cases where the use of water for different purposes conflicts such uses shall conform to the following order of priority:

1. Domestic use.
2. Livestock use.
3. Irrigation and industry.
4. Fish, wildlife and other outdoor recreational uses.

As between appropriations for the same use, priority in time shall give the better right. For purposes of this section:

(1) "Domestic use" shall mean the use of water by an individual, or by a family unit, or household, for personal needs and for household purposes, including, but not limited to heating, drinking, washing, sanitary and culinary uses; irrigation of land not exceeding one acre in area for noncommercial gardens, orchards, lawns, trees or shrubbery; and for household pets and domestic animals kept for household sustenance whether the water is supplied by the individual, a municipal government or by a privately-owned public utility or other agency.

(2) "Livestock use" shall mean the use of water for drinking purposes by herds, flocks or bands of domestic animals.

(3) "Fish, wildlife and recreation" shall mean the use of water for the purposes of propagating and sustaining fish and wildlife resources and for the development and maintenance of water areas necessary for outdoor recreation activities.

Neither a conditional nor a perfected water permit shall be required of a landowner or his lessee to appropriate water from any source or any constructed works for domestic and livestock uses. Regardless of proposed use, however, all water users shall secure a water permit prior to constructing an impoundment capable of retaining more than 12.5 acre feet of water.

§ 3. Amendment.) Section 61-02-64 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-64. Funds Created by Commission—Depository.) The commission shall have three funds to be known as the "contract fund", the "construction fund", and the "revenue bond payment fund". The moneys in each such fund shall be deposited in the state treasury.

§ 4. **Amendment.)** Section 61-02-64.1 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-64.1. Contract Fund—Purpose—Reimbursements To Be Deposited with the State Treasurer.) All contractual obligations of the commission, excepting salaries and expenses of commission employees and the cost of any supplies, materials and equipment, shall be paid from the contract fund. The moneys in the contract fund shall be paid out or disbursed in such manner as may be determined by the commission. 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 basis, and as determined by a 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.

§ 5. **Amendment.)** Section 61-04-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-02. Application for Beneficial Use of Water Required.) The United States, any department or agency thereof and any person, association or corporation intending to acquire the right to the beneficial use of any waters, before commencing any construction for such purpose or before taking the same from any constructed works, shall make an application to the state engineer for a water permit unless such construction or taking from such constructed works is for domestic or livestock purposes or for fish, wildlife and other recreational uses. However, immediately upon completing any constructed works for domestic or livestock purposes or for fish, wildlife and other recreational uses the water user shall notify the state engineer of such constructed works, dam or dug-out's location and acre-feet capacity. Regardless of proposed use, however, all water users shall secure a water permit prior to constructing an impoundment capable of retaining more than 12.5 acre-feet of water.

§ 6. **Amendment.)** Section 61-04-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-06. Approval of Application—Endorsing Approval—Contents.) Upon the receipt of the proof of publication, the state engineer shall determine from the evidence presented by the parties interested, from such surveys of the water supply as may be available, and from the records, whether

there is unappropriated water available for the benefit of the applicant. If so, he shall endorse his approval on the application, which thereupon shall become a conditional water permit allowing the applicant to appropriate water, and shall state in such approval the time within which the water shall be applied to a beneficial use.

§ 7. **Amendment.)** Section 61-04-09 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-09. Application to Beneficial Use — Inspection — Perfected Water Permit — Inspection by Others Than State Engineer.) On or before the date set for the application of the water to a beneficial use, or prior thereto, upon notice from the owner that water has been applied to a beneficial use, the state engineer shall cause the work to be inspected, after due notice to the holder of the conditional water permit. Such inspection shall be thorough and complete, in order to determine the actual capacity of the work, its safety, and efficiency. If not properly and safely constructed the state engineer may require the necessary changes to be made within such time as he shall deem reasonable and shall not issue his conditional water permit until such changes are made. Failure to make such changes shall cause the postponement of the priority under the conditional water permit for such time as may elapse from the date for completing such changes until made to the satisfaction of the state engineer, and any application subsequent in time may have the benefit of such postponement of priority. When the works are found in satisfactory condition, after inspection, the state engineer shall issue the perfected water permit, setting forth the actual capacity of the works and such limitations upon the water permit as shall be warranted by the condition of the works and to the extent and under the conditions of the actual application of the water to a beneficial use, but in no manner extending any right described in the conditional water permit. For works involving the diversion of not exceeding twenty cubic feet of water per second or a dam not exceeding twenty feet in the extreme height from the foundation, the state engineer, in his discretion, may accept the report of an inspection by a reputable hydraulic engineer.

§ 8. **Amendment.)** Section 61-04-14 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-14. Extending Time for Application to Beneficial Use.) The state engineer may extend the time for the application to beneficial use, at any time, or from time to time,

for good cause shown. Where any such time has heretofore expired, the state engineer may renew and extend the same upon application.

§ 9. Amendment.) Section 61-04-15 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-15. Assignment or Transfer of Conditional or Perfected Water Permit—Regulations Governing.) Any conditional or perfected water permit to appropriate water for irrigation purposes shall be assigned only upon approval by the state engineer of an application for such assignment. Any conditional or perfected water permit may also be transferred, with the approval of the state engineer, to any parcel of land owned by the holder of such water permit. Upon reasonable proof that such assignment or transfer can be made without detriment to existing rights, the state engineer shall cause the water permit involved to be simultaneously severed and assigned or transferred from such land without losing priority of any right previously established. The decision of the state engineer shall be final unless some party interested in the same source of water supply shall within sixty days bring appropriate action in the district court of the county in which the land is located appealing such decision. Applications for assignment and transfer shall be in the forms required by the state engineer. The transfer of title to land in any manner whatsoever shall carry with it all rights to the use of water appurtenant thereto for irrigation purposes unless such rights to use water have been severed as provided in this section.

§ 10. Amendment.) Section 61-04-22 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-22. Prescriptive Water Right.) Any person, firm, corporation, or municipality which used or attempted to appropriate water from any watercourse, stream, body of water or from an underground source for mining, irrigating, manufacturing or other beneficial use over a period of twenty years prior to July 1, 1963, shall be deemed to have acquired a right to the use of such water without having filed or prosecuted an application to acquire a right to the beneficial use of such waters if such user shall, within two years from July 1, 1963, file with the state engineer an application for a water permit in the form required by the rules and regulations of the state engineer, and substantiated by such affidavits and other supporting information as the state engineer may require. If the state engineer finds that the application and supporting documents substantiate the claim he shall approve

such application, which shall thereupon become a perfected water permit with a priority date relating back to the date when water in the quantity stated in the application was first appropriated. In the event the prescriptive user shall fail to file with the state engineer an application for a water permit within two years from July 1, 1963 such prescriptive water right shall be declared abandoned and forfeited. The decision of the state engineer in rejecting an application made under the provisions of this section may be appealed to the district court in the manner prescribed by section 61-04-07. Within sixty days after July 1, 1963 the state engineer shall cause to be published in all official county newspapers within the state notice of the deadline of filing for a water permit by prescriptive users. Any such prescriptive water permit acquired under this section shall be subject to forfeiture for nonuse as prescribed by sections 61-04-23 through 61-04-25.

§ 11. **Amendment.)** Section 61-04-23 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-23. Forfeiture of Water Rights—Inspection of Works.) All appropriations of water must be for a beneficial or useful purpose, and when the appropriator or his successor in interest ceases to use it for such purpose for three successive years, unless such failure or cessation of use shall have been due to the unavailability of water, a justifiable inability to complete the works, or other good and sufficient cause, the state engineer may declare such water permit or right forfeited. The state engineer shall, as often as necessary, examine the condition of all works constructed or partially constructed within the state and compile information concerning the condition of every water permit or right, and all ditches and other works constructed or partially constructed thereunder.

§ 12. **Amendment.)** Section 61-04-25 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-25. Forfeiture of Water Rights—Hearing—Appeal.) At such hearing the verified report of the state engineer or engineers of the state water commission shall be prima facie evidence for the forfeiture and cancellation of such water permit or portion thereof. If no one appears at the hearing, such water permit or portion thereof shall be declared forfeited and canceled. If interested parties shall appear and contest the cancellation, the state engineer shall hear the evidence and if it appears that such water has not been put to a beneficial use or, having been so used at one time, has ceased to be used for such purpose for more than three successive years, unless

such failure or cessation of use shall have been due to the unavailability of water, a justifiable inability to complete the works, or other good and sufficient cause, the same, or a portion thereof, shall be declared forfeited and canceled. An appeal may be taken from the decision of the state engineer in accordance with the provisions of chapter 28-32.

§ 13.) Section 61-04-28 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-04-28. Correction of Application or Water Right by State Engineer.) Upon proof satisfactory to him that an application for a water permit or any water permit contains an error relative to the point of diversion or legal description of the land to which the water is to be applied, the state engineer may, by written notice to the holder of the affected water permit, correct such error without publication of notice.

§ 14. **Amendment.)** Section 61-16-08 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-08. Eligibility for Appointment to Board—Term of Office—Filling Vacancies—Compensation of Commissioners.) When a water management district has been created any resident freeholder in the district shall be eligible for appointment to the board of commissioners thereof. The terms of office of commissioners appointed to the first district board shall be determined by lot and shall be as herein provided. If such district board shall consist of three commissioners, one commissioner shall hold office for a term of two years, one shall serve for a term of three years, and one shall serve for a term of five years from the first day of January next following the date of their appointment. When a district board consists of five commissioners, two commissioners shall hold office for the term of two years, one for three years, one for four years and one commissioner a term of five years from the first day of January next following the date of their appointment. When a board shall consist of seven commissioners, two commissioners shall hold office for two years, two for three years, two for four years and one for five years from the first day of January next following the date of their appointment. When the term of office of a district commissioner has expired, his successor shall hold office for five years from the first day of January next following the date of their appointment. The term of office of a commissioner shall not terminate until his successor in office is appointed and qualified. In case the office of any district commissioner shall become vacant, the commissioner appointed to fill the vacancy shall serve the unexpired term of the member of the board whose office

became vacant. Members of the board of commissioners shall receive the same per diem as members of a board of county commissioners and shall be reimbursed for expenses incurred in the performance of their duties on a like basis.

§ 15. 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 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, efficiency, 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.

§ 16. Amendment.) Section 61-16-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-17. Dams Constructed Within a District Shall Come Under Control of Board of Commissioners.) All dams, water

conservation and flood control works constructed within any district, unless specifically exempted therefrom, shall, without affecting the state water commission's authority relative to such dams and works, automatically come under the jurisdiction of the board of commissioners. No changes or modification of any existing dams or other devices shall be made without complying fully with the provisions of this chapter.

§ 17. **Amendment.)** Section 61-16-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-18. When Dams Constructed by Federal Agency Under Joint Control of Board of County Commissioners and Commission.) Any dam or water control device or flood control project constructed by or with the assistance of any federal agency, and having no one responsible for its maintenance and operation, and outside of a water management district, shall come under the joint jurisdiction of the board of county commissioners of the county in which such dam or water control device is located and the commission. The board of county commissioners and the commission are authorized to exercise control and supervision over the same and may make such provisions as they deem necessary or desirable for the proper maintenance thereof. In such case, the board of county commissioners may petition for the establishment of a water management district as provided in this chapter.

§ 18. **Amendment.)** Section 61-16-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-22. Financing of Special Improvements—Procedure.) When it is proposed to finance in whole or in part the construction of a water conservation or flood control project by issuance of special assessment warrants or with funds raised through the collection of special assessment taxes levied against lands and premises benefited by construction and maintenance of such project, and after such project is approved by the commission as provided herein and by the board of county commissioners of each of the counties wherein the district lies, the board, by resolution, shall declare that it is necessary to construct and maintain such project therein. Such resolution shall state briefly the nature and purpose of the proposed project, and shall state the time and place within said district where the board will meet to consider any protests to the proposed project, and, under the conditions specified in section 61-16-23, shall include provision for protesting the levy of the general tax provided in section 61-16-35 to be made by the board of county commissioners. Such resolution shall be

given by publication thereof once each week for two successive weeks in a newspaper of general circulation in the district. The hearing shall be held not less than twenty days after the first publication of such resolution. If within thirty days after the first publication of such resolution, the owners of property liable to be specially assessed for the proposed improvement shall file written protests with the secretary of the board, protesting against the improvement, the board at the time set for such hearing shall determine the sufficiency thereof. If the board finds the protests to contain the names of the owners of a majority by taxable value of the land subject to assessment for construction of the proposed project, then the protests shall be a bar against proceeding further with such improvement. If the protests are found to be insufficient or invalid, the board may proceed to determine damages, if any, which will be sustained by owners of affected property and the board may proceed to contract or provide for the construction or maintenance of the project in substantially the manner and according to the forms and procedure provided in title 40 of this code, and acts amendatory thereof, and supplemental thereto, for the construction of sewers within municipalities. When any district has entered into an agreement pursuant to the provisions of this chapter, under the terms of which the contract for such work is to be let by the United States government or by the state of North Dakota, or by both jointly, the board, after hearing protests and determining to proceed with the improvement, may dispense with the balance of the requirements of this chapter relating to plans for, bids upon, contracts for, construction of, and any other steps leading up to the construction of an improvement by the special assessment method, and the board may proceed to cause assessments to be made as in other cases provided.

§ 19. Amendment.) Section 61-20-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-20-05. Township and County Assessors Shall List All Artesian and Flowing Wells Annually—Forwarding Data to State Water Commission.) The county and township assessors shall list all artesian or flowing wells in their respective districts each year at the time of making the assessment, giving the quarter section on which each is situated, the name of the owner with his address, and as far as possible, the diameter, depth to the main flow, and size of the flow. Such data shall be forwarded by the county auditor to the state water commission. In case of new flowing wells, the driller also shall file with the state water commission all of the foregoing data, and any other valuable data, as to the formation. This shall be done within two weeks after the completion of the well.

§ 20. **Amendment.)** Section 61-20-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-20-06. Duties of State Water Commission.) The state water commission shall advise the citizens of the state as to the practicability of measures affecting the underground waters of this state. The state water commission shall:

1. Counsel and consult with the owner and assist him to work out the most desirable control and use of his well;
2. Select at least three representative flowing wells in each county having that number, and as many more as it may deem advisable;
3. Cause the record of their flows and pressures to be taken, from time to time, to learn as much as possible of the decline, fluctuations, and permanence of the artesian supply;
4. Plan and conduct such other investigations as it may find advisable to ascertain the best method of prolonging the utility of the same;
5. Keep a record of the location, size, depth, flow, size of flow, character of water, construction, and history of all artesian wells of the state, and keep it on file for public reference;
6. Secure the enforcement of all laws pertaining to artesian and phreatic waters of the state;
7. Publish from time to time, as it may deem advantageous, bulletins containing information concerning the artesian wells and phreatic waters of the state.

The state water commission may make such additional reasonable rules and regulations governing such wells as it shall determine.

§ 21. **Amendment.)** Section 61-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-20-07. Enforcement of Chapter by State Water Commission—Appeal.) The provisions of this chapter shall be enforced by the state water commission. An appeal from the commission's ruling may be taken under the provisions of chapter 28-32 of the North Dakota Century Code.

§ 22. **Amendment.)** Section 61-26-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-26-01. City or Water Management District Application for Joint Drain.) The governing body of any city or the board of commissioners of any water management district desiring to use an existing drain under the jurisdiction of the county board of drainage commissioners, with or without modification, as a watercourse or channel to provide a water supply for the city or water management district, may make application therefor to the board of drain commissioners of the county in which such drain is located. In such application there shall be set forth a comprehensive plan of joint use and of any proposed extensions, changes, connecting canals, mains or other contrivances for conducting the flow of water in, to or from said drain and an offer of payment by the city or water management district in a definite sum as a proportionate share of the cost of the existing drain, and a sum certain or a percentage offer for future maintenance costs.

§ 23. Amendment.) Section 61-26-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-26-02. Hearing on City or Water Management District Joint Drain.) Upon receipt of an application the board of drain commissioners shall call and give notice of a public hearing, in the manner provided for hearing on a petition to establish a drain, and at such hearing shall receive all evidence and opinions offered for or against the application or of suggested modifications. After such hearing the board of drain commissioners and the governing body of the city or board of commissioners of the water management district, whichever the case may be, may enter into an agreement for the joint use of such drain setting forth in such agreement the extent, conditions and nature of permitted use and action, the amount of payment to be made as proportionate share of original cost and the amount or percentage of costs of future maintenance to be paid by the city or water management district.

§ 24. Repeal.) Sections 61-02-70, 61-04-08, 61-04-10, 61-04-13, and 61-20-08 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1965.

CHAPTER 448

H. B. No. 749
(Stallman, Dornacker)

CONSTRUCTION OF DRAINS

AN ACT

To amend and reenact subsection 11 of section 61-16-11, and sections 61-21-01, 61-21-13, 61-21-14, 61-21-16, 61-21-18, and 61-21-22 of the North Dakota Century Code, relating to the construction of drains.

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

§ 1. Amendment.) Subsection 11 of section 61-16-11 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. To have all of the powers conferred by statutes upon a board of county drain commissioners provided that when the board of commissioners shall undertake the construction of any drainage project, including channel realignments, the provisions of sections 61-21-10 through 61-21-18, and 61-21-22, relating to the petition, hearing, voting rights, and appeal shall govern;

§ 2. Amendment.) Section 61-21-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-01. Definitions.) In this chapter, unless the subject matter otherwise requires:

1. The word "drain" shall include any natural watercourse opened, or proposed to be opened, and improved for the purpose of drainage and any artificial drains of any nature or description constructed for such purpose, including dikes and appurtenant works;
2. "Board" shall mean the board of drainage commissioners;
3. "Cleaning out and repairing of drain" shall include deepening and widening of drains as well as removing obstructions or sediment, and any repair necessary to return the drain to a satisfactory and useful condition;
4. "Lateral drain" shall mean a drain constructed after the establishment of the original drain or drainage system and which flows into such original drain or drainage system from outside the limits of the original drain,

provided that a determination by the board as to whether an existing or proposed drain is a lateral or a new drain within the meaning of this subsection shall be conclusive when entered upon the records of such board; and

5. "Affected landowners" shall mean landowners whose land is subject to assessment or condemnation.

§ 3. **Amendment.)** Section 61-21-13 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-13. Hearing on Petition to Establish Drain and Surveyor's Report—Notice—Contents.) Upon the filing of the surveyor's or engineer's report provided for in section 61-21-12, the board shall fix a date and place for public hearing on the petition. Such place of hearing shall be in the vicinity of the proposed drain and shall be convenient and accessible for the majority of the landowners subject to assessment for such drain or whose property shall be subject to condemnation for the proposed drain. At least ten days before such hearing the board shall file with the county auditor a list showing the percentage assessment against each parcel of land benefited by the proposed drain and the approximate assessment in terms of money apportioned thereto. Notice of such filing shall be included in the notice of hearing on the petition. At least ten days' notice of such hearing shall be given by publishing a notice at least once in the official newspaper of the county in which the proposed drain is located. In addition, each owner of land subject to assessment for the proposed drain and each landowner whose property shall be subject to condemnation for the proposed drain as shown by the record in the office of the register of deeds shall be mailed a notice of such hearing at his post office address as shown by such records. Notices of such hearing shall contain a copy of the petition and the time and place where the board will act upon the petition. The notice of hearing shall specify the point or place of beginning of the proposed drain and where it terminates, and shall describe the general course of the drain as finally determined by the engineer and the board. The notice of hearing shall also specify when and where votes for and against such proposed drain shall be filed. The final date when votes must be filed shall not be less than ten days after the date of the hearing on the petition. A form of ballot shall be mailed with the notice of hearing for use by the affected landowners in voting for or against the proposed drain. An affidavit of mailing signed by the attorney or clerk of the board or other person mailing such notices shall be filed with the county auditor who shall file such affidavit with the records

of the proceedings pertaining to that drain. All persons whose land may be subject to assessment for such drain or whose property shall be subject to condemnation for such drain may appear before the board, fully express their opinions, and offer evidence upon the matters pertaining thereto.

§ 4. **Amendment.)** Section 61-21-14 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-14. Conduct of Hearing on Petition to Establish Drain.) Prior to the hearing provided for in section 61-21-13, the board shall first prepare a roster or roll of affected landowners subject to assessment for such drain or whose property shall be subject to condemnation for such drain, and shall limit voting rights to such landowners. A record shall be made by the board of affected landowners present in person or by agent and such records shall be preserved in the minutes of the meeting. Affected landowners shall then be informed of the probable total cost of the project and their individual share of such cost and the amount of their property to be condemned for such project. The board shall fix a time, which shall not be less than ten days after the hearing on the petition, within which the votes for and against the establishment of the proposed drain shall be filed with the board. Objections to or approvals of the drain in writing may be filed with the board and shall be considered as votes for or against the proposed drain, as the case may be. A telegram shall be deemed writing, and any form of written approval or objection which sufficiently indicates the intention of the writer shall be sufficient. Once the deadline for filing votes for or against the proposed drain has been reached, no more votes for or against such drain shall be filed and no person shall withdraw his or her name from the list of those voting for or against the proposed drain after the deadline for filing votes has been reached. Any withdrawals of objections to or approvals of the proposed drain before that time shall be in writing only. When the votes of affected landowners have been filed and the deadline for filing votes for and against such drain has been reached, the board shall immediately proceed to determine whether or not more than fifty percent of the votes filed, as determined by section 61-21-16 are in favor of the construction of the drain. Until such determination is made, the board is without jurisdiction to take any further steps in the matter except to determine whether more than fifty percent of the votes filed are in favor of the drain and to adopt a resolution for discontinuance, if not more than fifty percent of the votes filed favor construction of the drain.

§ 5. **Amendment.)** Section 61-21-16 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-16. Voting Right or Power of Landowners.) In order that there may be a fair relation between the amount of liability for assessments and the power of objecting to the establishment of a proposed drain, the voice or vote of affected landowners on the question of establishing the drain shall be arrived at in the following manner:

> The landowner or landowners of tracts of land affected by the drain shall have one vote for each dollar of assessment that his land is subject to or one vote for each dollar of the assessed valuation of land condemned for the drain, as estimated by the board under the provisions of section 61-21-12. It is the intent of this subsection to allow one vote for each dollar of assessment, regardless of the number of owners of such tract of land. Where more than one owner of such land exists, the votes shall be prorated among them in accordance with each owner's interest.

A written power of attorney shall authorize an agent to cast the votes of any affected landowners.

§ 6. **Amendment.)** Section 61-21-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-18. Appeal to District Court—Time—Undertaking—Hearing.) Any person whose land is assessed or may be assessed or is condemned or may be condemned for the construction of a drain under the provisions of this chapter may appeal to the district court from the order of the board establishing or denying the establishment of the drain. Such appeal shall be taken and perfected within thirty days from and after the date of publication of the "notice of order establishing the drain and time of expiration of right of appeal". The appellant must file with the clerk of court, and serve upon a member of the board, a notice of appeal, and must give an undertaking to be approved by the clerk of the district court in the sum of two hundred fifty dollars for the payment of the costs in the event that the appellant is unsuccessful in the district court. Such undertaking shall run in favor of the county in which the drain is located, and, if located in more than one county, it may run in the name of either of the counties in which the drain is located. The judge shall hear such appeal not less than ten days nor more than thirty days after the filing of such appeal with the clerk, the day of hearing to be fixed by the court, but such time for

hearing may be extended by the court for good cause for a period not to exceed thirty days. The case shall be tried in all respects as a court case without a jury and costs shall be allowed and taxed as costs are taxed in said courts in civil actions and upon like notice. Where such appeal is perfected, the district court upon the hearing may try and determine the question as to whether, in the first instance, there was sufficient cause for making the petition for the establishment of the drain, whether the proposed drain will cost more than the amount of the benefits to be derived therefrom, and whether such drain was objected to by a majority of the affected landowners in accordance with the weighted voting provisions of section 61-21-16.

§ 7. **Amendment.)** Section 61-21-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-22. Hearing on Assessment—Appeal to State Engineer—Correction of Assessments—Relocating Drain—Fees of State Engineer.) At the hearing provided for in section 61-21-21, the board shall proceed to hear all complaints relative to the percentage assessments and shall correct or confirm the same. Should landowners subject to assessment or whose property is subject to condemnation for the construction of the proposed drain having a majority of the possible votes, as determined by section 61-21-16, believe that the assessment had not been fairly or equitably made, or that the drain is not properly located or designed, they may appeal to the state engineer by petition within ten days after the hearing on assessments, to make a review of such percentage assessments and to examine the location and design of the proposed drain. Upon the receipt of such petition the state engineer shall proceed to examine the lands assessed and the location and design of the proposed drain, and should it appear to him that such assessments have not been made equitably, he may proceed to correct the same, and his correction and adjustment of said assessment shall be final. Should it appear that, in the judgment of the state engineer, the drain has been improperly located or designed, he may order a relocation and redesign. Such relocation and redesign shall be followed in the construction of the proposed drain. For his services in making such review of assessments and examination of location and design, the state engineer shall be allowed ten dollars per day and actual and necessary expenses during the time he is engaged upon such work. All moneys received by the state engineer shall be paid into the state treasury and credited to the general fund. After the hearing provided in this section, the board shall make a finding that the benefits to all tracts of land will exceed the costs that will be assessed against the lands.

Any landowner who may claim that he will receive no benefit at all from the construction of a new drain may appeal the question of whether there is any benefit to the state engineer upon the filing of a bond in the sum of two hundred and fifty dollars with the board for the payment of the costs of the state engineer in the matter. The state engineer shall not determine the specific amount of benefits upon an appeal by an individual landowner, but shall only determine if there is any benefit to the landowner, and the determination of the state engineer upon such question shall be final.

Approved March 15, 1965.

WEIGHTS, MEASURES, AND GRADES

CHAPTER 449

H. B. No. 763
(Olson, Hertz, Kvasager, Streibel, Johnson (Slope), Aamoth)

FEES

AN ACT

To amend and reenact section 64-02-10 of the 1963 Supplement to the North Dakota Century Code, relating to the increase in fees to be charged for inspecting livestock scales and providing for an increase of five cents per mile whenever special inspection of any measuring device is required.

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

§ 1. **Amendment.)** Section 64-02-10 of the 1963 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:

For inspecting railroad and track scale of capacity of twenty tons and upwards $15.00

For inspecting vehicle scales and livestock scales to forty thousand pounds capacity and under 8.00

For inspecting vehicle scales and livestock scales forty thousand and one pounds capacity and over 14.00

For inspecting livestock scales under the jurisdiction of Packers and Stockers Act of the Federal Department of Agriculture 20.00

For inspecting livestock scales under the jurisdiction of Packers and Stockers Act of the Federal Department of Agriculture, wherein 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

For inspecting road construction truck scales	24.00
For inspecting dormant scales, less than eight thousand pounds capacity or hopper scales, each	6.00
For inspecting movable platform scales	1.50
For inspecting all counter and computing scales	1.50
For inspecting every patent balance, beam steel yard, or other instrument used for weighing other than the above enumerated, each	1.25
For inspecting any two bushel or one bushel measure	.50
For inspecting any other dry measure, each	.25
For inspecting any liquid measure or computing pump	3.25
For each inspection of any liquid measure or computing pump in addition to the regularly scheduled annual inspection, including inspections made for new equipment which replaces a rejected measuring device	1.25
For inspecting liquid measures of five gallons or less capacity, each	.50
For inspecting gasoline and fuel oil meters	8.00
For inspecting gasoline and fuel oil meters on common carrier pipelines, and any other meters used in loading railway cars, transports or other conveyances	25.00
For inspecting any tank under five hundred gallons	10.00
For inspecting propane meters	10.00
For inspecting any board of cloth measure, each	.25
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 7500 pounds gross. In the event such motor vehicle shall weigh less than 7500 pounds gross a charge of 10 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 17, 1965.

CHAPTER 450

H. B. No. 762
(Olson, Hertz, Olienyk, Belquist, Johnson (Slope), Aamoth,)
(Hoffner, Bilden, Streibel)

TESTING OF MILK TANK EQUIPMENT

AN ACT

To amend and reenact section 64-02-13 of the North Dakota Century Code, relating to the inspection and testing of farm milk tank equipment by the department of weights and measures of the public service commission and providing for adoption of standards and the payment of the costs for inspection and testing.

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

§ 1. Amendment.) Section 64-02-13 of 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. Weights, measures, and all other apparatus hereinbefore described used in the state shall be inspected at least once in each year and if upon inspection they correspond with the standards in the possession of the department, they shall be sealed with the proper devices 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 8, 1965.

WORKMEN'S COMPENSATION

CHAPTER 451

S. B. No. 250
(Larson, Kautzmann, Dahlund, Mahoney)

DEFINITION OF EMPLOYEE

AN ACT

To amend and reenact subdivision 1 of subdivision a of subsection 5 of section 65-01-02 of the North Dakota Century Code, relating to the definition of employee under workmen's compensation.

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

§ 1. Amendment.) Subdivision 1 of subdivision a of subsection 5 of section 65-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. All elective and appointed officials of this state and its political subdivisions, including municipal corporations and including the members of the legislative assembly, all elective officials of the several counties of this state, and all elective peace officers of any city or village;

Approved March 15, 1965.

CHAPTER 452

H. B. No. 898
(Jungroth)

THIRD PARTY ACTIONS

AN ACT

To amend and reenact section 65-01-09 of the North Dakota Century Code, relating to third party actions and workmen's compensation bureau subrogation.

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

§ 1. Amendment.) Section 65-01-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-01-09. Injury Through Negligence of Third Person — Option of Employee—Fund Subrogated When Claim Filed.) When an injury or death for which compensation is payable under provisions of this title shall have been sustained under circumstances creating in some person other than the fund a legal liability to pay damages in respect thereto, the injured employee, or his dependents may claim compensation under this title and proceed at law to recover damages against such other person. The fund shall be subrogated to the rights of the injured employee or his dependents to the extent of fifty percent of the damages recovered up to a maximum of the total amount paid or to be paid in compensation and benefits for the injured employee and the action against such other person may be brought by the injured employee, or his dependents in the event of his death, in his or in his dependents' own right and name and as trustee for the workmen's compensation bureau for the subrogation interest of the bureau. If the injured employee or his dependents do not institute suit within sixty days after date of injury the bureau may bring the action in its own name and as trustee for the injured employee or his dependents and retain its subrogation interest. Within 60 days after both the injured employee and the bureau have declined to commence an action against a third person as provided above, the employer may bring the action in his own name and/or in the name of the employee, and in trust for the bureau and for the employee. The party bringing the action may determine if the trial jury should be informed of the trust relationship. If the action is brought by the injured employee or his dependents, or the employer as provided above and the bureau shall pay fifty percent of the costs of the action, exclusive of attorney fee, when such costs are incurred. Should there be no recovery of damages in the action this shall be a cost of the bureau to be paid from the bureau general fund. When there is recovery of damages in the action the costs of the action, exclusive of attorneys fees, shall be pro-rated and adjusted on the percentage of the total subrogation interest of the bureau recovered to the total recovery in the action. The bureau shall pay attorney fees to the injured employees attorney from the bureau general fund as follows: 1. Twenty percent of the subrogation interest recovered for the bureau when legal action is not commenced. 2. Twenty-five percent of the subrogation interest recovered for the bureau when action is commenced and settled before judgment. 3. Thirty-three and a half percent of the subrogation interest recovered for the bureau when recovered through judgment.

The above provisions as to costs of the action and attorney fees is effective only when the injured employee advises the

bureau in writing the name and address of his attorney, and that he has employed such attorney for the purpose of collecting damages or of bringing legal action for recovery of damages.

Approved March 8, 1965.

CHAPTER 453

H. B. No. 896
(Jungroth)

REPRESENTATION BY ATTORNEY GENERAL

AN ACT

To amend and reenact section 65-01-12 of the North Dakota Century Code, relating to attorney general representing the workmen's compensation bureau.

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

§ 1. Amendment.) Section 65-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-01-12. Attorney General to Represent Bureau.) Upon the request of the bureau, the attorney general shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this title or for the recovery of any money due the fund or of any penalty provided for in this title, and shall defend all suits, actions, or proceedings brought against the bureau or any member thereof in his official capacity.

Approved March 8, 1965.

CHAPTER 454

H. B. No. 746
(Lundene, Shablow, Haugland, Larson (Richland), Staven)

TERM OF CHAIRMAN

AN ACT

To amend and reenact section 65-02-04 of the North Dakota Century Code providing for the appointment and term of a chairman for the workmen's compensation bureau.

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

§ 1. **Amendment.)** Section 65-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-02-04. Chairman of the Bureau.) The governor shall designate one of the commissioners as chairman of the bureau. The term of such commissioner as chairman shall not exceed two years and shall expire on the tenth day of July in each odd numbered year.

Approved March 2, 1965.

CHAPTER 455

H. B. No. 897
(Jungroth)

RULES AND FEES

AN ACT

To amend and reenact section 65-02-08 of the North Dakota Century Code, relating to workmen's compensation bureau rule-making power and fee schedules.

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

§ 1. **Amendment.)** Section 65-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-02-08. Rule-Making Power of the Bureau — Fees Prescribed by Bureau.) The bureau shall make, promulgate, and enforce such rules, not inconsistent with the provisions of this

title, as may be necessary to carry out the provisions of this title. All fees on claims for legal, medical, and hospital services rendered under this title to any claimant shall be in accordance with schedules of fees adopted or to be adopted by the bureau. The bureau, by rule, shall specify the amount allowable for attorney's fees in proceedings before the bureau and shall pay the same from the bureau general fund.

Approved March 8, 1965.

CHAPTER 456

H. B. No. 745
(Lundene, Shablow, Haugland, Staven, Larson (Richland))

AMOUNT OF BENEFITS

AN ACT

To amend and reenact sections 65-05-09 and 65-05-11 of the North Dakota Century Code, relating to the amount of workmen's compensation benefits.

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

§ 1. **Amendment.)** Section 65-05-09 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

65-05-09. Total Disability—Weekly and Aggregate Compensation.) If the injury causes temporary or permanent total disability, the fund shall pay to the disabled employee during such disability a weekly compensation equal to eighty percent of his weekly wage, subject to the maximum and minimum limitations contained in section 65-05-11. In case of temporary or permanent total disability, there shall be paid to such disabled employee an additional sum of three dollars per week for each dependent child under the age of eighteen years 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 sixty-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.

§ 2. **Amendment.)** Section 65-05-11 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

65-05-11. Maximum and Minimum Compensation Allowances—Total and Partial Disability.) The weekly compensation for total disability shall not be more than fifty dollars, except where an allowance for dependents is made in compliance with section 65-05-09, nor less than fifteen dollars. The weekly compensation for temporary partial disability with partial allowance for dependents shall not be more than fifty dollars. These provisions shall be applicable to all total disability and temporary partial disability awards for injuries as defined in this title occurring on or after July 1, 1965. If the injured person, at the time of the injury, was a minor or was employed in a learner's capacity, and was not physically or mentally defective, the bureau from time to time shall determine the probable increase in weekly earning capacity of such person if such injury had not occurred, and shall base its award for compensation upon such probable weekly wage-earning capacity.

Approved March 5, 1965.

CHAPTER 457

H. B. No. 922
(Ruddy, Kvasager, Boustead)

ALLOWANCES FOR DEATH CLAIMS

AN ACT

To amend and reenact section 65-05-17 of the North Dakota Century Code, relating to weekly compensation in death claims.

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

§ 1. **Amendment.)** Section 65-05-17 of 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 the widow or widower, if there is a child, the compensation payable under subsections 1 and 2, and in addition thereto, when there is no parent said payments shall be made to the guardian of such child, children or issue and the payments shall cease as to any child or issue of the deceased employee upon his or her reaching the age of eighteen years, dies, marries, or if incapable of self-support when it becomes capable of self-support or is adopted. For 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.

In addition to the awards made to a pensioner 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, the total amount of such additional award not to exceed six hundred dollars, and such additional award shall be charged to the bureau general fund.

Approved March 15, 1965.

CHAPTER 458

H. B. No. 894
(Jungroth)

APPEALS

AN ACT

To amend and reenact section 65-10-01 of the North Dakota Century Code Supplement, relating to appeals from decisions of the workmen's compensation bureau.

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

§ 1. Amendment.) Section 65-10-01 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

65-10-01. Appeal from Decision of Bureau.) If the final action of the bureau denies the right of the claimant to participate at all in the fund on the ground that the injury was self-inflicted, or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claimant's right, or if the bureau allows the claimant to participate in the fund to a lesser degree than that claimed by the claimant, if such allowance is less than the maximum allowance provided by this title, the claimant may appeal to the district court of the county wherein the injury was inflicted. An employer may also appeal a decision of the bureau in any injury case in the manner prescribed in this section. An appeal involving injuries received under insurance provided under contracts with extraterritorial coverage shall be triable in the district court of Burleigh County. Any appeal under this section shall be taken in the manner provided in chapter 28-32. 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.

Approved March 8, 1965.

VETOED MEASURES

CHAPTER 1

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

STATE INSTITUTIONS OF HIGHER LEARNING

Note: The following line item was vetoed by the Governor. For the remainder of Senate Bill No. 1, see chapter 1.

§ 4. Transfer of Funds Between Line Items.) The board of higher 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.

Disapproved March 17, 1965.

Filed March 20, 1965.

Item Veto

March 20, 1965

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Section 4 of Senate Bill 1 permits the Board of Higher Education to authorize the expenditure of funds included within any lined item of the total operating budget of the state institutions of higher learning for any purposes authorized by any other line item included within the total operating budget for a given institution.

The Board of Higher Education by our State Constitution is now given broad discretionary powers in the expenditure of funds for higher education. Should Section 4 be followed as Board of Higher Education policy, the purposes of budgeting would be substantially lost. In order to protect budgeting procedure as established by the Budget Board and the Department of Accounts and Purchases, specific transfers between funds are authorized. Expenditures are then made from funds after they are transferred. The expenditure then shows in departmental accounts as expended from the proper account. The integrity of budgeting procedure is then protected. This is common procedure within all state departments when transfers are approved by the Emergency Commission.

I, therefore, item veto Section 4 in Senate Bill No. 1 in order that proper accounting procedure be safe-guarded without detriment to flexibility in institutional financing.

Sincerely,
WILLIAM L. GUY
Governor

CHAPTER 2

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

EXTENSION DIVISION AND EXPERIMENT STATIONS

Note: The following line item was vetoed by the Governor. For the remainder of Senate Bill No. 2, see chapter 2.

§ 4. Transfer of Funds Between Line Items.) The board of higher 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 experiment station and extension division.

Disapproved, March 20, 1965.

Filed March 20, 1965.

Item Veto

March 20, 1965

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Section 4 of Senate Bill 2 permits the Board of Higher Education to authorize the expenditure of funds included within any lined item of the total operating budget of the extension division and experiment stations of North Dakota State University for any purposes authorized by any other line item included within the total operating budget for a given institution.

The Board of Higher Education by our State Constitution is now given broad discretionary powers in the expenditure of funds for higher education. Should Section 4 be followed as Board of Higher Education policy, the purposes of budgeting would be substantially lost. In order to protect budgeting procedure as established by the Budget Board and the Depart-

ment of Accounts and Purchases, specific transfers between funds are authorized. Expenditures are then made from funds after they are transferred. The expenditure then shows in departmental accounts as expended from the proper account. The integrity of budgeting procedure is then protected. This is common procedure within all state departments when transfers are approved by the Emergency Commission.

I, therefore, item veto Section 4 in Senate Bill No. 2 in order that proper accounting procedure be safe-guarded without detriment to flexibility in institutional financing.

Sincerely,
WILLIAM L. GUY
Governor

CHAPTER 459

S. B. No. 46
(Longmire, Kautzmann, Solberg, Morgan, Forkner)
(From LRC Study)

ELIGIBILITY OF CERTAIN WELFARE RECIPIENTS

AN ACT

To amend and reenact subsection 2 of section 32-36-08, and sections 50-09-05, and 50-09-23 of the North Dakota Century Code, providing for denial of eligibility for aid to dependent children so long as custodial parent refuses to cooperate in enforcing parental obligations, relating to the commencement of an action to determine paternity, and providing that any person willfully misusing aid to dependent children payments is guilty of a misdemeanor.

Veto

March 3, 1965

The Honorable Charles Tighe
President of the Senate
Bismarck, North Dakota

Dear Mr. President:

Senate Bill 46 has to do with much of the sadness that exists in our everyday world. It has to do with the relationship of dependent children to a widowed mother, an unwed mother, or foster parents. It has to do with the relationship of the community, of our government, and of our charitable institutions in the rehabilitation of some unfortunate mothers needing help . . . help to reflect to their child or children a sense of belonging in our society. It has to do with the relationship of the courts, including the juvenile court, the state's attorney's

office, and county and state welfare personnel, all carrying out an assignment to fulfill the obligation of our benevolent and compassionate system of government.

This bill attempts to correct abuses which are but a minor part of our generally excellent welfare system. In paternity cases, the unyielding language of this proposed law could, in some instances, create a chain reaction of sorrow and shame to children in another family. It could create multiple rehabilitation problems where only one existed before.

The language of this bill, which uses the phrase, "Any person having the custody or control of a child qualified to receive grants or payments for aid under the terms of this chapter shall be disqualified from receiving such payments by reason of refusing to cooperate with the county welfare agency or the state's attorney," opens up a multitude of interpretations of the word "cooperate."

The concern for the dependent child must be paramount over our concern for possible abuses in a mother's handling of welfare money. Any law which causes a child to find himself or herself regarded as a pawn in a government program closely policed by those who may not be versed in social welfare is self-defeating. The emotional strain to a dependent child in finding himself or herself no longer the private property of a family or mother, but public property set apart from other children, is a real danger under a law such as this which intensifies surveillance of a family by those who might be untrained in social work.

I have received strong appeals from judges, ministers, professional welfare workers, and Catholic, Protestant, and nondenominational welfare agencies, to veto this bill. I take note that both the Senate and House committees, which delved deeply into the repercussions that would come about from this Act, recommended that the bill not become law. I concur with the committees' judgment and agree with the observations of the many who have communicated to me, and veto Senate Bill 46.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. Amendment.) Subsection 2 of section 32-36-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If the child is or is likely to be a public charge, by a representative of the county or state public welfare board or any of the authorities charged with its support;

§ 2. **Amendment.)** Section 50-09-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-09-23. Fraudulent Acts — Falsely Obtaining or Using Assistance Grants—Penalties—Care of Children During Confinement.)

1. Whoever knowingly obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, by impersonation, or other fraudulent device, assistance to which he is not entitled, or assistance greater than that to which he is justly entitled, is punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than one year in the penitentiary or the county jail, or by both such fine and imprisonment. In assessing the penalty, the court shall take into consideration the amount of money fraudulently received.

2. Any person, applicant, or caretaker other than a needy dependent child, who willfully and knowingly receives or uses any part of an assistance grant paid pursuant to this chapter for a purpose other than support of the needy children is guilty of a misdemeanor, and subject to punishment by imprisonment in a 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. Any person, applicant or caretaker, having custody of a dependent child and eligible to receive assistance for the care of such child, who is sentenced to imprisonment in the county jail upon being convicted for violating the provisions of this subsection, shall not be eligible to receive any aid to dependent children assistance during the time such applicant or caretaker is confined in the county jail. Upon order of the juvenile court, dependent children under the care of such person, applicant or caretaker imprisoned for violating the provisions of this subsection shall be placed in a foster home or under the care of a responsible person for such period as the applicant or caretaker is confined in the county jail.

§ 3. **Amendment.)** Section 50-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-09-05. Eligibility for Assistance.) Aid shall be granted under this chapter to any needy dependent child as defined in section 50-09-01:

1. Who has resided in the state for one year immediately preceding the date of application; or
2. If under the age of one year at the time of application:
   a. Whose mother has resided in the state one year immediately preceding the birth of the child; or
   b. Who has resided in the state during his lifetime and whose mother has resided in the state for so many months, immediately preceding his birth as added to the age of the child, aggregate one year immediately preceding the date of application; or
3. If unborn, whose mother has resided in the state for one year immediately preceding the date of application; or
4. Who is living in a boarding home licensed under the laws of North Dakota or, if in another state, meeting standards determined by the state agency to be comparable to those required for licensing in North Dakota; or in a home or institution maintained and operated or selected by a private agency; or
5. Any person having the custody or control of a child qualified to receive grants or payments for aid under the terms of this chapter shall be disqualified from receiving such payments by reason of refusing to cooperate with the county welfare agency or the state's attorney. This section shall not be construed as denying assistance and care to such child through its legally entitled representative or temporary custodian.

Disapproved March 3, 1965.

Filed March 15, 1965.

CHAPTER 460

S. B. No. 160
(Ringsak, Torgerson, Walz, Longmire, Chesrown)

REVOCATION OF DRIVING PRIVILEGES

AN ACT

To amend and reenact section 39-20-04 of the North Dakota Century Code, relating to the revocation of licenses, permits, or driving privileges upon refusal to submit to chemical testing.

Veto

March 15, 1965

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

The death and injury rate on our highways is appalling. Property destruction by vehicles has sent insurance premiums soaring. As little people, we have at times seemed both powerless and apathetic to do those things which we know in our hearts would save lives and property on our highways.

Senate Bill 160 amends our present North Dakota law to make it easier for a suspected intoxicated driver to avoid submitting to chemical testing. Our present laws on chemical testing for drunken driving are in conformity with the Uniform Code adopted by many states. Senate Bill 160 would relax our conformity with the Uniform Code.

Since drunken driving is the proven cause of so much death and destruction on our highways, I think we should strengthen our highway safety laws rather than weaken them. I therefore veto Senate Bill 160.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. Amendment.) Section 39-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-04. Revocation of Privilege to Drive Motor Vehicle Upon Refusal to Submit to Chemical Testing.) If a person under arrest refuses to submit to chemical testing, none shall

be given, but the state highway commissioner, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, and that the person had refused to submit to the test or tests, shall revoke his license or permit to drive and any nonresident operating privilege for a period of sixty days; or if the person is a resident without a license or a permit to operate a motor vehicle in this state the commissioner shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

Disapproved March 15, 1965.

Filed March 15, 1965.

CHAPTER 461

S. B. No. 172
(Van Horn, Urdahl)

DRIVER'S LICENSE POINT SYSTEM

AN ACT

To create and enact section 39-06-32.1 and to amend and reenact section 39-06-04, subsection 2 of section 39-06-32, and section 39-06-33 of the North Dakota Century Code, relating to the time that driver's permits shall be effective and providing a point system for the suspension of motor vehicle operators' licenses.

Veto

March 20, 1965

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

We are living in an age of increasing traffic congestion. We are experiencing a rising toll of fatalities, injuries, and property damage due to accidents on our highways. This is the time when greater effort should be made to increase the responsibility expected of all our drivers. This cannot be accomplished by weakening our drivers license system, or passing legislation which makes it increasingly difficult to suspend the licenses of offenders. Senate Bill 172 would create a new breed of chronic traffic offenders who would drive according to their accumulated points rather than from a respect for traffic laws.

Senate Bill 172 would be a serious step backward since it would practically eliminate the suspension of drivers' licenses within North Dakota for violations except in extreme cases involving a multiple offender.

The suspension of licenses is, at least to some degree, a measure of protection against the speeding, reckless, dangerous drivers and must be preserved.

I, therefore, veto Senate Bill 172.

Sincerely,
WILLIAM L. GUY
Governor

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

§ 1. 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 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.

§ 2. Amendment.) Subsection 2 of section 39-06-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Has compiled a total of twelve points within a two-year period as provided in section 39-06-32.1;

§ 3.) Section 39-06-32.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-06-32.1. Suspension of Licenses Under Point System.)

1. In addition to, but not in substitution for, any other provisions of this title, the commissioner shall after notice to the general public put into effect a point system for the suspension of motor vehicle operators' licenses issued under this section. Points shall be charged against a licensee after conviction of a violation under the motor vehicle laws of this state. Point values shall be assessed as follows:

a. Speeding, 1 to 5 miles over speed limit.....No points
b. Speeding, 6 to 10 miles over speed limit.....2 points
c. Speeding, 11 to 15 miles over speed limit.....3 points
d. Speeding, 16 miles or more over speed limit..4 points
e. Reckless driving .....4 points
f. Aggravated reckless driving .....6 points
g. Driving on wrong side of roadway.....2 points
h. Failure to yield right-of-way.....2 points
i. Failure to signal or improper signal.....2 points
j. Following too closely .....2 points
k. Failure to dim headlights.....2 points
l. Improper turn .....2 points
m. Improper passing .....2 points
n. Disobeying stop light or sign.....2 points
o. Leaving scene of accident .....6 points
p. Careless driving .....4 points
q. Failure to report an accident.....3 points
r. Any moving violation not listed and not contributing to an accident .....2 points
s. Violations contributing to an accident.....4 points

2. Whenever a conviction occurs on multiple charges based on offenses alleged to have been committed at the same time or arising out of circumstances simultaneous in time and place, points shall be assessed against the person so convicted only on the charge which has the highest point assessment and shall not be assessed with respect to the remainder of such multiple charges.

3. The commissioner shall send a warning letter to each licensee charged with eight points notifying such licensee that his operator's license may be suspended upon an accumulation of twelve points within any two-year period. When any licensee has accumulated twelve points within any two-year period the commissioner may suspend the operator's license of such licensee.

4. No points assessed hereunder shall be retained for two years after their assessment.

§ 4. Amendment.) Section 39-06-33 of the 1963 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 sections 39-06-32 and 39-06-32.1, 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 reexamination 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.

Disapproved March 20, 1965.

Filed March 20, 1965.

CHAPTER 462

H. B. No. 618
(Stallman, Hoffner, Olienyk)

APPROPRIATION FOR PUBLICATION OF 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.

Veto

March 20, 1965

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 618 provides for appropriation of $67,840.00 out of Korean Conflict Adjusted Compensation Fund for the purpose of compiling and printing service records of veterans of World War II and the Korean hostilities. This amount of money is totally inadequate to complete such an ambitious project

and would require substantial appropriations in subsequent legislative sessions.

Article 65 of the North Dakota Constitution authorized the issuance of bonds of the State of North Dakota not to exceed $9 million for the payment of adjusted compensation to North Dakota veterans of the Korean Conflict. Chapter 371 of the 1959 Session Laws amended Section 54-39-02 which provides, "Such issuance of bonds is authorized for the *sole purpose* of providing funds to be used in payment of adjusted compensation to North Dakota veterans of the Korean Conflict . . . when the purpose of such appropriation has been satisfied, all remaining moneys should be transferred to the Sinking Fund for such issue of bonds."

Because of the above constitutional provision and existing statutes, I requested an opinion from the Attorney General regarding the validity of the appropriation provided for in House Bill 618. This opinion, dated March 17, 1965, indicated grave doubt existed whether this bill could successfully withstand a constitutional challenge and be deemed a valid act or appropriation on the basis that it is for a purpose other than for which the tax was levied under Chapter 243, Section 8 of the 1957 Session Laws, except if, in fact, there is a surplus of moneys available in excess of the requirements to pay off the principal and interest of the outstanding bonds. House Bill 618 appropriates moneys received from the sale of bonds. The sale of these bonds were authorized by the vote of the people to pay veteran bonuses and for that purpose only.

Because of the original specific purpose of providing funds to be used in payment of these bonds as authorized by the people of North Dakota, and because I feel compelled to look at the amount in the Sinking Fund as it may presently exist, it is my conclusion that any appropriation or other use of these funds at this time for a purpose other than what was originally intended is entirely premature since the last bonds will not be retired until 1969.

I, therefore, veto House Bill No. 618.

Sincerely,
WILLIAM L. GUY
Governor

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

§ 1.) There is hereby appropriated out of the Korean Conflict adjusted compensation fund in the state treasury the sum of $67,840.00 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, 1965, and ending June 30, 1967. The funds hereby appropriated and designated shall be expended for and only as prescribed by this Act. Any unexpended funds shall revert to the Korean Conflict adjusted compensation fund.

Disapproved March 20, 1965.

Filed March 20, 1965.

CHAPTER 463

H. B. No. 927
(Olienyk)

NOTICE OF REAL ESTATE TAXES DUE

AN ACT

To amend and reenact section 57-20-07 of the North Dakota Century Code, to provide for giving notice of amount of real estate taxes due.

Veto

March 17, 1965

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 927 requires that each county treasurer, on receipt of the tax list from the county auditor, send written notice to each owner of assessed land informing him of the amount of real estate taxes due thereon and other pertinent information.

In theory, this bill is designed to serve a worthy purpose, and treasurers in nine counties do now send out such statements. In practice, however, I believe that this stipulation would work an immediate and unnecessary hardship on more than half of the counties in our state.

Its first effect would be to require twenty-nine counties to hire additional help in order to comply with the law, or to purchase expensive billing machinery. It would be, in practice, a luxury that many of our smaller counties cannot afford.

Other consequences would include a duplication of records within the county; the problem of mailing out notices by the treasurer prior to January 1, even though the auditor is not required to give the tax lists to the treasurer until January 1; and the difficulties this would impose on the treasurers in relation to special assessments in cities and school district annexation proposals.

The practice now is that those property owners who desire an early real estate tax statement need only apply to the county treasurer in order to obtain it. It is also worthy of note that the percentage of real estate taxes collected in those counties now mailing out real estate tax notices is no higher than in the counties which do not mail out notices.

I therefore veto House Bill 927.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. Amendment.) Section 57-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-07. County Treasurer To Be Collector of Taxes—To Give Notice of Amount of Real Estate Taxes.) The county treasurer shall be the receiver and collector of all taxes extended upon the list, including the state levy and the levies of every other taxing district or municipality, and including special taxes for local improvements in municipalities, and all fines, forfeitures, or penalties received by any person or officer for the school fund, or for the use of the county. He shall proceed to collect the same according to law, and shall place the same when collected to the credit of the proper funds, but he shall not be the receiver or collector of any fines or penalties accruing to any municipal corporation for the violation of its ordinances.

As soon as the county treasurer receives the tax lists from the county auditor, he shall give to each owner of any lot or tract of land assessed a written notice mailed to the owner's last known address in which is given the legal description of such lot or tract, the amount of real estate taxes due thereon, the amount of discount, if any, for early payment of such taxes, the date when such taxes shall become delinquent if not paid, the amount of penalties and the dates on which they attach if the taxes are not paid, and that if such taxes and

penalties, if any, are not paid, the lot or tract will be sold for delinquent taxes on the second Tuesday in December following. If two or more lots or tracts are owned by the same owner or owners, the required information for each lot or tract may be included in a single notice to the owner or to each owner if there are two or more. The failure of any property owner to receive such notice shall in no way invalidate the tax or penalty due on any lot or tract.

Disapproved March 17, 1965.

Filed March 17, 1965.

REFERRED MEASURES, DISAPPROVED

CHAPTER 464

INDIVIDUAL INCOME TAX RATE

Disapproval and repeal by referendum of Senate Bill No. 360 which is an amendment of section 57-38-29 of the North Dakota Century Code by chapter 395 of the 1963 Session Laws, and which would have changed the rate of tax on individuals for state income tax purposes and would have provided an effective date.

Disapproved July 17, 1963. 108,575 to 19,021

Note: This was measure No. 1 on the special election ballot.

CHAPTER 465

ADJUSTED TAX ON INDIVIDUAL INCOME

Disapproval and repeal by referendum of Senate Bill No. 50 which is a creation of section 57-38-65 of the North Dakota Century Code by chapter 397 of the 1963 Session Laws, and which would have provided for the levying and collection of an adjusted tax on individual income and would have provided an effective date.

Disapproved July 17, 1963. 108,057 to 19,219

Note: This was measure No. 2 on the special election ballot.

CHAPTER 466

WITHHOLDING OF INCOME TAXES

Disapproval and repeal by referendum of Senate Bill No. 39 which is a creation of sections 57-38-58, 57-38-59, 57-38-60, 57-38-61, 57-38-62, 57-38-63, 57-38-64, and 57-38-64.1 of the North Dakota Century Code by chapter 396 of the 1963 Session Laws, and which would have provided for the withholding of income taxes from wages of employees, the declaration and payment of estimated income, and would have provided an effective date.

Disapproved July 17, 1963. 101,100 to 25,673

Note: This was measure No. 3 on the special election ballot.

CHAPTER 467

URBAN RENEWAL TAX LEVY

Disapproval and repeal by referendum of House Bill No. 771 which provides by chapter 300 of the 1963 Session Laws for authorizing cities having undertaken an urban renewal project or projects to

levy taxes not exceeding one and one-half mills for ten successive years for such cities' participating shares in additional projects in new urban renewal areas, and not subject to other tax levy limitations, and declares an emergency.

Disapproved July 17, 1963. 98,553 to 23,399

Note: This was measure No. 4 on the special election ballot.

CHAPTER 468

SCHOOL DISTRICT LEVY LIMITATIONS

Disapproval and repeal by referendum of House Bill No. 750 which is an amendment of section 57-15-14 of the North Dakota Century Code by chapter 385 of the 1963 Session Laws, and which relates to levy limitations in school districts.

Disapproved July 17, 1963. 98,328 to 24,859

Note: This was measure No. 5 on the special election ballot.

INITIATED MEASURES, APPROVED

CHAPTER 469

EMPLOYEES OF RAILROADS

An initiated measure to permit railroads to conform to settlement of issues relating to the number of employees on freight trains and self-propelled equipment by: repealing statutes requiring the employment of specified numbers of men; providing for continuation of job guarantees to certain brakemen; and authorizing job and pay protection for affected North Dakota employees in the manner provided by Arbitration Board No. 282 appointed by President John F. Kennedy, supplemental awards and collective bargaining agreements. Passenger trains are not affected.

Be It Enacted by the People of the State of North Dakota:

§ 1.) The object of this measure is to permit the railroads in the state of North Dakota to operate their trains and equipment and provide job protection for employees in conformity with the settlement of issues relating to the number of employees on freight trains and self-propelled equipment resulting from the procedures prescribed by the Congress in Public Law 88-108 and the Railway Labor Act, including the award of Arbitration Board No. 282 appointed by President John F. Kennedy, subsequent supplemental awards and collective bargaining agreements.

§ 2.) Sections 49-13-09, 49-13-10, 49-13-13, and 49-13-14 are hereby repealed, provided, however, no brakeman shall be deprived of the job protection now afforded by the last paragraph of section 49-13-09.

§ 3.) Any person employed as an engineer, fireman, conductor, brakeman or flagman on any railroad in this state with service of more than two years prior to January 25, 1964, whose job is eliminated by reason of the enactment of this measure, shall be offered a comparable job at equivalent pay by his employer in accordance with the award of Arbitration Board No. 282.

Approved November 3, 1964. 157,823 to 87,164

Note: This was measure No. 3 on the general election ballot.

CHAPTER 470

SERVING FOOD ON PREMISES WHERE ALCOHOLIC BEVERAGES ARE SOLD

An initiated measure to amend and reenact sections 5-05-04, 5-05-05, and 5-05-10 of the North Dakota Century Code, relating to alcoholic beverages in places where food and other commodities are sold, offered for sale, or served, and repealing sections 5-05-07 and 5-05-08 of the North Dakota Century Code.

Be It Enacted by the People of the State of North Dakota:

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

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

1. Such licensee must have gross sales of food during the current calendar year in an amount at least equal to the gross sales of alcoholic beverages sold under an on sale license in such room or rooms;

2. A person under twenty-one years of age may not be in or permitted in such room or rooms unless accompanied by one of his or her parents or legal guardian.

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

5-05-05. Unlawful to Sell or Consume Alcoholic Beverages Where Certain Other Commodities Are Sold.) It shall be unlawful to sell, offer for sale, give away, barter, or consume alcoholic beverages in any place where is sold or offered for sale any commodity other than tobacco, tobacco products, soft drinks, peanuts, pretzels, potato chips, and related sundries, except as permitted under section 5-05-04.

§ 3. **Amendment.)** Section 5-05-10 of the North Dakota Century Code as amended is hereby amended and reenacted to read as follows:

5-05-10. Enforcement by Attorney General.) The inspectors appointed by the attorney general as authorized by law shall assist in the enforcement of the laws of this state relating to the sale of alcoholic beverages, and the other laws of this state under the jurisdiction of the attorney general. They shall frequently visit all licensed premises and shall give particular attention to the operation and conduct of retail premises to the end that such premises shall be conducted in a lawful and orderly manner and in strict compliance with the laws relating to such business. In the performance of the duties hereby imposed upon them, such inspectors shall have all the powers and duties conferred by law upon peace officers.

§ 4. **Repeal.)** Sections 5-05-07 and 5-05-08 of the North Dakota Century Code are hereby repealed.

Approved November 3, 1964. 133,216 to 106,701

Note: This was measure No. 6 on the general election ballot.

INITIATED MEASURES, DISAPPROVED

CHAPTER 471

FULL TRAIN CREWS FOR FREIGHT AND MIXED TRAINS

An Act for the initiation of a measure to promote the safe operation of trains over main line tracks and grade crossings; establishing the number of men required to man freight trains over one-half of a mile in length; providing for the number of men required to conduct switching operations across public crossings within municipalities of this state; providing for the effect of invalidity of parts of this Act; and prescribing penalties for violation of the provisions thereof.

Be It Enacted by the People of the State of North Dakota:

§ 1. Safety Protection for Railroad Trains, Engines, Cars and Machines on Main Track by Flagmen Required.) All railroad corporations operating railroads in the state of North Dakota, are hereby required to protect, engines, trains, equipment, cars and self-propelled engines or machines not used for the transportation of passengers, which at any time obstruct main tracks over which scheduled trains or trains under special or other orders are or may be operated or run, by stationing a reliable and competent flagman in such a position as to stop approaching trains from either direction, regardless of the use of any manual or automatically controlled block system or signal or any yard board. Said flagmen to be equipped with both visible and audible signals for warning any approaching train. The term "main track" means any continuous track over which trains operate through and between stations.

§ 2. Freight Trains Over One-Half of a Mile in Length—How Manned.) No railroad corporation doing business in this state shall operate over any of its lines, or any part thereof including a branch line outside of the yard limits any freight or mixed train which measures over one-half of a statute mile in length measured lengthwise from the front end of the engine to the rear of the last car attached thereto with less than a full train crew consisting of at least five competent employees, namely: an engineer, an engineman-helper, a conductor, a brakeman and a flagman. Whenever it is necessary to stop or back such train for any reason the flagman shall be stationed to the rear of the train and the brakeman and conductor shall be stationed on either side of the train in a position so as to be able to relay signals and warnings between the front and rear of said train.

§ 3. **Switch Crews in Municipalities—Requisite Members.)** No railroad corporation doing business in this state owning or operating any yard or terminal in any city or village, where switching, pushing or transferring of cars are made across any public crossing within the corporate limits of such city or village shall operate its switch crew with less than five competent employees, namely: an engineer, an engineman-helper who shall be stationed in the switching engine and a foreman and two helpers who shall be stationed and equipped to provide flag protection to motor vehicles and pedestrians at such crossings.

§ 4. **Definition.)** The term competent employee as used in this Act shall mean one who is able to read, speak, write, hear, and understand the English language and the time tables of the corporation by whom he is employed, and who is able to see, distinguish and understand the signals required by the book of rules of the corporation governing the operation of its trains and engines and, when required shall have passed, the regular examination prescribed by the corporation concerning rules and regulations governing the position of his class of employment.

§ 5. **Crew Safety Requirements for Freight and Mixed Trains Operating Over Certain Railroad Crossings.)** Notwithstanding the provisions of any arbitration award or collective bargaining agreement to the contrary, no railroad corporation doing business in the state of North Dakota shall operate or permit to be operated over any of its lines or any part thereof including a branch line, any freight or mixed train consisting of more than three cars across any railroad grade crossing over any public highway or street in this state which is not protected by electrical or mechanical warning devices with less than a full train crew consisting of five competent employees, namely: an engineer, who shall operate the engine, perform related work and keep a lookout for approaching motor vehicles, and an engineman (helper), who shall assist the engineer in the performance of his duties and be stationed in the engine so as to best view any motor vehicle moving on the highway which may be approaching from either direction, whether the train is moving forward or backing toward such crossing, and by a conductor who shall have charge of the operation of the train enroute, at stations and between stations, and by a brakeman who shall assist the conductor in the operation and protection of the train, and assist the flagman in providing flag protection and by a flagman, who together with the brakeman shall be stationed at the rear of the train to furnish flag protection to the train and highway traffic.

§ 6. **Effect of Act.)** Notwithstanding any law of this state to the contrary nothing herein shall be construed to relieve any railroad from complying with the crew consist and job protection requirements afforded under the provisions of chapter 402 of the Session Laws of 1961, commonly referred to as section 49-13-09 of the North Dakota Century Code, as amended, on the date such chapter became effective.

§ 7. **Penalty for Violation of Safety Regulations.)** Any railroad corporation violating any of the provisions of this Act shall be punished for each offense by a fine of not less than one hundred dollars nor more than five hundred dollars for each such violation, and each freight train or each switch car so illegally operated shall constitute a separate offense.

§ 8. **Effect of Invalidity of Part of This Act.)** If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Act so adjudged to be invalid or unconstitutional.

Disapproved November 3, 1964. 85,931 to 147,785

Note: This was measure No. 4 on the general election ballot.

CHAPTER 472

REQUIRED SERVICE OF MIXED FREIGHT AND PASSENGER TRAINS

An Act for the initiation of a measure declaring the public policy of the state of North Dakota with respect to and requiring minimum freight and passenger service by railroads within this state; providing exceptions thereto and penalties for failure to trains as required, declaring the Act to be self executing and the effect of the invaliding of a part of the Act.

Be It Enacted by the People of the State of North Dakota:

§ 1. **Intent of Act.)** The state of North Dakota, exercising its sovereign powers, declares that the prosperity of this state depends in a large measure upon good transportation service for its people, shippers and communities, so as to develop and continue the economic growth of all regions of the state; and that every railroad corporation should run its trains at regular times and furnish sufficient accommodations for passengers and property in a manner and at the times consistent with needs and conveniences of the people and shippers along

such lines, and the financial earnings of such corporations from the operations of such corporations.

§ 2. **Daily Local Mixed Passenger and Freight Trains by Railroad Corporations Required—Exceptions.)** Every railroad corporation operating a line of railroad within the state of North Dakota, including branch lines, whether such line is wholly within this state or partly within this state and partly within another state or foreign country, shall move over each of its lines of road, including its branch lines, within this state, each way on every business day of the year, at least one scheduled local mixed freight and passenger train. Such mixed train in addition to freight cars shall be supplied with not less than one combination baggage and passenger coach for the accommodation of passengers, provided that if said corporation is providing separate passenger service along any line it shall not be required to provide a combination baggage and passenger coach on the scheduled train required herein. If any railroad corporation after due application therefor and hearing held thereon, held pursuant to due notice given in substantially the manner required by chapter 28-32 of the North Dakota Century Code, shall make it appear to the public service commission that the total business from all sources on any such line of its road during the three year period immediately preceding the date of its application, was operated at a loss and will not justify the daily operation of such train as herein provided for and said commission shall so order, such corporation may operate such mixed train over the line on such days for such time as the evidence may justify and as said commission shall direct, provided, however, that nothing in this Act shall be construed to prevent any railroad corporation from providing additional train service on any line, or, the commission after due hearing and investigation from ordering additional train service on any line where the evidence appears to require such additional service.

§ 3. **Penalty for Failure to Run.)** Any railroad corporation which violates or fails to comply with any provision of this Act or fails, omits or neglects to comply with any order or requirement of said commission or any part or provision thereof shall be punished by a fine of not less than five hundred dollars and every violation of any provision of this Act, or any order or requirement of said commission by any such corporation is a separate offense, and in case of a continuing violation, each days continuance thereof shall be deemed to be a separate and distinct offense.

§ 4. **Effect of Invalidity of Part of This Act.)** If a court of competent jurisdiction shall adjudge to be invalid or uncon-

stitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Act so adjudged to be invalid or unconstitutional.

§ 5. **Act Self Executing—Exception.)** This Act is declared to be self executing and within ninety days after its effective date without any order from the public service commission every railroad corporation operating in this state will inaugurate mixed train service on each of its lines in this state in accordance with the provisions hereof, provided, however, if upon due application therefor filed prior to the end of said ninety day period, it shall be made to appear to the commission that for the thirty day period immediately prior to the 1st day of July, 1964 such railroad corporation was operating any freight or mixed train on any such line on a schedule of less than every business day of such period the commission may order it to continue to operate such train on said schedule as a mixed train for the six months period immediately following the effective date of such order, unless such period shall be shortened by order of the commission. Upon receipt of the such application the commission shall set the matter for hearing and if upon such hearing after due notice it shall be made to appear to the commission that under the provisions of section 2 of this Act daily train service should not be required on such line, the commission shall order mixed train service on such line on such days as the evidence may appear to justify.

Disapproved November 3, 1964. 81,321 to 148,568

Note: This was measure No. 5 on the general election ballot.

CONSTITUTIONAL MEASURES, APPROVED

CHAPTER 473

SEPARATION OF BUDGETS

House Concurrent Resolution "F", chapter 452, 1963 Session Laws, proposed by the 38th Legislative Assembly of the state of North Dakota to provide for the amendment of subdivision (d) of subsection 6 of Article 54 of the Amendments to the Constitution of the state of North Dakota, relating to budgets and appropriations for institutions of higher learning by adding the words "The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota State University of Agriculture and Applied Science may be separate from those of state educational institutions." so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

§ 1. **Amendment.)** Subdivision (d) of subsection 6 of Article 54 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Article 54

6. (d). It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in section 6 (a)." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota State University of Agriculture and Applied Science may be separate from those of state educational institutions.

Approved June 30, 1964. 61,721 to 46,333

Note: This was measure No. 1 on the primary election ballot.

CHAPTER 474

MUNICIPAL JUDGES

Senate Concurrent Resolution "T", chapter 454, 1963 Session Laws, proposed by the 38th Legislative Assembly of the state of North Dakota to provide for the amendment of section 113 of the Constitution of North Dakota, relating to the office of police magistrate by adding the words "selection or" before the word election; by adding the words "and the qualifications" after the word election; by omitting the words "police magistrates" and adding the words "municipal judges"; by omitting the words "in addition to their jurisdiction of all" and by adding the words "shall hear, try, and determine"; by omitting the words "shall be ex officio justices of the peace of the county in which said cities, towns and villages may be located. And the legislative assembly may confer upon said police magistrates the jurisdiction to hear, try, and determine all cases of misdemeanors, and the prosecutions therein shall be by information". And by adding the words "and shall have such other jurisdiction as the legislative assembly may confer upon them." so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

§ **1. Amendment.)** Section 113 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 113. The legislative assembly shall provide by law for the selection or election and the qualifications of municipal judges in cities, incorporated towns, and villages, who shall hear, try, and determine cases arising under the ordinances of said cities, towns and villages, and shall have such other jurisdiction as the legislative assembly may confer upon them.

Approved June 3, 1964. 55,202 to 49,504

Note: This was measure No. 3 on the primary election ballot.

CHAPTER 475

TERMS OF OFFICE FOR STATE OFFICIALS AND SUPERINTENDENT OF SCHOOLS FOR EACH COUNTY

An initiated measure for the amendment of sections 71, 82 and 150 of the Constitution of the state of North Dakota, providing for four year terms instead of two year terms for the offices of governor, lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, attorney general, and commissioner of agriculture and labor, and county superintendent of schools, beginning in the year 1965.

Be It Enacted by the People of the State of North Dakota:

SECTION 71 OF ARTICLE III: 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 beginning in the year 1965, and until his successor is elected and duly qualified.

SECTION 82 OF ARTICLE III: There shall be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, an attorney general, a commissioner of agriculture and labor, and a tax commissioner, who shall have attained the age of twenty-five years and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government for the term of four years beginning with the year 1965, and until their successors are elected and duly qualified; but no person shall be eligible for the office of treasurer for more than two consecutive terms. The tax commissioner shall be elected on a no party ballot and he shall be nominated and elected in the manner now provided for the nomination and election of the superintendent of public instruction.

The board of railroad commissioners shall hereafter be known as the public service commission and the members of the board of railroad commissioners as public service commissioners and the powers and duties now or hereafter granted to and conferred upon the board of railroad commissioners are hereby transferred to the public service commission. The public service commissioners shall have the qualifications of state electors, have attained the age of twenty-five years, be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, hold office at the seat of government and until their successors are elected and duly qualified. As each of the three public service

commissioners now holding office completes his term, his successor shall be elected for a term of six years.

The legislative assembly may by law provide for a department of labor, which, if provided for, shall be separate and distinct from the department of agriculture, and shall be administered by a public official who may be either elected or appointed, whichever the legislative assembly shall declare; and if such a department is established the commissioner of agriculture and labor provided for above shall become the commissioner of agriculture.

SECTION 150 OF ARTICLE VIII: 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.

This amendment shall be self executing, but legislation may be enacted to facilitate its operation.

Approved June 30, 1964. 60,099 to 55,294

Note: This was measure No. 5 on the primary election ballot.

CHAPTER 476

PUBLICITY PAMPHLET, REPEAL

Senate Concurrent Resolution "O", chapter 451, 1963 Session Laws, proposed by the 38th Legislative Assembly of the state of North Dakota to repeal the tenth paragraph of section 25 of the Constitution of the state of North Dakota, relating to the publicity pamphlet by omitting the words "All measures submitted to the electors shall be published by the state as follows: "The secretary of state shall cause to be printed and mailed to each elector a publicity pamphlet, containing a copy of each measure together with its ballot title, to be submitted at any election. Any citizen, or the officers of any organization, may submit to the secretary of state for publication in such pamphlet, arguments concerning any measure therein, upon first subscribing their names and addresses thereto and paying the fee therefor, which, until otherwise fixed by the legislature, shall be the sum of two hundred dollars per page." "

Be It Enacted by the People of the State of North Dakota:

§ 1. Repeal.) The tenth paragraph of section 25 of the Constitution of the state of North Dakota as printed in the North Dakota Century Code which reads:

> All measures submitted to the electors shall be published by the state as follows: "The secretary of state shall cause to be printed and mailed to each elector a publicity pamphlet,

containing a copy of each measure together with its ballot title, to be submitted at any election. Any citizen, or the officers of any organization, may submit to the secretary of state for publication in such pamphlet, arguments concerning any measure therein, upon first subscribing their names and addresses thereto and paying the fee therefor, which, until otherwise fixed by the legislature, shall be the sum of two hundred dollars per page."

is hereby repealed.

Approved November 3, 1964. 125,117 to 96,283

Note: This was measure No. 1 on the general election ballot.

CONSTITUTIONAL MEASURES, DISAPPROVED

CHAPTER 477

EMOLUMENTS OF OFFICE, REPEAL

House Concurrent Resolution "V", chapter 453, 1963 Session Laws, proposed by the 38th Legislative Assembly of the state of North Dakota to repeal section 39 of the Constitution of the state of North Dakota, relating to legislators holding state civil office by omitting the words "No member of the legislative assembly shall, during the term for which he was elected, be appointed or elected to any civil office in this state, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the governor, or governor and senate, during the term for which he shall have been elected."

Be It Enacted by the People of the State of North Dakota:

§ 1. **Repeal.)** Section 39 of the Constitution of the state of North Dakota is hereby repealed.

Disapproved June 30, 1964. 46,029 to 59,955

Note: This was measure No. 2 on the primary election ballot.

CHAPTER 478

PARI-MUTUEL WAGERING ON HORSE AND DOG RACES

An initiative petition to amend Amendment 1 of the North Dakota Constitution granting to persons the right to wager on the results of horse racing and dog racing by the pari-mutuel method and providing for the payment of a tax on such wagers and the distribution of tax money received.

Be It Enacted by the People of the State of North Dakota:

Amendment 1.) The legislative assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets; except that nothing in this section shall be construed to prohibit wagering on the results of horse races and dog races by the pari-mutuel method, by which the track operator shall be authorized to deduct twelve per centum (12%) of the total wagers, plus the odd cents of the redistribution over the lowest multiple of ten, for expense purposes and there shall be paid to the state tax commissioner for the state

of North Dakota four per centum (4%) of the total wagers as total tax and license fee and shall be in lieu of all other and further excise and occupational taxes to the state or any county, city, town or other political subdivision. Revenue received by the state tax commissioner shall be distributed for educational needs and purposes of the state department of public instruction and for old age assistance. Racing may be conducted on any calendar day, three hundred sixty-five days a year."

Disapproved June 30, 1964. 41,871 to 76,198

Note: This was measure No. 4 on the primary election ballot.

CHAPTER 479

EXEMPTION OF PERSONAL PROPERTY FROM TAXATION

An initiated measure for the amendment of section 176 of the Constitution of the state of North Dakota, adding personal property to the listing of properties exempt from taxation, and revising the definition therein contained of personal property.

Be It Enacted by the People of the State of North Dakota:

SECTION 176 OF ARTICLE XI: Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax. The property of the United States and of the state, county and municipal corporations and property used exclusively for schools, religious, cemetery, charitable or other public purposes, all personal property owned by persons or corporations residing or doing business within the state of North Dakota, and all personal property located within the state of North Dakota, shall be exempt from taxation. Except as restricted by this article, the legislature may provide for raising revenue and fixing the situs of all property for the purpose of taxation.

Disapproved November 3, 1964. 97,466 to 140,908

Note: This was measure No. 2 on the general election ballot.

CONSTITUTIONAL AMENDMENTS, PROPOSED

CHAPTER 480

SENATE CONCURRENT RESOLUTION "C"
(Lashkowitz, Lips, Redlin, Reichert)

HOME RULE FOR CITIES AND VILLAGES

A concurrent resolution for amendment of section 130 of the Constitution of the state of North Dakota, relating to home rule for cities and villages.

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 130 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 general election to be held in November, 1966 in accordance with the provisions of section 202 of the Constitution 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.

Filed March 4, 1965.

CHAPTER 481

SENATE CONCURRENT RESOLUTION "P"
(Committee on State and Federal Government)
(From LRC Study)

SELECTION OF JUDGES

A concurrent resolution 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 Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

The following proposed new section and amendment of section 90 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 general election to be held in November 1966, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 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.

Filed March 10, 1965.

***Note:** See section 21, chapter 225, 1965 S.L.

CHAPTER 482

SENATE CONCURRENT RESOLUTION "L"
(Larson)

TAX LEVIES

A concurrent resolution 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.

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 175 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 in June, 1966, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

*§ **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.

Filed March 10, 1965.

***Note:** Senate Concurrent Resolution "A", chapter 483, 1965 S.L., proposes the repeal of section 175 of the North Dakota Constitution.

CHAPTER 483

SENATE CONCURRENT RESOLUTION "A"

(Reichert, Longmire, Sinner)
(From LRC Study)

CONSTITUTIONAL REVISION

A concurrent resolution for 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 Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed new sections, 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, 1966, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ **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 provision 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.

***Note:** See chapter 162, 1965 S.L.

§ 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 pur-

poses 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.*

***Note:** See chapter 342, 1965 S.L.

§ 13. Amendment.) Section 55 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

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.*

***Note:** See chapter 341, 1965 S.L.

§ 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.

§ 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 item, 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.

Filed March 19, 1965.

***Note:** Senate Concurrent Resolution "L", chapter 482, 1965 S.L., proposes the amendment of section 175 of the North Dakota Constitution.

CHAPTER 484

HOUSE CONCURRENT RESOLUTION "M"

(Fossum, Haugland, Larsen (Grand Forks), Stockman,)
(Montplaisir, Rosendahl, Sanstead, Schoenwald)

ISSUANCE OF BONDS BY THE STATE AND ITS SUBDIVISIONS

A concurrent resolution 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 Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed amendment to the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election to be held in 1966, or at any special statewide election called prior thereto, 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 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.

Filed March 19, 1965.

CHAPTER 485

HOUSE CONCURRENT RESOLUTION "O"
(Olson)

OFFICE OF COUNTY SUPERINTENDENT OF SCHOOLS

A concurrent resolution 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.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed amendment of section 150 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election to be held in June, 1966, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 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.

Filed March 19, 1965.

CHAPTER 486

HOUSE CONCURRENT RESOLUTION "Z"
(Meschke, Hauf, Backes)

LIMITATION ON INDEBTEDNESS OF POLITICAL SUBDIVISIONS

A concurrent resolution for the amendment of sections 183 and 184 of the Constitution of the state of North Dakota, relating to the limit on the amount of indebtedness that may be incurred by any county, township, city, town, school district or any other political subdivision and to the payment of the interest and principal of any such indebtedness.

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 183 and 184 of the Constitution of the state of North Dakota are agreed to and shall be submitted except as herein provided, to the qualified electors of the state of North Dakota at the primary election in 1966 in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended. In the event that the provisions of House Bill No. 698* as enacted by the Thirty-ninth Legislative Assembly, are not in full force and effect at such time as the secretary of state prepares the ballot for the primary election to be held in 1966, the question of amending sections 183 and 184 of the Constitution of the state of North Dakota, as herein provided, shall not be placed upon the ballot for the approval or disapproval of the electorate.

§ 1. **Amendment.)** Section 183 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 183. The debt of any county, township, city, town, school district or any other political subdivision, shall never exceed seven per centum upon the assessed value of the taxable property therein; provided that any incorporated city may, by a two-thirds vote, increase such indebtedness four per centum on such assessed value beyond said seven per centum limit, and a school district, by a majority vote may increase such indebtedness six percent on such assessed value beyond said seven per centum limit; provided also that any county or city by a majority vote may issue bonds upon any revenue producing utility owned by such county or city, or for the purchasing or acquiring the same or building or establishment

*Note: See chapter 386, 1965 S.L.

thereof, in amounts not exceeding the physical value of such utility, industry or enterprise.

In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount, exclusive of the bonds upon said revenue producing utilities, whether contracted prior or subsequent to the adoption of this Constitution, shall be included; provided further that any incorporated city may become indebted in any amount not exceeding five per centum of such assessed value without regard to the existing indebtedness of such 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. All bonds and obligations in excess of the amount of indebtedness permitted by this Constitution, given by any city, county, township, town, school district, or any other political subdivision shall be void.

§ 2. **Amendment.)** Section 184 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 184. Any city, county, township, town, school district or any other political subdivision incurring indebtedness shall, at or before the time of so doing, provide a sufficient amount for the payment of the interest and also the principal when due by the collection of an annual tax or from the distribution to it of any moneys allocated to it out of the state treasury by the legislative assembly or by a combination of both such sources of moneys as may be provided by the legislative assembly, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable until such debt be paid.

Filed March 20, 1965.

STATUTES PROPOSED

CHAPTER 487

Note: See chapter 159, 1965 S.L., page 284.

HOUSE RESOLUTIONS

HOUSE RESOLUTION No. 1

(Solberg, Fossum, Davis, Winge)
(From LRC Study)

HOUSE OF REPRESENTATIVES' EQUIPMENT

A resolution authorizing and directing the department of accounts and purchases to furnish office and secretarial equipment for use of the house of representatives.

WHEREAS, the cost of conducting the legislative assembly has been increasing over the years even though efforts have been made to keep such cost at a minimum; and

WHEREAS, the rental of office and administrative equipment is a basic item in the cost of conducting the legislative assembly that has continually increased; and

WHEREAS, it appears that the purchase of most office equipment through the department of accounts and purchases for the use of the house of representatives and the senate to be re-sold to other state departments at the termination of the legislative assembly will result in a savings to the legislative assembly of $2,605.84, when compared to rental costs during the last legislative session, and a substantial additional saving to departments purchasing such legislative equipment at a discount following the session;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the department of accounts and purchases is authorized and directed to furnish all office and administrative equipment, except such equipment as may be desired for specialized purposes, at a charge to the house of representatives of ten percent of the cost of such equipment and that such equipment be re-sold at the termination of the legislative assembly to other state departments at a ten percent discount.

Filed February 19, 1965.

HOUSE RESOLUTION No. 2

(Giffey, Streibel)

INAUGURATION COMMENDATION

A resolution expressing appreciation to the adjutant general, the national guard, and the governor's reception and ball committee for their activities in making the inauguration activities a success.

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, Brigadier General LaClair Melhouse, North Dakota adjutant general, and the North Dakota national guard have for many sessions handled the governor's inaugural program in a most commendable manner; and

WHEREAS, they have again on January 6, 1965, performed these duties with finesse, dignity, and courtesy toward the Honorable William L. Guy, and his family, as well as toward the other elected state officials; and

WHEREAS, the governor's reception and ball committee planned and made the governor's reception and ball an outstanding event;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the house of representatives of the Thirty-ninth Legislative Assembly of the state of North Dakota does hereby express its thanks and appreciation to Brigadier General LaClair Melhouse and the national guard and to the governor's reception and ball committee and to all others who furnished numbers for the programs or assisted in any way with the success of these events;

Be It Further Resolved, that this resolution be printed in the journal and that properly authenticated copies be sent to Brigadier General LaClair Melhouse and Adrian Dunn, chairman of the governor's reception and ball committee.

Filed February 10, 1965.

HOUSE RESOLUTION No. 3

(Reimers, Davis, Elkin, Dornacker)

PRESIDENT'S FARM MESSAGE

A resolution concurring in the viewpoints of the president of the North Dakota Farmers Union, before and after President Johnson's farm message to Congress.

WHEREAS, the president of the North Dakota Farmers Union did express criticism over the remarks made in regard to agriculture by President Lyndon B. Johnson in his State of the Union Message to the United States Congress; and

WHEREAS, the members of the house of representatives of the Thirty-ninth Legislative Assembly of the state of North Dakota were in agreement with President Ed Smith of the North Dakota Farmers Union when he stated "Johnson had little to say in his State of the Union Message about implementing this promise which won him an unprecedented mandate in every farm state,"; and

WHEREAS, there was also agreement when he stated in regard to the "Great Society": "We are not going to have one long if we go on losing farm income and farm families. North Dakota families made twenty-six million dollars less in 1964 than in 1963, and wheat farmers made eleven million dollars less while harvesting twenty percent more"; and recognizing that this drop in farm income was due, in large part, to the defeat of the National Wheat Referendum in 1963, although it was approved by a large majority of North Dakota farmers; and

WHEREAS, there is further agreement when he said that it is as important to prevent poverty as it is to cure it and also said "North Dakota farmers need not be reduced to abject want before they have a right to expect fair play from the administration they so overwhelmingly endorsed on election day."; and

WHEREAS, on February 3, 1965, the President made public his agricultural recommendations to the Congress, in which both the President and his administration clearly demonstrate both a knowledge of and concern for our nation's farm population, including the farm population of North Dakota; and

WHEREAS, the President, in his message, pledged a continuation of price supports and farm income so vital to the future prosperity and promise of North Dakota; and

WHEREAS, recognizing at the same time that realized gross farm income for North Dakota reached its highest level in history in 1963 at 776.5 million dollars, which was 73.2 million dollars above that in 1962, and 179 million dollars above that in 1960, and 264.5 million dollars above that in 1954; and

WHEREAS, having heard the President's farm message to the Congress, the members of the house of representatives of the Thirty-ninth Legislative Assembly of the state of North Dakota are in further agreement with the president of the North Dakota Farmers Union in terming the President's farm message "excellent" and in stating: "We salute you as a great President, and we look forward to our role in building the great society of which you dream;" and

WHEREAS, the efforts of the president of the North Dakota Farmers Union are recognized and commended for the timely value and salutory effect on those charged with aiding President Johnson in formulating his agricultural message to Congress;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the administration of President Johnson is commended for heeding the remarks of President Ed Smith on behalf of the people of North Dakota;

Be It Further Resolved, that the farm message of President Johnson is hereby commended and he is hereby congratulated for his demonstrated interest in and concern for the people of North Dakota, and that President Ed Smith of the North Dakota Farmers Union is hereby commended and congratulated for his alertness and initiative on behalf of North Dakota and its agricultural economy;

Be It Further Resolved, that the secretary of state of the state of North Dakota is hereby directed to forward copies of this resolution to the North Dakota Farmers Union president, and the President of the United States, and the Vice President of the United States, the Secretary of Agriculture, and to each member of the North Dakota congressional delegation.

Filed February 24, 1965.

HOUSE RESOLUTION No. 4

(Bruner, Leer, Boustead)

OFFICIAL PHOTOGRAPHER

A resolution to appoint an official photographer for the house of representatives of the Thirty-ninth Legislative Assembly of the state of North Dakota.

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, for historical purposes it has been the custom of all North Dakota legislative assemblies to have composite group pictures made of all members of such assemblies; and

WHEREAS, Rudrud Studio of Bismarck, North Dakota offers to make a large composite group picture of the members of the house of representatives of the Thirty-ninth Legislative Assembly, size forty-nine by thirty-eight inches, composite framed and ready to hang, and one hundred seventeen, 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 nine hundred ninety-five dollars;

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 Thirty-ninth Legislative Assembly;

Be It Further Resolved, that Rudrud Studio of Bismarck, North Dakota, be and is hereby awarded the sole privilege of photographing members of the House of the Thirty-ninth Legislative Assembly at a total cost of nine hundred ninety-five dollars, to be taken out of legislative expenses.

Filed February 10, 1965.

HOUSE RESOLUTION No. 5

(Aamoth, Winge)

HIGHWAY STRIPES

A resolution recommending that the state highway department give full consideration to the use of a white stripe on the edge of pavement when necessary to reduce potential hazards.

WHEREAS, some states have found that the use of a white stripe on the edge of pavement, in some circumstances, reduces the potential hazard to motorists;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That it is recommended that, associated with the normal studies, designs, and field procedures continuously practiced by the state highway department for the safe movement of highway traffic, that full consideration be given for the use of a white stripe on the edge of pavement whenever deemed to be necessary after thorough engineering study by the state highway department regarding amount of traffic, existing pavement geometrics, and evaluation of the degree of potential hazard;

Be It Further Resolved, that the clerk of the house of representatives forward a copy of this resolution to the governor, the highway commissioner and the safety director of the highway patrol.

Filed March 19, 1965.

HOUSE RESOLUTION No. 6

(Committee on Delayed Bills)

JAMESTOWN FLIGHT SERVICE STATION

A resolution urging the Federal Aviation Agency to continue operation of the Jamestown, North Dakota, flight service station.

WHEREAS, seventy pilots and aircraft owners from Jamestown, North Dakota, and the surrounding ten-county area met with officials of the North Dakota aeronautics commission and the city of Jamestown at the Jamestown city hall on February 9, 1965, to protest the Federal Aviation Agency's proposed decommissioning of the Jamestown flight service station; and

WHEREAS, this group of aircraft owners, pilots, and public officials are not convinced that the Federal Aviation Agency has properly studied or evaluated the safety factors involved in the agency's decision to close the twenty-four hour per day flight service station at Jamestown, North Dakota; and

WHEREAS, the administrator of the Federal Aviation Agency recently published his comments concerning the vital role that weather and its communication to the pilot plays in the safety of air commerce; and

WHEREAS, North Dakota is a vast area with a very minimum of federal aviation flight service stations providing twenty-four hour service with emphasis on weather reports and pilot briefing; and

WHEREAS, the closing of the Jamestown flight service station or reducing its hours of operation by fifty percent will substantially curtail the enroute and local airport services to the Jamestown-and-area pilots as well as to the scheduled airline serving Jamestown, North Dakota; and

WHEREAS, the Jamestown flight service station provides communications, weather observations, broadcasts, and enroute services for over 190 general aviation aircraft owners based at Jamestown and ten North Dakota counties covering an area of over 10,000 square miles, and no realistic program has been proposed to replace this important station with equal services;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the Federal Aviation Agency be urged to take the necessary action to continue operation of the present Jamestown, North Dakota, flight service station on a twenty-four hour per day, seven-day per week basis in the interest of continued safety of aircraft operating in both intrastate and interstate commerce; and

Be It Further Resolved, that copies of this resolution be transmitted by the secretary of state to Najeeb E. Halaby, administrator of the Federal Aviation Agency, Washington, D. C.; William J. Schulte, assistant administrator for the Office of General Aviation Affairs, Federal Aviation Agency, Washington, D. C.; U. S. Senator A. S. Mike Monroney, chairman of the Aviation Subcommittee of the Interstate and Foreign Commerce Committee of the United States Senate; and the North Dakota congressional delegation.

Filed February 19, 1965.

HOUSE RESOLUTION No. 7

(Committee on Delayed Bills)

LICENSING OF OSTEOPATHS

A resolution directing two members of the Thirty-ninth Legislative Assembly, together with two members of the state board of medical examiners and two members of the state board of osteopathic examiners, to study the feasibility of a single licensing board for both professions.

WHEREAS, the practice of medicine and osteopathy have become closely related professions; and

WHEREAS, the licensing provisions of osteopaths in the state of North Dakota need upgrading; and

WHEREAS, there are many states which presently license both professions under the same board of examiners;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That an interim committee be established consisting of two members of the Thirty-ninth Legislative Assembly, appointed by the Speaker, of which one shall be selected by the committee as chairman, and two members of the state board of medical examiners and two members of the board of osteopathic examiners appointed by the presidents of each board. Such committee shall meet within sixty days of adjournment of the Thirty-ninth Legislative Assembly and at the call of the chairman. It shall be the duty of such committee to study the feasibility of combining the board of medical examiners and the board of osteopathic examiners for the purpose of licensing medical physicians and surgeons and doctors of osteopathy by one composite licensing board and to also determine the qualifications of applicants for licensing under such board. The committee's recommendations, together with any proposed legislation, shall be submitted to the Fortieth Legislative Assembly. The committee members shall not be reimbursed for their expenses incurred as a result of any meetings necessitated by this resolution.

Filed March 5, 1965.

HOUSE RESOLUTION No. 8

(Committee on Delayed Bills)

CONGRESSIONAL APPROPRIATION FOR KENSAL SCHOOL DISTRICT No. 19

A resolution requesting the Congress of the United States to appropriate two hundred and twenty thousand dollars to the North Dakota Kensal School District No. 19 for school taxes lost due to the federal game and fish reserve established in such school district.

WHEREAS, the United States of America in 1935 established a federal game and fish reserve consisting of over eleven thousand acres of prime farming and recreational land in the Kensal School District No. 19 located in Stutsman County, North Dakota; and

WHEREAS, this federal game and fish reserve has caused a loss of revenue of over five hundred thousand dollars in school taxes to such school district; and

WHEREAS, such school district because of the loss of such revenue is unable to maintain and expand its high school to meet the needs of over three hundred farm children living in such district;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the Congress of the United States is urged to take notice of the plight of the Kensal School District No. 19, located in Stutsman County, North Dakota, caused by the loss of revenue resulting from the federal game and fish reserve located in such school district and that the Congress of the United States appropriate the sum of two hundred and twenty thousand dollars to such school district as consideration for the loss of over five hundred thousand dollars in tax revenue in order to permit the Kensal School District No. 19 to survive and meet its educational obligations; and

Be It Further Resolved, that copies of this resolution be forwarded to the respective chairmen of the United States Senate and House of Representatives Appropriations Committees, to the North Dakota congressional delegation, and to the United States Secretary of the Interior.

Filed March 10, 1965.

HOUSE RESOLUTION No. 9

(Committee on Delayed Bills)

HOUSE OF REPRESENTATIVES' OFFICES

A resolution directing the board of administration to make minor alterations in alcoves adjacent to doors to the House balcony to provide legislative offices.

WHEREAS, the majority and minority floor leaders have no offices of their own where they can work in private, hold meetings and conferences, or where they can be found by those wishing to confer with them; and

WHEREAS, to facilitate the work and duties of the majority floor leaders it is desirable to provide minimum office facilities; and

WHEREAS, by installing a small partition across the alcoves at the east and west entrances to the balcony of the House of Representatives, office space for the majority and minority floor leaders could be provided at little cost and the materials used could match the wood presently installed, thereby maintaining the dignity of the balcony area;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the board of administration is hereby directed to install a suitable wooden partition and door in each alcove adjacent to the east and west entrances to the balcony of the House Chambers and independent electrical switches for the purpose of providing an office for the majority floor leader adjacent to the west balcony and an office for the minority floor leader adjacent to the east balcony.

Filed March 19, 1965.

HOUSE CONCURRENT RESOLUTIONS

HOUSE CONCURRENT RESOLUTION "A"

(Giffey, Streibel)

GARRISON DIVERSION UNIT

WHEREAS, a substantial irrigation development for North Dakota was not only promised, but was specifically authorized as an integral part of the Missouri River Basin Project in the Flood Control Act of 1944, to partially offset the loss experienced in the state by the acquisition of over 550,000 acres of valuable agricultural lands by the federal government for the construction of the Garrison and Oahe dam and reservoir projects on the Missouri River; and

WHEREAS, the United States Bureau of Reclamation has determined from exhaustive studies and investigations conducted over the past twenty years, that the multiple purpose Garrison Diversion Unit and irrigation development proposed therein is engineeringly and economically justifiable and feasible; and

WHEREAS, legislation that would reauthorize the Garrison Diversion Unit has been proposed in each Congress since 1957, and has been the subject of extensive and thorough congressional hearings held during the intervening years, at which strong and consistent project support has been given by the state's congressional delegation, governor, legislature, potential irrigators, farm, business, labor, industrial, professional and agricultural organizations and leaders, as well as from basin-wide and national water resources organizations, and by the last two administrations; and

WHEREAS, the United States Senate in the 88th Congress, Second Session, passed a bill authorizing the construction of the initial 250,000 acre phase of the Garrison Diversion Unit, and the United States House of Representatives Committee on Interior and Insular Affairs in the same session, reported out favorably and recommended for passage a bill, H.R. 1003, as amended, authorizing the construction of the initial phase of the Garrison Diversion Unit, which report and amended bill were acceptable to the sponsors of the reauthorizing legislation, but said H.R. 1003 failed to receive House action because of lack of time before sine die adjournment of the 88th Congress:

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the 39th Legislative Assembly of the state of North Dakota hereby expresses its unequivocal support for the early development of the Garrison Diversion Unit and fully concurs in and endorses the presentations by Governor William L. Guy and other proponent witnesses at the hearings in the 88th Congress on S. 178 and H.R. 1003, and companion bills; and

Be It Further Resolved, that the 89th Congress be and it is hereby most respectfully urged to take early action to effect enactment of legislation authorizing the construction of the Garrison Diversion Unit along the lines of S. 34, H.R. 1718, and H.R. 237, 89th Congress; and

Be It Further Resolved, that copies hereof be transmitted by the secretary of state to the members of the North Dakota congressional delegation, the chairmen of the Senate and House Committees on Interior and Insular Affairs, President of the Senate, Speaker of the House, the President of the United States, the Secretary of the Interior, the Assistant Secretary of the Interior for Water and Power, and the Commissioner, Bureau of Reclamation.

Filed January 13, 1965.

HOUSE CONCURRENT RESOLUTION "B"

(Haugland, Aamoth, Anderson, Wagner, Powers (Cass), Gietzen)
(From LRC Study)

FEDERAL WELFARE ASSISTANCE FOR INDIANS

A concurrent resolution asking Congress to provide reimbursement equal to that provided to the states of New Mexico and Arizona to the state of North Dakota for welfare assistance provided by North Dakota to its Indian citizens.

WHEREAS, per capita welfare costs on Indian reservations when compared to welfare costs in other geographical areas of the state of North Dakota are extremely high and continually increasing; and

WHEREAS, the state of North Dakota is now providing a large share of welfare aid payments to the four Indian reservations located within its borders and has no way to supervise such welfare payments in order to ensure that such payments are used to benefit and protect those Indian citizens for whom such payments are made because the Indian citizens

have shown a reluctance to have the state of North Dakota assume civil jurisdiction over reservation lands; and

WHEREAS, the federal government has directed that the North Dakota public welfare board approve aid to dependent children program payments to Indian families living on reservations in instances where the parent is not living within the physical confines of the home even though such parent may be living within the immediate area of the home and the extent of his responsibility is impossible to determine, which policy may encourage parents to leave the home in order to qualify their families for aid to dependent children payments; and

WHEREAS, compliance with the federal directive in regard to aid to dependent children will force the state of North Dakota to pay an estimated additional million dollars in welfare aid to Indian families during a time wherein the financial resources of the state are limited and the state may be forced to reduce all other welfare programs proportionately in order to provide such funds; and

WHEREAS, the federal government provides a greater share of Indian welfare costs to the states of New Mexico and Arizona than North Dakota receives;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the members of Congress are requested and urged to introduce and secure the enactment of legislation which will provide for federal participation in welfare programs on Indian reservations equal to that paid the states of New Mexico and Arizona; and

Be It Further Resolved, that the secretary of state is directed to transmit a copy hereof to each member of the North Dakota congressional delegation.

Filed March 12, 1965.

HOUSE CONCURRENT RESOLUTION "C"

(Giffey, Streibel)

RADIO AND TELEVISION DAY

A concurrent resolution extending an invitation to Lee Fondran, director of the National Association of Broadcasters Radio Code Board to appear before a joint session of the Thirty-ninth Legislative Assembly of North Dakota.

WHEREAS, the North Dakota Broadcasting Association has offered to arrange for a speaker to appear before a joint session of the House and the Senate on Tuesday, January 12, 1965, on the subject of the broadcasting industry;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That Mr. Lee Fondran of Denver, Colorado, director of the National Association of Broadcasters Radio Code Board be and is hereby extended an invitation to appear before a joint session of the Thirty-ninth Legislative Assembly of North Dakota at such time as may be arranged by said bodies on Tuesday, January 12, 1965.

Filed January 14, 1965.

HOUSE CONCURRENT RESOLUTION "D"

(Hoffner, Frank, Wilkie, Giffey, Wentz, Haugland, Tough, Obie)

IMPROVEMENT OF FARM ECONOMY

A concurrent resolution requesting the Congress and the national administration of the United States to take all possible steps to improve the economic position of the agricultural producer.

WHEREAS, thirty-five percent of the nation's population resides in community trade centers of five thousand, or on farms surrounding such trade centers, and the stability and solvency of this vast segment of our population is contingent on a healthy agricultural economy; and

WHEREAS, agricultural prosperity depends not only on efficient production but also on adequate markets and a proper balance of supply and demand; and

WHEREAS, the farm sector of the economy is the only sector that has suffered a decline in net income measured against

the base period of 1947-1949, primarily due to increased production costs and declining farm prices; and

WHEREAS, while only eighteen percent of the average American family budget is required for food, the lowest of any nation on earth, the farmer receives only one-third of this after processing and distribution costs are considered; and

WHEREAS, this adverse economic situation is creating a migration from rural communities to urban centers where unemployment, welfare, and other problems are already rampant; and

WHEREAS, it is the creditable objective of the national administration to assure economic opportunities for everyone, increase employment, and maintain a vigorous economy through courageous action on numerous economic fronts, and to use every weapon available to increase security and promote peace;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Congress and the national administration adopt a system of price supports and production controls for agricultural commodities now covered by price supports that will assure adequate income for farmers and assure solvency for all of rural America; and by so doing, avoid the necessity in the future for solving new social and economic problems related to highly congested urban areas;

Be It Further Resolved, that the Congress and the national administration develop bold, imaginative plans to utilize the productive capacity of rural America more effectively in combatting communism, hunger, and disease around the world, and continue to seek new markets for agricultural products now in surplus;

Be It Further Resolved, that Public Law 480 be administered and developed to its maximum effectiveness.

Be It Further Resolved, that copies of this resolution be forwarded to the President and Vice President of the United States, the Secretary of Agriculture, the chairmen of the United States House and Senate Agricultural Commission, and each member of the North Dakota congressional delegation.

Filed March 3, 1965.

HOUSE CONCURRENT RESOLUTION "F"

(Giffey, Streibel)

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.

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 February 19, 1965.

HOUSE CONCURRENT RESOLUTION "G"

(Committee on Employment)

LEGISLATIVE EMPLOYEES' SALARIES

A concurrent resolution providing and designating house and senate employees and naming and fixing their salaries.

Be It Resolved by the House of Representatives of the Thirty-ninth Legislative Assembly of the State of North Dakota, the Senate Concurring Therein:

That for and during this Thirty-ninth Legislative Assembly the following named persons be employed and appointed as officers and employees of the house and senate and shall be paid the compensation per diem set opposite their respective names:

HOUSE

Donnell Haugen, chief clerk	$25.00
Richard Ista, assistant chief clerk	20.00
Ruth Smith, desk reporter	25.00
Howard Douglas Rose, bill clerk	15.00
John Yunker, sergeant-at-arms	12.00
Sam Lushenko, assistant sergeant-at-arms	10.00
Allen Frazer, calendar clerk	15.00
Elmer Strand, superintendent of employees	20.00
Edward Trost, bill room clerk	10.00
Mike Burgad, bill room clerk	10.00
Corliss Mushik, secretary to speaker	15.00
Pam Billigmeier, chief steno and payroll clerk	20.00
Mrs. Frances Knoll, assistant chief steno	16.00
Patricia Wright, stenographer	14.00
Doris Thomas, stenographer	14.00
Barbara Kadlec, stenographer	14.00
Veronica Schneider, stenographer	14.00
Mary Radloff, stenographer	14.00
Eleanor Weber, house approp. clerk	15.00
Bob Larson, chief comm. clerk	15.00
Alice McKinley, committee clerk	14.00
Jean Otteson, committee clerk	14.00
Norma Dalton, committee clerk	14.00
Marilyn Rose, committee clerk	14.00
Marian Ehli, committee clerk	14.00

Jack Formo, enroll. and eng. clerk	14.00
Yvonne Wold, assistant enroll. and eng. clerk	14.00
Donna Carufel, chief page	13.00
Marlys Fleck, page	11.00
Carolyn Jean Paulson, page	11.00
Mrs. Aaron Dalke, page	11.00
Karen Adam, page	11.00
Enola Eck, proofreader	12.00
Mrs. Robert Shannon, proofreader	12.00
M. C. Tescher, msgr. to governor	11.00
Mrs. Robert Moses, postmistress	10.00
Mary Jane Geiss, assistant postmistress	10.00
Pearl Andre, chart room clerk	12.00
Regina Prodzinski, telephone clerk	12.00
Jane Harrison, telephone clerk	12.00
Gene M. LaFromboise, floor clerk	11.00
Janice Wahlers, floor clerk	11.00
Karen Rolfsrud, floor clerk	11.00
Emory Anderson, doorkeeper	10.00
W. F. Sharp, doorkeeper	10.00
Fred Fischer, doorkeeper	10.00
Dennis Schneider, doorkeeper	10.00
Bernie Carter, night watchman	10.00
Mrs. Alice Crawford, information desk	10.00
Fred Lundby, mailing room clerk	10.00
D. B. Cook, addressing machine operator	10.00
Oluf Grundstad, mailing room clerk	10.00
R. Nestoss, mailing room clerk	10.00
Joel Sundquist, mailing room clerk	10.00
Henry Benson, mailing room clerk	10.00
A. S. Brazda, mail clerk	10.00
Orville Holand, parking lot attendant	14.00
Lynn Runck, audio board operator	13.00

SENATE

Gerald L. Stair, secretary of the senate	25.00
Dagney V. Olson, desk reporter	25.00
A. E. Bradley, sergeant-at-arms	12.00
Arthur A. Herk, assistant secretary of senate	20.00
Jan McKinney, secretary to President	15.00
Bill Campbell, bill clerk	17.00
Monty Burke, superintendent of personnel	20.00
John Leier, assistant sergeant-at-arms	10.00
C. W. Leifur, calendar clerk	15.00
Robert G. Ellsworth, msgr. to house and gov	11.00
Cora Essington, chief steno and payroll clerk	20.00
Joan Nelson, stenographer	14.00
Shirley Shaw, stenographer	14.00
Myrtle Boyd, stenographer	14.00

Kathryn Targart, stenographer	14.00
Lois Scherr, committee clerk	14.00
Ruby Herr, committee clerk	14.00
Harriet McClelland, committee clerk	14.00
Pearl Engen, committee clerk	14.00
Ann Tillotson, committee clerk	14.00
Karen Ronning, approp. comm. clerk	15.00
Donna Heisler, floor leader's clerk	14.00
Marion Arenstein, receptionist	10.00
Celia Fowler, telephone attendant	12.00
Hazel Ludemann, assistant telephone attendant	12.00
Viola DeForest, postmistress	12.00
Carrie Murdoch, proofreader	12.00
Esther Smedshammer, proofreader	12.00
Vonny Mushik, enr. and engr. clerk	14.00
G. R. Gilbreath, enr. and engr. clerk	14.00
Philip Henry, bill room attendant	10.00
Martin Kilwein, bill room attendant	10.00
William Auch, bill book attendant	11.00
David Donaldson, bill book attendant	11.00
Robert Hultberg, bill book attendant	11.00
Beverly Nelson, bill book attendant	11.00
Ervin Frank, bill book attendant	11.00
Virginia M. Monson, page	11.00
Lucy Wallender, page and billbook attendant	11.00
William Brown, page and billbook attendant	13.00
Fred Krause, Jr., chief mail room clerk	13.00
Alta Harens, mail room typist	10.00
Judy Basaraba, mail room clerk	10.00
Lloyd S. Thompson, mail room clerk	10.00
Frank A. Jahner, mail room clerk	10.00
William Urlacher, mail room clerk	10.00
Nellie Anderberg, mail rm. and billbook attend	11.00
Alfred Hetland, mail rm. and billbook attend	11.00
Dave Albright, supply room attendant	12.00
Clarence Anderson, chart room	12.00
G. K. Ness, chart room	12.00
Herbert Bailey, chief doorkeeper	12.00
Jacob Albrecht, doorkeeper	10.00
Dominic Goetz, doorkeeper	10.00
R. H. Jayd, doorkeeper	10.00
Lars Kvalheim, doorkeeper	10.00
Henry P. Mautz, Jr., cloak room attendant	10.00
Iver Kval, parking lot attendant	14.00

Filed January 22, 1965.

HOUSE CONCURRENT RESOLUTION "H"

(Wilkie, Schoenwald, Stallman, Duncan, Haugen, Haugland,)
(Powers (Cass), Christensen, Streibel, Dornacker,)
(Erickson (Mountrail), Backes, Wastvedt, Shablow, Tough, Bowles,)
(Giffey, Erickson (Ward), Borstad, Skaar, Hertz, Opedahl,)
(Solberg, Belquist, Johnson (Barnes), Powers (Barnes),)
(Larson (Richland), Fossum)

RAILROAD RATES FOR EXPORTED WHEAT

A concurrent resolution urging the Great Northern and Northern Pacific Railroads to establish a reduced rate per one hundred pounds on North Dakota wheat shipped to west coast ports for export overseas.

WHEREAS, the Northern Pacific and Great Northern Railroads have turned down an original request of the North Dakota wheat commission, public service commission, governor, economic development commission, farm organizations, and other interested parties for a lowered freight rate on wheat shipped west for export from North Dakota; and

WHEREAS, pursuant to a subsequent request these railroads established a rate of ninety-five cents from all of North Dakota, which rate has not encouraged any movement of wheat in export channels; and

WHEREAS, a rate is needed for North Dakota which will move wheat, and enable North Dakota to compete with comparable wheat producing areas to the south which already have a rate of seventy cents and are almost equal distances from the coast; and

WHEREAS, North Dakota produces high quality wheat in quantities adequate to supply all of our Minnesota and eastern markets as well as our markets to the west; and

WHEREAS, under the 1964 wheat law the acreage of wheat in short supply can be increased, making a reduced freight rate, which will encourage a movement of wheat even more desirable, as it would tend to expand production of our high quality wheat if our stocks of such wheat are depleted; and

WHEREAS, present rates create an unduly prejudicial and unreasonable competitive circumstance for our producers and shippers of grain in their attempt to export wheat in competition with Canada and winter wheat producing areas to the south, enjoying substantially lower rates;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Great Northern and Northern Pacific Railroads establish a freight rate on North Dakota wheat shipped west for export sufficiently low enough to encourage a movement of wheat, and insure that the North Dakota producers and shippers may hold and expand the markets for our high quality wheat; and

Be It Further Resolved, that copies of this resolution be forwarded to the chairmen of the United States Senate and House Interstate and Foreign Commerce Committees, each member of the North Dakota congressional delegation, the chairman of the Interstate Commerce Commission, and the presidents of the Great Northern and Northern Pacific Railroads.

Filed March 12, 1965.

HOUSE CONCURRENT RESOLUTION "J"

(Williamson, Erickson (Ward), Jungroth, Meschke, Schoenwald,)
(Sanstead, Ivesdal, Montplaisir, Loerch, Haugen, Bier, Wentz,)
(Bloom, Skaar, Solberg, Harrison, Powers (Cass), Stallman)

REGULATION OF SMALL GRAIN FREIGHT RATES

A concurrent resolution requesting the Congress of the United States to direct the Interstate Commerce Commission to investigate the carload freight rates applicable to small grains and to prescribe such rates, charges, rules, and regulations as it shall find reasonable and equitable.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, North Dakota's economy is dependent to a large extent upon the production and sale of agricultural products, particularly wheat and other small grains; and

WHEREAS, the bulk of all small grains produced in North Dakota enter interstate commerce via the state's network of railway systems in order to reach markets for sale, processing or consumption, and compete with similar grains of other states, and of foreign countries; and

WHEREAS, the freight rates and charges prevailing for the transportation of these grains via said railway systems have a definite influence upon the ability of North Dakota's grains to reach markets and places at which these grains are processed and utilized or consumed, and to successfully compete with the grains of other states and of foreign countries; and

WHEREAS, the most recent general investigation by the Interstate Commerce Commission of the freight rates on grains in the West, which included North Dakota, was completed in 1934 pursuant to the Hoch-Smith Resolution (Public Resolution No. 46, 68th Congress, 43 Stat. L., 801) with piecemeal revisions permitted or imposed at various times since 1934; and

WHEREAS, during the intervening years since 1934 there have developed substantial changes in marketing patterns; competitive conditions as between transportation agencies; improvements in transportation facilities and equipment and their operation; the manufacturing and marketing of products of small grains; the manufacture of new and different products; and shifts in population; and

WHEREAS, the present freight rate structure does not reflect the present day needs of the producer particularly, but also other interests marketing and processing small grains in the light of these changed circumstances and conditions, and has thus resulted in numerous unreasonable and unduly prejudicial and preferential rates, and that where there have been piecemeal revisions, they have in numerous instances aggravated existing 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 equity of the present rates, charges, rules, and regulations applicable to their transportation, not only with respect to domestic movements but to export as well;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Congress of the United States be requested to direct the Interstate Commerce Commission to enter into an investigation concerning the equity of the freight rates, charges, rules, and regulations pertaining to the transportation of carload shipments of small grains in domestic and export commerce and that it, in so doing, provide reasonable and sufficient appropriations to enable said commission to employ competent and sufficient personnel to proceed with and complete as promptly as possible such an investigation, and prescribe as a result thereof, a reasonable adjustment of rates, charges, rules, and regulations free from undue preference, prejudice, and discrimination which it shall find justified in the premises; and

Be It Further Resolved, that copies of this resolution be forwarded to the Committee on Commerce of the Senate of

the United States, the Committee on Interstate and Foreign Commerce of the House of Representatives of the United States, to each member of our North Dakota congressional delegation, and to the Agriculture Committee chairmen and presiding officers of each house of the South Dakota and Montana legislatures.

Filed March 9, 1965.

HOUSE CONCURRENT RESOLUTION "K"

(Dornacker, Duncan, Stockman, Breum, Stallman, Shorma,)
(Reimers, Wastvedt, Bilden, Olafson, Christopher, Haugen)

FEDERAL SUGAR ACT

A concurrent resolution requesting the Congress and the national administration of the United States to take all possible steps to, at an early date, pass a long term Sugar Act.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, the basic purpose of the federal sugar legislation should continue:

1. To assure the United States consumer of a steady and stable supply of sugar at a reasonable price; and
2. To contribute to our national security and provide economic strength and growth to the American farm.

WHEREAS, the United States beet sugar growers and processors have amply demonstrated their ability to produce sugar when the world was in short supply in 1963-1964; and

WHEREAS, the United States beet sugar industry is now confronted with above average inventories of sugar in relation to permitted marketing under the old Act; and

WHEREAS, the American farmer is entitled to produce America's food; and

WHEREAS, the potential production of beet sugar in the United States is much greater than the quantity allowed to be produced under the old Act;

Now, Therefore, Be It Resolved by This Thirty-ninth Legislative Session of the North Dakota Legislature:

That Congress should, as early as possible, revise and pass a Sugar Act so as to:

1. Permit the domestic sugar industry to market the excess of sugar from the increased production of 1963-1964, and
2. Provide for an orderly growth of the domestic sugar industry by increasing the quotas over and above present acreage and production,
3. To extend the Act to be effective until December 31, 1970 with a similar growth provision contained in the expired Act;

Be It Further Resolved, that copies of this resolution be sent to the President and Vice President of the United States, the Secretary of Agriculture, and the North Dakota congressional delegation.

Filed March 9, 1965.

HOUSE CONCURRENT RESOLUTION "S"

(Powers (Cass), Stockman)

LRC STUDY OF ELECTION LAWS

A concurrent resolution directing the legislative research committee to study the election laws of North Dakota.

WHEREAS, the election laws of the state of North Dakota have not been completely revised since statehood and have now become almost a patchwork of amendments; and

WHEREAS, many ambiguities and conflicts now exist in the election laws while some matters are not even covered in the laws, thereby requiring the attorney general's office to continually render opinions in this field;

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 authorized and directed to study the election laws of North Dakota for the purpose of revising and modernizing such laws, and may provide for the participation or consultation with county, city, school district, and political party officials, and to make its report and recommendations, together with any legislation necessary to carry out such revisions and recommendations, to the Fortieth Legislative Assembly.

Filed March 20, 1965.

HOUSE CONCURRENT RESOLUTION "T"

(Brown)

APPRECIATION FOR LEGISLATIVE SCHOOL

A concurrent resolution expressing the appreciation of the members of the Thirty-ninth Legislative Assembly to the University of North Dakota, the Campbell Foundation, and others for staging the recent pre-session legislators' school.

WHEREAS, a pre-session legislators' school was held at the University of North Dakota on November 27 and 28, 1964; and

WHEREAS, such school was sponsored by the Bureau of Governmental Research of the University of North Dakota with the support of the Robert D. Campbell Foundation; and

WHEREAS, attendance of legislators at such school was exceptionally good considering the inclement weather then prevailing; and

WHEREAS, the material presented at such school was of great benefit to veteran and newly-elected legislators alike;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the members of the Thirty-ninth Legislative Assembly hereby express their appreciation to the University of North Dakota, the Robert D. Campbell Foundation, the Grand Forks Chamber of Commerce, and all other organizations and individuals who worked so hard to assure the success of this school; and

Be It Further Resolved, that copies of this resolution be forwarded to each trustee of the Campbell Foundation, the president of the University of North Dakota, the manager of the Grand Forks Chamber of Commerce, the dean of the College of Business and Public Administration, the director of the Bureau of Governmental Research, the director of Housing at the University, and the manager of the University Student Union.

Filed March 3, 1965.

HOUSE CONCURRENT RESOLUTION "U"

(Brown)

DAKOTA TERRITORY CENTENNIAL COMMITTEE COMMENDATION AND AUDIT

A concurrent resolution complimenting the North Dakota Territory Centennial Committee for the work done on our recent territorial centennial observation and requesting a final report and audit.

WHEREAS, the North Dakota Territory Centennial Committee was authorized by Senate Concurrent Resolution "K-K" of the 1959 Legislative Assembly, and its membership subsequently appointed by the governor pursuant to such resolution; and

WHEREAS, the committee thus appointed has done a very creditable job in preparing for and in celebrating the observance of our centennial year; and

WHEREAS, the 1961 Legislative Assembly appropriated the sum of twenty-five thousand dollars to finance operations of the committee; and

WHEREAS, the committee engaged in the sale of a wide variety of souvenir mementos bearing the official seal of the committee which were very effective in promoting the centennial;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Thirty-ninth Legislative Assembly of the state of North Dakota express its appreciation to the North Dakota Territory Centennial Committee for a job well done, and that the committee is hereby called upon for a final report of its activities, including financial receipts and expenditures of funds received from legislative appropriation, donations, sale of coins and mementos, or any other source, by the committee or the Dakota Territory Centennial Committee, Incorporated; and

Be It Further Resolved, that the state auditor is hereby directed to make a complete audit of the Dakota Territory Centennial Committee and of the Dakota Territory Centennial Committee, Incorporated, including, but not limited to, receipts and disbursements, and copyrights to and disbursements for publications, and to make a complete report of such audit upon its completion to the Legislative Audit and Fiscal Review Committee.

Filed March 15, 1965.

HOUSE CONCURRENT RESOLUTION "V"

(Hardmeyer, Strand, Leer)

CANNONBALL RIVER AT MOTT

A concurrent resolution endorsing, supporting and urging the construction of the proposed Mott dam and reservoir project in Hettinger County, North Dakota, and commending the Bureau of Reclamation.

WHEREAS, the Bureau of Reclamation, Department of the Interior, about two years ago resumed, and since that time has actively continued, studies and investigations in the Cannonball River Basin with a view, among other purposes, of constructing a multiple-purpose dam and reservoir on the Cannonball River a short distance upstream from the city of Mott, North Dakota, for municipal and industrial water supply, quality water and flood control, irrigation, recreation, fish and wildlife enhancement, and other beneficial uses; and

WHEREAS, such studies and investigations have proceeded to the point where they can be expected to be completed within the next fiscal year when findings, determinations and recommendations on the feasibility of the proposed improvements in the basin will then be made;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Thirty-ninth Legislative Assembly of the state of North Dakota does hereby express deep concern over the problems involved in a positive action program for the conservation, storage, and wise utilization of North Dakota's precious water resources to best meet the diminishing or short supplies in many critical areas; and

Be It Further Resolved, that this Legislature wholeheartedly endorses and supports the proposal for the construction of the dam and reservoir above Mott, commends the Bureau of Reclamation for its conscientious work in the field work done in the basin up to this time, and urges the Bureau, Department of the Interior, and the Congress of the United States to approve the proposed construction at the earliest date; and

Be It Further Resolved, that copies hereof be transmitted to the members of the North Dakota congressional delegation, Commissioner of Reclamation, Secretary of the Interior for Water and Power, and the Secretary of the Interior.

Filed March 9, 1965.

HOUSE CONCURRENT RESOLUTION "W"

(Reimers, Ganser, Jungroth, Harrison)

DAM AND RESERVOIR ON PIPESTEM CREEK, A TRIBUTARY OF JAMES RIVER

A concurrent resolution endorsing, supporting and urging the construction of the proposed Pipestem Creek dam and reservoir project near Jamestown, North Dakota, and commending the U. S. Army Corps of Engineers.

WHEREAS, the Corps of Engineers, Department of the Army, has recently announced the completion of studies, investigations and a report on the proposed dam and reservoir on Pipestem Creek, a tributary of James River, at a point a few miles above the city of Jamestown, North Dakota, as the only economically feasible means of providing flood protection for the city of Jamestown and downstream areas along the James River; and

WHEREAS, the proposed dam would be a rolled earth-filled structure approximately 103 feet high, forming a reservoir with a storage capacity of about 186,500 acre-feet, and costing in excess of three million dollars; and

WHEREAS, the conservation, management and wise utilization of our valuable water resources are of paramount importance to our well-being and the economy 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 Thirty-ninth Legislative Assembly of the state of North Dakota does hereby fully endorse and support the construction of the proposed Pipestem Creek dam and reservoir project and sincerely urges early approval thereof by the Board of Engineers from Rivers and Harbors, the Chief of Engineers, Secretary of the Army, and the Congress of the United States to the end that its early accomplishment may be realized, and it does hereby express appreciation to the U. S. Corps of Army Engineers for its conscientious efforts devoted to this proposed project; and

Be It Further Resolved, that a copy of this resolution be transmitted by the secretary of state to the Board of Review for Rivers and Harbors, the Chief of Engineers, Secretary of the Army, North Dakota congressional delegation, Missouri River Basin Division Engineer, Omaha, Nebraska, and the District Engineer, Corps of Engineers, Omaha, Nebraska.

Filed March 9, 1965.

HOUSE CONCURRENT RESOLUTION "X"

(Meschke, Williamson, Sanstead, Schoenwald, Bloom,)
(Glaspey, Erickson (Ward))

THEODORE ROOSEVELT PARK HIGHWAY

A concurrent resolution urging the construction of a scenic badlands road connecting the units of the Theodore Roosevelt National Memorial Park.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, there has been introduced in the United States House of Representatives and the United States Senate bills authorizing the construction of a road linking the three units of the Theodore Roosevelt National Memorial Park; and

WHEREAS, the construction of this road for the conservation of our endowed beauty in its natural state is to foster for future generations as much of America as we can, in the same state that our earliest generations saw it and grew to love it; and

WHEREAS, the construction of this road would improve the opportunity for the touring public to enjoy the scenic beauty of the North Dakota badlands; will facilitate enjoyment of the Theodore Roosevelt National Memorial Park by those visiting the area; will provide increased income from a growing tourist trade; and will be a convenience in the future of the ranchers living in the Little Missouri River badlands; and

WHEREAS, the rugged beauty of this area sustained the frail Theodore Roosevelt, turning the sickly and grieving guest into a North Dakota citizen and a titan among men; and

WHEREAS, the preservation of our beauty is not without reward to our citizens in the form of increased income from a growing tourist trade; and

WHEREAS, it seems in the best interest of the state of North Dakota to preserve the state's livestock industry rather than severely disrupt that industry; and

WHEREAS, this legislative assembly recommends that grazing along such a scenic badlands road be in accordance with section 36-11-07 of the North Dakota Century Code as amended; and

WHEREAS, it seems in the best interests of all concerned to obtain the desired expansion of tourism with the least possible

adverse effect on the established agricultural economy of North Dakota; and

WHEREAS, the state of North Dakota will not have to expend one dollar for the construction of this scenic road nor for the maintenance of the road after construction;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That this legislative assembly does support the construction of a scenic badlands road connecting the three units of the Theodore Roosevelt National Memorial Park by the United States Government; and

Bt It Further Resolved, that this legislative assembly urges that the scenic badlands road shall utilize to the fullest extent possible the lands presently owned by the United States Forest Service and the United States Park Service so as to cause a minimum inconvenience and loss to the ranches that will be affected by the scenic badlands road.

Be It Further Resolved, that a copy of this resolution be sent to the President of the United States, the Speaker of the House of Representatives, the President of the United States Senate, the Secretary of Interior, the Public Roads Administrator of the Bureau of Public Roads, the Director of the United States Forestry Service, the Director of the United States Park Service, and each member of the North Dakota congressional delegation.

Filed March 20, 1965.

HOUSE CONCURRENT RESOLUTION "Y"

(Erickson (Ward), Giffey, Jungroth, Backes, Meschke, Sanstead,)
(Solberg, Hoffner, Stallman, Erickson (Mountrail))

LRC STUDY OF STATE LABORATORIES DEPARTMENT

A concurrent resolution directing the legislative research committee to conduct a study for the purpose of determining the feasibility of consolidating the state laboratories, and its functions and duties, so as to better serve all state departments.

WHEREAS, the Twenty-seventh Legislative Assembly by the provisions of chapter 216, 1941 Session Laws, established a governmental survey commission with specific duties to examine functions, duties, activities, and services of various state offices, departments, institutions, commissions, industries, boards, and bureaus; and

WHEREAS, the commission thus established under the direction of John Moses, governor, Milton R. Young, state senator, and Targie Trydahl, state representative, prepared a report of such survey and made recommendations to the Twenty-eighth Legislative Assembly; and

WHEREAS, few, if any, of the recommendations by such governmental survey commission have received the consideration of the legislative assembly; and

WHEREAS, the state laboratories function of consumer protection can best be performed by a consolidated department; and

WHEREAS, all functions of the state laboratories department relative to the quality of consumer products can best be handled through centralized facilities;

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 operation of the state laboratories department, giving due consideration to the recommendations of the governmental survey commission, for the purpose of accomplishing a consolidation of functions, improving services to the public, and other state departments and agencies.

Be It Further Resolved, that the legislative research committee draft such legislation as may be deemed advisable for the consideration of the Fortieth Legislative Assembly for the consolidation of a state laboratories department and the placing and the investing of its functions and duties relevant to the protection of the consumer, and for the investing of its functions relative to the quality of consumer products in one consolidated laboratories department.

Filed March 20, 1965.

HOUSE CONCURRENT RESOLUTION "D-1"

(Obie, Olson)

LRC STUDY OF LAWS PERTAINING TO THE MENTALLY RETARDED

A concurrent resolution directing the legislative research committee to study and review laws pertaining to the care and treatment of the mentally retarded and to consider the enactment of a new code of laws embodying modern methods of care and treatment.

WHEREAS, studies made by the state of North Dakota indicate that there are approximately 19,000 mentally retarded persons in this state; and

WHEREAS, nationwide studies indicate that eighty-five percent of the mentally retarded can be trained for useful employment by modern methods of treatment and education so that such persons may take their place in society as useful citizens and taxpayers; and

WHEREAS, present North Dakota statutes concerning the mentally retarded still refer to such persons as feeble-minded, idiots, and imbeciles and embody a philosophy designed to segregate and confine such persons from society at great cost to the state rather than a philosophy of treatment and education designed to return such persons to society;

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 undertake a study of the need for the enactment of a new code of laws concerning the mentally retarded, taking into consideration recent studies of the methods and techniques of treatment and rehabilitation of such persons; considering the deletion of outdated terminology defining such persons; and considering the reenactment of present laws and the enactment of new ones designed to facilitate the education and rehabilitation of such persons as opposed to the segregation and confinement of them; and

Be It Further Resolved, that in making such study and recommendations the legislative research committee coordinate with the study presently underway by the state health department and studies by the coordinating committee on mental retardation in this field; and

Be It Further Resolved, that the legislative research committee make its report and recommendations thereon to the

Fortieth Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 20, 1965.

HOUSE CONCURRENT RESOLUTION "E-1"

(Christensen)

LRC STUDY FOR ESTABLISHMENT OF DEPARTMENT OF CONSERVATION AND RECREATION

A concurrent resolution directing the legislative research committee to conduct a study of state government reorganization for the establishment of a department of conservation and recreation for the purpose of consolidating functions, improving services to the public and to conserve governmental revenues and to draft such legislation as shall be deemed advisable and to hold hearings thereon, for presentation to and consideration by the Fortieth Legislative Assembly.

WHEREAS, the Twenty-seventh Legislative Assembly by the provisions of chapter 216, 1941 Session Laws, established a governmental survey commission with specific duties to examine functions, duties, activities and services of the various state offices, departments, institutions, commissions, industries, boards and bureaus;

WHEREAS, the commission thus established under the direction of John Moses, governor, Milton R. Young, state senator, and Targie Trydahl, state representative prepared a report of such survey and made recommendations to the Twenty-eighth Legislative Assembly;

WHEREAS, few, if any, of the recommendations by such governmental survey commission have received the consideration of the legislative assembly; and

WHEREAS, the following state offices, departments, institutions, commissions, industries, boards and bureaus shall be included in said study: travel bureau; state historical society and state park division; state game and fish department; water conservation commission, state forester and the soil conservation committee and any other state office, department, institution, commission, industry, board or bureau whose function is related to the purpose of this study.

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 state government reorganization, giving due consideration to the recommendations of the governmental survey commission, for the establishment of a department of conservation and recreation for the purpose of consolidating functions, improving services to the public and to conserve governmental revenues; and

Be It Further Resolved, that the legislative research committee draft such legislation as may be deemed advisable after a consultation with the affected state officials, departments, agencies or institutions and to hold public hearings thereon, and to obtain from the affected officials, departments, agencies or institutions on the proposed legislation their comments in writing, for the consideration of the Fortieth Legislative Assembly.

Filed March 15, 1965.

HOUSE CONCURRENT RESOLUTION "H-1"

(Committee on Employment)

LEGISLATIVE JOURNALS

A concurrent resolution providing for the completion of the legislative journals of the house and senate.

WHEREAS, after termination of the Thirty-ninth 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 Gerald L. Stair, secretary of the senate, and Donnell Haugen, chief clerk of the house, are hereby authorized, empowered and employed to compare and index the journals of the Thirty-ninth Legislative Assembly, and the said Gerald L. Stair, secretary of the senate, and Donnell Haugen, chief clerk of the house, are hereby directed and required at their own cost and expense to arrange for and procure sufficient assistance to insure that the said work shall be completed within twenty days after the adjournment of the session;

Be It Further Resolved, that for the services of the said Gerald L. Stair and Donnell Haugen, as above set forth, they shall be paid the sum of seven hundred dollars each, which shall include compensation for an assistant to be selected by each, all to be paid as other legislative expense, and paid when

the respective claims are verified by the affidavits of the said Gerald L. Stair and Donnell Haugen, showing completion of such work.

Filed March 1, 1965.

HOUSE CONCURRENT RESOLUTION "I-1"

(Committee on Employment)

COMPILATION OF LEGISLATIVE ACTS

A concurrent resolution providing for the preparation of a compilation of a record of bills introduced in the house of representatives, and the senate of the state of North Dakota.

WHEREAS, a complete record of action upon and disposal of all bills introduced in the house and senate during this session should be made available to house and senate members as quickly as possible, such record to show what bills have been passed, indefinitely postponed or withdrawn with notation of journal date and page of amendment thereto;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That such compilation be at once prepared in a pamphlet similar to size to the house and senate journals; that Ruth Smith, desk reporter in the house, and Gerald L. Stair, secretary of the senate, be employed to prepare such compilation immediately, and a copy of same be mailed as speedily as possible to each member of the house and senate at the home address thereof:

Be It Further Resolved, that the said Ruth Smith and Gerald L. Stair be and are hereby respectfully retained on this work to be completed as speedily as possible for the sum of two hundred dollars each, and that the mailing of same be charged and paid as legislative expense.

Filed March 1, 1965.

HOUSE CONCURRENT RESOLUTION "N-1"

(Bier)

STUDY OF EXTENSION AND CORRESPONDENCE PROGRAMS

A concurrent resolution directing the state board of higher education and the legislative research committee to jointly study the coordination or consolidation of the programs of extension and correspondence study on the college level.

WHEREAS, enrollments in correspondence study and extension divisions of colleges and universities throughout the nation have tended to increase rapidly, in many instances faster than enrollments of full-time resident students; and

WHEREAS, all of North Dakota's four-year institutions of higher education offer either correspondence or extension-type study; and

WHEREAS, it may be desirable that correspondence and extension study activities be more closely coordinated or even consolidated under one overall institute;

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 and the legislative research committee are hereby directed to jointly study the coordination or consolidation of the programs of extension and correspondence study on the college level, excluding agricultural and related fields, and including such matters as duplication, accreditation, admission and registration procedures, academic credit control and transfer, curricula and course offerings, and flexibility to meet changing conditions; and

Be It Further Resolved, that the state board of higher education and the legislative research committee submit their findings and recommendations, together with any required legislation, to the Fortieth Legislative Assembly.

Filed March 19, 1965.

HOUSE CONCURRENT RESOLUTION "O-1"

(Brown, Duncan, Burk, Glaspey, Belquist)

STATE HERITAGE CENTER

A concurrent resolution urging participation in the planning and designing for the purpose of constructing the State Heritage Center by citizens, business firms, and school children.

WHEREAS, House Bill No. 914* provides for the planning and designing for the purpose of constructing a permanent heritage center building upon the state capitol grounds; and

WHEREAS, there are insufficient moneys in the state capitol building fund for its construction, thereby requiring that such heritage center building be constructed primarily from gifts, grants, and bequests; and

WHEREAS, all citizens and business firms doing business in this state have a responsibility for preserving the heritage of the past as well as a stake in North Dakota's future; and

WHEREAS, individual citizens, independently-owned businesses, and especially such corporate businesses as public utilities, rural electric cooperatives, telephone companies and cooperatives, railroads, transportation companies, chain stores, banks and financial companies, and many others can make material contributions to the establishment of the heritage center building; and

WHEREAS, the children of this state should have an opportunity to participate in the establishment of such center through donations in their classrooms;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That all citizens, independently-owned and cooperative and corporate businesses, and all school children be urged to participate in the financial cost of the construction of the heritage center building, and that the North Dakota Heritage Commission actively solicit their support.

Filed March 19, 1965.

*Note: See chapter 381, 1965 S.L.

HOUSE CONCURRENT RESOLUTION "P-1"

(Hauf)

LRC STUDY OF REAL ESTATE TRANSACTION TAX

A concurrent resolution directing the legislative research committee to study the possibilities of adopting a tax upon real estate transactions in North Dakota.

WHEREAS, a number of states currently impose taxes upon the conveyance of real estate, in addition to the number imposing deed and mortgage registration taxes; and

WHEREAS, The dollar value of real estate changing ownership by means of deeds of conveyance each year appears to be substantial; and

WHEREAS, it appears possible that a fairly substantial amount of revenue can be produced to maintain essential governmental functions, with a minimum of inconvenience to the taxpayer and a minimum of administrative expense;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee is hereby directed to study the various real estate transaction and related taxes now in effect in other states, with a view toward determining their suitability for adoption in the state of North Dakota, and to submit its recommendations, together with any legislation necessary to implement such recommendations, to the Fortieth Legislative Assembly.

And Be It Further Resolved, that the committee study and review problems of replacement of personal property tax revenues.

Filed March 20, 1965.

HOUSE CONCURRENT RESOLUTION "R-1"

(Solberg)

WILFRED COLLETTE AUDITORIUM

A concurrent resolution directing the board of administration to name the auditorium to be constructed at the Grafton State School after Representative Wilfred Collette.

WHEREAS, House Bill No. 504* has provided for the appropriation of funds to construct a new auditorium at the Grafton State School at Grafton; and

WHEREAS, Representative Wilfred Collette of Grafton has represented the people of Grafton and the surrounding area in the North Dakota House of Representatives for many years and in such capacity has shown a great interest in, and has supported, the improvement of the Grafton State School and the services provided at such school; and

WHEREAS, through the efforts of Representative Wilfred Collette the Grafton State School has been aided in providing the humanitarian services so necessary in the care and treatment of retarded children and adults, and thus the interests of all the citizens of North Dakota have been furthered;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the board of administration be directed to name the new auditorium to be constructed at the Grafton State School the "Wilfred Collette Auditorium" in honor of Representative Wilfred Collette and the services Representative Collette has so unselfishly rendered to the legislature, the people of North Dakota, and the Grafton State School.

Filed March 1, 1965.

***Note:** See chapter 31, 1965 S.L.

HOUSE CONCURRENT RESOLUTION "U-1"

(Committee on Delayed Bills)

SULLY HILL PARK JURISDICTION

A concurrent resolution requesting the Secretary of the Interior to retain jurisdiction of Sully Hill Park.

WHEREAS, Sully Hill Park under the jurisdiction of the Department of the Interior has for many years afforded the people of central North Dakota a delightful recreation area; and

WHEREAS, by therein preserving animals and birds which are now very scarce it has been of great educational value and has become a tourist attraction; and

WHEREAS, said park has great historical interest as it contains Indian and military burying grounds, relics of prehistoric Indians, plots cultivated by early day military personnel, and other indications of early day activities; and

WHEREAS, said park has a three-mile shoreline along Devils Lake and will be a most valuable area for recreation purposes when the Garrison Diversion project shall become a reality;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Secretary of the Interior of the United States be and he hereby is requested to retain jurisdiction over said Sully Hill Park in order to preserve the same for the use of all the people of the state under civil jurisdiction and in harmony with the national program for the development of recreational facilities and the preservation of the natural beauty of the country; and

Be It Further Resolved, that copies of this resolution be forwarded to the Secretary of Interior and each member of the North Dakota congressional delegation.

Filed March 19, 1965.

HOUSE CONCURRENT RESOLUTION "V-1"

(Committee on Delayed Bills)

TITLE OF SULLY HILL PARK

A concurrent resolution requesting the governor and the director of parks and game and fish commissioner to acquire title to Sully Hill Park for the use and benefit of the state of North Dakota in the event it shall be disposed of by the Secretary of the Interior.

WHEREAS, Sully Hill Park under the jurisdiction of the Department of the Interior has for many years afforded the people of central North Dakota a delightful recreation area; and

WHEREAS, by therein preserving animals and birds which are now very scarce it has been of great educational value and has become a tourist attraction; and

WHEREAS, said park has great historical interest as it contains Indian and military burying grounds, relics of prehistoric Indians, plots cultivated by early day military personnel, and other indications of early day activities; and

WHEREAS, said park has a three-mile shoreline along Devils Lake and will be a most valuable area for recreation purposes when the Garrison Diversion project shall become a reality; and

WHEREAS, it is understood that the Department of the Interior contemplates disposing of Sully Hill Park;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the governor and the director of parks of the state of North Dakota be and they hereby are requested to acquire title to Sully Hill Park for the use and benefit of the state of North Dakota in order to preserve the same for the use of all the people of the state under civil jurisdiction and in harmony with a program for the development of recreational facilities and the preservation of the natural beauty of the state, in the event federal authorities determine to dispose of the same; and

Be It Further Resolved, that copies of this resolution be forwarded to the governor of the state of North Dakota, the director of parks of the state of North Dakota, and the game and fish commissioner of the state of North Daokta.

Filed March 15, 1965.

HOUSE CONCURRENT RESOLUTION "W-1"

(Committee on Delayed Bills)

FEDERAL PARTICIPATION IN SOIL AND WATER CONSERVATION FIELD

A concurrent resolution opposing proposed charges by the federal government for technical assistance to landowners in the field of soil and water conservation.

WHEREAS, the Bureau of the Budget has proposed that Soil Conservation Districts charge farmers, ranchers, and other landowners up to 50 percent of the cost of technical assistance furnished to help design, lay out, and install soil and water conservation practices on their land; and

WHEREAS, seventy locally-governed Soil Conservation Districts in North Dakota which cover the total land area have over a period of years made a most valuable contribution to the agricultural welfare of the state; and

WHEREAS, the burden of such payments to the federal government will fall heaviest on our family farms and small operators; and

WHEREAS, such assessment of payment to the federal government will discourage the application of soil and water conservation measures on land so vital to the strength and welfare of North Dakota and the Nation; and

WHEREAS, requiring farmers and ranchers to pay the federal government for such services would place an added drain on the resources of rural America and force more people off the land; and

WHEREAS, the federal government has for some 30 years provided technical help to owners and operators of privately-owned lands because it is in the total public interest, and because one of the most urgent national needs is to protect and improve soil and water resources on the privately-owned and operated land of America;

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 vigorously opposes any reduction in the federal participation in such program and the adoption by the Congress of the United States of any system of charging farmers and ranchers for technical help for the application of soil and water con-

servation work on the privately-owned and operated lands in North Dakota and the Nation; and

Be It Further Resolved, that this resolution be sent to each member of the North Dakota congressional delegation, the President of the United States Senate, and the Speaker of the United States House of Representatives.

Filed March 9, 1965.

HOUSE CONCURRENT RESOLUTION "X-1"

(Committee on Delayed Bills)

COMMENDATION OF NATIONAL GUARD PERSONNEL

A concurrent resolution expressing appreciation to members of the National Guard participating in recent emergency snow removal and disaster operations.

WHEREAS, the North Dakota National Guard in accordance with its function of protection of the property and lives of citizens of the state in periods of emergencies and disasters has creditably performed its duties; and

WHEREAS, members of the National Guard participating in field operations worked long hours under extreme weather conditions and sub-zero temperatures during all or a part of the period of disaster relief activities; and

WHEREAS, it is the desire of the legislative assembly to express its appreciation and that of the people of this state to the National Guard and to specifically commend those guardsmen who participated in the field operations;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative assembly on behalf of its members and on behalf of the citizens of this state does hereby express its appreciation to the following members of the North Dakota National Guard who so willingly and creditably, under adverse weather conditions, performed their duties in such a creditable fashion:

Colonel Joseph J. Thomas
Lieutenant Colonel Clayton C. Bartz
Lieutenant Colonel George W. Gagnon
Lieutenant Colonel Bernard A. Wagner
Major Gerard G. Blanc

Major Ervin M. Sande
Captain Virgil R. Kottsick
Captain Richard J. Roehrick
Chief Warrant Officer Dick D. Keyes
Chief Warrant Officer William P. Reisenauer
Warrant Officer Donald J. Steffan
Chief Warrant Officer Roy O. Walter
First Sergeant Benoni C. McFerran
First Sergeant Raymond D. Scharnowske
Sergeant First Class Ervin J. Barta
Sergeant First Class Kjerulf P. Dreyer
Sergeant First Class Charles D. Hansen
Sergeant First Class Cecil R. Malard
Platoon Sergeant Bruce A. Parsons
Sergeant First Class Robert J. Rebenitsch
Platoon Sergeant Wendelin J. Reiger
Sergeant First Class Thomas R. Spicer
Platoon Sergeant James A. Telken
Sergeant First Class Robert E. Alvestad
Staff Sergeant Frank J. Barta
Staff Sergeant Lloyd J. Bird
Staff Sergeant Leonard A. Benfiet
Staff Sergeant James R. Bosch
Staff Sergeant Virgil G. Degenstein
Staff Sergeant Paul Eisenzimmer
Staff Sergeant George C. Gray
Staff Sergeant Morris V. Hagen
Staff Sergeant Donald D. Hagler
Staff Sergeant Daniel R. Heisler
Staff Sergeant Wilhelm L. Koch
Staff Sergeant John A. Sanders
Staff Sergeant Tilford W. Schlieve
Staff Sergeant Earl A. Schneider
Staff Sergeant Harry Schneider
Staff Sergeant Raymond H. Steffen
Staff Sergeant Norton A. Tangen
Staff Sergeant James W. Thompson
Staff Sergeant John F. Ziegler
Sergeant Robert D. Bergley
Specialist 5 Robert D. Cruse
Specialist 5 Donald M. Holtz
Sergeant Donald M. Huber
Specialist 5 Casper A. Kurtz
Specialist 5 Henry G. Moe
Sergeant Dean W. Newton
Specialist 5 Lawrence A. Parsons
Specialist 5 Thorsten J. Sabie
Specialist 5 William R. Sager
Specialist 5 Allen C. Stein

Specialist 4 Herbert K. Felch
Specialist 4 Larry J. Liere
Specialist 4 Richard O. Weed

Be It Further Resolved, that the Adjutant General forward a copy of the journal of the house of representatives containing this resolution to each member of the National Guard named in this resolution.

Filed March 20, 1965.

HOUSE CONCURRENT RESOLUTION "Y-1"

(Committee on Delayed Bills)

AGRICULTURE RESEAL PROGRAMS

A concurrent resolution suggesting early announcement of Reseal Programs by the United States Department of Agriculture.

WHEREAS, the storage of grains to benefit North Dakota economy must be maintained on the farms as much as possible; and

WHEREAS, the following Price Support Reseal Programs be authorized by the 1965-1966 storage:

1964 Crop—wheat, corn, barley and oats
1963 Crop—wheat, corn, barley and oats
1962 Crop—wheat and corn

and that the sense of this request is consistent with the reseal program policies of the past and that justification for this reseal program exists presently as it did for previous reseal programs; and

WHEREAS, an early announcement of the availability of the reseal program for the 1964 wheat crop is desirable because it would be an added incentive for producers of spring wheat to comply with the 1965 wheat acreage allotments; and

WHEREAS, an early announcement of the availability of reseal for 1964 corn, barley and oat crops for the 1965-1966 storage period will encourage greater participation in the 1965 feed grain program; and

WHEREAS, early announcements of a reseal program assists farmers and warehousemen to do sound planning, accomplish orderly grain movements and help to obviate severe boxcar shortages, which have been experienced by North Dakota in the past;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That this resolution suggesting reseal programs for storage for the years 1965-66 be adopted by the United States Department of Agriculture and that copies of this resolution be sent to the Honorable Orville Freeman, Secretary of Agriculture, Senator Milton R. Young, United States Senator of North Dakota, Senator Quentin N. Burdick, United States Senator of North Dakota and the Honorable Mark Andrews, United States Congressman from the East District of North Dakota and the Honorable Rolland Redlin, Congressman from the West District of North Dakota.

Filed March 20, 1965.

HOUSE CONCURRENT RESOLUTION "Z-1"

(Committee on Delayed Bills)

LEGISLATIVE EMPLOYEES' HANDBOOK

A concurrent resolution directing the legislative research committee to prepare a legislative employees' handbook describing the duties and responsibilities of legislative employees for use by employees at succeeding sessions of the legislative assembly.

WHEREAS, there is consistently a major turnover of employees at each legislative session, and returning employees must sharpen their skills in the legislative process after 22 months of legislative inactivity; and

WHEREAS, the scope of responsibility of the legislative assembly and the importance of problems and legislation before it require that its employees perform their duties with the utmost efficiency and accuracy in order to permit the legislative assembly to perform its duties; and

WHEREAS, at the beginning of each session of the legislative assembly the legislative process is handicapped by the confusion and misunderstandings that develop as employees attempt to perform tasks unfamiliar to them; and

WHEREAS, a method should be devised to transfer the experience of legislative employees to employees of succeeding legislative sessions;

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 prepare a legislative employees' handbook, listing qualifications necessary to properly fill various employee positions, the principal responsibilities and duties of the various positions, and procedures to be followed in performing such duties.

Filed March 12, 1965.

HOUSE CONCURRENT RESOLUTION "A-2"

(Committee on Delayed Bills)

LEGISLATIVE EXPENSE PAYMENTS

A concurrent resolution requesting the United States Commissioner of Internal Revenue to recognize North Dakota statutes in regard to expense payments to legislators.

WHEREAS, the North Dakota legislative assembly has determined as a matter of law that the sum of twenty dollars per day is the minimum away-from-home living expense and costs of periodic trips to and from the state capital city for members of the legislative assembly; and

WHEREAS, the Bureau of Internal Revenue treats such expense allowance as income, has refused to recognize North Dakota statutes, and requires detailed and minute listings and substantiation of such costs prior to allowing deductions upon the income tax returns of legislators; and

WHEREAS, it is improper for one sovereign government to refuse to give faith and credit to the laws of another;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the United States Commissioner of Internal Revenue is hereby urged and requested to give full faith and credit to the laws of this state pertaining to the expense allowances paid by the state of North Dakota to its legislators; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the United States Commissioner of Internal Revenue and to each member of the North Dakota congressional delegation.

Filed March 19, 1965.

HOUSE CONCURRENT RESOLUTION "B-2"

(Committee on Delayed Bills)

SOIL CONSERVATION AND AGRICULTURAL STABILIZATION FUNDS

A concurrent resolution requesting the Secretary of Agriculture and the United States Congress to take all possible steps to secure restoration of funds cut from soil conservation and agricultural stabilization and conservation budgets.

WHEREAS, the Congress of the United States has for nearly thirty years followed a policy of making soil conservation service technical assistance available without charge to private landowners; and

WHEREAS, the availability of such technical assistance has been of great value in the restoration and conservation of our natural resources; and

WHEREAS, conservation work in the field of tree planting and water impoundments has been of particularly great benefit; and

WHEREAS, much work remains to be done in the field of soil and water conservation; and

WHEREAS, the federal Bureau of the Budget has recommended sharp reductions in funds for technical assistance and cost-sharing aid in the conservation field;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Secretary of Agriculture and the Congress of the United States are hereby respectfully urged to take all possible steps to secure the restoration of funds cut from soil conservation and agricultural stabilization and conservation budgets, in order that conservation work, particularly in the areas of tree planting and water impoundment and similar-type projects, may continue at not less than their past level; and

Be It Further Resolved, that copies of this resolution be forwarded to the United States Secretary of Agriculture and to each member of the North Dakota congressional delegation.

Filed March 9, 1965.

HOUSE CONCURRENT RESOLUTION "C-2"

(Committee on Delayed Bills)

FORT ABRAHAM LINCOLN FACILITIES

A concurrent resolution directing the governor and the board of administration to act on behalf of the state of North Dakota in accepting title to facilities at Fort Abraham Lincoln as authorized by law.

WHEREAS, the United States Secretary of Defense has declared Fort Abraham Lincoln at Bismarck, North Dakota, a surplus military installation, thus subject to disposal by the General Services Administration; and

WHEREAS, a citizens' committee has already done a considerable amount of work toward determining the most suitable use for facilities at Fort Lincoln should such facilities be taken over by the state of North Dakota; and

WHEREAS, the approaching completion of the Oahe dam and reservoir will necessitate expanded facilities in such fields as parks and recreation, conservation, and wildlife; and

WHEREAS, Fort Lincoln will be ideally located in close proximity to the Oahe reservoir;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the governor, board of administration, and such other state officials and agencies as may be concerned are hereby directed to act on behalf of the state of North Dakota in securing title to facilities at Fort Lincoln for the use and benefit of the state of North Dakota upon such terms as may be prescribed by the federal government, in order to assure, insofar as possible, that such facilities remain as an integrated unit and are not sold and subdivided into multiple purposes, either governmental or private, except that not more than five acres may be made available for local school purposes. And further be it resolved that a copy of this resolution be forwarded by air mail to the General Services Administrator, Washington, D. C. and a copy to each of the congressional delegation from North Dakota.

Filed March 20, 1965.

HOUSE CONCURRENT RESOLUTION "D-2"

(Committee on Employment)
(Through Delayed Bills Committee)

LEGISLATIVE EMPLOYEES

A concurrent resolution providing for the retaining of certain employees of the house of representatives and senate after the legislative session for the purpose of completing legislative work.

WHEREAS, after termination of the Thirty-ninth Legislative Assembly it is necessary to complete and close all legislative work; and

WHEREAS, in order to so complete and close such work it is necessary to retain certain employees;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following employees from the house of representatives of the Thirty-ninth Legislative Assembly be retained after the close of session to complete legislative work:

Donnell Haugen, chief clerk, be retained six days; Richard Ista, assistant chief clerk, four days; Ruth Smith, desk reporter, three days; Pam Billigmeier, chief stenographer and payroll clerk, three days; Elmer Strand, superintendent of employees, four days; Howard Douglas Rose, bill clerk, four days; Robert Larson, chief committee clerk, three days; Mrs. Robert Moses, postmistress, two days; Enola Eck, proofreader, four days; John Formo, enrolling and engrossing clerk, five days; Vonnie Wold, assistant enrolling and engrossing clerk, five days; Donna Carufel, chief page, three days; Marlys Fleck, page, three days; Gene M. LaFromboise, floor clerk, three days; A. S. Brazda, mailing room clerk, five days; Henry Benson, mailing room clerk, five days; Jane Harrison, telephone clerk, four days; Carolyn Jean Paulson, page, three days.

That the following employees from the senate of the Thirty-ninth Legislative Assembly be retained after the close of session to complete legislative work:

Gerald L. Stair, secretary of the senate, be retained six days; Arthur Herk, assistant secretary of the senate, four days; Cora Essington, chief stenographer and payroll clerk, three days; Fred Krause, mailing room clerk, five days; W. Urlacher, mailing room clerk, five days; Carrie Murdock, proofreader, four days; Vi DeForest, postmistress, two days; Vonnie Mushik, enrolling and engrossing clerk, three days; R. Gilbreath, enroll-

ing and engrossing clerk, three days; Bill Brown, chief page, three days; William Auch, bill room attendant, three days; Martin Kilwein, bill room attendant, three days; Jacob Albrecht, bill room attendant, three days; Bill Campbell, bill clerk, four days; Monty Burke, superintendent of employees, four days.

Be It Further Resolved, that the above named employees be paid their regular rate of pay as specified as follows: Donnell Haugen, chief clerk, six days @ twenty-five dollars per day; Richard Ista, assistant chief clerk, four days @ twenty dollars per day; Ruth Smith, desk reporter, three days @ twenty-five dollars per day; Pam Billigmeier, chief stenographer and payroll clerk, three days @ twenty dollars per day; Elmer Strand, superintendent of employees, four days @ twenty dollars per day; Howard Douglas Rose, bill clerk, four days @ fifteen dollars per day; Robert Larson, chief committee clerk, three days @ fifteen dollars per day; Mrs. Robert Moses, postmistress, two days @ ten dollars per day; Enola Eck, proofreader, four days @ twelve dollars per day; John Formo, enrolling and engrossing clerk, five days @ fourteen dollars per day; Vonnie Wold, assistant enrolling and engrossing clerk, five days @ fourteen dollars per day; Donna Carufel, chief page, three days @ thirteen dollars per day; Marlys Fleck, page, three days at eleven dollars per day; Gene M. LaFromboise, floor clerk, three days @ eleven dollars per day; A. S. Brazda, mailing room clerk, five days @ ten dollars per day; Henry Benson, mailing room clerk, five days @ ten dollars per day; Jane Harrison, telephone clerk, four days @ twelve dollars per day; Carolyn Jean Paulson, page, three days @ eleven dollars per day; Gerald L. Stair, secretary of the senate, six days @ twenty-five dollars per day; Arthur Herk, assistant secretary of the senate, four days @ twenty dollars per day; Cora Essington, chief stenographer and payroll clerk, three days @ twenty dollars per day; Fred Krause, mailing room clerk, five days @ thirteen dollars per day; W. Urlacher, mailing room clerk, five days @ ten dollars per day; Carrie Murdock, proofreader, four days @ twelve dollars per day; Vi DeForest, postmistress, two days @ twelve dollars per day; Vonnie Mushik, enrolling and engrossing clerk, five days @ fourteen dollars per day; R. Gilbreath, enrolling and engrossing clerk, five days @ fourteen dollars per day; Bill Brown, chief page, three days @ thirteen dollars per day; William Auch, bill room attendant, three days @ eleven dollars per day; Martin Kilwein, bill room attendant, three days @ ten dollars per day; Jacob Albrecht, bill room attendant, three days @ ten dollars per day; Bill Campbell, bill clerk, four days @ seventeen dollars per day; Monty Burke, superintendent of employees, four days @ twenty dollars per day; and all of the

above expenses are to be paid out of the per diem employees fund of the Thirty-ninth 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 19, 1965.

HOUSE CONCURRENT RESOLUTION "E-2"

(Committee on Delayed Bills)

UNITED STATES CONSTITUTION APPORTIONMENT AMENDMENT

A concurrent resolution urging the Congress of the United States to propose an amendment to the Constitution of the United States, relating to apportionment.

WHEREAS, the Supreme Court of the United States has ruled that membership in both houses of a bicameral state legislature must be apportioned according to population and has thus asserted federal judicial authority over the basic structure of government in the various states; and

WHEREAS, this rule denies to the people of the respective states the rights to establish their legislatures upon a pattern of representation deemed suitable to the needs of each state or similar to the pattern deemed advantageous for the Congress of the United States and provided by the Federal Constitution; and

WHEREAS, this action of the Supreme Court goes so far as to restrict the ability of the citizens of the respective states to designate the manner in which they shall be represented in their respective legislatures, thereby depriving the people of their right to determine how they shall be governed; and

WHEREAS, the implications of this action by the United States Supreme Court raise serious doubts as to the legality of the present form of governing bodies of many subordinate units of government within the states;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That this Legislature respectfully applies to the Congress of the United States to propose and submit to the states an amendment to the Constitution of the United States substantially as follows:

"ARTICLE.....

"SECTION 1. Nothing in this Constitution shall prohibit any state which shall have a bicameral legislature from apportioning the membership of one house of such legislature on factors other than population, provided that the plan of such apportionment shall have been submitted to and approved by a vote of the electorate of that state.

"SECTION 2. Nothing in this Constitution shall restrict or limit a state in its determination of how membership of governing bodies of its subordinate units shall be apportioned.

"SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the states by the Congress."

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, the Clerk of the House of Representatives of the United States, and to each member of the Congress from this state.

Filed March 20, 1965.

HOUSE MEMORIAL RESOLUTION

HOUSE MEMORIAL RESOLUTION No. 1

(Sanstead, Tweten, Stenhjem)

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-eighth Legislative Assembly, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

JOHN J. BADER, who served in the thirty-seventh and thirty-eighth legislative assemblies from the forty-seventh district, died October 23, 1964.

FRANK BEASLEY, who served in the twenty-fifth legislative assembly from the eighteenth district, died June 9, 1964.

WILLIAM BETTENHAUSER, who served in the twenty-third through the twenty-fifth legislative assemblies, from the thirty-sixth district, died August 12, 1963.

WILLIAM O. BIBERDORF, who served in the twenty-fourth and twenty-fifth legislative assemblies, from the thirty-fourth district, died August 1, 1963.

JOHN I. BRADY, who served in the twenty-ninth through the thirty-first legislative assemblies, from the ninth district, died February 24, 1963.

JOHN W. CALNAN, who served in the thirteenth legislative assembly, from the second district, died October 26, 1964.

KENNETH A. FITCH, who served in the twenty-second and twenty-third and also in the twenty-fifth through the thirty-eighth legislative assembly, from the ninth district, died September 12, 1963.

BJORN FUGLESTAD, who served in the twenty-third and in the twenty-sixth to the thirty-third legislative assembly, from the sixteenth district, died October 4, 1964.

JOSEPH GLAS, who served in the twenty-sixth through the twenty-seventh legislative assembly, from the twenty-sixth legislative district, died February 2, 1965.

J. H. HECKMAN, who served in the twenty-sixth through the twenty-ninth legislative assembly, from the fortieth district, died July 1, 1963.

FRANK A. HOARE, who served in the fifteenth through the seventeenth legislative assembly, from the forty-first district, died May 3, 1963.

CARL E. JOHNSON, who served in the seventeenth through the twenty-second legislative assembly, from the eighth district, died February 26, 1964.

ROY JOHNSON, who served in the sixteenth through the eighteenth legislative assembly, from the tenth district, died on May 4, 1963.

HERBERT MACKOFF, who served in the fifteenth legislative assembly, from the thirty-first district, died December 15, 1963.

THEODORE MONKE, who served in the thirty-second legislative assembly, from the thirty-first district, died December 29, 1964.

NELS P. NOBEN, who served in the twenty-third and twenty-fourth legislative assemblies, from the thirty-ninth district, died on November 5, 1963.

ALBERT L. ORANGE, who served in the eighteenth and nineteenth legislative assemblies, from the twenty-third district died November 29, 1964.

INGEMAN SANFORD, who served in the nineteenth legislative assembly, from the forty-fifth district, died July 12, 1964.

OLE K. SUNDBY, who served in the twenty-third legislative assembly, from the forty-sixth district, died May 1, 1963.

HERBERT F. SWETT, who served in the eighteenth through the twenty-third legislative assembly, from the twenty-sixth district, died on January 14, 1964.

EDWIN TRAYNOR, who served in the eighteenth through the twenty-fifth legislative assembly, from the twenty-first district, died on November 8, 1963.

MORTIMER A. WILK, who served in the thirty-second through the thirty-third legislative assembly, from the ninth district, died on January 31, 1964.

DANA MONROE WRIGHT, who served in the fifteenth legislative assembly, from the twenty-third district, died on February 18, 1964.

WHEREAS, today we, as members of the house of representatives of the Thirty-ninth Legislative Assembly of the state of North Dakota, pause to mourn the passing of our former colleagues and to honor their memories; and

WHEREAS, these men rendered outstanding service to the people of this state by their contribution to their fellow men and their communities;

Now, Therefore, Be It Resolved by the House of Representatives of the Thirty-Ninth 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 20, 1965.

SENATE RESOLUTIONS

SENATE RESOLUTION No. 1

(Longmire, Becker, Reichert, Luick, Thompson)
(From LRC Study)

SENATE LEGISLATIVE EQUIPMENT

A resolution authorizing and directing the department of accounts and purchases to furnish office and secretarial equipment for use of the senate.

WHEREAS, the cost of conducting the legislative assembly has been increasing over the years even though efforts have been made to keep such cost at a minimum; and

WHEREAS, the rental of office and administrative equipment is a basic item in the cost of conducting the legislative assembly that has continually increased; and

WHEREAS, it appears that the purchase of most office equipment through the department of accounts and purchases for the use of the senate and house of representatives to be re-sold to other state departments at the termination of the legislative assembly will result in a savings to the legislative assembly of $2,605.84, when compared to rental costs during the last legislative session, and a substantial additional saving to departments purchasing such legislative equipment at a discount following the session;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That the department of accounts and purchases is authorized and directed to furnish all office and administrative equipment, except such equipment as may be desired for specialized purposes, at a charge to the senate of ten percent of the cost of such equipment and that such equipment be re-sold at the termination of the legislative assembly to other state departments at a ten percent discount.

Filed January 22, 1965.

SENATE RESOLUTION No. 2

(Redlin, Becker, Kisse)

AGRICULTURAL PROBLEMS AND RESEARCH

A resolution urging consideration and study of the problems facing the farmers of North Dakota and the United States.

WHEREAS, agriculture is the basic industry of the state of North Dakota and recognized as the most important segment of its economy; and

WHEREAS, the members of the senate of the Thirty-ninth Legislative Assembly of the state of North Dakota are deeply concerned with the plight of agriculture in our state as it affects the farmers and general public, and note with alarm the increasing rate of farm mortgages and mortgage foreclosures, and regretfully admit that the various farm programs put into effect in the United States have, as yet, failed to provide a solution, or approach the farmer's hopes and dreams of farm prosperity based upon promises of parity of income; and

WHEREAS, the seriousness of the farm situation has become so very apparent to the general public in recent months because of the unrest and violence which took place in the Midwest and which resulted from the unstable conditions of the farm economy, and which may be only a small preview of future actions if the chronic conditions of the farm economy are further ignored; and

WHEREAS, agriculture is basic and necessary to a sound state and national economy and deserves the attention and unanimous support of the members of the senate of the Thirty-ninth Legislative Assembly of the state of North Dakota, and it is recognized that in this highly technical and mechanized age the individual farmer finds himself in a minority group by virtue of his willingness and determination to produce according to his dictates and personal initiative; and

WHEREAS, the farmer of today is the assurance of freedom from want tomorrow;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That our national government be reminded of its responsibility for providing reasonable economic stability for farm products comparable to the cost the farmer must pay for goods and services he is compelled to purchase; and

Be It Further Resolved, that the national and state levels of government direct their attention and research facilities toward programs concerning wheat, feed grain, loan rates, the placing on the market of government owned wheat so as not to endanger the market price of wheat, the importation of beef, wheat, barley, and sugar, and the production of sugar so as to give the American sugar producer the opportunity to make use of his available resources and facilities; and

Be It Further Resolved, that any available monetary resources on the state and national levels of government be utilized to the maximum extent for agricultural research, to the end that improved crop varieties and new uses for crops will be developed and the inadequacies of the farm economy will be improved; and

Be It Further Resolved, that the secretary of state be directed to forward copies of this resolution to the President of the United States, Secretary of State, Secretary of Agriculture, chairmen of the United States Senate and House Committees on Agriculture, the chairmen and leadership of both political parties, and each member of the North Dakota congressional delegation.

Filed February 16, 1965.

SENATE RESOLUTION No. 3

(Lashkowitz, Sinner, Kautzmann, Kisse, Ringsak)

VETERANS' ADMINISTRATION OFFICE

A resolution expressing the objections of the North Dakota senate to the proposed closing of the Fargo office of the United States Veterans' Administration.

WHEREAS, the United States Veterans' Administration has recently announced plans for the discontinuance of the Fargo office of the Veterans' Administration; and

WHEREAS, according to reliable estimates, the peak load in the field of veterans' affairs will not be reached until the 1970's; and

WHEREAS, the Fargo office is currently the only office processing claims and serving the needs of veterans and survivors of deceased veterans in the entire state of North Dakota plus a large portion of western Minnesota; and

WHEREAS, the proposed closing would work a hardship on veterans, particularly the disabled, because of the greater

travel distance thus necessitated, and would impair or destroy the personal relationships so necessary to understanding and processing veterans' claims; and

WHEREAS, in addition to the many veterans involved, some sixty employees of the Veterans' Administration now face the possibility of transfer with the resultant hardship and decline in morale, and the community faces a detrimental blow to its economy; and

WHEREAS, United States Senator Quentin Burdick has contacted the office of Congressman Olin Teague, Chairman of the United States House Veterans' Affairs Committee, with a request for public hearings on the closing, and United States Senator Milton Young has expressed his willingness to assist and cooperate in this matter in any way possible;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That the senate of the state of North Dakota hereby expresses its opposition to the proposed closing for the reasons cited in this resolution, and also expresses its appreciation to Senators Burdick and Young for their action in this matter and its support to the proposed public hearings;

Be It Further Resolved, that the senate of the state of North Dakota hereby calls upon interested citizens and groups within the state and western Minnesota to support the move to retain this valuable public service.

Filed January 16, 1965.

SENATE RESOLUTION No. 4

(Holand, Longmire)

DEPARTMENT OF ACCOUNTS AND PURCHASES REVIEW

A resolution relating to a review of the progress and operational policies of the department of accounts and purchases.

WHEREAS, the department of accounts and purchases has been in operation for three years since its establishment by the Thirty-seventh Legislative Assembly; and

WHEREAS, it was recognized by the legislative assembly in establishing such department that all of the duties of the department provided by law were not subject to immediate implementation and that it would be necessary to gradually assume its functions and gradually establish policies of opera-

tion in regard to recordkeeping, fiscal affairs, purchasing, and other fields of responsibility; and

WHEREAS, it is proper for the legislative assembly to periodically review the progress and operations of agencies of the executive branch of government in order that its members may be fully informed of the operations and policies of the executive branch departments; and

WHEREAS, it is the desire of members of the senate to review with representatives of the department of accounts and purchases the progress that the department has made in fulfilling the duties assigned to it and operational policies it has developed;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That the Senate Committee on State and Federal Government is hereby directed to conduct a review and inquiry in regard to the progress and operational policies of the department of accounts and purchases, with the cooperation of the director and other representatives of such department.

Filed January 22, 1965.

SENATE RESOLUTION No. 5

(Morgan, Kautzmann, Witteman, Berube)

OFFICIAL PHOTOGRAPHER

A senate resolution to appoint an official photographer for the senate of the Thirty-ninth 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, Rikki's Studio of Bismarck, North Dakota offers to make a composite group picture of the members of the 1965 North Dakota Senate size 30 x 40 inches, said picture to be framed and ready to hang, and fifty-five fourteen by eleven copies of said picture for each member and desk force of the senate, and one five by seven inch print of each senator and the lieutenant governor for the state historical society, at a cost of four hundred and fifty dollars;

Now, Therefore, Be It Resolved, that Rikki's Studio, Bismarck, North Dakota, be, and is hereby appointed official

photographer for the North Dakota Senate of the Thirty-ninth Legislative Assembly;

Be It Further Resolved, that Rikki's Studio of Bismarck, North Dakota, be and is hereby awarded the sole privilege of photographing members of the senate of the Thirty-ninth Legislative Assembly, at a cost price of four hundred and fifty dollars to be taken out of legislative expenses.

Filed January 28, 1965.

SENATE RESOLUTION No. 6

(Committee on Delayed Bills)

RADIO AND TELEVISION COVERAGE

A senate resolution expressing appreciation to the management and employees of radio stations KFYR and KBOM and to KFYR-TV for their fine coverage of committee hearings and floor debate in the senate upon important tax matters.

WHEREAS, the legislative assembly in its current session is faced with important problems in meeting the state's financial needs; and

WHEREAS, the public is vitally concerned with possible steps which may be taken to solve such problems; and

WHEREAS, broadcasts of committee hearings and floor debate on important problems facing the legislative assembly can go far toward keeping the public informed; and

WHEREAS, radio stations KFYR and KBOM and KFYR-TV have recently carried live broadcasts of committee hearings and floor debate upon matters of key importance;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That the senate of the state of North Dakota hereby goes on record as expressing appreciation to the management and employees of radio stations KFYR and KBOM and to KFYR-TV for the valuable public service they have provided to the citizens of the state in carrying live broadcasts of recent committee hearings and floor debate upon important tax matters.

Filed March 9, 1965.

SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION "E"

(Trenbeath, Redlin, Walz, Roen, Berube)

TEACHERS' INSURANCE AND RETIREMENT FUND STUDY

A concurrent resolution directing the teachers' insurance fund board of trustees in cooperation with the legislative research committee to conduct a study of the laws governing the teachers' insurance and retirement fund, the benefits therefrom to the teachers, and the obligations and assessments of teachers and school districts to the fund.

WHEREAS, the laws of the state of North Dakota relating to the definition of a teacher, membership in the fund, amount of assessments, retention of assessments from salaries, school board's contribution to the fund, eligibility to participate in the fund, and retirement annuities should be studied; and

WHEREAS, the cost of operating schools and the cost of living have increased greatly over the years; and

WHEREAS, many retired teachers are not receiving annuities sufficient to provide an adequate living;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the teacher's insurance fund board of trustees in cooperation with the legislative research committee are hereby directed to conduct a study of the present laws, rules and regulations governing the definition of a teacher, membership in the fund, amount of assessments, retention of assessments from salaries, school board's contribution to the fund, eligibility to participate in the fund, and retirement annuities, in order to ascertain their adequacy in view of present day educational and financial conditions as they affect the teachers and the school boards and to make its report and recommendations thereon to the Fortieth Legislative Assembly, together with any legislation required to carry out such recommendations.*

Filed March 19, 1965.

***Note:** This resolution was amended in the Senate and in the House of Representatives. The amendments in the House of Representatives deleted any reference to the Legislative Research Committee, but the House of Representatives in messaging Senate Concurrent Resolution "E" back to the Senate stated that it had passed without any further House amendments. Therefore it appears that the Senate and House of Representatives voted on Senate Concurrent Resolution "E" with differing contents.

SENATE CONCURRENT RESOLUTION "H"

(Walz)

LRC STUDY OF GRAFTON STATE SCHOOL FACILITIES

A concurrent resolution directing the legislative research committee to study the facilities of the Grafton state school and consider the establishment of a second school in the state of North Dakota for the treatment and care of mentally retarded children and adults.

WHEREAS, the facilities of the Grafton state school are filled to capacity and there is an increasing waiting list for admission to the school; and

WHEREAS, the central facilities of the physical plant at the Grafton state school are presently at their capacity and because of the location of the buildings and their manner of construction an expansion of the central facilities would be extremely expensive and in effect would require reestablishing the core or basic service facilities of a new institution; and

WHEREAS, officials of the Grafton state school and other persons knowledgeable in the care and training of retarded children and adults have indicated that there is a definite need for the establishment of a second school for the education, care, and training of retarded children and adults;

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 of the need for additional facilities for the education, care and training of retarded children and adults; survey of the facilities of the Grafton state school taking into consideration the capacity and costs of expansion of the present institution; and consider the feasibility of the conversion of other institutions or the establishment of a new institution for the care, training, and education of mentally retarded persons; and

Be It Further Resolved, that in considering the possibility of a second school the committee shall consider the advantages of a central location; that such school should provide for expansion potential, scenic surroundings with recreational facilities; adequate medical facilities; the potential for labor or agricultural employment suitable for talents of the residents of such school; and the potential supply of suitable employees for such institution; and

Be It Further Resolved, that the legislative research committee make its report and recommendations thereon to the

Fortieth Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 19, 1965.

SENATE CONCURRENT RESOLUTION "I"

(Longmire, Holand, Reichert)

NEWSPAPERMEN'S DAY

A concurrent resolution for the purpose of designating February 12, 1965, as Newspapermen's Day at the state legislative assembly, and inviting Mr. Jenkin Lloyd Jones 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. Jenkin Lloyd Jones, vice president, editor, and publisher of the Tulsa Oklahoma Tribune and widely known for his extensive world travels and lectures, will be able to attend a joint meeting of newspapermen and legislators on February 12, 1965;

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 12, 1965, at the state capitol as our guests, to witness at first hand, 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. Jenkin Lloyd Jones, vice president, editor, and publisher of the Tulsa Oklahoma Tribune, to address the joint meeting of newspapermen and legislators.

Filed January 21, 1965.

SENATE CONCURRENT RESOLUTION "J"

(Sinner, Baeverstad, Beck, Becker, Berube, Bopp, Chesrown,)
(Dahlund, Ecker, Forkner, George, Hernett, Holand, Jurgensen,)
(Kadlec, Kautzmann, Kelly, Kisse, Kjos, Lips, Larson, Lashkowitz,)
(Longmire, Luick, Mahoney, Morgan, Nelson, Rait, Redlin,)
(Reichert, Ringsak, Roen, Rolfsrud, Ruemmele, Saumur, Solberg,)
(Sorlie, Strinden, Thompson, Torgerson, Trenbeath, Tuff, Urdahl,)
(Van Horn, Walz, Weber, Witteman)

LRC STUDY OF GRAIN EXCHANGE

A concurrent resolution directing the legislative research committee to study the feasibility of a North Dakota grain exchange.

WHEREAS, development in North Dakota of industry to process our agricultural commodities has long been desired; and

WHEREAS, there is a potential of increased westward movement of grain; and

WHEREAS, grain grading will hopefully soon be available to all North Dakota shippers with new and improved sampling procedures being developed; and

WHEREAS, there are considerable technological advances in production ability and our increased power and water resources for processing; and

WHEREAS, North Dakota is first in production of malting barley, hard spring wheat, flax, and rye, and high in rank in many other grains; and

WHEREAS, stimulation of buying competition would result in better returns to farm producers and North Dakota elevator operators;

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 aid of economists and other personnel at state universities and informed personnel in the grain trade, conduct a study of the feasibility of a North Dakota grain exchange with particular emphasis on a cash market.

Filed March 19, 1965.

SENATE CONCURRENT RESOLUTION "N"

(Trenbeath, Sinner)

GOVERNOR'S ADVISORY COMMITTEE ON SUGAR BEETS

A concurrent resolution urging the governor of the state of North Dakota to call a conference of leaders of the sugar beet industry and allied industries within the state, to form a governor's advisory committee on sugar beets.

WHEREAS, the National Sugar Act is due to expire by its own terms in the near future; and

WHEREAS, in the past only thirty-five percent of this nation's sugar needs have been produced by American growers; and

WHEREAS, it is generally recognized that sugar beet producers in the state of North Dakota can produce sugar more economically than producers in any other area in the nation;

WHEREAS, North Dakota's economy is in need of expansion and our farmers have demonstrated a desire to grow more sugar beets in place of other crops which are presently in surplus; and

WHEREAS, the completion of the Garrison Diversion project will further enhance North Dakota's capacity to produce sugar beets; and

WHEREAS, other western states in the sugar beet producing area are setting up governor's committees in the sugar beet production field;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the members of the Thirty-ninth Legislative Assembly of the state of North Dakota hereby urge the governor of the state of North Dakota, William L. Guy, to invite leaders of the various economic interests within the state to form with him a Governor's Advisory Committee on Sugar Beets;

Be It Further Resolved, that the committee thus created include the leadership of sugar beet producer and development groups; processors, management, and labor groups; financial, implement, and common carrier groups; and business promotion and other groups within the state interested in associating for the purpose of bettering North Dakota's economy through the increased production of sugar beets.

Filed March 10, 1965.

SENATE CONCURRENT RESOLUTION "Q"

(Beck, Strinden, Nelson, Roen, Becker, Van Horn, Walz)

LRC STUDY OF HIGHWAY SAFETY PROBLEMS

A concurrent resolution directing the legislative research committee to carry out a comprehensive study of highway safety problems.

WHEREAS, highway accidents have been steadily increasing in the state of North Dakota, and the past two years have brought the highest toll of highway fatalities in the history of the state with property losses totaling millions of dollars and causing immeasurable human suffering; and

WHEREAS, certain states which carry on an active accident prevention program in the fields of highway engineering, enforcement, and public education have consistently maintained low accident rates and have thereby proven that the yearly increase in the death toll upon the highways is not necessary and that accident rates can be lowered; and

WHEREAS, the state highway department and certain traffic safety organizations, such as the Automotive Safety Foundation and the Insurance Institute for Highway Safety, 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, carry on a comprehensive study of highway safety problems in the state of North Dakota and solicit the assistance of the Automotive Safety Foundation and the Insurance Institute for Highway Safety during such study and such committee shall report its recommendations to the Fortieth Legislative Assembly, together with suitable legislation to carry out such recommendations.

Filed March 19, 1965.

SENATE CONCURRENT RESOLUTION "S"

(Longmire)

STATE PARKS ACCESS ROADS

A concurrent resolution urging the state highway department to include certain access roads of state parks in the state highway system.

WHEREAS, every year more and more state citizens and tourists visit our state parks, thereby bringing a considerable amount of recreational benefits and income to the citizens of this state; and

WHEREAS, improved access roads to our state parks would encourage greater use of parks, resulting in tourists spending more time in this state; and

WHEREAS, the state highway department can provide the necessary construction, repair, improvement, snow removal, and general maintenance of park access roads for the benefit of the general public;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the state highway department exercise its authority, as provided in section 24-01-22 of the North Dakota Century Code, in designating, locating, and determining the several routes of the state highway system to include state park access roads and other roads used primarily for state park purposes.

Filed March 10, 1965.

SENATE CONCURRENT RESOLUTION "T"

(Van Horn)

DAKOTA CUP REGATTA

A concurrent resolution recognizing the annual Dakota Cup Regatta as a beneficial sporting event to the state of North Dakota and requesting that certain state departments provide assistance in maintaining adequate traffic, safety, and health control and assist in the promotion and development of such regatta.

WHEREAS, the state of North Dakota was very fortunate in being chosen as a site for one of the large national hydroplane racing events; and

WHEREAS, the first Dakota Cup Regatta held on the Garrison Reservoir attracted more than one hundred thousand citizens from the state of North Dakota and its surrounding states and the provinces of Canada; and

WHEREAS, this regatta will continue to provide many benefits to the state and its citizens; and

WHEREAS, this event has placed a burden on the local authorities for proper traffic, safety, and health control;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the state highway patrol, travel bureau, highway department, and health department, when requested, give advice and provide assistance in maintaining adequate traffic control, police protection, and general safety conditions during such event if such assistance shall not conflict with the execution of the normal duties of such agencies.

Filed March 4, 1965.

SENATE CONCURRENT RESOLUTION "U"

(Morgan)

HIGHWAY 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 Resloved, that copies of this resolution be forwarded to the Federal Highway Administrator and to each member of the North Dakota congressional delegation.

Filed March 15, 1965.

SENATE CONCURRENT RESOLUTION "Y"

(Trenbeath)

DEVELOPMENT OF THE WATER RESOURCES OF THE PEMBINA RIVER BASIN

A concurrent resolution endorsing, supporting and urging the development of the water resources of the Pembina River Basin in the province of Manitoba, Canada and the state of North Dakota, United States of America, and commending the International Joint Commission and participating agencies.

WHEREAS, the governments of the United States and Canada, pursuant to the Boundary Waters Treaty of January 11, 1909, and under the terms of the references of January 12, 1948, and April 3, 1962, requested the International Joint Commission to study, investigate and report on what measures could be taken to develop the water resources of the Pembina River Basin in the province of Manitoba and the state of North Dakota, and "to determine what plans of cooperative development of the Pembina River Basin would be practicable, economically feasible, and to the mutual advantage of the two countries, having in mind: (a) domestic water supply and sanitation; (b) control of floods; (c) irrigation; and (d) other beneficial uses"; and

WHEREAS, highly recognized federal, state and provincial engineers composing the International Pembina River Engineering Board, appointed by the International Joint Commission, and other eminent technicians of the two countries have during the past four years made exhaustive studies and formulated comprehensive plans of development of said water resources which incorporate flood control, irrigation, municipal and industrial water supply, recreation and fish and wildlife features; and

WHEREAS, the International Pembina River Engineering Board transmitted volume 1 of its main report entitled "Joint Investigation for Development of Water Resources of the Pembina River Basin in Manitoba and North Dakota" with its findings and conclusions on the requested technical investigations and studies.

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-ninth Legislative Assembly of the state of North Dakota does hereby reaffirm its whole-hearted endorsement and support of the proposed development of the water resources of the Pembina River Basin, sincerely commends the International Joint Commission and all participating agencies and technicians of Canada and the United States for their devotion to duty and concern over the precious water and related land resources of the Pembina River Basin, and earnestly trusts that a plan for the proposed development will be approved and recommended by the International Joint Commission and the United States and Canada within the reasonably near future; and

Be It Further Resolved, that copies hereof be transmitted to the President and Vice President of the United States; Secretary of the Department of State; Chairmen of the Canadian and United States Sections of the International Joint Commission; Chief of Engineers, U. S. Army Corps of Engineers; Commissioner, Bureau of Reclamation; Members, North Dakota congressional delegation; the Governor of North Dakota; the Minister of Northern Affairs and Natural Resources, Ottawa; the Minister of Agriculture, Ottawa; the Premier of Manitoba and the Minister, Department of Agriculture and Conservation, Manitoba.

Filed March 10, 1965.

SENATE CONCURRENT RESOLUTION "Z"

(Mutch)

LAW AND ORDER ADDRESS

A concurrent resolution to extend an invitation to Mr. W. Cleon Skousen to address members of the legislature on Friday, February 19, 1965, in the hearing room.

WHEREAS, the legislative assembly of the state of North Dakota has a vested interest in improving law enforcement and respect for law and order; and

WHEREAS, the respect for law and order begins in the home and local community; and

WHEREAS, Mr. W. Cleon Skousen will speak in Bismarck on Friday evening, February 19, his speech being entitled "So You Want to Raise a Boy", and will also be available to address a joint session of the legislature; and

WHEREAS, Mr. Skousen, having the following background, is eminently qualified to speak on the subject of law and order; author of two books which are best sellers in their fields—"Naked Communist" and "So You Want to Raise a Boy"; educated in Canada, the United States, and Mexico; received his law degree from George Washington University and admitted to practice law in the District of Columbia; served in the FBI for sixteen years; was a member of the faculty of Brigham Young University in 1951; given a leave of absence to become Chief of Police in Salt Lake City in 1956; became Editorial Director of "Law and Order", the most widely distributed police magazine in the United States; traveled and lectured during the last few years in 29 foreign countries and 43 of the 50 States, the largest audience being 15,000 in the Hollywood Bowl;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That Mr. Skousen be tendered an invitation to address members of the Legislature at 4:00 p.m. on Friday, February 19, 1965, in the hearing room; and

Be It Further Resolved, that all members of the North Dakota Peace Officers Association be extended a special invitation to attend this address to the members of the Legislature.

Filed February 19, 1965.

SENATE CONCURRENT RESOLUTION "B-B"

(Forkner, Kelly, Beck, Kjos, Torgerson, Larson, Bopp,)
(Mahoney, Walz, Thompson)

STATE PRINTING WORK

A concurrent resolution relating to public printing.

WHEREAS, under the provisions of section 46-02-09 of the North Dakota Century Code each department or office of the state selects the printing company or printing shop for all its

printing work except in the case of legislative bills, journals, documents, and laws, contracts for which are let by public bids; and

WHEREAS, since there is no central agency with authority to apportion such printing work among the various printing companies and shops of the state, it appears that some printing companies or shops may receive an unusually high number of printing contracts; and

WHEREAS, since all printing companies contribute toward the costs of state and local government through taxes paid, it is proper that each state agency make efforts to apportion its printing work among all of the printing companies within the state where work of the necessary quality can be completed within the time requirements and where the printing costs to the state are not increased thereby;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That all state departments and agencies are directed to make all reasonable efforts to fairly apportion their sixth class printing work among all of the printing companies of the state in all instances where such work can be done within the time limits involved and without increasing the cost of printing to the state.

Filed March 4, 1965.

SENATE CONCURRENT RESOLUTION "D-D"

(Van Horn)

LRC STUDY OF PENITENTIARY PRINTING SHOP

A concurrent resolution authorizing and directing the legislative research committee to study the feasibility of establishing a printing shop at the state penitentiary to print state materials for the purpose of enabling the inmates of such institution to learn a worthwhile occupation.

WHEREAS, the state of North Dakota requires a vast amount of printed material for its operation; and

WHEREAS, a substantial amount of such printing could be done by the inmates of the state penitentiary if such institution had the facilities for such work; and

WHEREAS, it is the state's policy to rehabilitate the inmates of such institution by teaching them a worthwhile trade and thereby enabling such inmates to take their place in society;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby directed to conduct a study of the rehabilitation value and economic feasibility of operating a state printing shop at the state penitentiary so as to provide an additional resource for the rehabilitation of inmates of such institution, and to report its appraisals and recommendations to the Fortieth Legislative Assembly, together with any proposed legislation which may be necessary to carry out such recommendations.

Filed March 15, 1965.

SENATE CONCURRENT RESOLUTION "F-F"

(Committee on Delayed Bills)

NATIONAL PLOWING CONTEST COMMENDATION

A concurrent resolution commending Mr. and Mrs. Elmer Fraase, the North Dakota Association of Soil Conservation Districts, the Fargo Chamber of Commerce, the North Dakota Broadcasting Company, Inc., and other agencies and individuals for their efforts in conducting the 1964 Soil Conservation Field Days and National Plowing Contest.

WHEREAS, North Dakota was host to the 1964 Soil Conservation Field Days and National Plowing Contest which was held September 17 through September 19, on the Elmer Fraase farm thirty-two miles west of Fargo on Interstate Highway 94; and

WHEREAS, approximately one hundred thousand people attended this event, resulting in favorable publicity for the state of North Dakota; and

WHEREAS, Mr. and Mrs. Elmer Fraase were host to many distinguished guests and visitors; and

WHEREAS, present for this event were representatives from many states and foreign countries, with the news media, including the press, television, and radio, giving nationwide coverage throughout the event and Republican presidential candidate Senator Barry Goldwater and Democratic vice-presidential candidate Senator Hubert H. Humphrey both spoke to thousands of visitors attending the event;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That Mr. and Mrs. Elmer Fraase, the North Dakota Association of Soil Conservation Districts, the Fargo Chamber of Commerce, the North Dakota Broadcasting Company, Inc., and the many state departments, federal agencies, and individuals involved be commended for their contribution toward the success of this event and for their untiring efforts and cooperation which created a very favorable impression upon the many visitors in attendance; and

Be It Further Resolved, that the secretary of state is hereby directed to forward copies of this resolution to Mr. and Mrs. Elmer Fraase, the North Dakota Association of Soil Conservation Districts, the Fargo Chamber of Commerce, and the North Dakota Broadcasting Company, Inc.

Filed March 19, 1965.

SENATE CONCURRENT RESOLUTION "G-G"

(Committee on Delayed Bills)

LRC STUDY OF MUNICIPAL FINANCE LAWS

A concurrent resolution directing the legislative research committee to study the laws and procedures governing bonding, bidding, inspection, and final acceptance on contracts for public improvements in cities and villages.

WHEREAS, such construction and installation involves the expenditures of large sums of public funds; and

WHEREAS, present laws are not adequate and practical to protect the taxpayer; and

WHEREAS, it is necessary to provide adequate laws and reform in the procedure of the construction of public improvements in our cities and villages;

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 and procedures governing bonding, bidding, inspection, and final acceptance on contracts for public improvements in cities and villages, and to submit its report and recommendations thereon, together with any necessary legislation, to the Fortieth Legislative Assembly. Provided, however, that this work will be carried on only within the limitations of time, staff and legislative research committee funds, it being further understood that the League of Municipalities

shall cooperate to perform the study work under the supervision of the legislative research committee.

Filed March 19, 1965.

SENATE CONCURRENT RESOLUTION "H-H"

(Committee on Delayed Bills)

STATEHOOD ANNIVERSARY COMMITTEE

A concurrent resolution requesting the continuance of the North Dakota Statehood Anniversary Committee.

WHEREAS, a Statehood Anniversary Committee was appointed pursuant to House Concurrent Resolution "U" of the Thirty-eighth Legislative Assembly; and

WHEREAS, there remains work still to be done by such committee, principally in the field of obtaining and placing portraits of Rough Rider Award recipients;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the existence of the North Dakota Statehood Anniversary Committee be, and the same hereby is, continued during the 1965-1967 biennium, for the purpose of completing its work.

Filed March 19, 1965.

SENATE CONCURRENT RESOLUTION "I-I"

(Committee on Delayed Bills)

DURUM WHEAT GRAIN GRADING STANDARDS

A concurrent resolution urging the United States Department of Agriculture to maintain its present grain grading standards for durum wheat.

WHEREAS, the United States Department of Agriculture presently maintains grain grading standards for durum wheat providing that, for commodity credit corporation loan purposes, such wheat shall have a moisture content of not more than fourteen and one-half percent; and

WHEREAS, the United States Department of Agriculture is contemplating changing the grain grading standards to provide that the moisture content of durum wheat for commodity credit

corporation loan purposes shall not be more than thirteen and one-half percent; and

WHEREAS, such change in the durum wheat grain grading standards will force many North Dakota farmers and farmers of other states to delay harvesting operations for some varieties of durum wheat in order that the moisture content of such wheat may be reduced to the thirteen and one-half percent level, and thus expose the late maturing durum wheat to adverse weather conditions, and in some cases cause the wheat to crack and result in broken kernels which further affects the grading standards; and

WHEREAS, the result of changing the durum wheat grain grading standards may further depress the economic conditions of the North Dakota durum wheat farmer, and farmers of other states, and cause additional hardship to the farm economy;

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 Agriculture is hereby urged and requested to maintain the present grain grading standards for durum wheat and permit a moisture content of fourteen and one-half percent for commodity credit corporation loan purposes; and

Be It Further Resolved, that the secretary of state is hereby directed to forward copies of this resolution to the United States Secretary of Agriculture and to each member of the North Dakota congressional delegation.

Filed March 19, 1965.

SENATE MEMORIAL RESOLUTIONS

SENATE MEMORIAL RESOLUTION No. 1

(Holand, Reichert)

MRS. L. L. C. NELSON

A memorial resolution extending sympathy and condolence to Senator Emil T. Nelson upon the death of his mother.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst Mrs. L. L. C. Nelson, the mother of our colleague, Senator Emil T. Nelson; and

WHEREAS, Senator Emil T. Nelson 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 Emil T. Nelson 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 T. Nelson and members of his family.

Filed February 19, 1965.

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-eighth Legislative Assembly, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

J. RAYMOND ANDRE, who served in the thirty-sixth and thirty-seventh legislative assemblies, from the sixteenth legislative district, died February 12, 1964.

PALMER L. FOSS, who served in the twenty-seventh to the thirty-eighth legislative assembly, inclusive, from the fifteenth legislative district, died July 15, 1964.

WILLIAM LOWE, who served in the twenty-fourth and twenty-fifth legislative assemblies, from the second legislative district, died May 18, 1963.

W. H. MEHLHOFF, who served in the thirtieth and thirty-first legislative assemblies, from the thirty-sixth legislative district, died October 26, 1964.

EMIL STRAND, who served in the thirty-first and thirty-second legislative assemblies, from the thirty-ninth legislative district, died August 12, 1964.

BERNARD UNRUH, who served in the twenty-first and twenty-second legislative assemblies, from the thirty-fifth legislative district, died March 30, 1964.

WHEREAS, today, we as members of the senate of the Thirty-ninth Legislative Assembly of the state of North Dakota, pause to mourn the passing of our former colleagues, and to honor their memories; and

WHEREAS, these men rendered outstanding service to the people of this state by their contribution to their fellow men and their communities:

Now, Therefore, Be It Resolved by the Senate of the Thirty-ninth 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 9, 1965.

SENATE MEMORIAL RESOLUTION No. 3

(Committee on Delayed Bills)

EARL C. REINEKE

A memorial resolution in memory of Earl C. Reineke.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst a friend and an outstanding citizen of North Dakota, Mr. Earl C. Reineke; and

WHEREAS, Mr. Earl C. Reineke was one of the founders of WDAY-Fargo Radio and brought national recognition to the city of Fargo and the state of North Dakota; and

WHEREAS, Earl C. Reineke, by his pioneering, has rendered outstanding service to his fellow men by his distinguished career in radio and television and established a record of excellence in the fields of entertainment and public service; and

WHEREAS, Earl C. Reineke was held in the highest esteem by members of the legislative assembly;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That we express our deep sorrow and extend to Mrs. Earl C. Reineke, and all members of her family our sincere sympathy and condolences in this their time of sorrow; and

Be It Further Resolved, that the secretary of state forward an enrolled copy of this resolution to Mrs. Earl C. Reineke.

Filed March 15, 1965.

REFERENDUM NOTE

Referendum petitions have been filed against the following Act of the 1965 Legislative Assembly:

House Bill		Chapter	Page
No. 698	The 1965 Act for Tax Simplification and Equalization	386	764