

APPROPRIATIONS

CHAPTER 1

S. B. No. 2

(Committee on Appropriations)

STATE INSTITUTIONS OF HIGHER LEARNING

AN ACT

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

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

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

State University

Administration and General Expense.....	\$ 659,208.00
Instruction	4,938,141.00
Libraries	264,980.00
Physical Plant	1,620,274.00

Total	\$7,482,603.00
Less Estimated Income	1,364,000.00

Net Appropriation	\$6,118,603.00
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Plant Improvements:

1. Equipment for new Chemistry Building	112,000.00
2. Equipment for new Library (to be made available immediately on passage)	200,000.00
3. Furniture for new Women's Dormitory	65,000.00
4. Furniture for new Men's Dormitory ..	50,000.00
5. Sprinkler System for Fire Protection for Budge, Macnie and Davis Halls	40,000.00
6. Removing Old Main	9,000.00

7. Special Assessments	41,500.00
8. Remodel Old Chemistry Building for Biology	100,000.00
9. Fire Protection	29,000.00
Total	\$6,765,103.00

**The North Dakota State University of
Agriculture and Applied Science**

Administration	\$ 582,425.00
Instruction	4,411,197.00
Toxicologist, Clerkhire, Chemicals	27,800.00
Library	173,310.00
Physical Plant	1,540,701.00
Total	\$6,735,433.00
Less Estimated Income	1,703,361.00
Net Appropriation	\$5,032,072.00

Plant Improvements:

1. Additional Steam Boiler and Housing— Power Plant (to be made available immediately on passage)	474,700.00
2. Paving and Sidewalk— City Assessments	71,400.00
3. Complete Second Story— Agricultural Engineering	90,000.00
4. Minard Hall Space Improvements	18,400.00
5. Locker and Toilet Installations N. Stadium	67,000.00
6. Campus Street Paving	25,000.00
7. Removing Frances Hall	8,000.00
8. Water Line Replacement for Fire Protection	150,000.00
Total	\$5,936,572.00

Experiment Station

Main Station Appropriation	\$1,664,610.00
Fertilizer Soil Testing	11,502.00
Irrigation Soil Survey	70,276.00
Soil Survey and Interpretation	55,620.00
Veterinary Diagnostic Service	30,555.00
Plant Improvements and New Buildings	
1. Poultry Research Center Replacement	100,000.00
2. Addition to Veterinary Science for Diagnostic Services	125,000.00

3. Potato Research-matching funds	39,000.00
4. Five Controlled Environment Chambers	87,500.00
5. Rearrangement in Morrill Hall for shift of Departments and Laboratories	9,000.00
Total Main Station	\$2,193,063.00
Branch Stations Appropriation:	
1. Dickinson Agronomy Unit	\$ 78,663.00
2. Dickinson Livestock Unit	77,729.00
3. Edgeley	41,730.00
4. Hettinger	34,135.00
5. Langdon	37,287.00
6. North Central	35,378.00
7. Williston	61,195.00
8. Carrington	70,192.00
New Buildings: (Branch Stations)	
1. Langdon—Grain Cleaning and Hand- ling Structure	22,000.00
2. Vehicle Storage—Shop— Carrington	10,000.00
3. Seed, Crop Storage and Laboratory	30,000.00
Total Branch Stations	\$ 498,309.00
Total Main and Branch Stations, Plant Improvements and New Buildings	\$2,691,372.00

Extension Division

Administration	\$ 82,357.00
County Agents	182,487.00
Agricultural Engineer	16,200.00
Plant Pathologist	20,000.00
Home Demonstrations	59,620.00
4-H Club and Rural Young People	72,478.00
Information and Publications	57,444.00
Field Agents in Agriculture	199,172.00
Field Agents in Home Economics	41,967.00
Total	\$ 731,725.00

State Teachers College, Dickinson

Administration and General Expense	\$ 109,206.00
Instruction	616,028.00
Library	40,011.00
Physical Plant Operation	204,490.00
Total	969,735.00
Less Estimated Income	214,480.00
Net Appropriation	755,255.00
Plant Improvements	125,000.00
Total	\$ 880,255.00

Normal and Industrial College, Ellendale

Administration and General Expense	\$ 89,869.00
Instruction	338,138.00
Library	23,778.00
Physical Plant Operation	187,863.00
Total	639,648.00
Less Estimated Income	93,000.00
Net Appropriation	\$ 546,648.00
Plant Improvements:	
1. Repair of Old Industrial Arts Building	8,000.00
2. Campus Improvements	29,000.00
3. Roof Repair of Heating Plant—Carnegie Hall	8,500.00
4. Interior and Exterior General Reconditioning and Improving	24,000.00
5. Offices, Faculty, etc.—Repair and Remodeling	12,900.00
6. Outside Physical Education and Recreational Facilities	4,400.00
7. Heat Radiators, Heat Control, Insulation and Combination Windows	10,000.00
8. Auditorium Rehabilitation	2,800.00
9. Women's Dormitory—Furnishings and Wiring	4,000.00
10. Men's Dormitory—Improvements—Additions	22,500.00
11. Classroom Equipment and Furnishings	4,000.00
12. Assessments	13,086.00
13. 600 Folding Chairs	3,900.00
14. Heating Plant, including boiler (to be made available immediately on passage)	175,000.00
Total	\$ 868,734.00

State Teachers College, Mayville

Administration and General Expense	\$ 109,173.00
Instruction	576,280.00
Library	52,582.00
Physical Plant Operation	209,900.00
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Total	\$ 947,935.00
Less Estimated Income	193,000.00
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Net Appropriation	754,935.00
Plant Improvements including curb and gutter	103,400.00
State share of water tank and main	81,600.00
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Total	\$ 939,935.00

State Teachers College, Minot

Administration and General Expense	\$ 220,430.00
Instruction	1,587,746.00
Library	88,535.00
Physical Plant Operation	424,993.00
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Total	2,321,704.00
Less Estimated Income	526,500.00
Net Appropriation	1,795,204.00
Plant Improvements	150,000.00
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Total	\$1,945,204.00

State Teachers College, Valley City

Administration and General Expense	\$ 142,691.00
Instruction	791,221.00
Library	39,363.00
Physical Plant Operation	340,246.00
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Total	\$1,313,521.00
Less Estimated Income	302,100.00
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Net Appropriation	\$1,011,421.00
Plant Improvements:	
1. Curb and Gutter-E. end of Campus.....	15,000.00
2. Rewire Science and Administration Buildings	24,000.00
3. Boiler and Miscellaneous Improvements—Power House	106,000.00
4. 2 Tier Metal Stacks and Other Improvements—Library Building	25,000.00

5. Sidewalk Replacement—	
Main Campus	4,700.00
6. Purchase of Property	55,000.00
New Building:	
1. Greenhouse	7,000.00
Total	\$1,248,121.00

State School of Science, Wahpeton

Administration and General Expense	\$ 148,548.00
Instruction	1,143,646.00
Library	31,962.00
Physical Plant Operation	429,355.00
Total	\$1,753,511.00
Less Estimated Income.....	447,000.00
Net Appropriation	\$1,306,511.00
Plant Improvements	135,000.00
New Building:	
1. Addition to Heating Plant.....	110,000.00
Total	\$1,551,511.00

State School of Forestry, Bottineau

Junior College Division:	
Administration and General Expense.....	\$ 44,661.00
Instruction	213,872.00
Library	7,775.00
Physical Plant Operation	102,025.00
Total	\$ 368,333.00
Less Estimated Income and College Reserve	56,000.00
Net Junior College	\$ 312,333.00
North Dakota Forest Service:	
Administration	\$ 21,000.00
Nurseries	146,094.00
Cooperative Forestry	100,350.00
Total	\$ 267,444.00
Less Estimated Income from Nurseries.....	84,000.00
Less Federal Reimbursement and State Forestry Fund	45,000.00
Net Forest Service	\$ 138,444.00
Net appropriation (Junior College and Forest Service)	450,777.00

Plant Improvements:

1. Expansion of present facilities in Thatcher Hall	15,000.00
2. Painting and Redecorating	5,000.00
3. Laboratory Equipment—Physics and Chemistry	3,000.00
4. Campus Improvements	6,000.00
5. Special Assessments	4,500.00
6. Replace faulty piping in Thatcher Hall	1,000.00
7. New Chalk Board for Math Rooms in Old Main	500.00
 Total	 \$ 485,777.00
Grand Total all Educational Institutions	 \$24,044,309.00

And in addition thereto there is hereby appropriated to each of the institutions hereinbefore named, all other incidental income, collections and fees, interest and income, that such institutions may collect and receive, and such incidental income, collections and fees, interest and income, shall be used by each institution for such miscellaneous purposes as may be necessary for the maintenance and operation of the institution. The state auditor 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, 1961, and ending June 30, 1963.

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

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

§ 5.) The following buildings to be built, providing state or federal funds are available, at the discretion of the state budget board on a priority basis as listed below:

Priority:

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|--|---------------|
| 1. Chemistry Building, N.D.S.U., Fargo | \$ 700,000.00 |
| 2. Administration, Science Classroom Building, State School of Science at Wahpeton | 750,000.00 |
| 3. Administration, Classroom Building, State Teachers College at Minot..... | 550,000.00 |
| 4. Classroom Building, State Teachers College at Valley City..... | 375,000.00 |
| 5. Classroom Building, State Teachers College at Dickinson | 400,000.00 |
| 6. Geology and Minerals Industry Building, University at Grand Forks.... | 1,000,000.00 |
| 7. Engineering Unit—N.D.S.U. at Fargo.... | 1,400,000.00 |

Approved March 16, 1961.

CHAPTER 2

S. B. No. 3

(Committee on Appropriations)

SOCIAL SECURITY CONTRIBUTION FUND

AN ACT

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

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

§ 1. **Appropriation.**) There is hereby appropriated to the unemployment compensation division, out of any funds in the social security contribution fund, collected as provided by section 52-10-04 of the North Dakota Century Code, not otherwise appropriated, the sum of \$41,930.00, or so much thereof as may be necessary for the purpose of administering the provisions of chapter 52-10 of the North Dakota Century Code, pertaining to social security coverage of public employees, during the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved February 24, 1961.

CHAPTER 3

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

LIVESTOCK SANITARY BOARD

AN ACT

Making an appropriation to the livestock sanitary board for its operating and maintenance expense, and for indemnifying owners of animals, to the Bangs disease fund and to the bovine tuberculosis fund.

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 \$624,300.00, or so much thereof as may be necessary, to pay the operating and maintenance expenses of the livestock sanitary board, and for the expenses and indemnifying owners of animals, to the Bangs disease fund and to the bovine tuberculosis fund, for the biennium beginning July 1, 1961, and ending June 30, 1963, in the sums hereinafter named only, to wit:

Livestock Sanitary Board

Salary, executive officer and state veterinarian	\$ 20,000.00
Clerkhire, social security, old age and survivor insurance	47,500.00
Postage, supplies, printing, furniture and fixtures	3,500.00
Miscellaneous	2,000.00
Services and expenses—board agents	40,000.00
Services and expenses—state meat and poultry processing plant inspector	5,000.00
Compensation and expense—board members	2,500.00
Workmen's compensation	1,800.00
Total	\$122,300.00
Bangs disease and bovine tuberculosis fund, Indemnity, printing and postage	8,100.00
Bang's vaccination and TB testing and miscellaneous	493,900.00
Total	\$502,000.00
Grand Total	\$624,300.00

Approved March 16, 1961.

CHAPTER 4

S. B. No. 5

(Committee on Appropriations)

LIVESTOCK FEEDLOTS

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated to the state livestock sanitary board out of any moneys in the state treasury in the quarantine livestock feedlot fund the sum of \$10,000.00, or so much thereof as may be necessary for paying veterinarian inspector's fees and expenses and costs of administration in connection with licensed quarantined feedlots as provided by law and regulations of the state livestock sanitary board for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 3, 1961.

CHAPTER 5

S. B. No. 6

(Committee on Appropriations)

LIVESTOCK INSPECTION FEES

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated to the livestock sanitary board out of any moneys in the state treasury in the livestock sales ring fund, the sum of \$100,000.00, or so much thereof as may be necessary for paying veterinary inspectors and expenses in connection with livestock sales rings as provided by law and by regulations promulgated by the livestock sanitary board, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 3, 1961.

CHAPTER 6

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

STATE HISTORICAL SOCIETY AND STATE PARKS

AN ACT

Making an appropriation to the state historical society 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 state treasury, not otherwise appropriated, the sum of \$394,560.00, or so much thereof as may be necessary for salary, clerkhire and miscellaneous expenses for the state historical society and for maintenance of state parks in the sums hereinafter set forth, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

State Historical Society

Salary—superintendent	\$ 15,000.00
Clerkhire, social security, old age and survivor insurance	56,460.00
Postage, supplies, printing, furniture and fixtures	11,000.00
Miscellaneous	1,600.00
Travel expense	1,800.00
Museum purchases—preparation of exhibits...	6,000.00
Books, periodicals and binding	2,500.00
Historical and archaeological field work	6,000.00
Microfilm equipment	10,000.00
Museum cases	1,500.00
Binding	500.00
Total	\$112,360.00

State Parks Committee

Salary—director	\$ 15,000.00
Technical services	10,000.00
Clerical services, social security, old age and survivor insurance	15,000.00
Office supplies	500.00
Miscellaneous	1,000.00
Travel expense	2,400.00

Maintenance and operation—North Dakota parks	80,000.00
International Peace Garden	20,000.00
Development and maintenance—	
historic sites	15,000.00
Pembina State Park	5,000.00
Whitestone Hill State Park	2,600.00
Fort Union-Fort Buford Historic Sites	11,000.00
Purchase of park maintenance equipment ...	9,000.00
Camp Hancock Historic Site	3,500.00
Gardener at International Peace Garden	5,200.00
Fort Abercrombie State Park	10,000.00
Garrison Reservoir State Parks	20,000.00
Fort Totten	20,000.00
Fort Seward State Park	5,000.00
Purchase of Trail West drama site	500.00
Camping Area, Metigoshe State Park	12,000.00
Group Camp Building, Metigoshe State Park	12,000.00
Road Surfacing, Turtle River State Park	7,500.00
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Total	\$282,200.00
Grand Total	\$394,560.00

Approved March 16, 1961.

CHAPTER 7

S. B. No. 8

(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 \$614,000.00, or so much thereof as is necessary to pay the salaries, clerkhire and all miscellaneous items and expenses of the public health department and its related agencies, and in collaboration with federal funds, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salary, state health officer, other personnel, social security, old age and survivor insurance	\$329,000.00
Postage, supplies, printing, furniture and fixtures	50,000.00
Travel expense	29,000.00
Merit system	8,500.00
Biologicals	37,500.00
Operation of two units (clinic and case finding)	40,000.00
Mental health authority	80,000.00
Dental health	25,000.00
Virus laboratory	15,000.00
 Total	 \$614,000.00

Approved March 16, 1961.

CHAPTER 8

S. B. No. 9

(Committee on Appropriations)

COAL MINE INSPECTOR

AN ACT

Making an appropriation for the purpose of paying salary, clerkhire and general expenses of the department of coal mine inspector and coal mine safety work.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$26,465.00, or so much thereof as is necessary to pay salary, clerkhire, per diem and general expenses of the coal mine inspector and for coal mine safety work as provided for in chapters 38-03 and 38-04 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salary—inspector	\$11,400.00
Clerkhire	5,760.00
Postage, supplies, printing, furniture and fixtures	1,500.00
Miscellaneous	700.00
Travel and auto expense	4,000.00
Examining board	225.00

Auditing board	300.00
Coal mine safety fund—services	1,000.00
Coal mine safety fund—expenses	1,000.00
Old age and survivor insurance	580.00
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Total	\$26,465.00

Approved March 11, 1961.

CHAPTER 9

S. B. No. 10

(Committee on Appropriations)

EMERGENCY COMMISSION—STATE CONTINGENCY FUND

AN ACT

Making an appropriation to provide a state contingency fund to be placed at the disposal of the state emergency commission and to be used as provided by chapter 54-16 of the North Dakota Century Code, and for civil defense.

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 \$500,000.00, or so much thereof as may be necessary to provide funds for the state emergency commission, including the payment of per diem and expenses to the legislative members of the commission, and which fund shall be known as the state contingency fund and be for the purposes authorized under chapter 54-16 of the North Dakota Century Code, and for civil defense, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved February 24, 1961.

CHAPTER 10

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

VETERINARY MEDICAL EXAMINERS

AN ACT

Making an appropriation to pay the expenses of the state board of veterinary medical examiners as authorized under chapter 36-02 of the North Dakota Century Code.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$1,185.00, or so much thereof as may be necessary to pay salary, clerkhire, travel and miscellaneous expenses of the state board of veterinary medical examiners as authorized under chapter 36-02 of the North Dakota Century Code, for the biennium beginning July 1, 1961 and ending June 30, 1963.

Approved March 3, 1961.

CHAPTER 11

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

MISCELLANEOUS REFUNDS

AN ACT

Making an appropriation for the purpose of refunding money erroneously paid into or credited to the general fund.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$25,000.00 for the biennium beginning July 1, 1961, and ending June 30, 1963, or so much thereof as may be necessary for the purpose of making certain refunds out of the general fund and which is known as the miscellaneous refund account, used for the purpose of refunding money erroneously paid into or credited to the general fund.

Approved February 24, 1961.

CHAPTER 12

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

COMMISSIONER OF VETERANS' AFFAIRS

AN ACT

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

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

§ 1. **Appropriation.**) There is hereby appropriated out of the veterans' aid fund in the state treasury, not otherwise appropriated, the sum of \$74,040.00, or so much thereof as may be necessary to pay salary, clerkhire, travel and general expenses of the office of commissioner of veterans' affairs as prescribed by chapter 37-13 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salary—commissioner	\$12,000.00
Salary—assistant commissioners	26,250.00
Clerkhire, social security, old age and survivor insurance	17,150.00
Postage, supplies, printing, furniture and fixtures	4,000.00
Light, telephone and telegraph	1,500.00
Miscellaneous	700.00
Travel expense	7,000.00
Rent	4,440.00
Cost of service officers' schools	500.00
Travel—state advisory council	500.00
Total	\$74,040.00

Approved March 3, 1961.

CHAPTER 13

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

VETERANS' AID COMMISSION

AN ACT

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

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

§ 1. **Appropriation.)** There is hereby appropriated out of the veterans' aid fund in the state treasury, not otherwise appropriated, the sum of \$16,500.00, or so much thereof as may be necessary for the administrative expenses of the veterans' aid commission for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 3, 1961.

CHAPTER 14

S. B. No. 15
 (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, and declaring an emergency.

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

§ 1. **Appropriation.)** There is hereby appropriated the sum of \$166,776.00 out of interest and income and federal aid funds of the home hereafter named, and the sum of \$133,517.00 out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and special projects for the North Dakota soldiers' home at Lisbon, North Dakota, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Administration:

Board members—expense and per diem	\$ 1,600.00
Salary—commandant	10,000.00
Salaries for staff, social security, old age and survivor insurance	43,553.00

Expenses and per diem of auditor	840.00
Civilian employees and home members employed	113,000.00
Maintenance and operation	80,000.00
Maintenance and operation deficiency (to be made available immediately on passage)	25,000.00
Insurance	4,500.00
Special Projects:	
1. Grounds improvements	2,500.00
2. Painting and repairing of all buildings	7,500.00
3. Greenhouse—repair	2,000.00
4. Kitchen and dining room	4,000.00
5. Maintenance department	2,000.00
6. Farm	800.00
7. Housekeeping	3,000.00
Total	<u>\$300,293.00</u>

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

Approved March 16, 1961.

CHAPTER 15

S. B. No. 16

(Committee on Appropriations)

FUGITIVES FROM JUSTICE, ARREST AND RETURN

AN ACT

Making an appropriation to provide funds for the arrest and return of fugitives from justice.

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 \$8,000.00, or so much thereof as may be necessary to provide funds for the arrest and return of fugitives from justice as provided by chapter 29-30 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved February 24, 1961.

CHAPTER 16

S. B. No. 17

(Committee on Appropriations)

BOYS' AND GIRLS' CLUB WORK—COUNTY FAIRS

AN ACT

Making an appropriation for the payment of the premiums for boys' and girls' club work at county achievement fairs; and providing the manner of disbursement for such funds and making reports.

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 not to exceed \$200.00 each year to each organized county of the state in which a boys' and girls' achievement day, or achievement fair, is conducted, which sum shall be used exclusively for the payment of premiums for boys' and girls' club work.

§ 2. How Paid.) The moneys so appropriated shall be paid to the county agent of each county conducting a boys' and girls' achievement day or achievement fair, upon a voucher duly executed by the county agent and filed with the state auditor, stating that the money is to be used for the purpose herein authorized. Within thirty days following the boys' and girls' achievement day, or achievement fair, the county agent shall file with the governor of the state a full and complete itemized statement showing the disposition of the premium payments, and any balance not expended shall be remitted to the state treasurer and placed to the credit of the general fund.

Approved March 3, 1961.

CHAPTER 17

S. B. No. 18

(Committee on Appropriations)

BURIAL AND RELEASE OF INSTITUTIONAL INMATES

AN ACT

Making an appropriation for inquest and burial of penal inmates, and action to release mentally ill.

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 pay for the inquest and burial of inmates of penal institutions, and action to release mentally ill patients for the biennium beginning July 1, 1961, and ending June 30, 1963, provided that any charges against the above appropriation must have the approval of the state auditor and the state auditing board.

Approved February 24, 1961.

CHAPTER 18

S. B. No. 19

(Committee on Appropriations)

STATE LABORATORIES DEPARTMENT

AN ACT

Making an appropriation for salaries, operation, maintenance, general and miscellaneous expenses for the state laboratories 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 \$586,670.00, or so much thereof as may be necessary to pay salaries, operation, maintenance, general and miscellaneous expenses for the state laboratories department, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salary—director	\$ 18,000.00
Clerkhire, social security, old age and survivor insurance	424,000.00

Postage, supplies, printing, furniture, fixtures, dray and express	59,000.00
Miscellaneous	10,000.00
Travel expense	55,000.00
Samples	2,000.00
Rent	7,920.00
Telephone and telegraph	2,500.00
Ice, gas and electricity	2,000.00
Library	1,500.00
Workmen's compensation	1,750.00
Cost of auditing	2,500.00
Refunds	500.00
Total	\$586,670.00

Approved March 11, 1961.

CHAPTER 19

S. B. No. 20

(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 state treasury, not otherwise appropriated, the sum of \$230,050.00 to be used as prescribed by chapter 54-34 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries, social security, old age and survivor insurance	\$ 93,500.00
Postage, supplies, printing, furniture and fixtures	13,350.00
Miscellaneous	4,000.00
Travel expense	15,000.00
Commissioners' travel	3,500.00
Books	700.00
Promotion:	
Research projects and industrial development	100,000.00
Total	\$230,050.00

Approved March 16, 1961.

CHAPTER 20

S. B. No. 21

(Committee on Appropriations)

SOIL CONSERVATION COMMITTEE AND DISTRICTS

AN ACT

Making an appropriation for the financing of the operations of the state soil conservation committee and the activities of the state soil conservation districts.

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 \$71,450.00, or so much thereof as may be necessary for the purpose of financing the operations of the office of the state soil conservation committee and the activities of the state soil conservation districts, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries, social security, old age and survivor insurance	\$26,000.00
Office supplies, postage, printing, stationery and photography	7,000.00
Furniture and fixtures	750.00
Election expense	1,000.00
Publication fees	700.00
Conservation education program	3,500.00
Travel expense	30,000.00
Special projects	2,500.00
Total	\$71,450.00

Approved March 3, 1961.

CHAPTER 21

S. B. No. 22

(Committee on Appropriations)

WATER CONSERVATION COMMISSION ADMINISTRATIVE FUND

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated into the "administrative fund" of the state water conservation commission out of any moneys in the state treasury, not otherwise appropriated, the sum of \$550,500.00 or so much thereof as may be necessary for the payment of all general administration expenses of said commission, compensation and expenses of all its employees, maintenance and construction of dams, administrative expenses of state compacts and for the payment of costs of planning, surveying and organizing water conservation and irrigation projects, or construction of projects for the purpose of cooperating with the Bureau of Reclamation, the Corps of United States Army Engineers, the Soil Conservation Service, and any other federal agency, in the planning of the development of water resources of this state for the beneficial use thereof, which may be matched either in whole or in part by federal or state agencies and governmental subdivisions of the state, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Commissioners, per diem and expenses	\$ 6,000.00
Administrative, old age and survivor insurance	62,000.00
Maintenance of dams	150,000.00
International and Interstate Commissioners and Conference expenses	10,000.00
Topographic surveys, cooperation with U. S. Geological Survey	30,000.00
Hydrographic surveys, cooperation with U. S. Geological Survey	27,500.00
Engineering and geological surveys and demonstrations	50,000.00

Cooperation with U. S. Departments for organizing conservation and irrigation districts	60,000.00
Engineering investigations, planning, surveys and design of water resources projects	145,000.00
Administration of water laws	10,000.00
Total	\$550,500.00

Approved March 3, 1961.

CHAPTER 22

S. B. No. 23

(Committee on Appropriations)

STATE WATER CONSERVATION COMMISSION

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated to the state water conservation commission out of any moneys in the state treasury, not otherwise appropriated, the sum of \$300,000.00 to be available for continued participation, in conformity with such rules and regulations as it may prescribe, in the investigation, planning, construction and maintenance of projects, including but not limited to projects for flood control, hydroelectric power, irrigation, drainage and development of water supplies for irrigation, municipal, industrial and domestic uses, recreation, fish and wildlife propagation and pollution abatement and control.

§ 2. Designation of Funds—Transfer of Unused Balance of Prior Appropriation Authorized.) Moneys appropriated to the state water conservation commission by this Act shall be covered into a fund heretofore designated "multiple-purpose cooperative fund" and any unused balance of moneys heretofore appropriated to the commission for the purposes mentioned shall be transferred to such fund and the moneys therein shall remain available to the commission until expended.

Approved March 11, 1961.

CHAPTER 23

S. B. No. 24
 (Committee on Appropriations)

STATE GEOLOGICAL SURVEY

AN ACT

Making an appropriation for salaries and expenses of the state geological survey and for cooperation of United States geological survey.

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 \$455,500.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the state geological survey for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries	\$280,000.00
Clerkhire	50,000.00
Postage, supplies, printing	43,000.00
Miscellaneous	7,500.00
Travel expense	35,000.00
Replacement cars	7,000.00
Apparatus	6,000.00
Office rent	2,000.00
Addition to Core Storage Building	25,000.00
 Total	 \$455,500.00

Approved March 11, 1961.

CHAPTER 24

S. B. No. 25

(Committee on Appropriations)

NORTH DAKOTA FIREMEN'S ASSOCIATION

AN ACT

Making an appropriation to the North Dakota firemen's 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 treasury, not otherwise appropriated, the sum of \$8,000.00, or so much thereof as may be necessary, to the North Dakota firemen's association, for use in promoting regional fire schools, and other activities of such association, as provided for in chapter 18-03 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 11, 1961.

CHAPTER 25

S. B. No. 26

(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 public welfare fund in the state treasury, not otherwise appropriated, the sum of \$14,418,513.00, 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, 1961, and ending June 30, 1963, to wit:

Assistance programs:

1. Old age assistance	\$ 4,769,906.00
2. Aid to dependent children	3,964,700.00
3. Aid to blind	151,756.00
4. Aid to permanently and totally disabled	1,418,635.00
5. General assistance	135,000.00
6. Medical aid to the aged— Kerr-Mills implementation	2,660,794.00

Service programs:

1. Child welfare services	223,660.00
a. Purchase of psychiatric and related care	120,000.00
2. Crippled children's services	423,570.00

Administration:

1. Personal services:	
a. Salaries, social security and old age and survivor insurance	413,692.00
2. Doctors' fees for eye examination	1,500.00
3. Travel expense	31,700.00
4. Communications (postage, telephone and telegraph)	18,800.00
5. Printing and supplies	23,150.00
6. Equipment:	
a. Rental	14,400.00
b. Repair and maintenance	2,600.00
c. Purchases	9,650.00
7. Other operating expense	4,800.00
8. Board member expense	14,700.00
9. Cost of merit system	15,500.00

Total\$14,418,513.00

Approved March 16, 1961.

CHAPTER 26

S. B. No. 27

(Committee on Appropriations)

NORTH DAKOTA INDIAN AFFAIRS COMMISSION

AN ACT

Making an appropriation for the purpose of carrying out the provisions of chapter 54-36 of the North Dakota Century Code.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$20,000.00, or so much thereof as may be necessary for the purpose of carrying out the provisions of chapter 54-36 of the North Dakota Century Code for the biennium beginning July 1, 1961, and ending June 30, 1963. Expenditures shall be made upon vouchers signed by the secretary of the commission.

Approved March 3, 1961.

CHAPTER 27

S. B. No. 28

(Committee on Appropriations)

STATE AUDITOR—SPECIAL AUDITS

AN ACT

To provide for the payment of the expenses of auditing and examining the affairs of the state industrial institutions, and the special departments and its subdivisions, of the state of North Dakota, designating and appropriating the funds from which paid; providing for the payment of said collections into the special fund in the state treasury; providing for repeal of Acts.

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

§ 1.) In order to reimburse the state for the expense of making the audits and examinations of industrial and business institutions of the state of North Dakota as required by law, the North Dakota Mill and Elevator Association for the state mill and elevator at Grand Forks, the Bank of North Dakota, including the Farm Loan Department, the State Hail

Insurance Department, the Workmen's Compensation Bureau of the State of North Dakota, the Coal Mine Inspection Department, the North Dakota Teachers' Insurance and Retirement Fund, the Highway Department, the Motor Vehicle Department, the Highway Patrol, the Game and Fish Department, the State Laboratories, and the Old Age and Survivor Insurance System, shall immediately upon the effective date of this Act, pay to the State Treasurer of the State of North Dakota to the account of the State Auditor and to be deposited by the State Treasurer in a special fund to be known as the "State Auditor Special Audits Fund" each of the sums appropriated as follows:

North Dakota Mill and Elevator Association,	
Grand Forks	\$15,000.00
Bank of North Dakota, including farm	
loan department	14,000.00
State hail insurance department	7,000.00
Workmen's compensation bureau	6,000.00
Coal mine inspection department	300.00
State highway department	14,000.00
North Dakota highway patrol	3,500.00
Physical property audit of the state	
game and fish department	3,000.00
State game and fish department	7,000.00
Teachers' insurance and retirement fund	2,000.00
State laboratories	2,500.00
Old age and survivor insurance system	3,600.00
Motor vehicle department	4,000.00
	\$81,900.00
Total	\$81,900.00

§ 2. **Appropriation.)** The amount herein directed to be paid by the aforementioned departments and institutions shall be deemed and considered as appropriations of each amount thereof to the state auditor.

§ 3. **Repeal.)** All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Approved March 11, 1961.

CHAPTER 28

S. B. No. 29
(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 \$857,250.00, 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, 1961, and ending June 30, 1963, to wit:

Salary	\$ 15,750.00
Clerkhire, social security, old age and survivor insurance	224,000.00
Operating IBM machines	190,000.00
Postage, supplies, printing, furniture and fixtures	180,000.00
Miscellaneous	8,000.00
License plates	200,000.00
Travel expense	5,000.00
Refunds	500.00
Board of auditors fund	4,000.00
Emergency	30,000.00
 Total	 \$857,250.00

Approved March 16, 1961.

CHAPTER 29

S. B. No. 30
 (Committee on Appropriations)

STATE HIGHWAY DEPARTMENT

AN ACT

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

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

§ 1. Appropriation for Administrative Expense.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, and accruing from the "motor vehicle registration fund" as created by section 39-04-67 of the North Dakota Century Code, the sum of \$200,000.00, or as much thereof as may be necessary for the purpose of defraying the expenses of administration and operation of the division of the state highway department known as the "highway division", and in carrying out the provisions and purposes of the state highway department law and cooperating with the Federal Government under the Act of Congress known as the "Federal Highway Act", for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salary—state highway commissioner (to be fixed by the governor, not exceeding)	\$ 24,000.00
General operating expense	176,000.00
Total	<u>\$200,000.00</u>

§ 2. Additional Appropriation for Administration Expenses.) In addition to the amount hereinbefore appropriated, there is hereby appropriated out of the highway construction fund, and the state highway department is hereby authorized on proper requisition to transfer, and to have transferred to the operating fund from the moneys allocated to the state highway department out of the motor vehicle registration fund, a sum not to exceed three per cent of the cost of construction, reconstruction, maintenance and all other work undertaken in whole or in part from federal, county and state funds to cover additional cost of administration of said department.

§ 3. Additional Appropriation for Maintenance and Construction.) In addition to the above amounts allowed for office and administrative expenses of said department, there

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

Approved March 11, 1961.

CHAPTER 30

S. B. No. 31

(Committee on Appropriations)

CONSTRUCTION OF HIGHWAY DEPARTMENT BUILDINGS

AN ACT

Making an appropriation for the construction of buildings by the state highway department.

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

§ 1. Appropriation.) There is hereby appropriated to the state highway department out of the state highway fund in the state treasury the sum of \$415,000.00, or so much thereof as may be necessary to construct a storage building at Williston, an addition to the present shop at Minot, an addition to the present shop at Bismarck, an elevator in the Junior College Building, and four small maintenance buildings at sites to be selected by the department.

Approved March 11, 1961.

CHAPTER 31

S. B. No. 32
 (Committee on Appropriations)

STATE HIGHWAY PATROL

AN ACT

Making an appropriation out of 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 treasury, not otherwise appropriated, the sum of \$1,563,456.00, 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, 1961, and ending June 30, 1963, to wit:

Salary—superintendent	\$ 15,750.00
Salary—assistant superintendent	13,200.00
Salary—not more than 68 patrolmen and 8 sergeants	837,936.00
Clerks, bookkeepers and IBM	40,600.00
Postage, supplies, printing, furniture and fixtures	19,000.00
Miscellaneous	24,500.00
Travel expense	120,780.00
New equipment	34,000.00
Training school and first aid	6,000.00
Educational program	5,200.00
Car operation, maintenance and replacement	401,000.00
Audit	3,500.00
Social security and retirement	39,800.00
Old age and survivor insurance	2,190.00
 Total	 \$1,563,456.00

Approved March 16, 1961.

CHAPTER 32

S. B. No. 33

(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 \$683,410.00, 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, 1961, and ending June 30, 1963, to wit:

Salary—commissioners (3)	\$ 26,460.00
Business manager	13,650.00
Clerkhire, social security, old age and survivor insurance	338,700.00
Postage, supplies, printing, furniture and fixtures	50,000.00
Miscellaneous	10,000.00
Travel expense, automobile, equipment, and maintenance	50,000.00
Safety department and boiler inspection	94,100.00
Legal clerkhire	44,000.00
Legal expense	6,000.00
Actuary	9,500.00
Medical director	30,000.00
Department audit	6,000.00
Emergency	5,000.00
 Total	 \$683,410.00

Approved March 15, 1961.

CHAPTER 33

S. B. No. 34
(Committee on Appropriations)

GAME AND FISH DEPARTMENT

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the game and fish department.

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

§ 1. **Appropriation.** There is hereby appropriated out of any moneys in the state treasury in the game and fish fund, not otherwise appropriated, the sum of \$1,288,800.00, 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, 1961, and ending June 30, 1963, to wit:

Salary—commissioner	\$ 16,800.00
Salary—deputy commissioner	15,600.00
General operation	1,256,400.00
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Total	\$1,288,800.00

That the appropriation for general operation, above, shall be allotted as listed below:

Administration:	
Clerkhire	46,000.00
Travel	11,000.00
General and audit	55,000.00
Game management:	
(Federal matching)	145,000.00
Enforcement:	
Salaries	251,000.00
Travel	127,000.00
General	25,000.00
Fish management:	
Salaries	73,500.00
Travel	29,000.00
General	48,000.00
Dingell-Johnson matching	40,000.00

Land management:	
Salaries	21,000.00
Travel	5,500.00
General	7,000.00
Public relations:	
Salaries	59,000.00
Travel	14,000.00
General	44,000.00
Dam construction	175,000.00
Emergency	40,000.00
License funds	400.00
Old age and survivor insurance system	40,000.00
Total	\$1,256,400.00

Approved March 17, 1961.

CHAPTER 34

S. B. No. 35

(Committee on Appropriations)

TEACHERS' INSURANCE AND RETIREMENT FUND

AN ACT

Making an appropriation for the purpose of operating and maintaining the teachers' insurance 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 \$73,600.00 for the purpose of operating and maintaining the teachers' insurance and retirement fund, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salary—executive director	\$11,025.00
Clerkhire, social security, old age and survivor insurance	37,075.00
Postage, supplies, printing, furniture and fixtures	8,500.00
Miscellaneous	2,000.00
Travel expense	3,500.00
Audit	2,000.00
Actuary	3,000.00
Rent and maintenance	6,500.00
Total	\$73,600.00

Approved March 11, 1961.

CHAPTER 35

S. B. No. 36
(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 out of any moneys in the state equalization fund in the state treasury, not otherwise appropriated, the sum of \$78,000.00, or so much thereof as may be necessary for the purpose of paying nursing preparation scholarships, as provided for in chapter 43-12 of the North Dakota Century Code, in an amount not to exceed \$75,000.00 and for the administration of this Act not to exceed \$3,000.00, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 11, 1961.

CHAPTER 36

S. B. No. 37
(Committee on Appropriations)

STATE COMMISSION ON ALCOHOLISM

AN ACT

Making an appropriation for the purpose of carrying out the provisions of chapter 54-38 of the North Dakota Century Code.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$60,380.00, or so much thereof as may be necessary for the purpose of carrying out the provisions of chapter 54-38 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salary—director	\$15,120.00
Salary—assistant director	14,400.00
Clerkhire, social security, old age and survivor insurance	9,960.00

Postage, supplies, printing, furniture, fixtures, films, books and telephone	8,500.00
Travel	7,000.00
Summer school on alcohol studies at University of North Dakota	4,000.00
Program planning and miscellaneous	800.00
Revolving fund	600.00
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Total	\$60,380.00

Approved March 11, 1961.

CHAPTER 37

S. B. No. 38

(Committee on Appropriations)

HIGHWAY DEPARTMENT—PUBLIC SAFETY DIVISION

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the public safety division.

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, accruing from the "motor vehicle registration fund" as created by section 39-04-39 of the North Dakota Century Code, the sum of \$50,000.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the administration and operation of the public safety division of the state highway department, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 3, 1961.

CHAPTER 38

S. B. No. 72

(Berube, Kamrath, Thompson)

EXTRAORDINARY EXPENSES OF LAW ENFORCEMENT

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury the sum of \$20,000.00, or so much thereof as may be necessary, for the purpose of meeting the extraordinary expenses of counties in law enforcement arising by reason of the location of Indian reservations in such counties. This appropriation shall be used for the payment of 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 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 11, 1961.

CHAPTER 39

S. B. No. 83
(Longmire)

SPECIAL ASSESSMENTS PAID TO GRAND FORKS

AN ACT

To appropriate money to pay the special assessments levied by the city of Grand Forks concerning property occupied by the state school for the blind, and declaring an emergency.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$21,570.04, or so much thereof as may be necessary, to pay the special assessments levied by the city of Grand Forks concerning property owned by the state of North Dakota and occupied by the state school for the blind.

§ 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 28, 1961.

CHAPTER 40

S. B. No. 128
(Foss, Trenbeath, Luick, Erickstad)

PROFITS AND SURPLUS TRANSFER TO GENERAL FUND

AN ACT

To transfer certain moneys from the accumulated profits and surplus of the Bank of North Dakota, from the collection and land department of the Bank of North Dakota, from the state mill and elevator association and from the unexpended balance in the appropriation for a records management study to the general fund of this state.

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

§ 1. Transfer.) There is hereby transferred to the general fund of this state the sum of \$550,000.00 from the accumulated profits and surplus of the collection and land department of the Bank of North Dakota.

§ 2. **Transfer.)** There is hereby transferred to the general fund of this state the sum of \$2,500,000.00 from the accumulated profits and surplus of the Bank of North Dakota on order of the industrial commission.

§ 3. **Transfer.)** There is hereby transferred to the general fund of this state the sum of \$250,000.00 from the accumulated profits and surplus of the state mill and elevator association.

§ 4. **Transfer.)** The sum of \$12,074.93 or such balance as may remain from the appropriation contained in section 3 of chapter 36 of the 1959 Session Laws for a study of records management and procedure, is hereby transferred to the general fund in the state treasury.

Approved March 16, 1961.

CHAPTER 41

S. B. No. 185
(Foss)

TRANSFER TO STATE SCHOOL CONSTRUCTION FUND

AN ACT

To appropriate and transfer \$800,000.00 from the general fund to the school construction fund as reimbursement for appropriations made for construction at the state training school.

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

§ 1. **Appropriation.)** For the purpose of reimbursing the state school construction fund for appropriations previously made for construction of an education-administration building at the state training school, there is hereby appropriated out of any moneys in the general fund, not otherwise appropriated, the sum of \$800,000.00 to the state school construction fund for use and expenditure as provided in chapter 15-60 of the North Dakota Century Code.

Approved March 16, 1961.

CHAPTER 42

S. B. No. 186
(Foss)

LEGISLATIVE EXPENSE, DEFICIENCY

AN ACT

To make a deficiency appropriation for the payment of general expenses of the Thirty-seventh Legislative Assembly, and declaring an emergency.

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

§ 1. Deficiency Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$55,000.00 or so much thereof as may be necessary, for the purpose of paying salaries of employees and other general expenses of the Thirty-seventh Legislative Assembly.

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

Approved February 13, 1961.

CHAPTER 43

S. B. No. 222
(Holand, Garaas)

INAUGURATION EXPENSES

AN ACT

Making an appropriation to the office of the adjutant general to cover expenses incurred for the inauguration of elected state officials.

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 \$1,000.00, or so much thereof as may be necessary, to the office of the adjutant general for the payment of expenses incurred in conjunction with the inauguration and related functions and ceremonies of the governor and other elected state officials during the biennium beginning July 1, 1961 and ending June 30, 1963.

Approved March 3, 1961.

CHAPTER 44

S. B. No. 228
(Erickstad, Holand)

AUDIT OF STATE AUDITOR

AN ACT

Making an appropriation for auditing purposes in accordance with the provisions of section 54-10-04 of the North Dakota Century Code.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the state examiner, the sum of \$3,000.00, or so much thereof as may be necessary, for the purpose of providing for the audit of the office of the state auditor in accordance with the provisions of section 54-10-04 during the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved February 28, 1961.

CHAPTER 45

S. B. No. 259
(Foss)

TRANSFER TO EQUALIZATION FUND

AN ACT

Transferring two and one-half million dollars from the general fund to the state equalization fund.

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

§ 1. Transfer.) There shall be transferred out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,500,000.00, said sum to be transferred during the 1961-1963 biennium upon the direction of the state budget board, for the purpose of meeting appropriations made from the state equalization fund by the Thirty-seventh Legislative Assembly.

Approved March 16, 1961.

CHAPTER 46

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.

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, 1961, and ending June 30, 1963, to wit:

§ 3. Appropriations.)

Subdivision 1.

Executive Office

Salary—governor	\$ 20,000.00
Clerkhire: secretary, other employees, old age survivor insurance and social security	32,120.00
Postage, supplies, printing, furniture and fixtures	2,000.00
Miscellaneous	1,300.00
Travel expense	4,000.00
Governor's contingent	5,000.00
Council of state governments	5,000.00
Total	\$ 69,420.00

Subdivision 2.

Lieutenant Governor

Salary—lieutenant governor, old age survivor insurance and social security	\$ 3,424.00
Expenses to be allowed without filing any vouchers or statements, for calendar years 1961-1962	600.00
Total	\$ 4,024.00

Subdivision 3.

Supreme Court

Salary—5 judges of supreme court	\$140,000.00
Clerk of supreme court	11,680.00
Deputy clerk	9,300.00
Judges' stenographers and secretaries	42,000.00
Miscellaneous	2,000.00
Postage, supplies, printing, furniture and fixtures	5,000.00
Travel expense	1,500.00
Social security	2,500.00
Retirement, supreme court judges	14,000.00
Old age and survivor insurance	2,478.00
Total	\$230,458.00

Subdivision 4.

Supreme Court Reporter and Law Librarian

Salary, old age survivor insurance and social security	\$ 12,670.00
Postage, supplies, printing, furniture and fixtures	1,500.00
Miscellaneous	750.00
Purchase of books, periodicals, etc.	8,000.00
Purchase of out-of-state reports	2,000.00
Travel	750.00
Total	\$ 25,670.00

Subdivision 5.

Judges of District Court

Salary—16 judges, old age survivor insurance and social security	\$384,900.00
Expenses	20,000.00
Retirement of district judges	36,000.00
Total	\$440,900.00

Subdivision 6.

Secretary of State

Salary—secretary of state	\$ 12,000.00
Salary—deputy	11,680.00
Clerkhire, old age survivor insurance and social security	47,340.00
Postage, supplies, printing, furniture and fixtures	18,600.00
Legislative assistance	1,000.00
Miscellaneous	1,500.00
Travel expense	1,700.00
Total	\$ 93,820.00

Subdivision 6A.

Secretary of State—Public Printing

Legal notices	\$ 1,300.00
Session laws	17,000.00
Code supplements	7,500.00
Tabulations, abstracts, etc.	1,300.00
Postage, publicity pamphlet	8,000.00
Binding public documents	4,600.00
Publicity pamphlet, printing	26,000.00
Publishing election laws	3,000.00
Republishing state constitutions	3,000.00
Blue book and records management	20,000.00
Total	\$ 91,700.00

Subdivision 7.

State Auditor

Salary—state auditor	\$ 12,000.00
Salary, deputy	11,680.00
Clerkhire, old age survivor insurance, social security and travel	89,480.00
Postage, supplies, printing, furniture and fixtures	10,000.00
Miscellaneous	2,300.00
Oleomargarine stamps	2,000.00
Total	\$127,460.00

Subdivision 8.

State Treasurer

Salary—state treasurer	\$ 12,000.00
Salary—deputy	11,680.00
Clerkhire, old age survivor insurance and social security	86,860.00

Postage, supplies, printing, furniture and fixtures	10,100.00
Miscellaneous	3,600.00
Bond premium	1,500.00
Travel expense	2,600.00
Liquor stamps	15,000.00
Total	<u>\$143,340.00</u>

Subdivision 9.

Commissioner of Insurance

Salary—commissioner	\$ 12,000.00
Salary—deputy	11,680.00
Clerkhire, old age survivor insurance and social security	69,040.00
Claims reviewer	9,600.00
Postage, supplies, printing, furniture and fixtures	18,000.00
Miscellaneous	2,500.00
Investigation of unauthorized companies	2,500.00
Travel expense	6,000.00
Domestic and convention examiners	42,000.00
IBM expense	500.00
Total	<u>\$173,820.00</u>

Subdivision 9A.

State Fire Marshal (Commissioner of Insurance)

Salary—deputy fire marshals	\$ 25,200.00
Clerkhire, old age survivor insurance and social security	11,280.00
Postage, supplies, printing, furniture and fixtures	4,600.00
Miscellaneous	1,200.00
Travel expense	10,675.00
Fees to fire chiefs	900.00
Arson hearing fund	3,000.00
Total	<u>\$ 56,855.00</u>

Subdivision 10.

Attorney General

Salary—attorney general	\$ 17,000.00
Salary—assistant attorneys general	142,600.00
Salary—oil and gas attorney	15,000.00
Clerkhire, old age survivor insurance and social security	51,500.00

Postage, supplies, printing, furniture and fixtures	6,000.00
Miscellaneous	4,000.00
Travel expense	6,000.00
Library	4,200.00
Miscellaneous court cases	7,500.00
Total	\$253,800.00

Subdivision 10A.

Attorney General—Licensing Department

Clerkhire, inspectors, old age survivor insurance and social security	\$ 85,435.00
Postage, supplies, printing, furniture and fixtures	4,500.00
Travel expense	30,000.00
Miscellaneous	2,200.00
Hearing expense	7,500.00
Refunds	100.00
Total	\$129,735.00

Subdivision 11.

Department of Public Instruction

Salary—superintendent	\$ 14,400.00
Clerkhire, deputy, old age survivor insurance and social security	172,900.00
Travel expense	12,000.00
Postage, supplies, printing, furniture and fixtures	50,000.00
Course of study and bulletin No. 5	20,000.00
High school and 8th grade examinations	15,000.00
Teachers insurance and retirement	3,000.00
Teachers meetings	1,500.00
Miscellaneous	5,000.00
Total	\$293,800.00

Subdivision 12.

Department of Agriculture and Labor

Salary—commissioner	\$ 12,000.00
Salary—deputy (labor)	11,680.00
Salary—deputy (dairy)	11,680.00
Clerkhire, old age survivor insurance and social security	148,050.00
Postage, supplies, printing, furniture and fixtures	26,900.00

Miscellaneous	4,540.00
To implement Labor Relations Act, House Bill No. 831	20,000.00
Travel expense	47,700.00
Hearings	1,000.00
Auto exchange	1,700.00
Predatory animal and rodent control	101,500.00
Stem rust control, nursery inspection and quarantine enforcement, and entomologist...	16,000.00
Market news service	4,500.00
Total	\$407,250.00

Subdivision 12A.

Department of Agriculture and Labor
(Athletic Commission)

Salary—secretary	\$ 1,200.00
Commission expense	800.00
Total	\$ 2,000.00

Subdivision 13.

Public Service Commission

Salary—commissioners (3)	\$ 32,000.00
Clerkhire, old age survivor insurance and social security	324,383.00
Postage, supplies, printing, furniture and fixtures	21,408.00
Miscellaneous	9,000.00
Travel expense, car exchange	54,800.00
Workmen's compensation	910.00
Handling Interstate Commerce Commission cases, and cases before Federal Power Com- mission, Federal Communication Com- mission, National Association of Railroad and Utilities Commissioners, and Midwest Association of Railroad and Utilities Com- missioners	25,000.00
Research data	750.00
BTU gas analysis as per commissioners' order	500.00

Department of Weights and Measures

Salary—chief inspector	11,680.00
License plates, seals, field testing equipment, etc.	7,000.00
Refunds	1,125.00
Trucks and maintenance	15,000.00
Total	\$503,556.00

Subdivision 13A.

Public Service Commission—Utility Valuation

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

Subdivision 14.

Aeronautics Commission

Salary—director	\$ 13,200.00
Commissioners per diem, clerkhire, old age survivor insurance and social security	28,925.00
Travel expense	7,000.00
Supplies, postage and sign fixtures	5,000.00
Fixed charges, maintenance and miscellaneous	8,000.00
Rent—office quarters	3,000.00
Total	\$ 65,125.00

Subdivision 15.

State Land Commissioner

Salary—commissioner	\$ 12,600.00
Salary—deputy	11,680.00
Clerkhire, old age survivor insurance and social security	116,000.00
Postage, supplies, printing, furniture and fixtures	9,500.00
Miscellaneous	1,000.00
Travel expense	17,500.00
Leasing	2,500.00
Premium on bonds	800.00
Surveying	500.00
Fieldmen's salaries	31,200.00
Contingent	17,500.00
Total	\$220,780.00

Subdivision 16.

State Tax Commissioner

Salary—tax commissioner	\$ 12,000.00
Salary—deputy	11,680.00
Clerkhire, old age survivor insurance and social security	638,366.00
Postage, supplies, printing, furniture and fixtures	195,000.00
Miscellaneous	16,000.00
Travel expense—field auditors	87,000.00

Revenue stamps	20,000.00
Travel expense—department general	2,000.00
Total	<u>\$982,046.00</u>

Subdivision 17.

Board of Administration

Salary—chairman and members	\$ 41,580.00
Other employees and old age and survivor insurance	414,080.00
Capitol maintenance	220,000.00
Postage, supplies, printing, furniture and fixtures and folding chairs	9,960.00
Travel expense	6,400.00
Radio broadcasting	185,000.00
Equipment	6,000.00
Rewiring and repiping	110,000.00
Roadway and blacktop parking area and grounds	25,000.00
Rugs for supreme court	3,500.00
Reconditioning voting machines in house and senate	5,000.00
Installation of complete public address system in house	4,000.00
Evaluation of buildings for insurance purposes	30,000.00
Caretaker and heating at Bathgate	5,000.00
Total	<u>\$1,065,520.00</u>

Subdivision 18.

State Seed Department

Seed analysts	\$ 34,000.00
Travel expense	700.00
Postage, supplies, printing, furniture, and fixtures	6,000.00
Miscellaneous	500.00
Old age and survivor insurance	1,750.00
Total	<u>\$ 42,950.00</u>

Subdivision 19.

State Industrial Commission

Clerkhire	\$ 840.00
Postage, supplies, printing, furniture, and fixtures	250.00
Miscellaneous	100.00
Contribution to Interstate Oil Compact Com- mission	2,500.00
Total	<u>\$ 3,690.00</u>

Subdivision 20.

State Library Commission

Salary—director	\$ 11,550.00
Clerkhire, old age survivor insurance and social security	68,730.00
Postage, supplies, printing, furniture, and fixtures	8,500.00
Miscellaneous	1,200.00
Travel expense	2,500.00
Aid to libraries	1,000.00
Books, binding and repair	20,000.00
Expense for further extension of rural library services	43,304.00
Total	<u>\$156,784.00</u>

Subdivision 21.

Adjutant General

Salary—adjutant general and assistants	\$ 32,982.00
Clerkhire, old age survivor insurance and social security	47,750.00
Postage, supplies, printing, furniture and fixtures	3,500.00
Miscellaneous	1,000.00
Travel expense	800.00
Total	<u>\$ 86,032.00</u>

The adjutant general is hereby authorized to expend the sums necessary to complete the construction of the Wahpeton and Oakes Armories from moneys previously appropriated for armory construction under the provisions of chapter 45 of the 1959 Session Laws, not to exceed \$7,500.00 for Wahpeton and \$3,300.00 for Oakes.

Subdivision 22.

National Guard

Maintenance of the National Guard	\$313,863.00
Total	\$313,863.00

Subdivision 23.

Legislative Research Committee

Committee operation and research and old age survivor insurance	\$ 71,000.00
Statutory revision	27,000.00
Expenses, additional legislators on sub- committees	19,000.00
Preparation and publication of session laws and statutes	5,300.00
Total	\$122,300.00

Subdivision 24.

***38th Legislative Assembly**

Budget request for 38th	\$ 78,000.00
Printing	86,000.00
Miscellaneous	12,000.00
Expense—members	194,400.00
Janitor service and engineering	3,750.00
Total	\$374,150.00

*Note: Governor vetoed \$125,000.00 for per diem for employees. The totals in this chapter have been changed to reflect veto. See Vetoed Measures for Governor's letter regarding item veto.

Subdivision 25.

Pardon Board

Salary—secretary	\$ 600.00
Salary—members and expense	750.00
Investigations	1,000.00
Total	\$ 2,350.00

Subdivision 26.

State Budget Board

Per diem and other expenses	\$ 4,000.00
Total	\$ 4,000.00

Subdivision 27.

Reward for Apprehension of Criminals

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

Subdivision 28.

State Examiner

Salary—state examiner	\$ 16,800.00
Clerkhire, old age survivor insurance and social security	369,480.00
Postage, supplies, printing, furniture and fixtures	8,500.00
Miscellaneous	3,000.00
Travel expense	86,000.00
State banking board	900.00
State credit union board	500.00
Legal fees and investigation costs	3,000.00
Closed bank fund	4,500.00
Total	\$492,680.00

Subdivision 29.

State Securities Commissioner

Salary—commissioner	\$ 20,000.00
Deputy	15,000.00
Clerkhire, old age survivor insurance, and social security	33,970.00
Oil and gas broker	500.00
Miscellaneous	7,200.00
Furniture and office equipment	2,500.00
Travel—in state	5,300.00
Travel—out of state	700.00
Total	\$ 85,170.00

Subdivision 30.

State Board of Higher Education

Salary—commissioner	\$ 30,000.00
Salary—employees and old age survivor insurance	44,493.00
Postage, supplies, printing, furniture and fixtures	3,400.00

Miscellaneous	3,797.00
Travel expense	5,000.00
Members—per diem	7,000.00
Members—travel	7,000.00
	\$100,690.00
Total	

Subdivision 31.

Department of Accounts and Purchases

Salary—director and clerkhire	\$149,630.00
Old age survivor insurance and social security	8,980.00
Postage, supplies, printing and miscellaneous	20,105.00
Travel expense	4,800.00
Technical assistance	1,100.00
	\$ 184,615.00
Total	
Grand total	\$7,391,353.00

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

Approved March 17, 1961.

CHAPTER 47

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.**) The sums hereafter named, derived from institutional collections, interest and income, and so much additional as may be needed, are hereby appropriated out of the state treasury, not other-

wise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment and miscellaneous items of the school for the blind at Grand Forks, North Dakota, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries, wages, teachers retirement fund, old age and survivor insurance and social security	\$166,390.00
Operating expense	49,950.00
Equipment	4,000.00
Improvements and repairs	5,000.00
Miscellaneous items	1,800.00
Weekly medical visitation to institution.....	1,500.00
Sidewalks and fence	5,000.00
Sound system, inter-com and venetian blinds in classrooms	4,950.00
Landscaping of campus	4,050.00
Garage and multiple purpose building.....	16,000.00
 Total	 \$258,640.00

Approved March 2, 1961.

CHAPTER 48

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.) The sums hereafter named, derived from institutional collections, interest and income, and so much additional as may be needed, are hereby appropriated out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, and equipment, for the school for the deaf at Devils Lake, North Dakota, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries, wages, teachers retirement, old age and survivor insurance and social security.....	\$414,840.00
Operating expense	126,950.00
Improvements and repairs	19,500.00
Equipment	12,500.00
Dormitory and administration building (any part or all to be built from state or federal funds, providing funds are available at the discretion of the budget board and under the supervision of the board of administration)	500,000.00
Total	\$1,073,790.00

Approved March 11, 1961.

CHAPTER 49

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 building and special projects for the Grafton state school at Grafton, North Dakota.

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

§ 1. Appropriation for the Grafton State School.) The sums hereafter named, derived from institutional collections, institutional support fund, interest and income, and so much additional as may be needed, are hereby appropriated out of the public welfare fund in the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment, miscellaneous items, new building, and special projects for the Grafton state school at Grafton, North Dakota, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries, wages, teachers retirement, old age and survivor insurance, and social security	\$2,710,080.00
Operating expense	857,500.00
Improvements and repairs	53,600.00
Repointing brick walls of buildings.....	16,500.00
Equipment	51,900.00

Blacktopping roadway	17,000.00
Miscellaneous items, land rentals.....	15,500.00
New building and special projects:	
1. Refrigerated storage equipment	14,000.00
2. Cyclone fencing	2,000.00
3. Sprinkler fire prevention system for Main Building	31,000.00
4. Generator and switch gear for old turbine	15,000.00
5. Special contract painting.....	5,000.00
6. New access doorway in Sunset Hall.....	3,500.00
7. Addition to dairy barn.....	3,500.00
Total	\$3,796,080.00

Approved March 16, 1961.

CHAPTER 50

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 State Tuberculosis Sanatorium.)

The sums hereafter named, derived from institutional collections, institutional support fund, interest and income, and so much additional as may be needed, are hereby appropriated out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, and equipment for the tuberculosis sanatorium at San Haven, North Dakota, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries, wages, social security, and old age and survivor insurance	\$1,031,000.00
Operating expense	440,000.00
Improvements and repairs	25,000.00
Equipment	15,000.00
Remodeling of main building and wing for care of mentally retarded	100,000.00
Total	\$1,611,000.00

Approved March 11, 1961.

CHAPTER 51

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.) The sums hereafter named, derived from institutional collections, institutional support fund, interest and income, and so much additional as may be needed, are hereby appropriated, out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment, miscellaneous items, new buildings, and special projects for the state hospital at Jamestown, North Dakota, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries, old age and survivor insurance and social security	\$4,400,000.00
Pensions	10,402.00
Operating expense	1,635,000.00
Nursing school:	
Salaries	80,000.00
Operating expense	6,000.00
Tranquilizing drugs	125,000.00
Foster care program	25,000.00
Staff development	10,000.00
Quarter house	15,000.00
Special projects:	
1. Improvement and repairs	100,000.00
2. Patients' room furnishings	50,000.00
3. Motor vehicle equipment	3,500.00
4. Business office equipment	20,725.00
5. Kitchen equipment	5,900.00
6. Housekeeping equipment	2,500.00
7. Occupational therapy and recreational equipment	2,000.00
8. Boiler plant equipment	75,000.00
9. Additional for medical center elevator	10,000.00

10. Engineering equipment and shop furnishing	15,000.00
11. Roads, parking area, lighting, side- walks, etc.	15,000.00
12. Tunnels	10,000.00
13. Sanitary and storm sewers	75,000.00
14. Water treatment plant	22,000.00
15. Underground steam distribution system, high pressure and return lines	25,000.00
16. Water distribution system	15,000.00
17. Roofs	10,000.00
18. Miscellaneous	33,375.00
New buildings:	
1. Physician's house (1)	22,500.00
2. Finishing of church basement	35,000.00
Total	\$6,853,902.00
Approved March 15, 1961.	

CHAPTER 52

H. B. No. 507

(Committee on Appropriations)

STATE TRAINING SCHOOL

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous, new building and special projects for the state training school at Mandan, North Dakota.

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

§ 1. Appropriation for the State Training School.) The sums hereafter named, derived from institutional collections, interest and income, and so much additional as may be needed, are hereby appropriated out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment, miscellaneous, new building and special projects for the state training school at Mandan, North Dakota, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries, wages, teachers retirement, social security, and old age and survivor insurance system	\$ 589,124.00
Operating expense	314,400.00

Improvements and repairs	31,400.00
Sidewalks	1,000.00
Equipment	52,500.00
Miscellaneous	9,100.00
New Building and special projects:	
1. Additional to complete Dakota Hall	50,000.00
2. Science department equipment— new school	10,000.00
3. Home economics equipment— new school	5,000.00
Chapel	70,000.00
Replacement of Brown Cottage	100,000.00
 Total	 \$1,232,524.00

Approved March 16, 1961.

CHAPTER 53

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.

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

§ 1. **Appropriation for the State Penitentiary.)** The sums hereafter named, derived from institutional collections, and so much additional as may be needed, are hereby appropriated out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary to pay the general maintenance, improvements and repairs, equipment, miscellaneous, and special projects, of the state penitentiary, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries, wages, retirement pay, social security, old age and survivor insurance	\$ 752,150.00
Maintenance expense and new uniforms	365,000.00
Dental and optical care	15,000.00
Improvements and repairs	30,000.00
Equipment	20,000.00
Miscellaneous (rent of land)	6,200.00
Book salvage industry	30,000.00

Special projects:

- | | |
|--|-----------|
| 1. New cell house equipment (beds, etc.) | 8,000.00 |
| 2. Inter-com and inter-telephone system | 10,000.00 |

State Parole Officer:

- | | |
|---|------------|
| Salary of parole officer, assistant parole officers and other expense | 126,125.00 |
|---|------------|

State Bureau of Criminal Identification	45,925.00
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Total	<u>\$1,408,400.00</u>
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Approved March 8, 1961.

CHAPTER 54

H. B. No. 509

(Committee on Appropriations)

NORTH DAKOTA STATE FARM

AN ACT

Making an appropriation for the general maintenance and operation of the North Dakota state farm, Bismarck, North Dakota.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$110,000.00, or so much thereof as may be necessary to pay the general maintenance and operation of the North Dakota state farm, Bismarck, North Dakota, for the biennium beginning July 1, 1961, and ending June 30, 1963. There is also hereby appropriated for the same purposes all moneys received from counties and from the federal government as prescribed by chapter 12-51, North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 2, 1961.

CHAPTER 55

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

TAG AND SIGN PLANT

AN ACT

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

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

§ 1. **Appropriation.**) There is hereby appropriated the sum of \$450,000.00 out of the miscellaneous earnings 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 July 1, 1961, and ending June 30, 1963.

Approved March 2, 1961.

CHAPTER 56

H. B. No. 511
 (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 twine plant operating fund, the sum of \$1,614,782.00, 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, 1961, and ending June 30, 1963, to wit:

Salaries, wages, social security, old age and survivor insurance	\$ 166,782.00
Other expense	31,000.00

Operating expense	946,000.00
Improvements and repairs	6,000.00
Equipment	26,000.00
Miscellaneous	439,000.00
	<hr/>
Total	\$1,614,782.00

Approved March 2, 1961.

CHAPTER 57

H. B. No. 512

(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 57-41-06 of the North Dakota Century Code, not otherwise appropriated, the sum of \$267,259.00, or so much thereof as may be necessary, to be set aside in the state treasury, for the purpose of defraying the expenses of the maintenance and operation of the gasoline tax division in the office of the state auditor, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Clerkhire, social security, old age and survivor insurance	\$154,759.00
Postage, supplies, printing, furniture and fixtures	25,000.00
Miscellaneous	3,500.00
Emergency	20,000.00
Travel expense	18,000.00
Refund enforcement	46,000.00
	<hr/>
Total	\$267,259.00

Approved March 7, 1961.

CHAPTER 58

H. B. No. 513
(Committee on Appropriations)

STATE AID FOR JUNIOR COLLEGES

AN ACT

Making an appropriation for school districts operating junior colleges as provided for in sections 15-18-07, 15-18-08, and 15-18-09 of the North Dakota Century Code.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the general fund, not otherwise appropriated, the sum of \$239,000.00, or so much thereof as may be necessary for the purpose of making payment to each school district maintaining a junior college meeting the standards prescribed in sections 15-18-07, 15-18-08, and 15-18-09 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 7, 1961.

CHAPTER 59

H. B. No. 514
(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 equalization fund in the state treasury, not otherwise appropriated, the sum of \$374,000.00, or so much thereof as may be necessary for vocational agriculture, vocational home economics, business education, trade and industrial education, as provided for in section 15-40-03 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Vocational agriculture	\$144,000.00
Vocational home economics	180,000.00
Business education	20,000.00
Trade and industrial education.....	30,000.00
Total	\$374,000.00

Approved March 8, 1961.

CHAPTER 60

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

STATE EQUALIZATION FUND

AN ACT

Making an appropriation for the purpose of paying the administrative expenses and the state aid of the state equalization fund, the administrative expenses and the teaching preparation scholarships of the teacher preparation scholarship plan, and the two agricultural schools on the basis of enrollment.

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

§ 1. **Appropriation.)** There is hereby appropriated out of any moneys in the state treasury in the state equalization fund, not otherwise appropriated, the following sums for the following purposes, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

State Equalization Fund—Administration and State Aid

Salary—Director, clerkhire, old age and survivor insurance	\$ 36,680.00
Postage, supplies, printing, furniture and fixtures	7,000.00
Travel expense	2,000.00
Emergency	600,000.00
Foundation program payments.....	23,550,000.00
Division guidance and testing services.....	29,400.00

Teacher Preparation Scholarships

Administration	5,250.00
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Agricultural and Training Schools

Benson County—Maddock	17,500.00
Walsh County—Park River	25,000.00

Total	\$24,272,830.00
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Approved March 11, 1961.

CHAPTER 61

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

BOARD OF SCHOOL DISTRICT REORGANIZATION

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of the state equalization fund in the state treasury, not otherwise appropriated, the sum of \$42,590.00, or so much thereof as may be necessary for the maintenance and operation of the board of school district reorganization, as provided for in chapter 15-53 of the North Dakota Century Code, for the biennium beginning July 1, 1961 and ending June 30, 1963, to wit:

State and county committees.....	\$15,000.00
Clerkhire, old age and survivor insurance.....	21,790.00
Miscellaneous	1,000.00
Travel expense	4,800.00
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Total	\$42,590.00

Approved March 11, 1961.

CHAPTER 62

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

SPECIAL EDUCATION OF EXCEPTIONAL CHILDREN

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state equalization fund in the state treasury, the sum of \$400,000.00 for the special education of excep-

tional children under the sole supervision of the superintendent of public instruction, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salary—director	\$ 15,720.00
Clerkhire and all other operating expense.....	384,280.00
Total	<u>\$400,000.00</u>

Approved March 8, 1961.

CHAPTER 63

H. B. No. 518

(Committee on Appropriations)

STATE SCHOOL CONSTRUCTION FUND AND BOARD EXPENSES

AN ACT

Making an appropriation for the administrative expenses of the state school construction fund and state school construction board.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state school construction fund in the state treasury, not otherwise appropriated, the sum of \$29,000.00, or so much thereof as may be necessary to pay the administrative expenses of the state school construction fund and state school construction board as provided for in chapter 15-60 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 2, 1961.

CHAPTER 64

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

VOCATIONAL REHABILITATION DIVISION

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of the public welfare fund in the state treasury the sum of \$353,362.00, or so much thereof as may be necessary for the vocational rehabilitation of disabled persons, to be matched with federal funds; and for the governor's committee on employment of the physically handicapped, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Vocational rehabilitation—state matching.....	\$316,000.00
Governor's committee on employment of the physically handicapped	9,000.00
Services for the blind	25,000.00
Old age and survivor insurance.....	3,362.00
Total	<u>\$353,362.00</u>

Approved March 2, 1961.

CHAPTER 65

H. B. No. 520
(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 state equalization fund in the state treasury, not otherwise appropriated, the sum of \$45,000.00, or so much

thereof as may be necessary to the department of public instruction, for the purpose of paying salaries and other expenses of the director of surplus property as provided for in chapter 15-61 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries and other expenses of the director and old age and survivor insurance.....	\$45,000.00
Total	\$45,000.00

Approved March 2, 1961.

CHAPTER 66

H. B. No. 521

(Committee on Appropriations)

NATIONAL DEFENSE EDUCATION

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state equalization fund in the state treasury, not otherwise appropriated, the sum of \$99,000.00, or so much thereof as may be necessary for administration, supervision, purchasing equipment, and matching on a fifty-fifty basis federal funds for the purpose of improving instruction in science, mathematics, and modern foreign languages, and establishing better programs in guidance, counseling and testing, to encourage students with outstanding aptitude and ability to continue their education, and in general to participate in accordance with the National Defense Education Act, Public Law 85-864, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salaries	\$25,000.00
Travel	5,000.00
Clerkhire and social security.....	11,000.00
Postage, supplies, and equipment.....	3,000.00
Reimbursement under Title V.....	15,000.00
Printing	25,000.00

Statistical service under Title X.....	8,000.00
Committee expenses	5,000.00
Miscellaneous	1,000.00
Teachers insurance and retirement.....	1,000.00
 Total	 \$99,000.00

Approved March 8, 1961.

CHAPTER 67

H. B. No. 522

(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 \$705,740.00, or so much thereof as may be necessary for salaries and expenses for the state seed department, as provided for in chapter 4-09, 4-10 and 4-11, North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Administration	\$ 21,000.00
Deputy commissioners	59,000.00
Clerkhire, old age and survivor insurance.....	64,660.00
Field supervising inspectors.....	22,000.00
Inspectors	210,000.00
Assistant seed analysts.....	10,000.00
Postage, supplies, printing, furniture and fixtures	21,000.00
Miscellaneous	20,000.00
Advertising and research	40,000.00
Travel expense	75,000.00
Test plots	15,000.00
Tags and seals.....	22,000.00
Production and marketing administration.....	20,000.00
Compiling reports	1,000.00
Automobiles	6,000.00

Rent	6,000.00
Emergency and greenhouse.....	50,000.00
*Implementing House Bill 869.....	43,080.00
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Total	\$705,740.00

***Note:** House Bill No. 869 was killed by the Senate. See page 914 of the Senate Daily Journal.

Approved March 8, 1961.

CHAPTER 68

H. B. No. 523

(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 \$175,600.00, or so much thereof as may be necessary for the operation, maintenance and miscellaneous expenses of the poultry improvement board, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Salary—executive secretary	\$ 12,600.00
Clerkhire	10,000.00
Postage, supplies, printing, furniture, and fixtures	4,600.00
Miscellaneous, social security, old age and survivor insurance	10,000.00
Travel expense	3,000.00
Compensation and expense—board members..	2,000.00
Tags, bands and antigen	3,000.00
Fieldmen	126,900.00
Emergency	3,500.00
	<hr/>
Total	\$175,600.00

Approved March 8, 1961.

CHAPTER 69

H. B. No. 524
 (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 \$583,500.00, 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, 1961, and ending June 30, 1963, to wit:

Salary—manager	\$ 12,000.00
Clerkhire, social security, old age and survivor insurance	113,000.00
Salary—inspectors and adjusters	45,000.00
Travel—inspectors and adjusters	50,000.00
Travel—office	10,000.00
Postage, supplies, printing, furniture and fixtures	25,000.00
Listing fees	210,000.00
Annual audit.....	7,000.00
Advertising	5,000.00
Legal publications	100.00
Miscellaneous	4,000.00
Emergency	100,000.00
Assistant attorney general salary	2,400.00
Total	\$583,500.00

Approved March 11, 1961.

CHAPTER 70

H. B. No. 525
(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 \$109,380.00, 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, 1961, and ending June 30, 1963, to wit:

Salaries, social security, old age and survivor insurance	\$ 30,700.00
Postage, supplies, printing, furniture and fixtures	5,000.00
Miscellaneous	4,500.00
Risk inspection and travel	17,000.00
Premium refunds—fire	8,000.00
Premium refunds—extended coverage	4,000.00
Adjusting expense	38,000.00
Assistant attorney general salary	1,680.00
Examination fee	500.00
Total	\$109,380.00

Approved March 11, 1961.

CHAPTER 71

H. B. No. 526

(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 \$23,638.00, 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, 1961, and ending June 30, 1963, to wit:

Salaries, social security, old age and survivor insurance	\$13,458.00
Postage, supplies, printing, furniture, and fixtures	4,000.00
Miscellaneous	500.00
Investigation and travel	3,000.00
Emergency	500.00
Assistant attorney general salary	1,680.00
Examination fee	500.00
 Total	 \$23,638.00

Approved March 11, 1961.

CHAPTER 72

H. B. No. 527

(Committee on Appropriations)

DIVISION OF SUPERVISED STUDY

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of the state equalization fund in the state treasury, the sum of \$550,000.00, or so much thereof as may be necessary for

salaries and miscellaneous expenses of the division of supervised study, as provided for in chapter 15-19 of the North Dakota Century Code, for the biennium beginning July 1, 1961, and ending June 30, 1963, to be expended as follows:

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

In no event shall the expenditures for course supervisors, student refunds, rental library and book purchases and library supplies, films and maintenance of film library, books for resale and educational entertainment when totaled at the end of the biennium exceed the total collections from such services during the biennium plus the balance in the high school correspondence fund transferred to the Equalization Fund under the provisions of House Bill No. 748 or more than the line items for such services.

§ 2. **Appropriation.)** There is hereby appropriated to the board of higher education the sum of \$49,000.00 out of any moneys in the state equalization fund and there is hereby reappropriated the sum of \$76,000.00 previously appropriated in chapter 29 of the 1959 Session Laws, making a total appropriation of \$125,000.00 for the biennium beginning July 1, 1961 and ending June 30, 1963, for the purpose of constructing a building upon the campus of the North Dakota State University of Agriculture and Applied Science to house the high school correspondence division. Such building shall consist of one story plus a basement and shall have sufficient footings to carry additional stories. The expenditure of the sum appropriated in this section shall be limited to the actual construction costs of the building herein authorized and architectural fees in connection therewith and shall not be expended for landscaping, furnishings, or any other purpose.

Approved March 16, 1961.

CHAPTER 73

H. B. No. 528
 (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 \$867,900.00, 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, 1961 and ending June 30, 1963, to wit:

Banking Department

Administrative expense	\$493,600.00
General expense	124,000.00
Examination and legal expense	44,000.00
Building maintenance	29,700.00
Fixtures and remodel building	30,000.00
Modernize elevator	40,000.00
Emergency	25,000.00
Social security	17,500.00
Old age and survivor insurance	17,500.00
Agricultural and industrial development department	15,000.00
Field supervision	
1. Fieldmen—salary	7,800.00
2. Travel expense	5,000.00
Total	\$849,100.00

Judge A. M. Christianson Project

Administrative expense	12,300.00
General expense	1,800.00
Payments to school districts in lieu of taxes....	3,000.00
Emergency	1,000.00
Social security	350.00
Old age and survivor insurance	350.00
Total	\$ 18,800.00
Grand total	\$867,900.00

Approved March 16, 1961.

CHAPTER 74

H. B. No. 529

(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 \$3,249,900.00 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, 1961, and ending June 30, 1963, to wit:

Manufacturing expense	\$1,035,800.00
Selling and delivery expense	604,400.00
Administration expense	104,050.00
Manager's salary	36,000.00
General expense	211,400.00
Elevator department	282,600.00
Feed mill department	625,700.00
State local elevator	165,450.00
Audit fees	15,000.00
Emergency fund	169,500.00
Total	\$3,249,900.00

Approved March 8, 1961.

CHAPTER 75

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

OLD AGE AND SURVIVOR INSURANCE SYSTEM

AN ACT

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

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

§ 1. **Appropriation.**) There is hereby appropriated out of any moneys in the state treasury in the social security contribution fund, collected as provided by section 52-10-04 of the North Dakota Century Code, not otherwise appropriated, the sum of \$42,838.00, or so much thereof as may be necessary to pay the costs of the administration of the old age and survivor insurance system, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Personal services	\$29,736.00
Postage, supplies, printing and binding.....	4,102.00
Furniture and fixtures	765.00
Travel expense	1,500.00
Miscellaneous	1,804.00
Audit	2,000.00
Rent of premises	998.00
Retirement contributions	1,933.00
 Total	 \$42,838.00

Approved March 7, 1961.

CHAPTER 76

H. B. No. 531
(Committee on Appropriations)

STATE OFFICERS' EXPENSE PAYMENTS

AN ACT

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

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

§ 1.) The governor, secretary of state, state auditor, state treasurer, attorney general, commissioner of insurance, commissioner of agriculture and labor, superintendent of public

instruction, state tax commissioner, and two public service commissioners, in order to properly discharge their official duties shall each of them be paid the sum of \$2,400.00 for each calendar years of 1961 and 1962 for expenses and moneys expended while engaged in the discharge of official duties, to be paid in quarterly payments by the state auditor without the filing of any itemized voucher or statement; and one public service commissioner, whose term has not expired, in order to properly discharge his official duty shall be paid the sum of \$3,400.00 for each of the calendar years 1961 and 1962 for expenses and moneys expended while engaged in the discharge of official duty, to be paid quarterly by the state auditor without the filing of any itemized voucher or statement.

§ 2. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$59,600.00, or so much thereof as may be necessary to carry out the provisions of this Act.

Approved March 8, 1961.

CHAPTER 77

H. B. No. 532

(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 public welfare 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, 1961, and ending June 30, 1963.

Approved March 8, 1961.

CHAPTER 78

H. B. No. 533
(Committee on Appropriations)

DEAF-BLIND CHILDREN

AN ACT

Making an appropriation to pay for the education of children, who are deaf as well as blind, at any school or institution, outside the state of North Dakota, for which there are no facilities in the state.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the public welfare fund in the state treasury, not otherwise appropriated, the sum of \$30,000.00 for the education of children who are deaf as well as blind, at any school or institution, outside the state of North Dakota, for which there are no facilities in the state, and which is under the sole supervision of the board of administration, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 7, 1961.

CHAPTER 79

H. B. No. 534
(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 \$400,000.00 for the purpose of defraying the expenses of the maintenance and operation of the state wheat commission, for the biennium beginning July 1, 1961, and ending June 30, 1963.

Approved March 7, 1961.

CHAPTER 80

H. B. No. 535

(Committee on Appropriations)

HIGHER EDUCATION RECIPROCAL AGREEMENTS

AN ACT

Making an appropriation to the state board of higher education for the purpose of payment of reciprocal agreements with other states' institutions of higher learning for higher education of North Dakota students.

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 \$28,800.00, to the board of higher education or so much thereof as may be necessary for payment of reciprocal agreements with other states' institutions of higher learning for higher education of North Dakota students, for the period beginning July 1, 1961, and ending June 30, 1963.

Approved March 11, 1961.

CHAPTER 81

H. B. No. 536

(Committee on Appropriations)

CIVIL AIR PATROL

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the civil air 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 treasury, not otherwise appropriated, the sum of \$36,200.00 for the purpose of defraying the expenses of the maintenance and operation of the civil air patrol, for the biennium beginning July 1, 1961, and ending June 30, 1963, to wit:

Communication acquisition and maintenance.....	\$27,560.00
Vehicle maintenance	2,800.00
Aircraft maintenance and hangaring	5,840.00
Total	\$36,200.00

Approved March 7, 1961.

CHAPTER 82

H. B. No. 537
 (Committee on Appropriations)

CIVIL DEFENSE

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the general fund of the state treasury the sum of \$79,500.00 to carry out the provisions of chapter 37-17 of the North Dakota Century Code, relating to the operation of the civil defense for North Dakota, to wit:

Salaries, social security, old age and survivor insurance	\$56,500.00
Postage, supplies, printing, furniture and fixtures	6,500.00
Miscellaneous	1,500.00
Travel expense	6,000.00
Gas and oil	2,000.00
Property (auto)	2,000.00
Communications	3,000.00
Equipment and supplies (under matching funds)	2,000.00
 Total	 \$79,500.00

Approved March 7, 1961.

CHAPTER 83

H. B. No. 553
(Lindberg and Reimers)

STATE HOSPITAL, DEFICIENCY

AN ACT

To make a deficiency appropriation to pay salaries and miscellaneous expenses of the state hospital at Jamestown, and declaring an emergency.

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

§ 1. Deficiency Appropriation.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of three hundred three thousand and six hundred dollars or so much thereof as may be necessary, to pay salaries and miscellaneous expenses of the state hospital during the present 1959-1961 biennium. This sum shall be made available to the state hospital at Jamestown immediately on passage for the purpose of paying such expenses, to wit:

Salaries	\$242,000.00
Tranquilizing drugs	34,600.00
Social security and old age and survivor insurance	27,000.00
	<hr/>
Total	\$303,600.00

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

Approved February 17, 1961.

CHAPTER 84

H. B. No. 556
(Johnston and Wheeler)

PENITENTIARY CELL HOUSE, DEFICIENCY

AN ACT

To make an appropriation to the state penitentiary to meet deficiencies in the money appropriated for the new cell house, 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, the sum of \$14,000.00, or so much thereof as may be necessary, for the purposes of meeting deficiencies in the appropriation to the state penitentiary for a new cell house as provided in chapter 8 of the 1959 Session Laws, for the biennium ending June 30, 1961.

§ 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 17, 1961.

CHAPTER 85

H. B. No. 567
(Lowe, Haugland, Christopher, Collette,
Davis, Powers, Goebel, Kelly, Peterson, Link)

DAKOTA TERRITORY CENTENNIAL COMMITTEE

AN ACT

To make an appropriation to the Dakota Territory Centennial Committee for the purpose of carrying out the directives of Senate Concurrent Resolution "K-K" of the 1959 Session Laws and to pay mileage and expenses of members and to pay the salary and expenses of a full-time director and for such other clerical assistance as may be needed, 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 the sum of \$25,000, or so much thereof as may be necessary, to the Dakota Territory Centennial Committee established pursuant to Senate Concurrent Resolution "K-K" of the 1959 Session Laws, for the

purpose of carrying out the directives of such resolution and to pay mileage and expenses to members of such committee in the same manner and amounts as other state officials' mileage and expenses are paid, and also to pay the salary and expenses of a full-time director selected by such committee and for such other clerical assistance as may be needed. All moneys expended by the Dakota Territory Centennial Committee pursuant to the provisions of this section shall be upon vouchers drawn by the chairman of such committee.

§ 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 4, 1961.

CHAPTER 86

H. B. No. 570

(House Appropriations Committee)

EDUCATION FOUNDATION PROGRAM AND TRANSPORTATION, DEFICIENCY

AN ACT

Making an appropriation to the superintendent of public instruction out of the state equalization fund to meet deficiencies in the foundation program per pupil and transportation payments, for the biennium ending June 30, 1961, 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 equalization fund in the state treasury the sum of \$2,108,684.38, or so much thereof as may be necessary to meet deficiencies in the foundation program per pupil and transportation payments, in the superintendent's budget for the biennium ending June 30, 1961.

§ 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 4, 1961.

CHAPTER 87

H. B. No. 573

(Haugland, Solberg, Vinje, Lowe, Hofstrand,
(Baldwin, Anderson of McHenry, Christopher, Breum,
(Fraase, Collette, Wilkie, Saugstad, Mueller, Kelly)

INTERNATIONAL MUSIC CAMP BUILDINGS

AN ACT

To make an appropriation to the state historical society for the construction of new buildings for the International Music Camp 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 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, to the North Dakota historical society, for construction of a music hall and for construction of a dining hall and kitchen for the International Music Camp and other public purposes. Any building so constructed will be located on lands comprising that part of the International Peace Garden situated within the state of North Dakota.

Approved March 7, 1961.

CHAPTER 88

H. B. No. 616

(Hofstrand, Christensen of Ward, Stallman,
(Baldwin, Reimers, Sorlie)

PURCHASE OF LAND FOR EXPERIMENT STATION

AN ACT

Authorizing the state board of higher education of the state of North Dakota to purchase additional land for use by the agricultural experiment station, North Dakota State University of Agriculture and Applied Science, making an appropriation therefor, and declaring an emergency.

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

§ 1.) It is hereby found and determined that due to normal expansion of the main campus of the North Dakota State University of Agriculture and Applied Science, and due to

the authorization by the Congress of the United States of America for the location of an agricultural research laboratory on the campus, such laboratory also requiring adjacent experimental lands approximating one hundred acres, the agricultural experiment station, North Dakota State University of Agriculture and Applied Science, is in need of additional land.

§ 2.) It is hereby found and determined that there is now available a quarter section of land lying adjacent and in close proximity to the premises now occupied and used in connection with the operation of the agricultural experiment station described as follows, to wit:

The northwest quarter of section twenty-six, township one hundred forty north, range forty-nine west of the fifth principal meridian, Cass County, North Dakota, less presently recorded rights-of-way.

§ 3. **Appropriation.**) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$40,000.00 or so much thereof as may be necessary, for the purchase of the above described premises, and the state board of higher education, state of North Dakota, is authorized to make the purchase of said premises.

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

Approved March 7, 1961.

CHAPTER 89

H. B. No. 637
(Wheeler, Johnston)

PAYMENT OF SPECIAL ASSESSMENTS TO BISMARCK

AN ACT

Making an appropriation for the purpose of paying special assessments for public improvements at Fraine Barracks 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 \$4,467.80 not otherwise appropriated, for the purpose of paying the city of Bismarck special

assessments levied against Fraine Barracks, property owned by the state of North Dakota for the following public improvements:

Curb and gutter, approach leading to Fraine Barracks	\$ 379.80
Water line to armory site, Fraine Barracks	4,088.00
	<hr/>
Total	\$4,467.80

§ 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 17, 1961.

CHAPTER 90

H. B. No. 647
 (Dick, Dagman, Maragos,
 (Christopher, Einarson)

SOLDIERS HOME, LAUNDRY

AN ACT

Making an appropriation to the North Dakota state soldiers home for the purpose of remodeling, air-conditioning and additional lighting for the laundry.

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

§ 1. **Appropriation.**) There is hereby appropriated out of any money in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary, for the purpose of remodeling, air-conditioning and additional lighting for the laundry at the North Dakota soldiers home.

Approved March 7, 1961.

CHAPTER 91

H. B. No. 661
(Sorlie, Baldwin)

NATIONAL DEFENSE STUDENT LOAN PROGRAM

AN ACT

Making an appropriation to the state board of higher education for the purpose of taking advantage of the National Defense Student Loan Program.

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 \$75,000.00, or so much thereof as may be necessary, to the state board of higher education, to be apportioned by such board to all of the institutions of higher learning in the state on the basis of student enrollment and on the basis of need in each of such institutions on October first of each year for the purpose of allowing each such institution to take advantage of the National Defense Student Loan Program.

Approved March 15, 1961.

CHAPTER 92

H. B. No. 665
(Committee on Appropriations)

BOUNTIES, DEFICIENCY

AN ACT

Making a deficiency appropriation for the purpose of paying the wolf, coyote, fox, bobcat and magpie bounties and declaring an emergency.

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

§ 1. Deficiency Appropriation.) There is hereby appropriated out of any moneys in the state treasury in the game and fish bounty fund as created by section 20-03-12 of the North Dakota Century Code the sum of \$40,000.00, or so much thereof as may be necessary, for the purpose of paying the wolf, coyote, fox, bobcat, and magpie bounties for the period beginning July 1, 1959, and ending June 30, 1961, which funds shall

be expended for such purpose after the expenditure of all funds appropriated in chapter 35 of the 1959 Session Laws.

§ 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 17, 1961.

CHAPTER 93

H. B. No. 708

(Loder, Maragos, Buechler)

TRANSFER OF COFFIN MANUFACTURE FUND

AN ACT

Transferring any moneys in the penitentiary coffin manufacture fund to the general fund.

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

§ 1. **Transfer.**) All moneys remaining in the penitentiary coffin manufacture fund and the coffin factory fund, in the state treasury on July 1, 1961, are hereby transferred to the general fund of this state.

Approved February 25, 1961.

CHAPTER 94

H. B. No. 865
(Poling)

YELLOWSTONE-MISSOURI-FORT UNION COMMISSION

AN ACT

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

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

§ 1. **Appropriation.**) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000.00 or so much thereof as may be necessary, to the Yellowstone-Missouri-Fort Union Commission for the purpose of carrying out the provisions of chapter 55-06 of the North Dakota Century Code, provided, that any or all of such sum may be expended during any period of the biennium notwithstanding any other provisions of law.

Approved March 7, 1961.

GENERAL PROVISIONS

CHAPTER 95

H. B. No. 845

(Buechler, Johnston, Loder, Aamoth, Hofstrand)

TIME LIMIT FOR FILING OF PETITIONS

AN ACT

To create and enact section 1-01-50 of the North Dakota Century Code, establishing a time limit for the filing of petitions.

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

§ 1.) Section 1-01-50 of the North Dakota Century Code is hereby created and enacted to read as follows:

1-01-50. Filing or Presentation of Petitions—Time Limit.)

Whenever in this code provision is made for the filing or presentation of a petition with or to any officer or governing body or board of the state or any agency, instrumentality, or political subdivision thereof as a prerequisite to the calling of an election, or the performance or prohibition of any act, such petition must be filed with or presented to such officer or governing body or board not later than one year from the date such petition is first placed in circulation, or the date the first signature is affixed thereto, whichever date is the latest. The provisions of this section shall not apply in any case where the law governing a particular petition specifies a shorter or a longer period of time.

Approved March 11, 1961.

CHAPTER 96

S. B. No. 1

(Gefreh, Brooks, Holand, Ringsak, Wartner)

NORTH DAKOTA CENTURY CODE

AN ACT

To enact the North Dakota Century Code together with chapter 13-03 in pocket part supplement form attached to Volume 3 of such code; to provide for the effective date of sections 4-01-14, 6-01-21.4, 6-09-17, chapters 10-24, 10-25, 10-26, 10-27, and 10-28, sections 11-03-08, 11-05-16, 11-08-06, 11-08-08, 11-08-13, 11-09-28, 11-10-02, 11-10-06, 11-11-10, 11-19-08, 11-19-13, 11-19-14, 11-19-15, 11-19-19,

11-30-16, 12-45-01, 12-49-06, 12-53-13, 15-21-02, 15-39-16, 15-39-21, 15-39-32, 15-40-07, 15-40-19, 15-40-20, 15-44-02, 15-44-03, 18-03-03, 18-03-04, 18-03-05, 18-03-07, 18-03-08, 18-04-02, 18-04-03, 18-04-05, 18-04-06, 18-05-12, 18-05-13, 19-01-08, 19-05-08, 19-05-09, 19-05-10, 20-13-07, 20-14-08, 24-02-12, 24-02-13, 24-02-37, 24-07-22, subsection 5 of section 25-01-01, subsection 12 of section 25-01-01, the last sentence of section 25-04-01, sections 25-04-12, 25-05-01, 25-08-10, 25-08-11, 25-08-13, 25-08-14, 25-08-15, 25-08-16, 25-08-17, 25-08-19, 25-08-20, 25-08-21, 26-22-09, 27-07-02, 27-08-20, 27-18-01, 27-18-02, 27-18-03, 27-18-04, 27-18-05, 29-01-14, 29-05-07, 29-05-29, 29-05-31, 29-07-06, 29-07-25, 29-08-18, 29-29-06, 32-12-03, 32-12-04, 32-14-09, 32-22-18, 33-01-00.1, 33-01-01, 33-01-03, 33-01-04, 33-01-08, 33-01-09, 33-01-11, 33-01-12, 33-01-15, 33-01-16, 33-01-17, 33-01-19, 33-01-20, 33-01-21, 33-01-22, 33-01-23, 33-01-24, 33-01-25, 33-02-12, 33-03-05, 33-03-12, 33-04-17, 33-05-03, 33-05-04, 33-05-08, 33-05-12, 33-08-17, 33-09-01, 33-09-09, 33-09-12, 33-10-01, 33-10-03, 33-11-03, 33-11-05, 33-11-07, 33-11-09, 33-11-10, 33-11-11, 33-11-12, 33-11-13, 33-11-14, 33-12-01, 33-12-06, 33-12-12, 33-12-34, 33-12-41, 36-01-17, 36-01-18, 36-11-10, 36-11-11, 36-16-04, 36-16-05, 36-16-06, 36-16-07, 36-16-08, 36-16-09, 36-16-10, 36-16-12, 36-22-09, 37-06-02, 37-06-03, 37-06-06, 37-15-13, 37-15-15, 38-06-59, 39-03-08, 39-06-16, 40-05-07, 40-07-08, 40-14-01, 40-15-01, 40-18-01, 40-18-03, 40-18-05, 40-18-06, 40-18-07, 40-18-08, 40-18-09, 40-18-10, 40-18-11, 40-18-13, 40-18-14, 40-18-15, 40-18-16, 40-18-17, 40-18-18, 40-18-19, 40-20-05, 40-49-17, 42-01-07, 42-03-01, 42-03-03, 44-05-01, 44-08-09, 44-09-01, 44-11-12, 47-19-14, 47-19-37, 49-01-09, 50-06-14, 54-06-06, 54-06-08, 54-10-01, 54-10-02, 54-10-03, 54-10-04, 54-11-01, 54-11-02, 54-11-03, 54-12-07, 54-14-01, 54-14-02, 54-15-04, 54-15-05, 54-15-06, 54-15-08, 54-15-09, 54-15-13, 54-16-08, 54-16-09, 54-18-14, 54-23-06, 54-23-41, 54-27-03, 54-27-04, 54-27-05, 54-27-06, 54-27-07, 54-27-08, 54-27-09, 54-27-11, 54-27-14, 54-27-15, 54-27-15.1, 54-27-15.4, 54-30-16, chapter 54-44, sections 55-01-04, 55-01-07, 57-37-24, 57-45-08, 58-04-02, 58-04-10, 58-05-02, 58-05-05, 58-05-07, 58-07-03, 58-11-01, and 61-02-13; to amend and reenact section 46-04-18 of the North Dakota Century Code relating to sales of the code; to provide for the repeal of sections 1-01-01.1, 1-01-01.2, 1-01-43, 1-02-33.1, chapters 4-03, and 4-04, sections 4-05-03.2, 4-05-08.2, 4-05-08.3, 5-01-24, 5-02-10, 5-03-18, 5-05-06, 5-05-18, 5-05-19, 6-03-29.1, 6-03-30, 6-03-75, 6-09-31, 10-04-20, 10-12-05, 10-13-09, 10-23-18, 10-23-19, 11-10-10.3, 11-10-10.4, 11-14-01, 12-21-08, 12-22-18, 15-03-14.1, 15-07-19, 15-08-18.2, 15-08-18.4, 15-08-18.5, subsection 14 of section 15-29-08, sections 15-36-03, 15-36-09, 15-36-14, 15-41-22, 15-56-01, 15-56-01.1, 15-56-02, 15-56-03, 15-56-04, 15-56-05, 15-56-06, 15-56-07, 15-56-08, 15-56-09, 16-17-18.2, 16-18-08, the first paragraph of section 19-02-14.1, sections 19-02-30, 19-02-31, 19-02-32, 19-02-33, 19-19-01, 20-01-04.2, 20-01-04.3, 20-05-02.2, 23-16-13, 23-20-01, chapter 24-A01, sections 24-01-24, 24-12-10, 24-13-11, 24-13-12, 24-13-13, 24-13-14, 25-05-12, 25-05-32, 26-22-40, 27-04-08.1, 28-02-02, 28-05-06, 28-06-11, 28-06-12, 28-06-13, 28-06-14, 28-06-15, 28-06-18, 28-07-21, 28-09-08, 28-12-11, 28-15-05, 28-15-06, 28-15-07, 28-15-08, 28-15-11, 28-28-04, 28-28-05, 28-28-08, 28-28-09, 29-26-22.3, 29-30-12, 29-30-17, 30-23-18, 30-23-19, 31-12-05, 32-15-03.1, 32-15-07, 32-15-08, 32-15-09, 32-15-10, 32-15-11, 32-15-12, 32-15-15, 33-04-05, 33-04-08, 33-04-09, 33-04-10, 33-04-12, 33-04-13, 33-08-03, 34-01-09.2, 34-01-09.3, 34-01-11, 34-06-21, 34-09-07, chapter 35-16, sections 35-24-23, 35-25-12, 36-01-20, 36-08-10, 36-09-21, 36-11-05, 36-11-05.1, 37-01-25.2, chapter 37-13, section 37-18-10, chapter 37-22, sections 38-04-05, 38-09-01.4, 39-06-41, 39-11-01.1, 39-16-33, 39-16-34, 39-16-35, 39-16-36, 39-16-37, 39-17-06.1, 40-05-01.2, 40-15-04, 40-22-41, 40-22-42, 40-23-07.1, 40-52-01, 41-02-24, 41-02-25, 41-17-15, 41-17-18, 43-09-24, 43-15-37, chapter 43-16, sections 43-19-17, 43-21-06,

44-01-15, 46-03-04, 47-04-13, 47-04-15, 47-04-16, 47-04-17, 47-04-18, 49-02-13, 49-02-19, 49-05-13, 49-15-05, 49-20-07, 50-01-11, 50-04-09, 50-07-40, chapter 51-03, sections 51-05-07, 51-05-12, 51-07-05, 51-07-06, 51-08-09, 51-08-10, 51-08-12, 52-01-05, chapter 52-07, sections 53-02-11, 53-02-14, 54-06-13, 54-15-15, 54-18-16, chapter 54-20, sections 54-23-44, 54-23-46, 54-23-47, 54-23-48, chapter 54-26, sections 54-27-09.1, 54-27-09.2, chapter 54-33, sections 57-15-06.1, 57-15-06.2, 57-15-25, 57-15-29, 57-15-29.1, 57-15-47, 57-40-15, 57-48-17, 58-05-17, 58-10-01, 58-10-02, 58-14-04, 61-21-59, 61-21-60, 61-21-61, 65-05-18, and 65-11-07; to provide for the delayed repeal of sections 6-01-21, chapters 10-08, 10-09, 10-10, and 10-11, sections 11-10-03, 40-18-02, 54-10-05, 54-10-06, 54-10-07, 54-10-08, 54-10-09, 54-10-11, chapter 54-13, sections 54-15-12, 54-15-14, 54-21-15, 54-21-16, 54-27-15.2, 58-10-01, 58-10-02, 58-14-04, and 65-02-10; to provide for the citation of sections in the North Dakota Century Code and pocket part supplements thereto; and declaring an emergency.

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

§ 1. Effective Date of Certain Sections.) Sections 4-01-14, 6-01-21.4, 6-09-17, chapters 10-24, 10-25, 10-26, 10-27, and 10-28, sections 11-03-08, 11-05-16, 11-08-06, 11-08-08, 11-08-13, 11-09-28, 11-10-02, 11-10-06, 11-11-10, 11-19-08, 11-19-13, 11-19-14, 11-19-15, 11-19-19, 11-30-16, 12-45-01, 12-49-06, 12-53-13, 15-21-02, 15-39-16, 15-39-21, 15-39-32, 15-40-07, 15-40-19, 15-40-20, 15-44-02, 15-44-03, 18-03-03, 18-03-04, 18-03-05, 18-03-07, 18-03-08, 18-04-02, 18-04-03, 18-04-05, 18-04-06, 18-05-12, 18-05-13, 19-01-08, 19-05-08, 19-05-09, 19-05-10, 20-13-07, 20-14-08, 24-02-12, 24-02-13, 24-02-37, 24-07-22, subsection 5 of section 25-01-01, subsection 12 of section 25-01-01, the last sentence of section 25-04-01, sections 25-04-12, 25-05-01, 25-08-10, 25-08-11, 25-08-13, 25-08-14, 25-08-15, 25-08-16, 25-08-17, 25-08-19, 25-08-20, 25-08-21, 26-22-09, 27-07-02, 27-08-20, 27-18-01, 27-18-02, 27-18-03, 27-18-04, 27-18-05, 29-01-14, 29-05-07, 29-05-29, 29-05-31, 29-07-06, 29-07-25, 29-08-18, 29-29-06, 32-12-03, 32-12-04, 32-14-09, 32-22-18, 33-01-00.1, 33-01-01, 33-01-03, 33-01-04, 33-01-08, 33-01-09, 33-01-11, 33-01-12, 33-01-15, 33-01-16, 33-01-17, 33-01-19, 33-01-20, 33-01-21, 33-01-22, 33-01-23, 33-01-24, 33-01-25, 33-02-12, 33-03-05, 33-03-12, 33-04-17, 33-05-03, 33-05-04, 33-05-08, 33-05-12, 33-08-17, 33-09-01, 33-09-09, 33-09-12, 33-10-01, 33-10-03, 33-11-03, 33-11-05, 33-11-07, 33-11-09, 33-11-10, 33-11-11, 33-11-12, 33-11-13, 33-11-14, 33-12-01, 33-12-06, 33-12-12, 33-12-34, 33-12-41, 36-01-17, 36-01-18, 36-11-10, 36-11-11, 36-16-04, 36-16-05, 36-16-06, 36-16-07, 36-16-08, 36-16-09, 36-16-10, 36-16-12, 36-22-09, 37-06-02, 37-06-03, 37-06-06, 37-15-13, 37-15-15, 38-06-59, 39-03-08, 39-06-16, 40-05-07, 40-07-08, 40-14-01, 40-15-01, 40-18-01, 40-18-03, 40-18-05, 40-18-06, 40-18-07, 40-18-08, 40-18-09, 40-18-10, 40-18-11, 40-18-13, 40-18-14, 40-18-15, 40-18-16, 40-18-17, 40-18-18, 40-18-19, 40-20-05, 40-49-17, 42-01-07, 42-03-01, 42-03-03, 44-05-01, 44-08-09, 44-09-01, 44-11-12, 47-19-14, 47-19-37, 47-01-09, 50-06-14, 54-06-06, 54-06-08, 54-10-01, 54-10-02, 54-10-03, 54-10-04, 54-11-01, 54-11-02, 54-11-03, 54-12-07, 54-14-01, 54-14-02, 54-15-04, 54-15-05,

54-15-06, 54-15-08, 54-15-09, 54-15-13, 54-16-08, 54-16-09, 54-18-14, 54-23-06, 54-23-41, 54-27-03, 54-27-04, 54-27-05, 54-27-06, 54-27-07, 54-27-08, 54-27-09, 54-27-11, 54-27-14, 54-27-15, 54-27-15.1, 54-27-15.4, 54-30-16, chapter 54-44, sections 55-01-04, 55-01-07, 57-37-24, 57-45-08, 58-04-02, 58-04-10, 58-05-02, 58-05-05, 58-05-07, 58-07-03, 58-11-01, and 61-02-13 of the North Dakota Century Code are not effective until July 1, 1961.

§ 2. Repeal.) Sections 1-01-01.1, 1-01-01.2, 1-01-43, 1-02-33.1, chapters 4-03, and 4-04, sections 4-05-03.2, 4-05-08.2, 4-05-08.3, 5-01-24, 5-02-10, 5-03-18, 5-05-06, 5-05-18, 5-05-19, 6-03-29.1, 6-03-30, 6-03-75, 6-09-31, 10-04-20, 10-12-05, 10-13-09, 10-23-18, 10-23-19, 11-10-10.3, 11-10-10.4, 11-14-01, 12-21-08, 12-22-18, 15-03-14.1, 15-07-19, 15-08-18.2, 15-08-18.4, 15-08-18.5, subsection 14 of section 15-29-08, sections 15-36-03, 15-36-09, 15-36-14, 15-41-22, 15-56-01, 15-56-01.1, 15-56-02, 15-56-03, 15-56-04, 15-56-05, 15-56-06, 15-56-07, 15-56-08, 15-56-09, 16-17-18.2, 16-18-08, the first paragraph of section 19-02-14.1, sections 19-02-30, 19-02-31, 19-02-32, 19-02-33, 19-19-01, 20-01-04.2, 20-01-04.3, 20-05-02.2, 23-16-13, 23-20-01, chapter 24-A01, sections 24-01-24, 24-12-10, 24-13-11, 24-13-12, 24-13-13, 24-13-14, 25-05-12, 25-05-32, 26-22-40, 27-04-08.1, 28-02-02, 28-05-06, 28-06-11, 28-06-12, 28-06-13, 28-06-14, 28-06-15, 28-06-18, 28-07-21, 28-09-08, 28-12-11, 28-15-05, 28-15-06, 28-15-07, 28-15-08, 28-15-11, 28-28-04, 28-28-05, 28-28-08, 28-28-09, 29-26-22.3, 29-30-12, 29-30-17, 30-23-18, 30-23-19, 31-12-05, 32-15-03.1, 32-15-07, 32-15-08, 32-15-09, 32-15-10, 32-15-11, 32-15-12, 32-15-15, 33-04-05, 33-04-08, 33-04-09, 33-04-10, 33-04-12, 33-04-13, 33-08-03, 34-01-09.2, 34-01-09.3, 34-01-11, 34-06-21, 34-09-07, chapter 35-16, sections 35-24-23, 35-25-12, 36-01-20, 36-08-10, 36-09-21, 36-11-05, 36-11-05.1, 37-01-25.2, chapter 37-13, section 37-18-10, chapter 37-22, sections 38-04-05, 38-09-01.4, 39-06-41, 39-11-01.1, 39-16-33, 39-16-34, 39-16-35, 39-16-36, 39-16-37, 39-17-06.1, 40-05-01.2, 40-15-04, 40-22-41, 40-22-42, 40-23-07.1, 40-52-01, 41-02-24, 41-02-25, 41-17-15, 41-17-18, 43-09-24, 43-15-37, chapter 43-16, sections 43-19-17, 43-21-06, 44-01-15, 46-03-04, 47-04-13, 47-04-15, 47-04-16, 47-04-17, 47-04-18, 49-02-13, 49-02-19, 49-05-13, 49-15-05, 49-20-07, 50-01-11, 50-04-09, 50-07-40, chapter 51-03, sections 51-05-07, 51-05-12, 51-07-05, 51-07-06, 51-08-09, 51-08-10, 51-08-12, 52-01-05, chapter 52-07, sections 53-02-11, 53-02-14, 54-06-13, 54-15-15, 54-18-16, chapter 54-20, sections 54-23-44, 54-23-46, 54-23-47, 54-23-48, chapter 54-26, sections 54-27-09.1, 54-27-09.2, chapter 54-33, sections 57-15-06.1, 57-15-06.2, 57-15-25, 57-15-29, 57-15-29.1, 57-15-47, 57-40-15, 57-48-17, 58-05-17, 58-10-01, 58-10-02, 58-14-04, 61-21-59, 61-21-60, 61-21-61, 65-05-18, and 65-11-07 of the North Dakota Century Code are hereby repealed.

§ 3. Delayed Repeals.) Sections 6-01-21, chapters 10-08, 10-09, 10-10, and 10-11, sections 11-10-03, 40-18-02, 54-10-05,

54-10-06, 54-10-07, 54-10-08, 54-10-09, 54-10-11, chapter 54-13, sections 54-15-12, 54-15-14, 54-21-15, 54-21-16, 54-27-15.2, 58-10-01, 58-10-02, 58-14-04, and 65-02-10 of the North Dakota Century Code are repealed July 1, 1961.

§ 4. **Amendment.)** Section 46-04-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows to correct an error which appears in the North Dakota Century Code:

46-04-18. Secretary of State to Sell Certain Laws.) Volumes of the laws of this state, excluding the North Dakota Century Code, shall be sold by the secretary of state to any person applying therefor at cost plus ten percent. All moneys received under the provisions of this section shall be paid over to the state treasurer and credited to the general fund.

§ 5. **Citations.)** All amendments of and additions to the North Dakota Century Code appearing in pocket part supplements shall be cited as sections of the North Dakota Century Code.

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

§ 7.) The North Dakota Century Code, together with chapter 13-03 thereof, which is a special pocket part supplement attached to Volume 3 of the North Dakota Century Code, is hereby enacted to read as follows:

Approved January 9, 1961.

AERONAUTICS

CHAPTER 97

S. B. No. 135
(Erickson, Gronvold)

REGISTRATION OF AIRMEN

AN ACT

To amend and reenact section 2-05-10 of the North Dakota Century Code, relating to registration of airmen.

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

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

2-05-10. Registration of Airmen.) Every individual who pilots, maintains, and certifies airworthiness of an aircraft within this state shall register with the commission and shall renew such registration every two years thereafter in which he pilots, maintains, or certifies airworthiness of an aircraft within this state. The commission shall charge for any one or more such registrations for each individual or company, and for each two-year renewal thereof, a fee of three dollars, except that the commission shall charge one dollar and fifty cents for each two-year registration or renewal thereof for student pilots.

Approved February 23, 1961.

CHAPTER 98

S. B. No. 107
(Gefreh)

PRINTING ERROR CORRECTION

AN ACT

To amend and reenact the first paragraph of section 16 of chapter 91 of the 1959 Session Laws appearing as section 2-06-15 of the North Dakota Century Code, relating to renumbering such section to appear as section 2-06-16 of the North Dakota Century Code and to correct a printing error.

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

§ 1. **Amendment.)** The first paragraph of section 16 of chapter 91 of the 1959 Session Laws which appears as section 2-06-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-16. Joint Operations.) 1. For the purposes of this section, unless otherwise qualified, the term "public agency" includes municipality and authority, each as defined in this chapter, any agency of the state government and of the United States, and any municipality, political subdivision and agency of an adjoining state; and the term "governing body" includes commissioners of an authority, the governing body of a municipality, and the head of an agency of a state or the United States if the public agency is other than an authority or municipality. All powers, privileges, and authority granted by this chapter may be exercised and enjoyed by an authority jointly with any public agency of this state, and jointly with any public agency of any adjoining state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise of enjoyment. Any agency of the state government, when acting jointly with any authority, may exercise and enjoy all the powers, privileges, and authority conferred by this chapter upon an authority.

Approved February 28, 1961.

AGRICULTURE

CHAPTER 99

S. B. No. 110
(Fiedler)

AGRICULTURAL FAIR ELECTION

AN ACT

To amend and reenact section 4-02-30 of the North Dakota Century Code, relating to the submission to a vote of the people of the county the question of levying a tax in aid of an agricultural fair.

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

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

4-02-30. Tax Provided For To Be Submitted to Vote.)

Whenever the board of county commissioners shall have voted and ordered a tax levied in aid of an agricultural fair, at the next general election the question of continuing the annual levy and collection of the tax shall be submitted to a vote of the people of the county. The county auditor shall certify and give notice of the submission of the question as in such cases provided by law. The ballots to be used at the election shall be in the following form:

	Yes	<input type="checkbox"/>
For tax in aid of county fair	No	<input type="checkbox"/>

If a majority of the ballots heretofore or hereafter cast on the question at any such election is in favor of continuing such tax, the board of county commissioners shall continue the annual levy hereof as long as the provisions of section 4-02-29 are complied with and until otherwise directed as herein provided.

Whenever a petition addressed to such board, asking the discontinuance of such tax and containing the signatures of the qualified electors of the county in a number equal to twenty percent of the total vote cast in the county at the last preceding general election, is filed in the office of the county auditor, the board shall submit to the electors of the

county at the next succeeding general election the question of whether or not the levying of such tax shall be continued. The ballot shall be in the following form:

Yes

Shall the board of county commissioners continue the annual levy of a tax in aid of county fair?

No

If a majority of all the ballots cast at such election is in favor of discontinuing the tax, the board of county commissioners shall not thereafter levy any tax under this chapter until the question of resuming such annual levy and collection of the tax is submitted to a vote of the people of the county. The ballots to be used at such election shall be in the following form:

Yes

Shall the board of county commissioners resume the annual levy of a tax in aid of a county fair?

No

If a majority of all of the ballots cast at such election is in favor of resuming the tax, the board of county commissioners shall resume the annual levy thereof as long as the provisions of section 4-02-29 are complied with and until otherwise directed as herein provided.

Before every such election, the county auditor shall certify and give notice of the submission of the question as in such cases provided by law.

Approved February 28, 1961.

CHAPTER 100

H. B. No. 554

(Johnson, Saugstad, Anderson of McHenry, Winge, Tescher)

COUNTY AGENTS, TRANSPORTATION EXPENSES

AN ACT

To amend and reenact section 4-08-10 of the North Dakota Century Code, relating to transportation expenses of county agents, and declaring an emergency.

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

§ 1. **Amendment.**) Section 4-08-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-08-10. County Agent to Submit Monthly Account of Expenditures.) An accurate itemized account of all expenditures incurred by the county agent in the regular conduct of his duties shall be submitted monthly by him to the extension division of the North Dakota State University of Agriculture and Applied Science for examination and audit. Where charges are made by a county agent for money expended in the performance of official duties, all items of one dollar or more so expended and charged for shall be covered by a sub-voucher or receipt which shall be signed by the person to whom the money was paid. The sub-voucher or receipt shall show at what place, on what date, and for what, the money expended was paid. The sub-vouchers or receipts shall be forwarded with the bill, claim, account, or demand against the county. Where charges are made for transportation expenses they shall not exceed the amounts provided by section 11-10-15 of this code, and shall be in itemized form showing the mileage traveled, the days when and how traveled, and the purpose thereof, verified by his affidavit. Such account shall be transmitted and recommended for payment by the extension division of the North Dakota State University of Agriculture and Applied Science which shall audit the same and which may approve or disallow any expense item therein. The extension division of the North Dakota State University of Agriculture and Applied Science shall be under the control, and subject to the supervision, of the state board of higher education.

§ 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 2, 1961.

CHAPTER 101

H. B. No. 796

(Reimers, Scott, Baldwin)

LABELING REQUIREMENTS FOR AGRICULTURAL SEED

AN ACT

To amend and reenact subsection 1 of section 4-09-10 of the North Dakota Century Code, relating to labeling requirements for agricultural seed.

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

§ 1. Amendment.) Subsection 1 of section 4-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. a. In seeds of wheat, durum, barley, oats, rye and flax the commonly accepted name of the kind and variety of each agricultural seed component in excess of five percent of the whole and the percentage by weight of each. If the variety is unknown that fact shall be stated.
- b. In all other seeds not named in subsection 1a of this section the commonly accepted name of the kind or the kind and variety of each agricultural seed component in excess of five percent of the whole and the percentage of weight of each.

When more than ten percent of the whole consists of an aggregate of agricultural seed components, each present in an amount not exceeding five percent of the whole, each component in excess of one percent of the whole shall be named together with the percentage by weight of each. All components shall be listed in the order of their predominance. Where more than one component is named, the word "mixture," or the word "mixed," shall be shown conspicuously on the label;

Approved March 7, 1961.

CHAPTER 102

S. B. No. 136
(Kee, Hernet)

LICENSING AND BONDING OF PURCHASERS AND PROCESSORS OF DAIRY PRODUCTS

AN ACT

To create and enact section 4-18-02.1 and to amend and reenact section 4-18-02 of the North Dakota Century Code, relating to the licensing and bonding of purchasers and processors of dairy products.

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

§ 1.) Section 4-18-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-18-02.1. Bonding of Purchasers and Processors of Dairy Products.) After the effective date of this section, each applicant for a license under the provisions of section 4-18-02 shall file with his application a bond issued by a surety company authorized to do business in this state. Such bond shall be in an amount equal to the average weekly cost of dairy products

purchased during the previous year, or such other amount as the dairy commissioner shall determine necessary to reasonably protect persons selling dairy products to such applicant. The dairy department shall be named as obligee in each such bond, but the bond shall be held for the purpose of protecting, and for the benefit of, any person selling dairy products to applicant and the full and complete payment to the seller for all dairy products purchased by the licensee; provided, however, that the aggregate liability of the surety to all such persons shall in no event exceed the amount of such bond.

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

4-18-02. Licenses Required—Fees—Term.) Every person, firm, or corporation owning or operating a creamery, cheese factory, renovating or process butter factory, ice cream factory, cream station, or dairy in this state, or operating a regular route for picking up cream or milk in this state for use in a creamery, cheese factory, renovating or process butter factory, ice cream factory, cream station, or dairy located without the state, before beginning business, shall obtain from the dairy commissioner a license for each and every creamery, cheese factory, renovating or process butter factory, ice cream factory, cream station, or dairy, and one license for all such milk or cream pick up routes owned or operated by said person, firm, or corporation. The license shall be good for one year. The fee for such license for a creamery, cheese factory, renovating or process butter factory, ice cream factory, milk or cream route, or cream station, as defined in this chapter, shall be ten dollars. The fee for such license for a dairy shall be two dollars.

Approved March 11, 1961.

CHAPTER 103

H. B. No. 595

(Christensen of Ward, Hofstrand, Breum, Johnson, Loder)

STATE SOIL CONSERVATION COMMITTEE, MEMBERSHIP

AN ACT

To amend and reenact section 4-22-03 of the North Dakota Century Code, relating to membership on the state soil conservation committee.

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

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

4-22-03. State Soil Conservation Committee — Members — Compensation — Records and Seal.) The “state soil conservation committee” shall be maintained as an agency of this state to perform the functions conferred upon it in this chapter. The committee shall be composed of ex officio members to consist of the governor, the commissioner of agriculture and labor, the director of the state extension service, and the president of the North Dakota association of soil conservation districts, and regular members to consist of four soil district supervisors. Such regular members first appointed shall be appointed by the present state soil conservation committee from a list of at least eight supervisors submitted by the state association of soil district supervisors. The term of appointment for the regular members shall be for two years each, except that in the first appointment of regular members two shall be appointed for two year terms, and two shall be appointed for one year terms. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The members of the committee shall receive no compensation for serving on such committee other than their traveling expenses necessarily incurred in carrying out the duties prescribed for such committee under the terms of this chapter. The committee shall keep a record of its official actions, shall adopt a seal which shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this chapter.

Approved February 17, 1961.

ALCOHOLIC BEVERAGES

CHAPTER 104

H. B. No. 643
(Wheeler)

REGULATE AND LICENSE BOTTLE CLUBS

AN ACT

To regulate and license bottle clubs in this state, and providing a penalty.

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

§ 1. License and Regulation of Bottle Clubs—Definition—Penalty.) All bottle clubs shall be licensed by a political subdivision in the same manner and for the same fee as is provided in section 5-03-03 for the licensing of persons engaging in the retail sale of liquor. In addition, a bottle club shall also be licensed annually by the attorney general, who may prescribe such standards and qualifications for such license as he may deem necessary. The fee for the license issued by the attorney general shall be one hundred dollars annually.

It shall be unlawful for any bottle club to permit the consumption, dispensing, or serving of alcoholic beverages or soft drinks or mixes for alcoholic beverages or do any other act until the licenses provided by this section have been procured. In addition, it shall also be unlawful for any bottle club to allow any person under the age of twenty-one to purchase or consume any alcoholic beverage or soft drink or be in any room of any bottle club in which any alcoholic beverage is served or consumed.

All moneys received by the attorney general from the issuance of licenses to bottle clubs as provided in this section shall be transferred by him to the state treasurer and deposited in the general fund.

For purposes of this section a "bottle club" shall mean and include any establishment, public or private, which for a fee or consideration of any kind furnishes soft drinks, mix, ice, or any other service for the mixing thereof with any alcoholic beverage brought on the premises or which permits persons to bring alcoholic beverages on the premises for their own use and consumption or which permits the storage of alcoholic beverages on the premises for later use.

It shall be unlawful for any bottle club to sell or give away at any time any alcoholic beverage of any kind.

Any person violating any of the provisions of this section may have his license suspended or revoked as provided by section 5-03-20 or chapter 5-05 and in addition, such person shall be guilty of a misdemeanor.

Approved March 3, 1961.

CHAPTER 105

S. B. No. 94

(Meidinger, Nesvig, Wartner, Van Horn)

MANUFACTURE AND SALE OF BEER

AN ACT

To amend and reenact section 5-02-01 of the North Dakota Century Code, relating to the manufacturing and sale of beer.

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

§ 1. Amendment.) Section 5-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-01. Manufacture and Sale of Beer Permitted.) Beer and ale containing four percent, or more, or less, of alcohol by weight, may be manufactured or sold in this state subject to the provisions of this chapter and chapter 5-05.

Approved March 3, 1961.

CHAPTER 106

S. B. No. 95

(Foss)

TAX ON SALE OF BEER AND LIQUOR

AN ACT

To amend and reenact sections 5-02-22 and 5-03-22 of the North Dakota Century Code, relating to the imposition of taxes on the sale of beer and liquor.

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

§ 1. Amendment.) Section 5-02-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-22. Separate Additional Tax on Sale of Beer—Collection—Penalty.) There hereby is levied and assessed and there shall be collected by the state treasurer for the general fund upon all beer sold in bottles or cans in North Dakota to consumers, an additional tax, separate and apart from all other taxes, of one cent per pint or a pro rata proportion thereof in accordance with the size of the container. This additional tax shall be collected as existing taxes on such beer are or hereafter may be collected, and shall be subject to similar accounting procedures, but no part of the revenue from this tax shall ever be used as such to satisfy any statutory allocation of beer tax revenues; provided, however, that this section, and the provisions thereof shall expire by their own limitation on July 1, 1967. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

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

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

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

Approved March 15, 1961.

CHAPTER 107

S. B. No. 219
(Wartner, Brooks, Garaas)

LEVY AND COLLECTION OF EXCISE TAXES

AN ACT

To amend and reenact sections 5-03-06, 5-03-08, 5-03-09, 5-03-14, 5-03-21 and 5-04-03 of the North Dakota Century Code, and to repeal section 5-03-07 of the North Dakota Century Code, and to enact supplemental sections, relating to levy and collection of excise taxes on alcoholic beverages, providing for the elimination of the use of excise tax stamps and the inauguration of a monthly return system to pay such taxes and providing for an effective date.

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

§ 1. **Amendment.)** Section 5-03-06 of 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.

§ 2. **Repeal.)** Section 5-03-07 of the North Dakota Century Code is hereby repealed.

§ 3. **Amendment.)** Section 5-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-08. Licensed Liquor Dealers' Reports.) All wholesale liquor dealers liable for any tax imposed by this chapter shall keep, in current and available form on the licensed premises, records of all purchases, sales, quantities on hand, and such other information as the state treasurer may by regulations prescribe. The state treasurer may require from any licensed wholesale or retail liquor dealer in North Dakota any reports as the state treasurer shall prescribe, and he may require the production of any book, record, document, invoice, and voucher kept, maintained, received, or issued by any such licensed dealer in connection with his business which in the judgment of the state treasurer may be necessary to administer and discharge his duties as custodian of the liquor fund and to secure the maximum of revenue to be paid into said liquor fund, and to carry out the provisions of law. If default is made, or if any such licensee shall fail or refuse to furnish any of the reports or information referred to upon request therefor, the state treasurer, or any of his duly appointed representatives,

may enter upon the premises of such licensee where said records are kept and make such examination as is necessary to compile the required report. The cost of such examination shall be paid by the dealer whose reports are in default.

§ 4. **Amendment.)** Section 5-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-03-09. Disposition of Tax Moneys.)** All moneys received representing the excise tax herein provided for shall be deposited into the general fund of this state.

§ 5. **Amendment.)** Section 5-03-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-14. Payment of Taxes—Wholesale Dealers File Returns and Copies of Invoices.) The taxes levied by this chapter upon alcoholic beverages shall be paid by the wholesale dealer by whom such beverages are sold. Such taxes shall be paid only once. On or before the fifteenth day of every month, every licensed wholesale liquor dealer shall file with the state treasurer a return, on such form as the state treasurer may require, showing the kind and quantity of alcoholic beverages received, disposed of, and on hand during the preceding calendar month, the persons from whom received, the amount of tax due, and containing such other information as the state treasurer shall by regulation prescribe. Such return shall be accompanied by copies of all invoices of liquor sold during the preceding calendar month. Such invoices shall show the name and address of the purchaser, the date of sale, the sale price of the merchandise sold, the kind of merchandise, the number and size of containers, and the wholesaler is required to remit with such return the amount of the tax due during the period covered by the transmitted return.

§ 6. **Amendment.)** Section 5-03-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-03-21. Penalty.) Any person violating any of the provisions of this chapter for which a specific penalty is not provided as a first offense shall be punished by a fine of not 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. Any subsequent offense shall be punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. If the person

***Note:** Section 5-03-09 was also amended by section 2 of chapter 211 of the 1961 Session Laws; however the section reads identically the same in both amendments.

so convicted is the holder of a license, the same shall be revoked by the governing body issuing the same, and such conviction shall be sufficient evidence and ground for such revocation.

§ 7. Enact.) Bond to Secure Payment of Tax.) Any wholesale liquor dealer liable for the payment of any taxes levied by this chapter shall file with the state treasurer a bond or bonds, in such amount and form as the state treasurer shall prescribe, with surety satisfactory to the state treasurer, but not more than fifty thousand dollars. Such bond or bonds shall run to the state of North Dakota and shall be conditioned on the payment of all taxes levied by this chapter on or before the due date of payment, and on the payment of all fines and penalties lawfully imposed by reason of failure to pay any such taxes on the date payment is due.

§ 8. Enact.) Penalty for Not Filing—For False or Fraudulent Return.)

1. If any wholesale liquor dealer liable for any tax imposed by this chapter shall fail to pay such tax on the date payment is due, there shall be added to the tax five percent per month of the total amount of the tax unpaid from the due date of payment until paid. If any wholesale liquor dealer shall file a false or fraudulent return, there shall be added to the tax an amount equal to the tax evaded, or attempted to be evaded, and all such taxes and civil penalties may be collected by assessment and distraint, and no court of this state shall enjoin the collection of any such tax or civil penalty.
2. Any wholesale liquor dealer required by this chapter to make, render, sign, or verify any return who shall fail to make such return when due shall also be guilty of a misdemeanor and upon conviction be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or by imprisonment in the county jail for not less than ninety days nor more than one year, or by both such fine and imprisonment. Any person who shall file a false or fraudulent return in connection with any tax imposed by this chapter, or willfully evade, or attempt to evade, any tax herein levied shall upon conviction be fined not more than five thousand dollars, or imprisoned for not more than three years, or both such fine and imprisonment.

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

5-04-03. Wholesaler's Report—Revenue to go into Revolving Fund.) Any wholesaler selling to any such carrier shall

report such sale as in the case of other sales of intoxicating liquors. The revenue realized from the sale of intoxicating liquors, sold under the provisions of this chapter, shall be deposited into the general fund.

§ 10. Credit for Returned Stamps.) The state treasurer shall allow proper credit to the purchaser of excise tax stamps purchased under the provisions of chapters 5-03 and 5-04 of the North Dakota Century Code and supplements thereto for unused stamps in the possession of the purchaser on the effective date of this Act upon delivery of such unused stamps to the state treasurer.

§ 11. Effective Date.) The provisions of this Act shall become effective on and after October 1, 1961.

Approved March 17, 1961.

BANKS AND BANKING

CHAPTER 108

S. B. No. 266
(Lips, Garaas, and George)

LIMITATION OF LOANS BY BANKS

AN ACT

To amend and reenact section 6-03-59 of the North Dakota Century Code, relating to limitation of loans by banks.

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 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 fifteen 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. The limitation on liability herein specified may be increased to an amount not exceeding twenty percent of the association's unimpaired capital and surplus with the consent and approval of the state examiner. In the case of obligations of any person, partnership, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock, the limitation on liability herein specified

may be increased to an amount not exceeding twenty-five percent of the association's unimpaired capital and surplus, when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent of the face amount of the notes covered by such documents.

Approved March 3, 1961.

CHAPTER 109

S. B. No. 141

(Hystad, Miller, Berube, Witteman)

CREDIT UNIONS

AN ACT

To amend and reenact sections 6-06-14 and 6-06-29 of the North Dakota Century Code, relating to loans and taxation, and to provide for conversions of credit unions.

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

§ 1. **Amendment.**) Section 6-06-14 of 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 four hundred 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.

§ 2. **Amendment.)** Section 6-06-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-29. Taxation of Credit Unions.) Any credit union organized under this Act or under the Federal Credit Union Act shall be exempt from all taxation now or hereafter imposed by the state or any municipality within the state or any local taxing authority and no law which taxes corporations in any form, or the shares thereof, or the accumulations thereon, shall apply to any such credit union; except that any real property and any tangible personal property owned by any credit union organized under this Act or under the Federal Credit Union Act shall be subject to taxation to the same extent as other similar property is taxed. The shares of credit unions shall not be subject to any stock transfer tax, either when issued or when transferred from one member to another. The participation by the credit union in any unemployment insurance funds, or social security fund, or old age fund, shall not be deemed a waiver of the tax immunities hereby granted.

§ 3. **Conversion from State to Federal Credit Union and from Federal to State Credit Union.)** 1. A state credit union may be converted into a federal credit union under the laws of the United States by complying with the following requirements:

- a. The proposition for such conversion shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on such date or by written ballot to be filed on or before such date), by a majority of the directors of the state credit union. Written notice of the proposition and of the date set for the vote shall then be delivered in person to each member or mailed to each member at the address for such member appearing on the records of the credit union, not more than thirty nor less than seven days prior to such date. Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members in person or in writing.

- b. A statement of the results of the vote, verified by the affidavits of the president or vice president and the secretary shall be filed with the state credit union board within ten days after the vote is taken.
 - c. Promptly after the vote is taken and in no event later than ninety days thereafter, if the proposition for conversion was approved by such vote, the credit union shall take such action as may be necessary under the applicable federal law to make it a federal credit union, and within ten days after receipt of the federal credit union charter there shall be filed with the state credit union board a copy of the charter thus issued. Upon such filing the credit union shall cease to be a state credit union.
 - d. Upon ceasing to be a state credit union, such credit union shall no longer be subject to any of the provisions of the North Dakota credit union law. The successor federal credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the state credit union to the same extent as though the conversion had not taken place.
2. a. A federal credit union, organized under the laws of the United States may be converted into a state credit union by (1) complying with all federal requirements requisite to enabling it to convert to a state credit union or to cease being a federal credit union, (2) filing with the state credit union board proof of such compliance, satisfactory to the state examiner and (3) filing with the state examiner organization certificates as required by North Dakota law.
 - b. When the state examiner has been satisfied that all of such requirements, and all other requirements of the North Dakota law have been complied with, the state credit union board shall approve the organization certificate. Upon such approval, the federal credit union shall become a state credit union as of the date it ceases to be a federal credit union. The state credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the federal credit union to the same extent as though the conversion had not taken place.

Approved March 16, 1961.

CHAPTER 110

H. B. No. 923
(Goebel)

NONSUFFICIENT FUNDS

AN ACT

To amend and reenact section 6-08-16 and to create and enact section 6-08-16.1 of the North Dakota Century Code, relating to the issuance of a check or draft without sufficient funds or an account, and providing a penalty.

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

§ 1. **Amendment.)** Section 6-08-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-08-16. Issuing Check or Draft Without Sufficient Funds or Credit — Notice — and Time Limitation — Penalty.) 1. Any person for himself or as the agent or representative of another, or as an officer or member of a firm, company, copartnership, or corporation makes or draws or utters or delivers any check, draft, or order for the payment of money upon a bank, banker, or depository, and at the time of such making, drawing, uttering or delivery, or at the time of presentation for payment if made within one week after the original delivery thereof, has not sufficient funds in or credit with such bank, banker, or depository to meet such check, draft, or order in full upon its presentation, shall be punished by a fine of not less than ten dollars, and 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. The word "credit" as used in this section shall mean an arrangement or understanding with the bank, banker, or depository for the payment of such check, draft, or order. The making of a postdated check knowingly received as such, or of a check issued under an agreement with the payee that the same would not be presented for payment for a time specified, shall not constitute a violation of this section. This section shall not be construed to nullify or supersede any of the provisions of chapter 12-38.

2. A notice of dishonor may be sent by the holder of the check upon dishonor, said notice to be in substantially the following form:

Notice of Dishonored Check

Date
Name of Issuer
Street Address

City and State
 You are according to law hereby notified that a check dated
, 19....., drawn on the
 Bank of in the amount of
 has been returned unpaid with the notation that payment has
 been refused because of nonsufficient funds. Within ten days
 from the receipt of this notice, you must pay or tender to
sufficient moneys to pay

(Holder)

such instrument in full. Such notice may also contain a recital of the penal provisions of this section.

The criminal complaint for the offense of issuing a check, draft, or money order without sufficient funds under this section must be executed within not more than sixty days after the dishonor by the drawee of said instrument for nonsufficient funds. Failure to execute a complaint within said time shall bar the criminal charge under this section.

§ 2.) Section 6-08-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-08-16.1. Issuing Check or Draft Without Account.) Any person who shall issue any check, draft, or order upon any bank, for the payment of money, and, at the time of such issuance does not have an account with such bank, shall be 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 one year, or by both such fine and imprisonment.

Approved March 16, 1961.

CHAPTER 111

H. B. No. 802
(Gietzen, Bloom, Diehl)

UNCLAIMED CHECKING ACCOUNTS

AN ACT

To create and enact section 6-08-24.1 of the North Dakota Century Code, relating to the disposition of certain unclaimed checking accounts.

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

§ 1.) Section 6-08-24.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-08-24.1 Disposition of Certain Unclaimed Accounts.) Any association other than a natural person, corporation, trust,

estate or partnership, which has left on deposit in a checking account with any banking institution, as defined in section 6-01-02, any funds, and has not dealt therewith for a period of ten years by adding thereto, withdrawing therefrom, or asserting any claim thereto, is presumed to have abandoned the same. Upon the effective date of this section and thereafter upon the expiration of such ten-year period, the cashier or managing officer of any such banking institution shall turn the balance in such accounts over to the state examiner who shall issue his receipt therefor. The banking institution shall then be relieved of all liability on such accounts. The state examiner shall deposit such funds with the state treasurer who shall distribute such funds to the county in which the bank previously holding such account was located and the county treasurer shall credit such funds to the county welfare fund.

Approved March 17, 1961.

CHAPTER 112

H. B. No. 757

(Sorlie, Karabensh, Burk, Trom, Einarson)

BANK OF NORTH DAKOTA PROPERTY

AN ACT

To amend and reenact section 6-09-03 of the North Dakota Century Code, relating to property of the Bank of North Dakota.

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

§ 1. **Amendment.**) Section 6-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-03. Industrial Commission May Acquire Property by Purchase or Eminent Domain—Investment in Banking House and Furnishings.) To accomplish the purposes of this chapter, the industrial commission shall have the authority to acquire by purchase, lease or by exercise of the right of eminent domain, all requisite property and property rights, and may construct, remodel, and repair buildings. It shall invest in furniture, fixtures, lands and buildings for office purposes only in accordance with legislative appropriation.

Approved March 11, 1961.

BUILDING AND LOAN ASSOCIATIONS

CHAPTER 113

H. B. No. 844
(Burk, Hauf)

CAPITAL REQUIREMENTS

AN ACT

Amending and reenacting section 7-01-04 of the North Dakota Century Code, relating to capital requirements of building and loan associations of savings and loan associations.

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

§ 1. Amendment.) Section 7-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-01-04. "Amount of Capital" Defined — Paid in — Maintained.) The amount of capital designated in the articles of incorporation shall be deemed to refer to the par value of the authorized capital shares, and the organization may be completed and business commenced when not less than fifty thousand dollars have been paid in, in cash, and the provisions of this chapter have been complied with. A sum of not less than ten thousand dollars must be maintained and kept on hand by said association at all times.

Approved March 17, 1961.

CHAPTER 114

H. B. No. 886
(Leet, Thal)

ADVANCEMENT OF FUNDS TO PROTECT LIENS, REPEAL

AN ACT

To repeal section 7-04-14 of the North Dakota Century Code, relating to advancement of funds by savings and loan associations to protect liens.

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

§ 1. Repeal.) Section 7-04-14 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1961.

CORPORATIONS

CHAPTER 115

S. B. No. 106
(Gefreh)

ANNUAL REPORTS, FAILURE TO FILE

AN ACT

To provide that failure of a business corporation to file annual reports for a period of ten consecutive years shall be deemed a forfeiture of its reserved name and shall authorize the secretary of state to cease keeping records of any kind regarding such corporation.

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

§ 1. Failure to File Annual Reports—Forfeiture of Reserved Name—Records To Be Destroyed.) In addition to any other penalties provided by law for the failure to file an annual report, any business corporation which fails to file an annual report for a period of ten consecutive years shall forfeit any right to the reserved name of the corporation, and such name may be assigned by the secretary of state to any corporation applying therefor.

Approved February 23, 1961.

CHAPTER 116

H. B. No. 922
(Fraase, Miller)

ISSUE AND SALE OF SECURITIES

AN ACT

To amend and reenact subsection 1 of section 10-04-03 of the North Dakota Century Code, relating to administration and supervision of issue and sale of securities.

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

§ 1. Amendment.) Subsection 1 of section 10-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-03. Appointment of State Securities Commissioner—Qualifications.) The state securities commissioner shall be

appointed by the governor and confirmed by the senate, and shall hold his office for a term of four years and until his successor has been appointed, confirmed by the senate, and has qualified, unless he is removed sooner as herein provided. However, an interim appointment may be made by the governor if the senate is not in session and such interim appointee may hold office until the senate has had an opportunity to confirm or reject such appointment, and his term of office shall commence on the first day of July in each year next following a national presidential election. The state securities commissioner shall be skilled in securities, and shall not be an incumbent of any other public office in the state, or in any county, municipality, or public institution thereof, and shall not own, hold, or control any stocks, capital, or bonds, or securities, hold the office of trustee, assignee, officer, agent, or employee of any financial institution under his jurisdiction, or of any corporation engaged in the business of guaranteeing or insuring the fidelity or faithful performance of the duties or the solvency of public officers or of public depositaries. The governor may remove from office any state securities commissioner who violates or fails to discharge faithfully the duties of his office or who becomes disqualified under the provisions of this section.

It shall be the prime duty of such commissioner to administer the provisions of this chapter. The commissioner shall receive a salary of such amount as shall be appropriated by the legislative assembly. The commissioner shall use a seal with the words "securities commissioner, North Dakota" and such design as the commissioner may prescribe engraved thereon by which seal the commissioner shall authenticate proceedings and documents used by him in the administration of this chapter. The commissioner shall employ from time to time such clerks and employees as are necessary for the administration of this chapter, and they shall perform such duties as the commissioner shall assign. In the absence or disability of the commissioner, his chief deputy shall administer the provisions of this chapter, as acting commissioner;

Approved March 16, 1961.

CHAPTER 117

H. B. No. 921
(Fraase, Miller)

SECURITIES

AN ACT

To amend and reenact subsection 3 of section 10-04-03, sections 10-04-04, 10-04-05, 10-04-06, subsection 2 of section 10-04-08, sections 10-04-08.2 and 10-04-10, and to create and enact section 10-04-07.1 and subsection 10 of section 10-04-08.1 of the North Dakota Century Code, relating to the administration, registration and exemption of securities and securities laws.

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

§ 1. Amendment.) Subsection 3 of section 10-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The commissioner, or any person employed by him, shall be paid in addition to their regular compensation, transportation, board, lodging, and other traveling expenses necessary and actually incurred by each of them in the performance of their duties under this chapter. Such traveling expenses shall include the expenses of the commissioner or any person designated by him in attending the annual convention of the North American association of securities administrators, and the annual dues to said North American association shall be paid from appropriated funds; and

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

10-04-04. Registration of Securities.) It shall be unlawful to sell, or offer for sale, any securities in this state, except those exempt under section 10-04-05 or those sold in transactions exempt under section 10-04-06, or those registered by description under section 10-04-07 or by announcement under section 10-04-07.1, unless such securities shall have been registered by qualifications as hereinafter provided in section 10-04-08.

§ 3. Amendment.) Section 10-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-05. Exempt Securities.) Sections 10-04-04, 10-04-07, 10-04-07.1, and 10-04-08 shall not apply to any of the following securities:

1. Securities issued or guaranteed by the United States of America, or by any state, territory, or insular possession thereof, or by any political subdivision of any such state, territory, or insular possession, or by the District of Columbia, or by any public agency or instrumentality of one or more of any of the foregoing, or payable from assessments for improvements or revenues of publicly owned utilities therein;
2. Securities issued by a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an act of the Congress of the United States of America and supervised by the United States of America, or any agency thereof, or issued by a state bank, trust company, savings bank or savings institution or credit union incorporated under the laws of this state, and subject to supervision by this state or by any agency thereof, and securities of any person subject to examination by the state examiner of North Dakota;
3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts, including variable or fixed annuity contracts, of an insurance company subject to supervision by an agency of the state of North Dakota;
4. Securities issued or guaranteed as to principal, interest, or dividends, by a corporation owning or operating a railroad or other public service utility, if the corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its securities by a public service commission, or by a board, body, or official having like powers, of the United States or of any state, territory, or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the Dominion of Canada, or any province thereof, provided, however, that a corporation issuing securities, exempted under this subsection, and who have not filed an application for approval of such securities with the public service commission of the state of North Dakota, shall file with the commissioner a copy of the registration statement with all amendments thereto filed with the securities and exchange commission of the United States, if such a registration statement is made or filed, or a copy of the informative statement made to or filed with any commission, board, or body of the United States or of any state, territory, or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the

Dominion of Canada, or any province thereof, by which said corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its securities, and shall pay a filing fee of twenty-five dollars;

5. Securities issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, social, or reformatory purposes and not for pecuniary profit;
6. Securities fully listed or regularly approved for full listing upon the issuance thereof, upon the New York stock exchange, the midwest stock exchange, the American stock exchange, or any other stock exchange approved by the commissioner as hereinafter provided, and all securities senior or equal in rank to any securities so listed or approved, or represented by subscription rights which have been so listed or approved. The commissioner may by written order approve any stock exchange in addition to those specified in this subsection if he finds that it would be in the public interest for securities listed on such exchange to be exempt under this subsection. The commissioner shall have power at any time by written order to withdraw the approval theretofore so granted;
7. Commercial paper maturing in not more than twelve months from date of issue;
8. Securities, other than common stock, providing for a fixed return, which have been outstanding and in the hands of the public for not less than five years and upon which no default has occurred during the five years next preceding the date of sale. The exemptions herein specified must be proved by any person who may legally offer such securities for sale in the state of North Dakota by filing with the commissioner evidence in such form as he may require for each issue of securities for which exemption is provided herein and paying a filing fee of ten dollars.
9. Securities issued by any association, corporation, or co-operative formed under the statutes of the state of North Dakota, whose earnings are distributed to its members, stockholders, or patrons according to patronage;
10. Any equipment security based on a chattel mortgage, lease, or agreement for the conditional sale of cars, motive power, or other rolling stock mortgaged, leased, sold to or furnished for the use of a railroad or other public service utility corporation, and any equipment

security where the ownership of or title to such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state thereof, or of the Dominion of Canada, to secure the payments of such equipment security whether it be an equipment trust certificate, bond, or note; and

11. Any bond, note, or other evidence of debt issued by a holding corporation and secured by collateral consisting of any of the securities described in subsections 4 and 10 of this section, if the collateral securities equal in fair value at least one hundred twenty-five percent of the par value of the bonds, notes, or other evidences of debts secured thereby. Before any security described in this subsection is offered for sale, the person intending to offer it shall file with the commissioner descriptive circulars of the collateral securities, and pay a filing fee to the commissioner of twenty-five dollars, and unless the commissioner makes his order within three days after the receipt of such circulars requiring the securities to be qualified by application under this chapter, the securities shall be exempt.
12. The execution of orders for purchase of securities by a registered dealer, provided such dealer acts as agent for the purchaser, has made no solicitation of the order to purchase such securities, has no direct material interest in the sale or distribution of the securities ordered, receives no commission, profit or other compensation other than the commissions involved in the purchase and sale of the securities and delivery to the purchaser written confirmation of the order which clearly itemizes the commissions paid to the registered dealer. Clear and complete records of all transactions exempted under this subsection shall be maintained by the registered dealer or broker.

§ 4. **Amendment.)** Section 10-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-06. Exempt Transactions.) Except as hereinafter in this section expressly provided, sections 10-04-04, 10-04-07, 10-04-07.1, 10-04-08, and 10-04-10 shall not apply to any of the following transactions:

1. Any judicial, executor's, administrator's, guardian's, or conservator's sale or any sale by a receiver or trustee in insolvency or bankruptcy;
2. The sale in good faith and not for the purpose of avoiding the provisions of this chapter by a pledgee of secur-

ities pledged for a bona fide debt, provided that the amount of such securities does not exceed two percent of the entire issue of each issue of such securities outstanding, and provided further that before proceeding to sell such pledged securities the pledgee shall notify the commissioner and obtain his permission to such sale, unless such securities are exempted under section 10-04-05;

3. Any isolated sale of a security by the issuer or owner thereof or by any agent for the account of such issuer or owner. A sale shall be deemed to be an isolated sale within the meaning of this exemption only if there shall not have been more than two other sales of securities of the same issue by such issuer or owner or by an agent for the account of such issuer or owner within this state within the twelve month period immediately prior to the date of such sale. This subsection shall not exempt any dealer or his agent participating in an isolated sale from registering as hereinafter provided in section 10-04-10;
4. Stock dividends or other distributions by a corporation out of its earnings or surplus, or the issuance of securities to existing security holders or creditors of a corporation in a bona fide reorganization, merger, or consolidation of such corporation, carried out under the supervision or direction of a court of competent jurisdiction either in exchange for the securities or claim of such security holders or creditors, or partly in exchange therefor and partly for cash, or the sale or distribution of additional capital stock of a corporation to or among its own stockholders, where no commission or other remuneration is paid or given for soliciting or effecting such sale or distribution to stockholders;
5. The sale of securities to any bank, savings bank, savings institution, trust company, insurance company, corporation, or dealer, or to any organization or association, a principal part of whose business consists of the buying of securities;
6.
 - a. The issuance and delivery of securities of one corporation to the security holders of another corporation in exchange for all or substantially all of the assets of such other corporation; or
 - b. In connection with a consolidation or merger of such corporation, when such exchange of assets or the issuance and delivery of such securities is under the supervision or direction of a court of competent jurisdiction;
7. The issuance and delivery of any securities in exchange for any other securities of the same issuer pursuant to a

- right of conversion entitling the holder of the securities surrendered in exchange to make such conversion;
8. The sale by a registered dealer, acting either as principal or agent, of securities theretofore sold and distributed to the public, provided that:
 - a. Such securities are sold at prices reasonably related to the current market price thereof at the time of sale and, if such registered dealer is acting as agent, the commission collected by such registered dealer on account of the sale thereof is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics; and
 - b. Such securities do not constitute an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer, its officers or directors or by or through an underwriter; and
 - c. Either Moody's, Fitch's, or Standard and Poor's securities manuals, or other recognized securities manuals approved by the commissioner contain the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than eighteen months prior to the date of such sale, and a profit and loss statement of the issuer for either the fiscal year preceding that date or the most recent year of operations; and
 - d. Such securities would qualify for registration by description pursuant to the provisions of section 10-04-07; and
 - e. Such securities are limited to issuers organized under the laws of any state or territory or insular possession of the United States; and
 - f. Provided, however, that even though the foregoing conditions might all be met, the exemption would not apply to the securities of open-end management companies, mutual funds, unit investment trusts, contractual plans and face amount certificate companies.
 9. Subscription for shares of the capital stock of a corporation prior to the incorporation thereof, when no commission or other remuneration is paid or given for or in connection with the subscription and,
 - a. The number of subscribers does not exceed fifteen; or
 - b. The amount raised by such subscription does not exceed twenty-five thousand dollars;

provided that no money shall be received by the solicitor prior to incorporation or registration of said securities with the securities commissioner.

The commissioner may, by written order or regulation suspend or wholly revoke the exempt status of any sales or class of sales with respect to any specific security exempted by this section or may require with respect to any specific security, prior to the making of any such sales or class of sales, such information with respect thereto or the security to be sold thereunder, or such reports after the making of such sale, as the commissioner may deem necessary to enable him to determine whether or not he should suspend or revoke the exempt status of such sales or class of sales with respect to any specific security. No such revoking order may be entered without appropriate prior notice to all interested parties and until an opportunity for hearing is provided, except that the commissioner may by order summarily suspend any of the specified exemptions with respect to any specific security pending final determination of proceedings herein provided for. Notice shall be served upon the interested party personally, or by registered or certified mail, at least twenty days before the time specified for hearing thereof, unless the service of such order is waived by the party proceeded against, or unless the parties agree upon a definite time and place for hearing thereof. If no hearing is requested by interested parties and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination.

§ 5. **Amendment.**) Section 10-04-07.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

10-04-07.1. Registration by Announcement — Secondary.)

1. Securities that have been outstanding and in the hands of the public for not less than one year as the 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.

2. Securities entitled to registration by announcement can be registered only by a dealer registered in the office of the commissioner as provided in section 10-04-10 or by each such dealer filing in the office of the commissioner a written announcement of intention to trade in the securities, which announcement may be given by telegram sent to the commissioner by the dealer, containing the following:

- a. Name of issuer and location of the headquarters or principal office;
- b. A brief description of the security, including price and current earnings;
- c. A statement that the securities have been outstanding and in the hands of the public not less than one year as aforesaid;
- d. Statement that balance sheet not more than twelve months old has been or will be mailed to commissioner;
- e. Statement that security has been registered in North Dakota or by Securities and Exchange Commission.

3. The filing of such announcement in the office of the commissioner shall constitute the registration of the security, unless advised to the contrary within forty-eight hours or advised to furnish additional information, and such dealer shall pay to the commissioner a filing fee of ten dollars within thirty-six hours after the time of such filing. Upon registration, such securities may be sold in this state for a period of one year from date of registration by said registered dealer at a price or prices reasonably related to the current market price of such security at the time of sale, subject, however, to any and all rights and authority granted the commissioner and to any person or purchaser under chapter 10-04, in respect of securities registered in the office of the commissioner by description or qualification. No security registered under this section shall be sold directly or indirectly for the benefit of the issuer, or an underwriter of such securities, or for the promotion of any scheme or enterprise with the intent of violating or evading any provision of this chapter; provided, that no security, the registration of which has been revoked by the commissioner, or application for registration of which has been denied by said commissioner, or withdrawn by the applicant, shall be registered under this section.

4. Nothing in this section shall be held or construed to require registration of securities under this section after said securities have been registered by description or qualification as provided in section 10-04-07 or section 10-04-08 for one year after registration. Securities registered pursuant to section 10-04-07 or 10-04-08 become eligible for trading in the secondary market at current market prices upon completion of the original offering when said securities are outstanding and in the hands of the public and remain so until end of registration year when renewal for secondary is permissible. Notification of completion of initial offering should be sent to the commissioner when said offering is completed requesting change to secondary.

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

2. a. Payment of a filing fee of fifteen dollars and a registration fee of one-tenth of one percent of the aggregate offering price of securities to be sold in this state, but in no case shall such registration fee be less than twenty-five dollars or more than five hundred dollars. 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, further, that all registration prior to July 1, 1961, considered by the commissioner to be excessive in relation to past sales, may not be renewed and will terminate one year from date of registration or renewal.

(3) 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 registrations of that year, registration year and not calendar year.

(4) 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.

§ 7. Amendment.) Subsection 10 of section 10-04-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

10. The commissioner shall have the authority to disapprove an application for registration of any security when it is established that one or more of the promoters are not of good business reputation or character.

§ 8. Amendment.) Section 10-04-08.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-08.2. Advertising Matter—Regulations.) 1. No circular, prospectus, advertisement, printed matter, document, pamphlet, leaflet, or other matter, hereinafter referred to as advertising matter, pertaining to any securities which have been registered in compliance with the provisions of this chapter, or rendering advice with relation thereto, shall be published, circulated, distributed, or caused to be published, circulated, or distributed, in any manner unless and until such advertising matter shall have been submitted in duplicate to the commissioner and approved by him. The commissioner shall not approve advertising matter relating to securities not registered or exempted under the provisions of this chapter. The commissioner shall have power to disapprove any such advertising matter which he deems in conflict with the purposes of this chapter.

The provisions of the foregoing part of this section shall not apply to securities exempted under section 10-04-05 of this chapter nor to sales of securities made in a manner exempted under section 10-04-06 of this chapter. All such advertising, whether exempt or not, shall carry the name and address of the issuer, or dealer, or other person, circulating, publishing or distributing same and shall make no reference to registration of the securities or the issuance of a license.

2. Nothing in subsection 1 above or section 10-04-04 shall be construed to prohibit the publication or distribution to the public of preliminary prospectuses, or preliminary summary prospectuses, under the Securities Act of 1933, as amended, provided no solicitation is made or order or conditional order accepted prior to registration in this state, and provided also that the following legend appears on each such prospectus, or preliminary prospectus:

“A registration statement relating to these securities has been filed with the Securities and Exchange Commission but has not yet become effective. Information contained herein is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time

the registration statement becomes effective. This prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state."

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

10-04-10. Registration of Dealers, Salesmen, and Investment Counsel.) No dealer or salesman shall offer for sale or sell any securities within or from this state, except in transactions exempt under section 10-04-06, unless he is registered as a dealer or salesman pursuant to the provisions of this section.

1. **Dealers.** Application for registration as a dealer may be made by any person. Such application for registration shall be made in writing in a form prescribed by the commissioner, shall be signed by the applicant, duly verified by oath, shall be filed in the office of the commissioner, and shall contain the following information:
 - a. The name of the applicant.
 - b. The address of the principal place of business of the applicant and the addresses of all branch offices, if any, of the applicant in this state.
 - c. The form of business organization and the date of organization of the applicant.
 - d. The names and business addresses of all members, partners, officers, directors, trustees, or managers of the applicant; a statement of the limitations, if any, of the liability of any partner, member, manager, or trustee; and a statement setting forth in chronological order the occupational activities of each such partner, member, officer, director, trustee, or manager during the preceding ten years.
 - e. A brief description of the general character of the business conducted or proposed to be conducted by the applicant.
 - f. A list of any other states in which the applicant is registered as a dealer, and, if registration of the applicant as a dealer has ever been refused, canceled, suspended, or withdrawn in any state, full details with respect thereto.
 - g. Whether the applicant is registered as a dealer under the Securities Exchange Act of 1934 or any act adopted in amendment thereof and whether any such

registration of the applicant has ever been denied, revoked, or suspended or is then the subject of proceedings for revocation or suspension by the securities and exchange commission.

- h. The names of all organizations of dealers or brokers of which the applicant is a member or before which any application for membership on the part of the applicant is then pending, and whether any such membership of the applicant has ever been denied, revoked, or suspended or is then the subject of proceedings for revocation or suspension.
- i. The names of any securities exchange of which the applicant or any of its partners, officers, directors, trustees, members, managers, or employees is a member, and whether any such membership has ever been denied, revoked, or suspended or is then the subject of proceedings for revocation or suspension.
- j. A financial statement or balance sheet, prepared in accordance with standard accounting practice, showing the financial condition of the applicant as of the most recent practicable date prior to the date of such application, such financial statement or balance sheet to be certified to by an independent certified public accountant, or by a responsible officer or member of said applicant as the commissioner may require.
- k. Whether applicant or any officer, director, partner, member, trustee, or manager of the applicant, has ever been convicted of a felony or any misdemeanor other than minor highway traffic offenses and, if so, all pertinent information with respect to any such conviction.
- l. Any other information, which the commissioner may by rule or order require.

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

There shall be filed with such application a written consent to the service of process upon the commissioner in actions against such dealer, conforming to the requirements of section 10-04-14 and payment of the prescribed registration fee, which shall be returned if registration is refused.

When an applicant has fully complied with the provisions of this subsection the commissioner may register such applicant as a dealer unless he shall find that the applicant is not

of good business reputation, or is not solvent, or does not appear qualified by training or experience to act as a dealer in securities.

The commissioner shall require an indemnity bond or a deposit of cash or other properties approved by the commissioner running to the state of North Dakota conditioned for the faithful compliance by the dealer, his agents, and his salesmen with all the provisions of this law and for the faithful performance and payment of all obligations of the dealer and his agents and salesmen.

The bond or deposit shall be of such type as may be approved by the commissioner and shall be in such an amount as he shall deem necessary to protect purchasers when there is taken into consideration the volume of business engaged in by the applicant and the number of salesmen employed by the applicant. Any such bond shall have as surety thereon a surety company authorized to do business in this state. When the commissioner has registered an applicant as a dealer he shall notify the applicant of such registration.

2. Salesmen. Application for registration as a salesman may be made by any individual. Such application for registration shall be made in writing in a form prescribed by the commissioner, shall be signed by the applicant and by the registered dealer or issuer employing or proposing to employ such applicant, duly verified by oath, shall be filed in the office of the commissioner and shall contain the following information:

- a. Name and residence and business address of the applicant.
- b. Name of the dealer or issuer employing or proposing to employ the applicant, unless the applicant is to be self-employed.
- c. Names and addresses of three persons of whom the commissioner may inquire as to the character and business reputation of the applicant.
- d. Applicant's age and education.
- e. The nature of employment and names and addresses of employers of the applicant for the period of ten years immediately preceding the date of application.
- f. Other state or federal laws under which the applicant has ever been registered as a dealer or salesman of securities, and, if any such registration has ever been refused, canceled, suspended or revoked, full details with respect thereto.
- g. Whether applicant has ever been convicted of a felony or misdemeanor other than minor highway traffic offenses, and if so, all pertinent information with respect to any such conviction.

The commissioner shall require as a condition of registration that the applicant, and, in the case of a corporation or partnership, all officers, directors or partners doing securities business in this state, pass a written examination as evidence of knowledge of the securities business; provided, that not more than two officers of an issuer may be registered as a salesman for a particular original offering of the issuer's securities without being required to pass such written examination; and provided, further, that no such officer may again register within five years as such salesman for this or any other issuer without passing the written examination; that all salesmen currently registered on June 30, 1961, who have been continuously registered as securities salesmen in the state of North Dakota since July 1, 1958, may have their registrations renewed without being required to pass such written examination. Such examination shall be given once each month in the capital city and at least once each quarter in other locations in the state; the time and place of such examination to be designated by the securities commissioner.

The commissioner may also require such additional information as to the applicant's previous business experience as he may deem necessary to determine whether or not the applicant should be registered as a salesman under the provisions of this law. If a salesman proposes to be self-employed he shall specifically state the particular security or securities he proposes to sell in this state in his application, and if said security or securities are exempt under section 10-04-05 of this chapter or have been registered by description under section 10-04-07, or have been registered by announcement under section 10-04-07.1, or have been registered by qualification under section 10-04-08, then the commissioner shall require, that said self-employed salesman file an indemnity bond running to the state of North Dakota conditioned for the faithful compliance by said self-employed salesman with all the applicable provisions of this chapter and for the faithful performance and payment of all obligations hereunder. The bond shall be in a form approved and in the amount required by the commissioner. There shall be filed with such application payment of the prescribed registration fee, which shall be returned if registration is refused.

When an applicant has fully complied with the provisions of this subsection the commissioner may register such applicant as a salesman unless he finds that such applicant is not of good business reputation, or that the dealer named on the application is not a registered dealer. When the commissioner has registered an applicant as a salesman he shall immediately notify the applicant of such registration.

Every registered dealer or issuer shall promptly notify the commissioner of the termination of the employment by him of a registered salesman; and the registration of such salesman shall automatically be suspended from the time of termination of such employment until such time as he shall notify the commissioner of his employment by another registered dealer or issuer.

3. Investment counsel. Application for registration as an investment counsel may be made by any person. Such application for registration shall be made in writing in a form prescribed by the commissioner, shall be signed by the applicant, duly verified by oath and shall be filed in the office of the commissioner and shall contain the following information:

- a. Name, residence, and business address of the applicant.
- b. If the applicant is a corporation or association, give full information as to agents, partners, and managing officers.
- c. Statement showing each individual named is of good repute and possesses essential experience and education.
- d. The plan and character of business, and the proposed method of operation.
- e. Such other information as may be required.

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

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

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

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

There shall be filed with such application:

- a. A written consent to the service of process upon the commissioner in actions against such investment counsel conforming to the requirements of section 10-04-14, and
- b. Payment of the prescribed registration fee, which shall be returned if registration is refused, and
- c. A financial statement or balance sheet, prepared in accordance with standard accounting practice showing

the financial condition of the applicant as of the most recent practicable date prior to the date of such application, such financial statement or balance sheet to be certified to by an independent certified public accountant or by a responsible officer or member of said applicant.

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

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

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

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

4. Refusal of registration. If, after affording an applicant a hearing or an opportunity for a hearing as provided in section 10-04-12, the commissioner finds that there is sufficient ground to refuse to register such applicant as provided in this section, he shall enter an order refusing to register such applicant. Such order shall state specifically the grounds for its issuance. A copy of such order shall be mailed to the applicant at his business address, and if the application is for registration as a salesman, to the registered dealer or issuer who proposed to employ such applicant. If the commissioner finds that an applicant has been guilty of any act or omission which would constitute a sufficient ground for revocation of a dealer's, salesman's, or investment counsel's registration under section 10-04-11, such act or omission may constitute a sufficient ground for a finding by the commissioner that such applicant is not of "good business reputation."

5. Record and renewal of registrations. The names and addresses of all persons who have been registered as dealers, salesmen, or investment counsels, and all orders with respect thereto, shall be recorded in a register of dealers, salesmen, and investment counsels in the office of the commissioner. Every registration under this section shall expire on the first day of May in each year, and all registrations in effect

December 31, shall be extended from December 31, 1961 to May 1, 1962. Registration of dealers, salesmen, and investment counsels may be renewed each year, at any time not less than fifteen and not more than sixty days before expiration thereof, by (1) the payment of the proper registration fee and (2) in the case of dealer, the filing of a financial statement, prepared in accordance with standard accounting practice and certified to by an independent certified public accountant or by a responsible officer or member, showing the financial condition of such dealer as of the most recent practicable date. Upon any change in the proprietors, partners, officers, or directors of a registered dealer or investment counsel, such registered dealer or investment counsel shall promptly notify the commissioner in writing of such changes. The commissioner shall record such changes, without fee, in the register of dealers, salesmen, and investment counsels.

6. Fees. The fee for registration and for each annual renewal thereof shall be:

- | | |
|--|----------|
| a. For each dealer employing not more than three salesmen in this state | \$ 50.00 |
| b. For each dealer employing more than three, but not more than five salesmen in this state | 75.00 |
| c. For each dealer employing more than five salesmen in this state | 100.00 |
| d. For each salesman | |
| Examination fee | 5.00 |
| Registration fee | 10.00 |
| Renewal fee | 7.50 |
| e. For each investment counsel | 25.00 |

Approved March 17, 1961.

CHAPTER 118

S. B. No. 118

(Miller, Trenbeath, Erickstad, Wartner, Kee.)
(Wadeson, Mutch, Lips, Longmire, Becker, Saumur)

GENERATION OR TRANSMISSION COOPERATIVES

AN ACT

To amend and reenact subsections 1, 8, and 9 and to create and enact subsection 10 of section 10-13-03 of the North Dakota Century Code, and to amend and reenact section 10-15-18 of the North Dakota Century Code, relating to electric cooperatives and their authority to own and operate electric generation or transmission cooperatives.

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

§ 1. Amendment.) Subsections 1, 8, and 9 of section 10-13-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. To generate, manufacture, purchase, acquire, and accumulate electrical energy and to transmit, distribute, sell, furnish, and dispose of such electrical energy to its members, and to other persons not in excess of ten percent of the number of its members, provided, however, that a cooperative which acquires existing electrical facilities may continue service to persons, not in excess of twenty percent of the number of its members, who are already receiving service from such facilities without requiring such persons to become members but such persons may become members upon such terms as may be prescribed in the bylaws. An electric generation or transmission cooperative providing electric energy to other cooperatives, public utilities, municipalities, or any department or agency of the state or federal government shall not be limited to the ten percent and twenty percent limitation on the transmission, distribution, sale, furnishing, and disposal of electric energy as provided in this subsection;
8. To fix, regulate, and collect rates, fees, rents, or other charges for electrical energy and other facilities, supplies, equipment, or services furnished by it;
9. To make contracts with other cooperatives, with public utilities, with municipalities, or with any department or agency of the state or federal government, for the sale at wholesale to, or interchange of electric energy with, such cooperatives, public utilities, municipalities,

or department or agency of the state or federal government, and, notwithstanding any provisions of this chapter, such cooperatives, public utilities, municipalities, or department or agency of the state or federal government shall be eligible to membership in cooperatives organized under this chapter; and

§ 2.) Subsection 10 of section 10-13-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

10. To establish and operate by itself or with any one or more electric cooperatives an electric generation or transmission cooperative for the purpose of providing electric energy to other cooperatives, public utilities, municipalities, or any department or agency of the state or federal government.

§ 3. **Amendment.)** Section 10-15-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-18. Quorum.) A quorum at a member meeting shall be ten percent of the first one hundred members plus five percent of additional members, present in person or represented by delegates. Unless the bylaws fix a larger number of members to constitute a quorum, a quorum shall never be more than fifty members nor less than five members, or a majority of all members, whichever is smaller. Members represented by signed vote may be counted in computing a quorum only on those questions as to which the signed vote is taken. The provisions of this section shall not apply to an electric generation or transmission cooperative as provided in subsection 10 of section 10-13-03 and a quorum for such cooperative at a meeting of its membership shall be as provided in its bylaws.

§ 4.) Subsection 5 of section 10-13-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. The establishment and operation by itself or with any one or more electric cooperatives of an electric generation or transmission cooperative for the purpose of providing electric energy to other cooperatives, public utilities, municipalities, or any department or agency of the state or federal government.

Approved March 3, 1961.

CHAPTER 119

H. B. No. 821
(Boe, Aamoth)

TRANSFER OF SHARES OF STOCK BY FIDUCIARY

AN ACT

To create and enact chapter 10-18.1 and to amend and reenact section 10-18-02.3 of the North Dakota Century Code, relating to the transfer of shares of stock by a fiduciary, and to repeal sections 10-18-02.1 and 10-18-02.2 of the North Dakota Century Code, relating to the transfer of shares of stock by a fiduciary.

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

§ 1.) Chapter 10-18.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Chapter 10-18.1**Uniform Act for Simplification of
Fiduciary Security Transfers**

10-18.1-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Assignment" includes any written stock power, bond power, bill of sale, deed, declaration of trust or other instrument of transfer;
2. "Claim of beneficial interest" includes a claim of any interest by a decedent's legatee, distributee, heir or creditor, a beneficiary under a trust, a ward, a beneficial owner of a security registered in the name of a nominee, or a minor owner of a security registered in the name of a custodian, or a claim of any similar interest, whether the claim is asserted by the claimant or by a fiduciary or by any other authorized person on his behalf, and includes a claim that the transfer would be in breach of fiduciary duties;
3. "Corporation" means a private or public corporation, association or trust issuing a security;
4. "Fiduciary" means an executor, administrator, trustee, guardian, committee, conservator, curator, tutor, custodian or nominee;
5. "Person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or

- more persons having a joint or common interest, or any other legal or commercial entity;
6. "Security" includes any share of stock, bond, debenture, note or other security issued by a corporation which is registered as to ownership on the books of the corporation;
 7. "Transfer" means a change on the books of a corporation in the registered ownership of a security;
 8. "Transfer agent" means a person employed or authorized by a corporation to transfer securities issued by the corporation.

10-18.1-02. Registration in the Name of a Fiduciary.) A corporation or transfer agent registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship, and thereafter the corporation and its transfer agent may assume without inquiry that the newly registered owner continues to be the fiduciary until the corporation or transfer agent received written notice that the fiduciary is no longer acting as such with respect to the particular security.

10-18.1-03. Assignment by a Fiduciary.) Except as otherwise provided in this chapter, a corporation or transfer agent making a transfer of a security pursuant to an assignment by a fiduciary:

1. May assume without inquiry that the assignment, even though to the fiduciary himself or to his nominee, is within his authority and capacity and is not in breach of his fiduciary duties;

2. May assume without inquiry that the fiduciary has complied with any controlling instrument and with the law of the jurisdiction governing the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

3. Is not charged with notice of and is not bound to obtain or examine any court record or any recorded or unrecorded document relating to the fiduciary relationship or the assignment, even though the record or document is in its possession.

10-18.1-04. Evidence of Appointment or Incumbency.) A corporation or transfer agent making a transfer pursuant to an assignment by a fiduciary who is not the registered owner shall obtain the following evidence of appointment or incumbency;

1. In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within sixty days before the transfer; or

2. In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the corporation or transfer agent to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the corporation or transfer agent to be appropriate. Corporations and transfer agents may adopt standards with respect to evidence of appointment or incumbency under this subsection, provided such standards are not manifestly unreasonable. Neither the corporation nor transfer agent is charged with notice of the contents of any document obtained pursuant to this subsection except to the extent that the contents relate directly to the appointment or incumbency.

10-18.1-05. Adverse Claims.) 1. A person asserting a claim of beneficial interest adverse to the transfer of a security pursuant to an assignment by a fiduciary may give the corporation or transfer agent written notice of the claim. The corporation or transfer agent is not put on notice unless the written notice identifies the claimant, the registered owner and the issue of which the security is a part, provides an address for communications directed to the claimant and is received before the transfer. Nothing in this chapter relieves the corporation or transfer agent of any liability for making or refusing to make the transfer after it is so put on notice, unless it proceeds in the manner authorized in subsection 2 of this section.

2. As soon as practicable after the presentation of a security for transfer pursuant to an assignment by a fiduciary, a corporation or transfer agent which has received notice of a claim of beneficial interest adverse to the transfer may send notice of the presentation by registered or certified mail to the claimant at the address given by him. If the corporation or transfer agent so mails such a notice it shall withhold the transfer for thirty days after the mailing and shall then make the transfer unless restrained by a court order.

10-18.1-06. Nonliability of Corporation and Transfer Agent.) A corporation or transfer agent incurs no liability to any person by making a transfer or otherwise acting in a manner authorized by this chapter.

10-18.1-07. Nonliability of Third Persons.) 1. No person who participates in the acquisition, disposition, assignment or transfer of a security by or to a fiduciary including a person who guarantees the signature of the fiduciary, is liable for

participation in any breach of fiduciary duty by reason of failure to inquire whether the transaction involves such a breach unless it is shown that he acted with actual knowledge that the proceeds of the transaction were being or were to be used wrongfully for the individual benefit of the fiduciary or that the transaction was otherwise in breach of duty.

2. If a corporation or transfer agent makes a transfer pursuant to an assignment by a fiduciary, a person who guaranteed the signature of the fiduciary is not liable on the guarantee to any person to whom the corporation or transfer agent by reason of this act incurs no liability.

3. This section does not impose any liability upon the corporation or its transfer agent.

10-18.1-08. Territorial Application.) 1. The rights and duties of a corporation and its transfer agents in registering a security in the name of a fiduciary or in making a transfer of a security pursuant to an assignment by a fiduciary are governed by the law of the jurisdiction under whose laws the corporation is organized.

2. This chapter applies to the rights and duties of a person other than the corporation and its transfer agents with regard to acts and omissions in this state in connection with the acquisition, disposition, assignment or transfer of a security by or to a fiduciary and of a person who guarantees in this state the signature of a fiduciary in connection with such a transaction.

10-18.1-09. Tax Obligations.) This chapter does not affect any obligation of a corporation or transfer agent with respect to estate, inheritance, succession or other taxes imposed by the laws of this state.

10-18.1-10. Uniformity of Interpretation.) This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

10-18.1-11. Short Title.) This Act may be cited as the "Uniform Act for Simplification of Fiduciary Security Transfers".

§ 2. Amendment.) Section 10-18-02.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-18-02.3. Nominee.) A corporation acting as one of two or more fiduciaries, with the consent of its co-fiduciary or co-fiduciaries, who are hereby authorized to give such consent, may register a security held by said fiduciaries in the name of its nominee, subject in all respects to the requirements, provisions, and liabilities set forth in chapter 10-18.1.

§ 3. **Repeal.)** Sections 10-18-02.1 and 10-18-02.2 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1961.

CHAPTER 120

H. B. No. 878

(Knudsen of LaMoure, Lynch, Bier)

ADMISSION OF FOREIGN CORPORATIONS

AN ACT

To amend and reenact section 10-22-01 of the North Dakota Century Code, relating to admission of foreign corporations.

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

§ 1. **Amendment.)** Section 10-22-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-22-01. Admission of Foreign Corporation.) No foreign corporation shall have the right to transact business in this state until it shall have procured a certificate of authority so to do from the secretary of state. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to transact in this state any business which a corporation organized under chapters 10-19 through 10-23 is not permitted to transact. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing in chapters 10-19 through 10-23 shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation. Any corporation which submits a bid or offer to construct any part or portion of a public or private building, road, airport, or other installation, shall file a notice of intention to do business in the state with the secretary of state.

Without excluding other activities which may not constitute transacting business in this state, a foreign corporation shall not be considered to be transacting business in this state, for the purposes of chapters 10-19 through 10-23 only, by reason of carrying on in this state any one or more of the following activities:

1. Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting

- the settlement thereof or the settlement of claims or disputes;
2. Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs;
 3. Maintaining bank accounts;
 4. Maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities;
 5. Effecting sales through independent contractors;
 6. Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts;
 7. Creating evidences of debt, mortgages, or liens on real or personal property;
 8. Securing or collecting debts or enforcing any rights in property securing the same;
 9. Transacting any business in interstate commerce; or
 10. Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.

This section does not establish a standard for activities which may or may not subject a foreign corporation to taxation or service of process.

Approved March 17, 1961.

CHAPTER 121

S. B. No. 160
(Gefreh, Holand, Wartner)

NONPROFIT CORPORATION OFFICERS

AN ACT

To amend and reenact section 10-24-23 of the North Dakota Century Code, relating to officers of a nonprofit corporation.

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

§ 1. Amendment.) Section 10-24-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-24-23. Officers.) The officers of a corporation shall consist of a president, one or more vice-presidents, a secretary, a

treasurer, and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms not exceeding three years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws.

The three-year limitation of the term of officers as provided herein shall not apply to corporations of such bodies whose rules and regulations provide that their superintendent, presiding elder, bishop, pastor, or head is ex officio a member and an officer of the board of directors of any congregation or agency of such bodies which may be incorporated under chapter 10-24.

Approved March 4, 1961.

CHAPTER 122

S. B. No. 142
(Lips, Gefreh, Mutch)

FRATERNAL CORPORATIONS

AN ACT

To amend and reenact section 10-28-22 of the North Dakota Century Code, relating to special provisions regarding fraternal corporations.

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

§ 1. **Amendment.**) Section 10-28-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-28-22. Special Provisions Regarding Fraternal Corporations.) In addition to the provisions of chapters 10-24 through 10-28 every fraternal corporation organized or operating under

the provisions of chapters 10-24 through 10-28 shall be subject to the following provisions:

1. The total indebtedness of any fraternal corporation shall not exceed in amount the value of its corporate property actually owned by the corporation;
2. The property of a fraternal association which is designated a corporation by this chapter shall be liable for the debts thereof. This section shall not apply to the properties or paraphernalia used in the initiatory or degree work of any such lodge, chapter, post, encampment, council, commandery, consistory, or other similar organization, nor to the rituals and other books pertaining to the written or unwritten work thereof;
3. In addition to the other provisions of chapters 10-24 through 10-28 which will cause the cessation of a fraternal corporation, the corporation shall also cease to exist if the supreme, grand, or sovereign lodge or other superior body under which it is working shall revoke or suspend the charter which has been granted to it.

Approved March 3, 1961.

COUNTIES

CHAPTER 123

H. B. No. 603
(Johnston, Wheeler)

SALARIES OF ELECTED OFFICIALS

AN ACT

To amend and reenact subsection 2 of section 11-10-10 of the North Dakota Century Code, relating to the salaries of elected county officials and providing an effective date.

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

§ 1. Amendment.) Subsection 2 of section 11-10-10 of the North Dakota Century Code is 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 three hundred dollars in counties having a population not exceeding eight thousand;
- b. Four thousand four hundred dollars in counties having a population exceeding eight thousand population plus additional compensation of seventy dollars per year for each one thousand additional population or major fraction thereof, but not to exceed the total sum of five thousand four hundred dollars, and provided, however, that in counties where the population consists of more than 25% 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 five thousand eight hundred 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.

§ 2. Effective Date.) This subsection shall become effective January 1, 1962.

Approved March 15, 1961.

CHAPTER 124

S. B. No. 213
(George, Hernet)

BONDS AND CHECKS FOR BIDDERS DEPOSITS

AN ACT

To amend and reenact sections 11-11-28, 24-02-20, 39-03-08.3, 40-22-20 and 61-19-08, of the North Dakota Century Code, relating to bonds and cashiers checks for bidders deposits.

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

§ 1. Amendment.) Section 11-11-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-28. Bid Must Be Accompanied by a Bond or Certified or Cashier's Check.) A bid shall be accompanied by a certified or cashier's check made payable to the chairman of the board of county commissioners in a sum equal to five percent of the amount of the bid or by a bidder's bond in a sum equal to twenty percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state as a guaranty that the bidder will enter into the contract if it is awarded to him and that he will furnish the necessary bond.

§ 2. Amendment.) Section 24-02-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-20. Bids, Where Opened — Requirements — Bonds or Checks of Three Lowest Bidders Retained.) All bids shall be opened at the time and place specified in the advertised request

for bids. Each bid shall be accompanied by a certified or cashier's check of the bidder on a solvent North Dakota bank, in an amount equal to five percent of his bid, to be forfeited to the state highway fund should the bidder fail to effect a contract within ten days after a notice of an award or by a bidder's bond in a sum equal to twenty percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within ten days after notice of award, will execute and effect a contract in accordance with the terms of his bid and a contractor's bond as required by law and the regulations and determinations of the department.

All bonds or checks, except those of the responsible bidders submitting the three lowest and best bids, shall be returned to the bidders promptly upon opening such bids. The bond or check of the responsible bidder submitting the lowest and best bid may be cashed or retained until the contract has been awarded and executed properly. The bonds or checks of the responsible bidders submitting the second and third lowest and best bids may be returned to the bidders when the department has determined to whom the contract is to be awarded.

§ 3. Amendment.) Section 39-03-08.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-08.3. Bids—Requirement.) All bids shall be opened at the time and place specified. Each bid shall be accompanied by a certified or cashier's check of the bidder in an amount equal to ten percent of his bid or by a bidder's bond in a sum equal to ten percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state. Such check or bond shall be forfeited to the state highway patrol fund should the bidder fail to deliver according to the bid within thirty days after a notice of an award.

§ 4. Amendment.) Section 40-22-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-20. Bid To Be Accompanied by a Bond or Certified or Cashier's Check—Check Retained Upon Failure of Bidder to Contract.) Each bid for any work to be done under the provisions of this chapter shall be accompanied by a certified or cashier's check in the sum of five hundred dollars endorsed or payable to the executive officer of the municipality or by a bidder's bond in the amount of five hundred dollars, executed by the bidder as principal and by a surety company authorized

to do business in this state as a guaranty that the bidder will enter into a contract for performance of such work in case a contract is awarded to him. If any bidder to whom a contract is awarded fails or refuses to enter into such contract when requested to do so, the check or bond accompanying his bid shall be retained by the municipality as liquidated damages for such failure. The check or bond shall be delivered to the treasurer of the municipality and shall be credited by him to the fund from which the consideration for such work is payable.

§ 5. **Amendment.)** Section 61-19-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-19-08. Bids To Be Accompanied by Check—Forfeiture.)

Each bid must be accompanied by a certified or cashier's check in the sum of five percent of the total amount bid, endorsed or made payable to the chairman of the board of county commissioners or by a bidder's bond in a sum equal to five percent of the total amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state as a guaranty that the bidder, if successful, will enter into a contract and will furnish a surety bond for the faithful performance of the work, if such contract is awarded to him. If the bidder to whom the work is awarded fails to execute such contract and bond as provided, the check or bond accompanying his bid shall be and remain the property of the county and shall be turned over to the county treasurer, who shall credit the proceeds of such check or bond to the fund out of which the cost of the work is to be paid.

Approved March 16, 1961.

CHAPTER 125

H. B. No. 614
(Saugstad, Balerud)

REWARDS FOR APPREHENSION AND CONVICTION
OF PERSONS COMMITTING CRIMES

AN ACT

To amend and reenact section 11-11-49 of the North Dakota Century Code, relating to rewards for apprehension and conviction of persons who committed certain crimes.

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

§ 1. Amendment.) Section 11-11-49 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-49. Board May Offer Reward.) The board of county commissioners may offer a reward of a sum not exceeding one hundred dollars nor less than ten dollars for the apprehension and conviction of each person violating any of the provisions of chapter 12-40 and 12-41, or who takes, by fraud or stealth, any wheat, oats, rye, barley, flax or other grain, or any other property of another, with intent to deprive the owner thereof.

Approved March 2, 1961.

CHAPTER 126

H. B. No. 658
(Wilkie, Solberg)

DESTRUCTION OF DOCUMENTS

AN ACT

To amend and reenact section 11-18-14 of the North Dakota Century Code, relating to the authority of the register of deeds to destroy certain documents.

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

§ 1. Amendment.) Section 11-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-18-14. Register of Deeds to Remove and Destroy Certain Documents—Records To Be Made.) The register of deeds in each county in this state shall remove from the files in his office, and destroy, all seed liens, labor liens, stallion liens, chattel mortgages, threshing liens, crop production liens, combining liens, mechanic's liens, repairman's liens, and sales contracts together with any releases for the same upon which a cause of action has accrued and which cause of action is more than ten years old. At the time of destroying said files the register of deeds shall note on the margin of the index opposite the record of each instrument so removed and destroyed the date when the same was destroyed.

Approved March 14, 1961.

CRIMES AND PUNISHMENTS

CHAPTER 127

S. B. No. 278
(Ringsak)
(By request)

CAUSING PAROLE VIOLATION

AN ACT

Making it unlawful knowingly and willfully to cause persons under parole to violate their parole and providing for a penalty.

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

§ 1.) Any person knowing that another person is on parole, who willfully, causes such parolee to violate the terms of his parole is guilty of a misdemeanor.

Approved March 3, 1961.

CHAPTER 128

S. B. No. 313
(Committee on Delayed Bills)
(Erickson)

EQUAL RIGHTS IN PUBLIC PLACES

AN ACT

To provide that all persons shall have equal rights in public places in North Dakota, and providing a penalty.

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

§ 1. **Equal Rights in Public Places—Penalty.**) No person shall be excluded on account of race, color, religion, or national origin from full and equal enjoyment of any accommodation, advantage, or privilege furnished by public conveyances, theaters, or other public places of amusement, or by hotels, barber shops, saloons, restaurants, or other places of refreshment, entertainment, or accommodation. Any person violating any of the provisions of this section or aiding or inciting another person to do the same 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.

Approved March 16, 1961.

CHAPTER 129

S. B. No. 159
(Longmire, Wartner)

DEGREE OF CRIME AND PUNISHMENT, DETERMINATION

AN ACT

To amend and reenact section 12-06-06 of the North Dakota Century Code, relating to the determination of the degree of crime by a jury and the determination of punishment by a judge.

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

§ 1. Amendment.) Section 12-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-06-06. When Jury Determines Degree of Crime.) Whenever a crime is distinguished into degrees, the jury, if it convicts the defendant, must find the degree of the crime of which he is guilty. Whenever a verdict of guilty is rendered against the accused upon a prosecution for homicide, the jury must find the degree thereof by its verdict, and the judge must determine the punishment to be inflicted within the limits prescribed by law.

Approved February 23, 1961.

CHAPTER 130

S. B. No. 316
(Committee on Delayed Bills)

CUSTODY OF PRISONERS

AN ACT

To amend and reenact section 12-44-29 of the North Dakota Century Code, relating to commitments when no adequate county jail exists within a county and authorizing contracts for the custody of prisoners within jails operated by the United States; and declaring an emergency.

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

§ 1. **Amendment.**) Section 12-44-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-44-29. Commitment When No Jail in County—Contracts with United States.) When there is no jail in a county or when the jail is not sufficient, every judicial or executive officer of the county who has power to order, sentence, or deliver a person to the county jail may order, sentence or deliver such person to the jail of an adjoining county, or to a jail operated by the United States or any of its departments or agencies when an agreement or contract exists between the county commissioners of the county not having a sufficient jail and the appropriate officers of an agency of the United States operating such jail. Such judicial or executive officer of the county shall have the same continuing jurisdiction over prisoners placed in a jail operated by an agency of the United States as he has over prisoners placed in a county jail. When the county seat of another county having a suitable jail may be reached more conveniently and with less mileage by rail or automobile than the county seat of the adjoining county having the nearest suitable jail, such officer shall order, sentence, or deliver such person to the jail of the county most conveniently located. The jailer of any such adjoining or other county shall receive and keep the prisoner in the same manner as if he had been ordered, sentenced, or delivered to him by an officer or court of his own county. The county from which such prisoner is taken shall pay all the expenses of maintaining him in such jail.

§ 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 16, 1961.

CHAPTER 131

H. B. No. 545
(Solberg, Aamoth, Fossum, Halcrow, Saugstad)
(From LRC Study)

STATE TRAINING SCHOOL

AN ACT

To create and enact section 12-46-10.1 and to amend and reenact sections 12-46-01, 12-46-15, 12-52-02, and 54-23-01, relating to the name of the state training school and records of training school students and to create a disciplinary committee.

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

§ 1. **Amendment.)** Section 12-46-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-46-01. State Training School—Location—Purpose—Name.) The North Dakota industrial school shall be located at the city of Mandan in the county of Morton, and shall be the general reform and industrial school of the state for the detention, instruction, and reformation of juveniles of both sexes who are committed to it according to law.

§ 2. **Amendment.)** Section 12-46-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-46-15. Contents of Order of Commitment.) Every order of commitment to the North Dakota industrial school shall specify the date, as near as may be ascertained by the juvenile court, at which the accused will attain majority. The date so ascertained and specified shall be conclusive for all purposes connected with the state training school. The judge shall cause to be transmitted to the superintendent, with each person committed to the North Dakota industrial school, a statement of the nature of the complaint or charges, the person's social history, and all records of investigation and evaluation concerning such person. These statements and records shall be sent to the North Dakota industrial school at the time of commitment or immediately thereafter.

§ 3. **Amendment.)** Section 12-52-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-52-02. Parole on Recommendation of Superintendent.) No parole shall be granted to any person committed to the North Dakota industrial school or placed under the guardian-

ship, control and custody of the superintendent thereof unless the superintendent recommends the parole to the board of administration and some suitable person will receive the person paroled under such conditions as may be approved by the superintendent of the school. Nothing in this chapter shall prevent the parole of any person into his own home or into a licensed foster home under one of the welfare programs administered by the public welfare board of North Dakota.

§ 4. **Amendment.)** Section 54-23-01 of 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 state hospital, the penitentiary, the school for the blind, the school for the deaf, the Grafton state school, the North Dakota industrial school, the state tuberculosis sanatorium, and such other charitable, reformatory, and penal institutions as have been or may be created or established according to law. 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.

§ 5.) Section 12-46-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-46-10.1. Disciplinary Committee — Members — Duties.) The disciplinary committee shall consist of the director of treatment or his representative, as chairman, a member of the medical staff, and the director of cottage life or his representative. The committee shall advise the superintendent of North Dakota Industrial School on all disciplinary policies; review all cases involving serious breaches of discipline before punitive action is taken thereon and advise the superintendent in regard to such specific cases; and maintain written records of charges against students for disciplinary violations together with their recommendations thereon. These records shall be subject to review by the board of administration, the attorney general, or any legislative committee at their request. Nothing in this section shall be construed to prevent the superintendent from placing a child under close supervision immediately after that child commits a serious breach of discipline.

Approved March 17, 1961.

CHAPTER 132

S. B. No. 99
(Ringsak, Mutch)

COMPENSATION OF INMATES AT PENITENTIARY

AN ACT

To amend and reenact section 12-48-14 of the North Dakota Century Code, relating to compensation of inmates at the penitentiary.

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

§ 1. **Amendment.)** Section 12-48-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-48-14. Compensation of Inmates.) Prisoners engaged in carrying on the work of the penitentiary and its industries, the work of other state institutions and their industries, or upon public highways, shall receive not less than ten cents nor more than fifty cents per day for work actually performed, the maximum compensation to be determined by the board of administration. The warden shall assign a reasonable daily task to be performed by each prisoner, and the compensation of the prisoner shall be determined by the amount of work he performs on such task. All prisoners faithfully performing the daily tasks assigned shall receive the maximum compensation determined by the board of administration, and whenever it becomes necessary in carrying on this work for a prisoner to labor in excess of ten hours per day, he shall receive such additional compensation as is allowed by the board of administration, not to exceed ten cents per hour. The compensation of all prisoners working at the penitentiary or its industries shall be paid out of such funds as may be appropriated by the legislative assembly for that purpose.

Approved February 25, 1961.

CHAPTER 133

S. B. No. 205
(Lips, Luick)

MEETINGS OF BOARD OF PARDONS

AN ACT

To amend and reenact section 12-55-03 of the North Dakota Century Code, relating to meetings of the board of pardons.

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

§ 1. **Amendment.)** Section 12-55-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-03. Board Meetings—When and Where Held.) The board of pardons shall hold at least three regular meetings in each calendar year, and may hold such other special meetings at such times as it shall determine necessary for the proper performance of its official duties. The regular meetings shall be held on the fourth Monday of March, the second Monday of August, and the first Monday of December of each year at the penitentiary. All special and emergency meetings of the board shall be held in the executive chamber at the state capitol, or in such other place as may be ordered by the board.

Approved February 25, 1961.

DEBTOR AND CREDITOR RELATIONSHIP

CHAPTER 134

S. B. No. 100
(Ringsak, Mutch, Kee)

SMALL LOANS

AN ACT

To amend and reenact section 13-03-16 of the North Dakota Century Code, relating to loans made by small loans companies in excess of one thousand dollars and providing for the interest rate thereon.

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

§ 1. **Amendment.**) Section 13-03-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-03-16. Indebtedness of More Than One Thousand Dollars.) A licensee may make loans in amount greater than one thousand dollars but in such event the entire loan shall bear interest only as permitted by the general interest laws of this state. If the borrower or the borrower and his spouse, indirectly or directly, have two or more loans outstanding to the same licensee at the same time with total principal balances aggregating in excess of one thousand dollars then neither loan shall bear the charges authorized by this chapter.

If the proceeds of any loan made under this chapter are used to discharge a pre-existing debt of the borrower for goods or services owed directly to the person who provided such goods or services and the licensee accepts from such person a guaranty of payment of the principal of such loan with interest at a rate not in excess of that permitted by the usury law of this state, the acceptance of one or more such guaranties in any aggregate amount shall not affect the right of such licensee to make the charges against the primary borrower authorized by this chapter. In the event that a licensee shall make a bona fide purchase of the business and all or substantially all of the loans receivable from another licensee, or other lender not affiliated with the purchaser and such licensee or other lender shall have an existing loan outstanding to one or more of the borrowers whose contracts are purchased, such licensee making such purchase shall be entitled to liquidate and collect the balances due on such contracts, including all lawful charges and interest at the rate or amounts agreed upon in such loan contracts.

Approved March 15, 1961.

DOMESTIC RELATIONS AND PERSONS

CHAPTER 135

H. B. No. 875
(Burk)

UNIFORM SECURITIES OWNERSHIP BY MINORS ACT

AN ACT

To create and enact chapter 14-10.1 of the North Dakota Century Code, the Uniform Securities Ownership by Minors Act, relating to the ownership and transfer of securities by or in the name of a minor, and prescribing the rights and duties of a person dealing with such securities.

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

§ 1.) Chapter 14-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

14-10.1-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Bank" means any association, firm, or corporation engaged in the business of banking, including a national banking association, savings bank, industrial bank or trust company;
2. "Broker" means a person, including a bank, lawfully engaged in the business of effecting transactions in securities for the account of others and includes a broker lawfully engaged in buying and selling securities for his own account;
3. "Issuer" means 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 to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person;
4. "Person" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity;
5. "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of in-

terest or participation in an oil, gas, or mining title or lease or in payment 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 or 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;

6. "Third-party" means a person other than a bank, broker, transfer agent, or issuer who with respect to a security held by a minor effects a transaction otherwise than directly with the minor;
7. "Transfer agent" means a person who acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of securities, in the issue of new securities, or in the cancellation of surrendered securities.

14-10.1-02. No Liability Without Notice or Knowledge of Minority.) A bank, broker, issuer, third-party, or transfer agent incurs no liability by reason of his treating a minor as having capacity to transfer a security, to receive or to empower others to receive dividends, interest, principal, or other payments or distributions, to vote or give consent in person or by proxy, or to make elections or exercise rights relating to the security, unless prior to acting in the transaction the bank, broker, issuer, third-party, or transfer agent had received written notice in the office acting in the transaction that the specific security is held by a minor or unless an individual conducting the transaction for the bank, broker, issuer, third-party, or transfer agent had actual knowledge of the minority of the holder of the security. Except as otherwise provided in this chapter, such a bank, broker, issuer, third-party, or transfer agent may assume without inquiry that the holder of a security is not a minor.

14-10.1-03. When Minor May Disaffirm or Avoid Transaction.) A minor, who has transferred a security; received or empowered others to receive dividends, interest, principal, or other payments or distributions; voted or given consent in person or by proxy; or made an election or exercised rights relating to the security, has no right thereafter, as against a bank, broker, issuer, third-party, or transfer agent to disaffirm or avoid the transaction, unless prior to acting in the transaction the bank, broker, issuer, third-party, or transfer agent against whom the transaction is sought to be disaffirmed or avoided had received notice in the office acting in the transaction that the specific security is held by a minor or unless

an individual conducting the transaction for the bank, broker, issuer, third-party, or transfer agent had actual knowledge of the minority of the holder.

14-10.1-04. Uniformity.) This chapter shall be so construed as to effectuate its general purpose to make uniform the laws of those state which enact it.

14-10.1-05. Citation of Chapter.) This chapter may be cited as the Uniform Securities Ownership by Minors Act.

Approved March 14, 1961.

CHAPTER 136

H. B. No. 813

(Haugland, Poling, Fossum, Powers, Kelly)

ADOPTION PROCEEDINGS

AN ACT

To amend and reenact section 14-11-10 of the North Dakota Century Code, relating to hearings in adoption proceedings and service of notice thereof.

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

§ 1. Amendment.) Section 14-11-10 of the North Dakota Code is hereby amended and reenacted to read as follows:

14-11-10. Hearing in Adoption Proceedings and Service of Notice Thereof.) The court shall appoint a time and place for hearing the petition and shall allow reasonable time not exceeding forty days for the investigation required by section 14-11-09. Notice of the hearing shall be given to the director of the division of child welfare at least twenty days before the hearing in such manner as the court may direct and proof thereof shall be filed with the clerk of the court prior to the hearing on said petition. Whenever a minor child to be adopted has a guardian, notice of the hearing shall be given to such guardian. When the parents of any minor child are dead or have abandoned the child and cannot be found, and the child has no duly appointed guardian in the state, notice of the hearing on the petition for adoption shall be given to the person who is caring for or has custody of the child. Notice must be given to any parent not consenting, whose parental rights have not been terminated, including a parent who has lost custody of the child through divorce proceedings, a parent who is insane or otherwise incapable of giving consent, and

to the father of an illegitimate child who has acknowledged paternity or against whom paternity has been adjudicated, unless the father has disclaimed in writing all parental rights with reference to the child. Such notice shall be given in such a manner as the court may direct. In the event that the court shall require notice to be given by publication, such notice shall be published once a week for three successive weeks, the last publication to be at least ten days prior to the day set for the hearing. If the hearing cannot be had at the time appointed it shall be adjourned and the court may upon its own motion or upon motion of any interested person fix another time for the hearing and upon such hearing may grant or deny the petition or grant a further adjournment. The petitioner and the person to be adopted, if over ten years of age, shall attend the hearing unless the court otherwise orders.

Approved March 7, 1961.

EDUCATION

CHAPTER 137

S. B. No. 61

(Roen, Reichert, Mutch, Foss, Saumur,
(Longmire, Trenbeath, Miller, Ringsak)

BONDS FOR REVENUE PRODUCING BUILDINGS

AN ACT

To authorize the state board of higher education to sell tax exempt bonds for the purpose of constructing revenue producing buildings at institutions of higher learning in this state, and providing an appropriation.

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

§ 1.) In accordance with the provisions of chapter 15-55 of the North Dakota Century Code, the state board of higher education is hereby authorized and empowered to issue and sell tax exempt bonds for the purpose of constructing revenue producing buildings at institutions of higher learning in this state under the jurisdiction of the board, at such maximum amounts, at such locations, and for such purposes as is hereinafter provided:

1. University of North Dakota, Grand Forks, North Dakota
 - a. Women's dormitories (2)\$1,200,000.00
 - b. Married student housing 720,000.00
 - c. Men's dormitories (2), with dining facilities 1,200,000.00
 - d. Student union addition 600,000.00
2. North Dakota State University, Fargo, North Dakota
 - a. Women's dormitories (2) 1,400,000.00
 - b. Men's dormitory 700,000.00
3. State School of Forestry, Bottineau, North Dakota
 - a. Men's dormitory, additional floor 165,000.00
4. State Teachers College, Dickinson, North Dakota
 - a. Student union 400,000.00
5. State School of Science, Wahpeton, North Dakota
 - a. Men's dormitory 550,000.00

Bonds issued under the provisions of this Act shall never become a general obligation of the state of North Dakota.

§ 2. **Appropriation.**) The proceeds resulting from the sale of bonds authorized under section 1 of this Act, or so much thereof as may be necessary, are hereby appropriated for the construction and equipment of the buildings and facilities authorized in section 1. Any unexpended proceeds from the sale of the bonds shall be placed in sinking funds for the retirement of the bonds authorized in section 1.

Approved March 11, 1961.

CHAPTER 138

H. B. No. 566

(Baldwin, Stockman, Boe, Idso, Powers, and Fitch)

CONVEYANCE OF LAND TO UNITED STATES

AN ACT

Authorizing the board of university and school lands with the approval of the North Dakota state board of higher education to donate and convey certain property now owned by the state of North Dakota for the use and benefit of the North Dakota State University of Agriculture and Applied Science to the United States of America and its assigns, for the purpose of establishing and conducting a field laboratory studying various problems related to agriculture, and declaring an emergency.

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

§ 1.) It is hereby found and determined that the premises described as:

That certain tract of land lying in Reed Township of Cass County, state of North Dakota, in the south half (S $\frac{1}{2}$) of the northeast quarter (NE $\frac{1}{4}$) of section thirty-six (36), township one hundred forty (140) north, range forty-nine (49) west, and more particularly described as follows:

Beginning at the northeast corner of section thirty-six (36) located in the intersection of Thirteenth (13th) Street North and Nineteenth (19th) Avenue North in the city of Fargo; thence one thousand three hundred fifty-six and six-tenths (1356.6) feet on a line towards the southeast corner of the northeast quarter (NE $\frac{1}{4}$) of section thirty-six (36) located in the intersection of Thirteenth (13th) Street North and Fifteenth (15th) Avenue North, in the city of Fargo; thence with the east line of the northeast quarter (NE $\frac{1}{4}$) of section thirty-six (36) a right deflection of eighty-nine degrees forty minutes (89° 40') and on this line one thousand one hundred ninety-one and six-tenths

(1191.6) feet in a westerly direction to the northeast corner of the land being described; thence a left deflection of eighty-nine degrees forty-five minutes ($89^{\circ} 45'$) proceed five hundred eighty-two and four-tenths (582.4) feet; thence a right deflection of eighty-nine degrees forty-five minutes ($89^{\circ} 45'$) proceed seven hundred forty-eight and no tenths (748.0) feet; thence a right deflection of ninety degrees fifteen minutes ($90^{\circ} 15'$) proceed five-hundred eighty-two and four tenths (582.4) feet; thence a right deflection of eighty-nine degrees forty-five minutes ($89^{\circ} 45'$) proceed seven hundred forty-eight and no tenths (748.0) feet to the northeast (NE) corner of said property containing ten and no tenths (10.0) acres more or less, are presently held by the state of North Dakota for the use and benefit of the North Dakota State University of Agriculture and Applied Science for educational purposes.

§ 2.) It is hereby found and determined that the agricultural, educational and research programs of this state and the North Dakota State University of Agriculture and Applied Science can be greatly advanced and benefited by the establishment of a field laboratory on the above described premises, by the Government of the United States.

§ 3.) The board of university and school lands of the state of North Dakota, with the approval of the North Dakota state board of higher education is hereby authorized to convey said above described premises to the United States of America and its assigns.

§ 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 January 30, 1961.

CHAPTER 139

H. B. No. 544

(Solberg, Aamoth, Fossum, Halcrow, Saugstad)
(From LRC Study)

COUNTY SPECIAL EDUCATION PROGRAM

AN ACT

To provide for the appointment of county or multiple county boards of special education, the formulation and approval of programs and budgets, the authorization of excess mill levies to finance such programs, and the distribution of state funds to counties conducting such programs.

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

§ 1. County Board of Special Education.) The county superintendent of schools may appoint a county board of special education which shall consist of one member from each county commissioner district within the county, and each member thus appointed shall be subject to approval by the board of county commissioners. Terms of office shall be two years arranged, as nearly as possible, so that fifty percent of the members' terms expire each year. Vacancies shall be filled in same manner as original appointment. The county superintendent of schools shall serve as secretary and executive officer of the board. Expenses of members of the board shall be paid in the same manner as expenses of other county officials are paid. The board of county commissioners may in its discretion provide for additional per diem compensation.

§ 2. Operations Plan—Financing.) The county board of special education shall annually prepare a program for special education in the county and a budget necessary to implement such program. The program and budget shall be submitted to the board of county commissioners at the same time and in the same manner as other statements on budgetary matters are filed. If such program and budget are approved by the board of county commissioners, the county commissioners may budget funds from the county general fund or upon approval by a majority of the voters voting on the proposal at an election called by the county commissioners, may levy a tax not to exceed three mills upon all taxable property in the county for the purpose of carrying out such program. Such mill levy shall be over and above any mill levy limitation provided by law and shall be collected and paid in the same manner as are other county property taxes. The county treasurer shall credit the proceeds of the tax levy, together with any other funds received from the state or other sources for special education

purposes, to a special education fund. Such funds shall be expended, within the limitations of the budget approved by the board of county commissioners, as directed by the county board of special education upon vouchers approved by the county superintendent of schools and in the same manner as other county funds are expended, except that such specific expenditures need not be approved by the board of county commissioners.

§ 3. Election Upon Mill Levy.) Upon the filing with the board of county commissioners at least thirty days in advance of any regular county election of a petition signed by five percent of the electors of the county as determined by the number of votes cast for the office of governor at the preceding general election, the question of whether to continue the mill levy of not to exceed three mills for financing the special education program shall be submitted to the voters at the next regular county election. If the levy for special education is disapproved by a majority of the votes cast at this election, the board of county commissioners shall immediately discontinue such levy but levies previously spread upon the tax rolls shall not be invalidated. A subsequent vote upon the question of authorizing a mill levy of not to exceed three mills may be had at any regular county election upon the filing with the board of county commissioners of a petition containing the signatures of five percent of the electors of the county as determined by the number of votes cast for the office of governor at the preceding general election not less than thirty days prior to such election.

§ 4. Powers of County Board—Approval of Program by State.) A county board of special education organized under the provisions of this Act, may contract with any school district within or outside the county to provide special educational services for educable children. Upon approval of the special education program and budget by the board of county commissioners, such plan and budget shall be submitted to the department of public instruction for approval.

§ 5. Payments from State.) If the budget and program submitted by the county board of special education are approved by the department of public instruction, any payments for special education under the provisions of section 15-59-06 shall be made to the county board of special education and disbursed by such board in furtherance of the county program. If such budget and program are not approved, any such payments shall be made to the school districts in the county providing special education facilities. Nothing contained in this section shall alter the method of making per pupil payments out of the county equalization fund or from the state equalization fund to the county equalization fund.

§ 6. Multiple County Boards.) Whenever it is deemed desirable by the boards of county commissioners of two or more counties, such counties may join together in the formation of a multiple county board of special education. Such board shall consist of one member from each county commissioner district within the several counties, appointed by the respective county superintendents of schools and approved by the respective boards of county commissioners. Vacancies shall be filled in same manner as provided in original appointment. Such multiple county board shall designate one of the county treasurers to act as treasurer for special education funds and one of the county superintendents of schools to act as secretary and executive officer of the board. The remaining county superintendents of schools shall perform such other duties in connection with the special education program as the joint board of special education shall designate.

§ 7. Program and Financing of Multiple County Boards.) The multiple county board shall prepare a program and budget and submit it to the joint board of county commissioners for approval in the same manner and at the same time as provided in the case of individual county programs. The amount budgeted and approved shall be prorated among the counties according to the assessed valuation of each county or upon such basis as the respective boards of county commissioners shall agree. The amount prorated to each county shall be included in the respective county budgets in the same manner and shall be subject to the same procedures, limitations, and conditions as those specified for individual county special education budgets and tax levies. Provisions applicable to individual county programs in regard to approval by the department of public instruction and payments from the state and the state or county equalization funds shall also apply to multiple county programs.

§ 8. Election on Mill Levy.) Upon the filing with the board of county commissioners at least thirty days in advance of any regular county election, of a petition signed by five percent of the electors of the county as determined by the number of votes cast for the office of governor at the preceding general election, the question of whether to continue the mill levy of not to exceed three mills to finance the individual county's prorated share of the costs of the multiple county special education program shall be submitted to the voters of the individual county at the next regular county election. If the levy for special education is disapproved by a majority of the votes cast at this election, the board of county commissioners shall immediately discontinue such levy, but levies previously spread upon the tax rolls shall not be invalidated. A subsequent vote upon the question of authorizing a mill levy of not

to exceed three mills may be had at any regular county election upon the filing with the board of county commissioners at least thirty days in advance of any regular county election, of a petition containing the signatures of five percent of the electors of the county as determined by the number of votes cast for the office of governor at the preceding general election.

§ 9. Withdrawal of Counties.) A county may withdraw from a multiple county program upon resolution of the board of county commissioners. Such withdrawal shall be effective not less than one year from the date that notice of the resolution is given to the remaining board or boards of county commissioners. The giving of such notice shall not relieve the withdrawing county of its obligation for that portion of the costs of the program prorated to it for the period prior to the effective date of such withdrawal.

§ 10. Present Plan Continued.) School districts in counties which have not adopted county or multiple county programs shall continue participation in programs of special education as authorized by other provisions of law until such time as a county or multiple county board of special education is appointed and a program and budget are submitted to and approved by the board of county commissioners and the department of public instruction.

Approved March 14, 1961.

CHAPTER 140

S. B. No. 179

(Brooks, Kee, Lips, Gefreh, Hernet)

EDUCATIONAL TELEVISION

AN ACT

To authorize the superintendent of public instruction to contract with nonprofit corporations for the provision of educational television services in the state, and making an appropriation therefor.

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

§ 1. Declaration of Legislative Intent.) Because of the interest on the part of the legislative assembly in an educational television network which would be of great benefit in the education of our youth as well as adults and the furtherance of the level of cultural development in all of the citizens of the state, it is the intent of the legislative assembly that

action be taken to promote the establishment of such network and to provide for such educational television services.

§ 2. Contracts Authorized.) The superintendent of public instruction may contract, for a period of not to exceed two years, with provisions for its renewal for like periods, with a nonprofit corporation for the purpose of providing the people of the state with educational television services in the fields of elementary, secondary, and higher education, adult education, and other fields tending to promote cultural development.

§ 3. Appropriation.) There is hereby appropriated out of the general fund in the state treasury, not otherwise appropriated, the sum of forty-six thousand, three hundred and fifty-six dollars to the superintendent of public instruction for the purpose of contractual payments and other expense in carrying out the provisions of this Act during the period beginning July 1, 1961, and ending June 30, 1963.

Approved March 17, 1961.

CHAPTER 141

S. B. No. 161
(Wadeson, Redlin, Luick)

EXPERIMENT STATION LAND SALE

AN ACT

Authorizing the state board of higher education to sell certain land now owned by the state for the benefit and use of the North Dakota agricultural experiment station 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 sell certain land which is owned by the state for the benefit and use of the North Dakota agricultural experiment station of the North Dakota state university of agriculture and applied science, which land is more specifically described as follows:

All of that portion, excepting public highway right-of-way, of the southeast quarter of section two, township one hundred thirty-nine north, range fifty-one west of the fifth principal meridian, Cass County, North Dakota, lying southerly and easterly of the center line of the Maple River, containing twenty-five and thirty-five-hundredths (25.35) acres, more or less.

The necessary deed to the above-described land upon sale shall be executed by the governor and attested by the secretary of state, provided that such land shall not be sold for less than two thousand dollars. The proceeds of such sale shall be transferred to the institutional income account of the agricultural experiment station, North Dakota university of agriculture and applied science.

Approved March 3, 1961.

CHAPTER 142

H. B. No. 792
(Johnston, Wheeler)

JUNIOR COLLEGE DORMITORIES

AN ACT

To authorize any school district having a junior college to sell tax exempt bonds for the purpose of constructing revenue-producing dormitories.

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

§ 1. Dormitory Bond Issue.) The board of education of any school district having a junior college is hereby authorized and empowered to issue and sell tax exempt bonds for the purpose of constructing revenue-producing dormitories for its junior college students, the total principal amount of such bonds not to exceed \$1,000,000.00. The bonds authorized by this Act shall be retired solely from revenues of the building and facilities constructed under the provisions of this Act, and such bonds shall never become a general obligation of the school district, or the state of North Dakota.

§ 2. Powers and Procedure.) In issuing and selling the bonds and carrying out the provisions of this Act, the board of education of such school district shall proceed under the same procedure, powers, limitations and conditions provided for the state board of higher education in chapter 15-55 of the North Dakota Century Code, so that the provisions of chapter 15-55 shall be applicable to this issue, sale and construction except that references therein to state, state treasury, state treasurer, state auditor shall be construed to mean such school district, school district treasury, school district treasurer, and school district clerk, respectively.

Approved March 7, 1961.

CHAPTER 143

S. B. No. 63
(Reichert)

LAND TRANSFER TO DICKINSON

AN ACT

To authorize the transfer of certain state-owned land under the control of the North Dakota state university of agriculture and applied science to the city of Dickinson.

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

§ 1.) The North Dakota state university of agriculture and applied science is hereby authorized to transfer certain state-owned property under its jurisdiction to the city of Dickinson, North Dakota for use as an alley in such city, which property is described as follows:

A tract of land situated in the southwest quarter (SW $\frac{1}{4}$) of section four (4), township one hundred and thirty-nine north, range ninety-six, west of the fifth principal meridian, Stark County, North Dakota and more particularly described as follows, to wit: Beginning at a point 3208.0 feet south and 33.0 feet east of the northwest corner of said section four (4), said point also being the northwest corner of the College Addition to the city of Dickinson, North Dakota; thence east along the north line of said College Addition a distance of 1368.3 feet; thence north a distance of 9.0 feet; thence west and parallel to the north line of said College Addition a distance of 1368.3 feet; thence south a distance of 9.0 feet to the point of beginning. Said tract contains 0.28 acres more or less.

Approved March 11, 1961.

CHAPTER 144

H. B. No. 692
(Vinje, Fossum, Berg)

LEASE OF STATE LAND

AN ACT

Authorizing the state board of higher education to lease certain state-owned land to the federal government, for the purpose of permitting the erection of a forestry research laboratory-office building on the campus of the school of forestry 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 execute, without consideration, an irrevocable lease for 99 years or less to the United States of America and its assigns for the purpose of erecting a forestry research laboratory-office building with appropriate related facilities and for the use and occupancy thereof on the campus of the North Dakota school of forestry; provided that the lessee shall have the right, within a reasonable time, after termination of the lease, to remove any structure erected by the lessee.

Provided that the lease shall cover certain state-owned land under control of the state board of higher education for the benefit and use of the North Dakota school of forestry, which land is more specifically described as follows:

Commencing at a point which is 1320.0 feet south and 770.0 feet east of the northwest corner of section thirty, township one hundred sixty-two north, range seventy-five west, fifth principal meridian: thence north ninety degrees zero minutes east (due east) 166.0 feet along the north line of First Street; thence north zero degrees zero minutes east (due north) 520.0 feet; thence north ninety degrees zero minutes east (due east) 134.0 feet; thence north zero degrees zero minutes east (due north) 180.0 feet; thence south ninety degrees zero minutes west (due west) 300.0 feet; thence south zero degrees zero minutes west (due south) 700.0 feet to point of beginning, containing 3.22 acres more or less, in Bottineau County, North Dakota.

Provided that the governor shall execute the lease for the above-described land and it shall be attested by the secretary of state.

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

Approved March 17, 1961.

CHAPTER 145

S. B. No. 154
(Baker)

MINOT STATE TEACHERS' COLLEGE LAND TRANSFER

AN ACT

Authorizing the state board of higher education to transfer certain state-owned land to the city of Minot for street purposes.

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

§ 1.) The board of higher education is hereby authorized to transfer certain state-owned land used for the benefit of the Minot state teachers' college, which land is more specifically described as follows:

Beginning at a point on the east-west quarter line of section fourteen, township one hundred fifty-five north, range eighty-three west, said point being 170 feet east of the intersection of said east-west quarter line and the east property line of the platted Eighth Street Northwest, city of Minot; thence northerly parallel to the west property line of Seventh Street Northwest as shown on the plat of Somers Land Company Addition, city of Minot, to the intersection with the north line of the southwest quarter of the northeast quarter of section fourteen; thence easterly along said north line of the southwest quarter of the northeast quarter a distance of thirty-three feet; thence southerly parallel to the west property line of the platted Seventh Street Northwest to a point which is thirty-three feet south of the east-west quarter line of section fourteen; thence westerly parallel to the said east-west quarter line to the intersection with the east property line of the platted Eighth Street Northwest; thence northerly along said east property line a distance of 33 feet to intersection with said east-west quarter line; thence easterly along said east-west quarter line a distance of 170 feet to the point of beginning, said tract containing 1.15 acres, more or less, provided such land is transferred to the city of Minot for street purposes. The deed of conveyance of such land shall be executed by the governor and attested by the secretary of state.

Approved February 23, 1961.

CHAPTER 146

H. B. No. 723

(Maragos, Haugland, Balerud, Saugstad)

RESIDENCE FOR TUITION PAYMENT PURPOSES

AN ACT

To provide for tuition payments for children residing in a home maintained by any nonprofit corporation pursuant to a court order.

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

§ 1.) The school district in which a child resides at the time any court order shall have been issued requiring such child to stay for any prescribed period at a home maintained by any nonprofit corporation, shall be construed to be the residence district of such child for purposes of applying sections 15-25-11* or 15-29-08.2 or 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.

Approved March 15, 1961.

CHAPTER 147

H. B. No. 578

(Johnson of Barnes, Stockman)

REVENUE PRODUCING BUILDINGS, BONDS

AN ACT

To amend and reenact section 1 of chapter 147 of the 1959 Session Laws, relating to the payment of bonds issued to finance revenue producing buildings at institutions of higher learning.

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

§ 1. **Amendment.)** Section 1 of chapter 147 of the 1959 Session Laws is hereby amended and reenacted to read as follows:

§ 1.) In accordance with the provisions of chapter 15-55 of the 1957 Supplement to the North Dakota Revised Code of 1943, the state board of higher education is hereby authorized and empowered to issue and sell tax exempt bonds for the

***Note:** Section 15-25-11 was repealed by section 89 of chapter 158 of the 1961 S. L. However, it appears that section 15-29-08 of chapter 158 of the 1961 S. L. has superseded section 15-25-11.

purpose of constructing revenue producing buildings at institutions of higher learning in this state under the jurisdiction of the board, at such maximum amounts, at such locations, and for such purposes as is hereinafter provided:

1. University of North Dakota, Grand Forks, North Dakota
 - a. Women's dormitories (2)\$1,400,000.00
 - b. Married student housing 700,000.00
 - c. Men's dormitory 600,000.00
2. North Dakota State University of Agriculture and Applied Science
 - a. Chapel—YMCA\$ 200,000.00
 - b. Armory, army reserve 149,000.00
 - c. Married student housing 300,000.00
 - d. Men's dormitories (2) 1,400,000.00
 - e. Women's dormitory 500,000.00
 - f. Student union addition 550,000.00
3. State School of Science, Wahpeton, North Dakota
 - a. Men's dormitory\$ 475,000.00
 - b. Student union 400,000.00
4. State Teachers College, Minot, North Dakota
 - a. Married student housing\$ 270,000.00
 - b. Student union 450,000.00
5. State Normal and Industrial College
Ellendale, North Dakota
6. State Teachers College, Valley City, North Dakota
 - a. Women's dormitory addition\$ 275,000.00
 - b. Men's dormitory addition 275,000.00
 - c. Student union 300,000.00
 - d. Student housing (6 units) 42,000.00
7. State Teachers College, Dickinson, North Dakota
 - a. Married student housing\$ 200,000.00
8. State Teachers College, Mayville, North Dakota
 - a. Birkelo Hall addition\$ 250,000.00
 - b. Student union 250,000.00

The bonds authorized by this Act for the construction of married student housing shall be retired solely from revenues from such buildings. Bonds issued under the provisions of this Act shall never become a general obligation of the state of North Dakota.

Approved March 15, 1961.

CHAPTER 148

S. B. No. 163
(Wadeson, Redlin, Luick)

SALE OR EXCHANGE OF CERTAIN LAND

AN ACT

To authorize the state board of higher education to sell or exchange certain land owned by the state of North Dakota for the benefit and use of the North Dakota agricultural experiment station of the North Dakota state university of agriculture and applied science for other land of equal or greater value and appropriating the proceeds of any 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 or exchange certain land owned by the state for the benefit and use of the North Dakota agricultural experiment station of the North Dakota state university of agriculture and applied science, which land is more specifically described as follows:

The east one-half of section two, township one hundred thirty-nine north, range fifty-one, west of the fifth principal meridian, Cass County, North Dakota, excepting recorded right-of-ways and that portion of said land lying southerly and easterly of the center line of the Maple River, such portion containing twenty-five and thirty-five hundredths (25.35) acres more or less.

The sale or exchange of the above-described land shall be made provided land of equal or greater value, as determined by the state board of higher education, will be acquired by the state of North Dakota for the use and benefit of the North Dakota agricultural experiment station. If a sale rather than an exchange is made of the above-described land, the proceeds from such sale are hereby appropriated to the state board of higher education for the purpose of carrying out the provisions of this Act. Upon the sale or exchange of the above-described land the deed thereto shall be executed by the governor and attested by the secretary of state. The board of higher education shall acquire replacement property for the land sold as provided in this Act and shall acquire an option for the acquisition of such replacement property prior to the consummation of any sale or exchange, and such replacement property shall be designated as the "Dalrymple Experimental Plot".

Approved March 15, 1961.

CHAPTER 149

S. B. No. 173

(Brooks, Meidinger, Hernett, Baeverstad,
(Erickson, George)

STATE TOXICOLOGIST

AN ACT

To establish the office of state toxicologist.

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

§ 1. State Toxicologist—Duties—Fees.) The office of state toxicologist shall be maintained in conjunction with the college of pharmacy at the North Dakota state university of agriculture and applied science, for the purpose of providing toxicological services to any person or the state or any political subdivision utilizing such services. The president of the North Dakota state university of agriculture and applied science, with the advice of the dean of the college of pharmacy shall employ the services of a qualified toxicologist who shall be ex officio state toxicologist. The toxicologist may charge fees for services rendered. Such fees shall be set by the state toxicologist, with the approval of the dean of the college of pharmacy and shall be turned over monthly to the state treasurer and credited to the state general fund. The state toxicologist shall be available to the college of pharmacy for such other duties as the dean thereof shall designate.

Approved February 28, 1961.

CHAPTER 150

H. B. No. 901

(Maragos, Loder, Johnson)

UNITED STATES AND STATE CONSTITUTIONS

AN ACT

To provide that all school districts must offer periods of instruction on the United States and state constitutions to all students in the seventh through the twelfth grades.

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

§ 1. Periods of Instruction To Be Given on United States and State Constitutions.) The officers of every school district shall insure that all students from the seventh grade through

the twelfth grade, inclusive, in every school within the district, shall receive the equivalent of at least a forty-five minute class period of study, each week, on the Constitution of the United States and the Constitution of North Dakota, for at least three of those six years. And that each morning the pledge of allegiance to the flag shall precede each day's study in the first grade through the sixth grade, inclusive.

Approved March 17, 1961.

CHAPTER 151

H. B. No. 607
(Frank, Mosal)

LEASES OF UNIVERSITY AND SCHOOL LANDS

AN ACT

To create and enact section 15-08-26 of the North Dakota Century Code, relating to leases of university and school lands, and to repeal section 15-04-05 of the North Dakota Century Code relating to the leasing of grant lands.

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

§ 1.) Section 15-08-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-08-26. Removal of or Payment for Improvements Upon Termination of Lease.) The lessee of any lands under the control of the board of university and school lands, at the expiration of the lease or within ninety days after receiving notice of the sale of the land which he is leasing may remove any improvements which he has placed upon such lands if such removal can be accomplished without material damage to the land. If the land is leased or sold to any person other than the holder of the lease, the person purchasing or leasing the land, in addition to paying the purchase price or rental of the land, shall pay to the prior lessee the reasonable value of all permanent improvements placed upon the land by the prior lessee with the written consent of the commissioner of university and school lands.

In computing the reasonable value of such improvements, due regard shall be given to the cost of acquisition or construction and depreciation over a period of not to exceed ten years. If the parties are unable to agree upon the value of such improvements, the value shall be determined by a board

composed of the commissioner or someone designated by him and of a person appointed by each of the parties in disagreement.

§ 2. Repeal.) Section 15-04-05 of the North Dakota Century Code is hereby repealed.

Approved February 28, 1961.

CHAPTER 152

H. B. No. 617
(Stockman, Baldwin, Boe, Idso,
Aamoth, Otos, Trom)

STATE UNIVERSITY OF AGRICULTURE AND APPLIED SCIENCE, NAME CHANGE

AN ACT

To amend and reenact section 15-12-01 of the North Dakota Century Code, relating to the location and official name 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. Amendment.) Section 15-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-12-01. Location and Name.) The North Dakota state university of agriculture and applied science shall be located in the city of Fargo in the county of Cass. Wherever the term agricultural college appears in this code, it shall mean the North Dakota state university of agriculture and applied science.

Approved March 1, 1961.

CHAPTER 153

S. B. No. 115
(Kee, George, Meidinger)

NAME CHANGE OF NORMAL AND INDUSTRIAL SCHOOL

AN ACT

To amend and reenact section 15-14-01 of the North Dakota Century Code, relating to the name of the state normal and industrial school at Ellendale.

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

§ 1. **Amendment.)** Section 15-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-14-01. State Normal and Industrial School—Location.) The “state normal and industrial school” shall be located at Ellendale, Dickey County, North Dakota, and may be referred to as the “State Teachers College at Ellendale”.

Approved February 28, 1961.

CHAPTER 154

S. B. No. 117
(Solberg, Trenbeath, Garaas, Roen, Redlin,
(Van Horn, Thompson)

OFF-CAMPUS EDUCATIONAL CENTERS

AN ACT

To create and enact sections 15-18-04.1 and 15-18-04.2 of the North Dakota Century Code, authorizing certain school boards to establish and maintain off-campus educational centers and levy a tax for their support.

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

§ 1.) Section 15-18-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-18-04.1. Establishment of Off-Campus Educational Center.) The school board of any school district which includes a city having a population of more than 7,500 according to the latest federal census, may enter into an agreement with a

state-supported institution of higher education for the establishment and maintenance of an off-campus educational center offering college or university level courses, provided such agreement is approved by the state board of higher education.

§ 2.) Section 15-18-04.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-18-04.2. Mill Levy for Off-Campus Educational Facilities—Election.) For the purpose of maintaining and operating such off-campus educational center the school board may submit the question of a mill levy specified by the board, not to exceed eight mills, to the electors of the district at any regular or special school election within the district. If approved by sixty percent of the electors voting, the school board may proceed with the levy and collection of the tax. Such levy shall be in addition to all other mill levy limitations provided by law, and the proceeds shall be placed in a separate fund, accounted for separately, and used exclusively for the support, operation, and maintenance of such off-campus educational center. Expenditures may be made by the school board without going through the institution of higher education with whom an agreement has been entered.

Approved March 15, 1961.

CHAPTER 155

H. B. No. 657

(Fraase, Johnston, Wheeler, Idso, Kelly, Sjaastad, Lowe)

JUNIOR COLLEGES AND OFF-CAMPUS EDUCATIONAL CENTERS

AN ACT

To amend and reenact sections 15-18-05, 15-18-06, 15-18-07, 15-18-08, and 15-18-09 of the North Dakota Century Code, relating to county and state financing of junior colleges and off-campus educational centers.

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

§ 1. **Amendment.)** Section 15-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-05. County Levy to Aid Junior College or Educational Center Authorized.) The board of county commissioners of any county, or part of a county, in which a junior college or off-

campus educational center of a state-supported institution of higher education has been established, or any county, or part of a county, adjacent thereto, may upon approval of the electors of such county at a countywide election, levy a tax of not exceeding five mills upon all property in such county, to aid any special school district having established a junior college or off-campus educational center of a state-supported institution of higher education. The mill levy herein authorized shall be over and above any mill levy limitation provided by law. At any time after the approval of such levy, upon petition of five percent of the electors voting in the last preceding countywide election, the county commissioners shall submit the question of the continuance of such levy to the next countywide election, and if the majority of the electors shall vote to discontinue such levy, the levy shall be discontinued in subsequent years.

§ 2. Amendment.) Section 15-18-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-06. Proceeds of Levy To Be Certified to Special School District.) The proceeds of any tax levy hereby authorized shall be certified quarterly to the treasurer of any special school district having established such junior college or off-campus educational center of a state-supported institution of higher education and shall be placed in a special junior college fund or an off-campus center fund and shall be expended for the acquisition of property, construction, maintenance, and the operation of a junior college or off-campus center of a state-supported institution of higher education.

§ 3. Amendment.) Section 15-18-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-07. State Aid for Junior Colleges or Educational Centers.) There shall be paid to each school district maintaining a junior college or educational center operated by a state-supported institution of higher education meeting the standards prescribed in section 15-18-08, out of funds appropriated for this purpose, the sum of two hundred dollars which shall be paid immediately preceding October first of each year, for every student in attendance during the two full semesters or fall, winter and spring quarters. For the purpose of this section, a "student" shall mean a person enrolled and in attendance, exclusive of temporary absences, in a junior college or educational center operated by a state-supported institution of higher education for a period of not less than thirty days, and carrying a course of study of not less than twelve class hours in courses meeting standards prescribed by

the state board of higher education during each calendar week. A class hour shall mean not less than fifty minutes of instruction or supervised laboratory training. Each student enrolled for a period of more than thirty days in any one quarter or semester, but less than two complete semesters or three complete quarters shall entitle the school district to receive proportionate payments based upon the number of weeks the student is enrolled and in attendance, exclusive of temporary absences, bears to the total weeks in the two complete semesters or three quarters. Such calculations shall exclude weeks of regular vacation time.

§ 4. Amendment.) Section 15-18-08 of 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 such academic standards in the various courses and fields of study as shall be prescribed by the state board of higher 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 determine compliance with prescribed academic standards.

§ 5. Amendment.) Section 15-18-09 of 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 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. The state board of higher 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 statement submitted by the state board of higher education. The decision of the state board of higher education in regard to all claims for payment shall be final.

Approved March 17, 1961.

CHAPTER 156

H. B. No. 748

(Committee on Appropriations)

HIGH SCHOOL CORRESPONDENCE STUDY DIVISION

AN ACT

To amend and reenact sections 15-19-06 and 15-19-07 of the North Dakota Century Code, relating to receipts and expenditures of the high school correspondence study division.

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

§ 1. **Amendment.**) Section 15-19-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-06. Correspondence Courses To Be Financed from State Equalization Fund—Board May Establish Administrative and Operational Fund.) The cost of operating the correspondence courses under the provisions of this chapter shall be paid out of the state equalization fund. All vouchers expending money therefrom shall be approved by the superintendent of public instruction. The state board of public school education may if it deems advisable establish an administrative operational fund, of not to exceed ten thousand dollars, out of the biennial appropriation of the legislative assembly for the high school correspondence study division. The fund so established shall be deposited in the Bank of North Dakota and may be drawn upon by the state director of correspondence courses in secondary education for the payment of necessary expenses in the administration and operation of the high school correspondence study division program within the limits and regulations prescribed by the board of public school education. The director shall submit a full, minute and itemized statement of every expenditure made during the month to the board in accordance with such rules and regulations as

the board may prescribe and thereafter the board may, in its discretion, periodically authorize additional transfers to such operational fund, but the balance in such fund shall never exceed ten thousand dollars, and any unencumbered balance therein at the end of any biennium shall revert to the state treasury. The fund so established may not be used to pay the salary and expense of the director. Such salary and expense shall be paid in the same manner as other state officials. In establishing and maintaining the administrative operational fund the board shall make proper requisition by submitting a duly approved voucher signed by the superintendent of public instruction through the regular channels to the state treasurer for the transfer of the necessary funds from the biennial appropriation of the high school correspondence study division. The board shall determine the amount of the bond to be posted by the director.

§ 2. **Amendment.)** Section 15-19-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-07. Fees Collected Deposited in Equalization Fund.)

All fees collected by the high school correspondence study division from any source shall be remitted monthly by the director to the state treasurer and credited to the equalization fund of the state. The state treasurer and the manager of the bank of North Dakota shall transfer the balance in any special fund of the high school correspondence study division in the state treasury or on deposit with the bank of North Dakota, except the fund created in section 15-19-06, to the equalization fund of the state on the effective date of this Act.

Approved March 15, 1961.

CHAPTER 157

H. B. No. 754
(Otos, Trom)

DISSOLUTION OF SCHOOL DISTRICTS

AN ACT

To amend and reenact section 15-22-21 of the North Dakota Century Code, relating to the dissolution of school districts and providing an effective date.

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

§ 1. **Amendment.)** Section 15-22-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-22-21. Dissolution of School Districts—Duty of County Superintendent.) When the county superintendent of schools shall notify the board of county commissioners that 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 as a result of the federal or state government acquiring property by eminent domain, or for any other reason, or that any school district within the county has not operated a school for the immediately preceding two years providing pupils from such school district are not attending school in another state, the board of county commissioners shall forthwith give notice of hearing to dissolve the school district and provide for its attachment to an adjoining school district. Be it further provided that when the county superintendent shall notify the board of county commissioners of unorganized territory and recommends that the same shall be attached to an adjacent school district, the board of county commissioners shall forthwith provide for its attachment to an adjoining school district or districts.

§2. Effective Date.) The provisions of this Act shall be effective July 1, 1962.

Approved March 15, 1961.

CHAPTER 158

H. B. No. 539

(Solberg, Aamoth, Fossum, Halcrow, Saugstad)
(From LRC Study)

CONSOLIDATION OF SCHOOL DISTRICT LAWS

AN ACT

To amend and reenact chapters 15-27, 15-28, and 15-29 of the North Dakota Century Code and sections 11-14-14, 15-18-01, 15-18-03, 15-21-07, 15-21-07.1, 15-34-03, 15-34-04, 15-34-05, 15-34-06, 15-34-08, 15-34-10, 15-34-12, 15-34-14, subsection 3 of section 15-34-15, sections 15-34-16, 15-34-22, 15-35-08, 15-35-09, 15-35-10, 15-35-13, 15-35-14, 15-36-12, 15-37-04, 15-38-01, 15-38-03, 15-38-09, 15-38-13, 15-38-14, 15-38-15, subdivision a of subsection 1 of section 15-39-01, subsection 1 of section 15-39-16, sections 15-39-19, 15-39-20, 15-39-22, 15-39-23, 15-39-24, 15-41-18, subdivisions b and d of subsection 2 of section 15-43-01, sections 15-43-03, 15-43-04, 15-43-06, 15-43-07, 15-43-08, 15-43-09, 15-43-10, 15-45-01, 15-46-01, 15-46-04, 15-47-05, 15-47-06, 15-47-07, 15-47-08, 15-47-10, 15-47-11, 15-47-13, 15-47-14, 15-47-15, 15-47-17, 15-47-18, 15-47-22, 15-47-23, 15-47-25, 15-47-26, 15-47-27, 15-48-01, 15-48-02, 15-49-02, 15-49-09, 15-49-11, 15-53-09, subsection 5 of section 15-53-10, sections 15-53-14, 15-53-18, 15-53-19, 15-53-26, subsections 1 and 2 of section 21-03-01, subsection 4 of section 21-03-06, subsections 2 and

3 of section 21-04-01, sections 21-04-13, 21-04-15, 40-38-03, 40-38-05, 40-41-04, 44-08-01, 57-15-13, 57-15-14, of the North Dakota Century Code, and to repeal chapters 15-23, 15-24, 15-25, 15-26, 15-30, 15-31, 15-32, 15-33, sections 15-41-09, 15-41-10, 15-41-11, 15-41-12, 15-41-13, 15-41-14, 15-41-15, 15-41-16, 15-41-17, 15-41-20, 15-41-21, 15-41-23, and 15-53-17 of the North Dakota Century Code, relating to provisions especially affecting common and independent school district law, and joint high school districts.

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

§ 1. **Amendment.)** Chapters 15-27, 15-28, and 15-29 of the North Dakota Century Code are hereby amended and re-enacted to read as follows:

Chapter 15-27

Organization and Dissolution of Public School Districts

15-27-01. Public School Districts—Areas Which Are or May Become.) All school districts in the state of North Dakota, except the Fargo school district, are public school districts and shall be governed by the provisions of this Act. Any area may be constituted a public school district in the manner prescribed in this Act and chapter 15-53, and shall be governed thereafter by the provisions of this Act. When any territory or area is added to a city or village, such addition, upon incorporation into the city or village, shall become a part of the school district comprising or embracing the city or village. The terms “city” or “village” as used in this chapter shall include any community or communities established or which have come into existence as a result of federal projects carried on within this state and which are situated upon government owned property.

15-27-02. Public School Districts—Corporate Powers—Corporate Name — Name Change.) Every public school district shall be a body corporate for school purposes and the name of such school district shall be substantially as follows:

“The School Board of.....Public School District No.....of.....County, State of North Dakota.”

The school district shall possess all the powers and shall perform all the duties usual to corporations for public purposes or conferred upon it by law. Under its name it may sue and be sued, enter into contracts, and convey such real and personal property as shall come into its possession by will or otherwise. It may have a corporate seal by which its official acts may be attested. Whenever in the judgment of the school board of any school district it is deemed desirable to change the name of the school district, or whenever one-third of the

electors of the district shall submit a petition requesting a change in the name of the school district, the board shall submit the proposed name change at the next school election. Upon ratification of the proposed change of such name by a majority of the ballots cast on the question, the school district shall be renamed accordingly. The clerk of the school board of the district shall notify the county auditor, the county superintendent of schools, and the superintendent of public instruction of any change in the name of the district.

15-27-03. Organization of Public School District—Petition—Election—Conditions.) When a petition signed by at least one-third of the persons who have the care and custody of children of school age and who reside in territory which is not organized into a school district is presented to the county superintendent of schools asking that such territory be organized into a public school district, the county superintendent, within fourteen days after the petition is filed, shall order an election to pass upon the question submitted in the petition. Notice of the election shall be given, the election conducted, and the returns of election made, in the manner provided by law for the annual school election. If a majority of the electors voting at the election favor the organization, the school district shall be formed. Each public school district organized under this section after the effective date of this Act shall consist of not less than one congressional township, shall contain taxable property of the value of at least one hundred twenty-five thousand dollars, and shall have at least ten children of school age residing therein.

15-27-04. Attachment of Adjacent Territory to School District — Petition.) Territory contiguous to a public school district, whether in the same county or in another, may be attached to such school district and detached from the district of which it is a part by the board of county commissioners upon written application signed by two-thirds of the electors residing in the contiguous territory after hearing and subject to the limitations of sections 15-27-06 and 15-53-21.

15-27-05. Annexation Hearings — Notice of Hearings.) Before detaching territory from one school district or annexing territory to another school district, the board of county commissioners shall hold a hearing on the petition therefor. At least fourteen days prior to the time the hearing is to be held, the board shall cause notice of such hearing to be published in the official newspaper of the county in which the school district is located, or if no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in this state. If the adjoining district is in another county, the boards of county commissioners of both

counties affected may jointly effect the annexation if a majority of the members of each of the boards of county commissioners approve the annexation.

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 an assessed valuation of less than one hundred thousand dollars, 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.

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 within five days after the hearing, unless another effective date is provided for 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.

Chapter 15-28

Public School District Elections

15-28-01. First Election of Officers After Organization of School District.) If a majority of the votes cast in an election called to vote on the question of organization of a public school district favor the organization of such district, the county superintendent of schools shall, within fourteen days after the approval of the organization, call an election for the election of a school board of the newly organized district. Such elections shall be held in the same manner and upon the same notice as the annual school district elections are held. If an incorporated city or village is embraced within the school district, five, seven, or nine members of the school board shall be elected at large or by geographic area. The school board of a school district embracing an incorporated city or village shall have the same number of school board members as there were members of the board of education of such school district prior to the effective date of this Act. In the case of a non-operative school board the size of the school board shall be the same as when last operative, unless changed as permitted in this section. When a petition signed by at least one-third of the voters of the school district, as determined by the

number of persons voting at the most recent regular school district election, is filed with the school board asking that the number of school board members be increased to not exceeding nine members, the board shall submit such question to the voters of the district at a special election called for that purpose. If a majority of those eligible and voting approve a change in the number of members of the school board, the additional members shall be elected to the board at the next regular school district election in the same manner as other school board members. If five members are elected, two shall serve until the first annual election, two until the second annual election and one until the third annual election thereafter. If seven members are elected, three shall serve until the first annual election, two until the second annual election, and two until the third annual election thereafter. If nine members are elected, three shall serve until the first annual election, three until the second annual election, and three until the third annual election thereafter. All such members shall serve for the terms prescribed above and until their successors are elected and qualified, and the length of their respective terms shall be determined by lot. If an incorporated city or village is not included within the school district, there shall be elected at large three members of the school board, one to serve until the first annual election, one to serve until the second annual election and one to serve until the third annual election thereafter, and until their successors are elected and qualified, and the length of their respective terms shall be determined by lot. However, if a district is established in accordance with the provisions of chapter 15-53, and if the reorganization plan so provides, the members may be elected by geographic areas, and a school district not embracing a city or village may elect five members to its school board.

15-28-02. Rural Members of School Board.) When a school district is composed of six or more sections of land having a city or incorporated village within its boundaries and when the population of the school district does not exceed two thousand persons, at least two members of the school board shall be residents upon farms outside the corporate limits of the city or village. When the assessed taxable valuation of the rural area of a school district containing a city or incorporated village is greater than the assessed taxable valuation of the urban area of the district, the majority of the members of the school board shall reside upon farms outside the corporate limits of the city or village. In every public school district composed of six or more sections of land and having within its boundaries a city or an incorporated village with a population of more than two thousand but less than fifteen thousand persons, and

which has at least twenty-five families residing upon farms outside the corporate limits of the city or village but upon farmsteads located within the school district and sending children to school in such school district, at least one member of the board shall be a resident upon a farm outside the corporate limits of the city or village.

15-28-03. Annual and Special Elections — When Held — Officers Elected—Terms.) An annual election shall be held in each public school district on the first Tuesday in June of each year. At each annual election, members of the school board shall be elected to fill all vacancies therein caused by the expiration of terms of office or otherwise. Each member elected shall serve for a term of three years, except when elected to serve an unexpired term. Such term shall commence on the second Tuesday in July following his election, and he shall continue until his successor is elected and qualified. In addition to the annual election, a special election may be held at any time if approved by a resolution of the school board. Such election may be held for any purpose provided for by law.

15-28-04. Election Precincts, Polling Places, and Officers.) At least fourteen days prior to the first Tuesday in June in each year, the school board of each public school district, by motion or resolution, shall designate one or more precincts and polling places for the school election. Such precincts shall be arranged so as to divide the electors in the district as nearly equally as possible, and no precinct shall have a population in excess of six thousand residents as shown by the last federal decennial census. The polling places established in such precincts shall be located as conveniently as possible for the voters in the precinct, and a polling place once established by the board shall remain the polling place for the precinct until it is changed by subsequent action of the board. The board shall appoint two persons to act as judges and two persons to act as clerks of the election in each precinct. Before opening the polls, each of the judges and clerks shall take an oath or affirmation that he will perform his duties as judge or clerk, as the case may be, according to law and to the best of his ability. The oath or affirmation may be administered by any officer authorized to administer oaths, or by any of the judges or clerks to the others.

15-28-05. Compensation of Election Officials.) Election officials at public school district elections shall receive a minimum of four dollars per day as compensation, and may receive such greater amount as the school board may prescribe.

15-28-06. Annual and Special Elections—Notice.) Notice of the annual school district election shall be given by the

county superintendent of schools in accordance with the provisions of section 15-22-23. Notice of special school district elections shall be given by the school board. At least fourteen days before the date the special election is to be held the school board shall cause to be published, in the official newspaper of the county, notice of the special election. If no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in the state. Such notice shall be signed by the clerk, or in his absence by the president of the school board, and shall state the time and place of holding the election, and the matter to be voted upon.

15-28-07. Notice of Election—Form.) The notice of election shall be in substantially the following form:

Notice is hereby given that on the first Tuesday, the of June, annual elections will be held for the purpose of electing member(s) of school boards, and the polls will be open at eleven o'clock a.m. (insert time standard) and will close at seven o'clock p.m., (insert time standard) of that day.

15-28-08. Hours Polls Open.) At all elections held in a public school district, the polls shall be opened at eleven o'clock a.m. and shall remain open until seven o'clock p.m. on the day of election. The school board shall designate in the notice of election the time standard to be used for polling hours.

15-28-09. Election — Candidates — Ballots — Stickers.) Any candidate for election as a member of the school board of a school district shall file with the clerk of the board, not less than ten days before the election, a statement setting forth his name and the position for which he is a candidate. At least five days before the election, the clerk shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all persons who have filed as herein provided. The ballot shall be headed "official ballot", shall be nonpartisan in form, and shall contain the following:

1. The name of the district;
2. The date of the election;
3. The number of persons to be elected to each office; and
4. Blank spaces below the names listed as candidates for each office in which names not stated on the ballot may be written.

In school districts wherein membership on the school board is required to include persons residing on farms outside of the corporate limits of any city or village, the official ballot shall designate the candidates for such position or positions

as "rural candidates". Nothing herein shall prevent any person who is qualified to hold the office, who desires to be a candidate at the election, and who has failed to file as herein provided, from providing stickers to be attached to the official ballot by the electors. A sticker shall not be more than one-half inch in width, and shall have printed thereon one name only.

15-28-10. Duties of Election Officials—Other Statutes Applicable.) The provisions of sections 16-12-04, 16-12-05, 16-12-11, 16-12-15, 16-13-01, 16-13-04, 16-20-01, 16-20-06, 16-20-07, 16-20-08, 16-20-14, 16-20-15, 16-20-17, 16-20-19, 16-20-20, 16-20-21, 16-20-22, 16-20-23, and 16-20-24 shall apply to elections held under the provisions of sections 15-28-06 and 15-28-09. After the votes are canvassed, and within twenty-four hours after the polls are closed, the judges shall make their returns to the clerk of the school board. All expenses of elections held by a school district, except the notice of the annual election, shall be paid by the district.

Chapter 15-29

Powers and Duties of Public School District Officers

15-29-01. School Board—Quorum—Majority Vote on Contracts.) The public school district school board shall consist of the members elected according to the provisions of chapter 15-28. A majority of the board shall constitute a quorum, and the agreement of a majority of those members present and voting shall be necessary for the transaction of any business.

15-29-02. Regular and Special Meetings of Board—Notice of Special Meetings.) The annual meeting of the school board shall be held on the second Tuesday in July following the annual election, at which time the newly elected members shall assume the duties of their offices. The board shall hold a regular meeting for the transaction of business once in each calendar month thereafter, provided, however, that the board of any school district in which are located only one or two room schools may meet as often as the board shall deem necessary, but not less than four times in each year. Special meetings may be called by the president, or by any two members of the board. Written or printed notice of a special meeting shall be given to each member of the board, provided, however, that the attendance at any meeting, without objection, by any member shall constitute a waiver of the notice required to be given to such member.

15-29-03. Organization of School Board—Election of President—Appointment of Clerk and Treasurer.) At the annual meeting, the school board shall elect from among its members a president who shall serve for one year. The board shall

appoint a clerk and a treasurer who are not members of the board who shall hold their offices during the pleasure of the board and receive such compensation for their services as shall be fixed by the board.

15-29-04. Duties of President.) The president shall preside at all meetings of the board, appoint all committees subject to approval of the board, sign all warrants ordered by the board to be drawn upon the treasurer for school moneys, and perform other acts required by law. In the absence of the president at any meeting, a president pro tempore may be elected by the board.

15-29-05. Compensation of Board Members.) Each member of the school board may receive not in excess of five dollars as compensation for each meeting of the board actually attended by him, but no compensation shall be allowed for more than one meeting in each calendar month.

15-29-06. Vacancies on School Board—How Filled.) The school board shall have power to fill by appointment any vacancy which may occur on the board. An appointee shall hold his office until the next annual election and until his successor is elected and qualifies. When any such appointment is made, the clerk shall certify the same to the county superintendent of schools. In the event that the school board shall fail to fill such vacancy within sixty days after notice of a vacancy has been filed with the county superintendent of schools, the county superintendent shall call a special election for the purpose of filling the vacancy. Such election shall be conducted in the same manner as the annual school election. A vacancy shall occur on the school board by death, resignation, removal from the school district, or otherwise. Any school officer may be removed from office by a court of competent jurisdiction as provided by law, and in such event a vacancy shall exist.

15-29-07. Supervision of Schools.) The schools of a public school district shall be under the supervision of the school board which may appoint a school superintendent to supervise the schools within the district. When no superintendent is appointed by the board, the schools of the district shall be under the immediate supervision of the county superintendent of schools.

15-29-08. General Powers and Duties of School Board.) The powers and duties of the school board of a public school district shall be as follows:

1. To establish a system of public schools which shall be free to all children of legal school age residing within such district and which shall furnish school privileges equally and equitably to all pupils in the district. The board

may make proper and necessary rules for the assignment and distribution of pupils to and among the schools in the district and for their transfer from one school to another. Such schools shall provide at least one hundred eighty days of classroom instruction each year; provided that any day in which classes cannot be held because of acts of God, epidemic or failure of physical facilities shall be included in the one hundred eighty days provided for in this section. Any school may be discontinued when the average attendance of pupils therein shall be less than six for ten consecutive days, if proper and convenient school facilities for the pupils can be provided in some other school in the territory of the closed school until such time as the school may be reopened by the board. In determining what constitutes proper and convenient school facilities, the board shall consider the distance of each child from the nearest other school and all surrounding circumstances. The board may furnish transportation to the nearest school, or may pay an extra allowance over and above the schedule of payments provided for in section 15-34-04 for the transportation or may furnish the equivalent thereof in tuition or lodging at some other public school. In case of a dispute between a parent or guardian of a pupil of the school district and the board as to whether the board has furnished or arranged to furnish adequate facilities, the matter may be submitted by such parent or guardian to the board of arbitration consisting of the county superintendent of schools, one arbitrator named by the parent or guardian, and one arbitrator named by the board, and the determination of the arbitrators after hearing, shall be binding. The board shall reopen any school which has been closed for lack of attendance under this subsection for the next ensuing term upon the written demand of the parents or guardians of six or more children of compulsory school age residing within two and one-half miles of the school. The parents or guardians of at least four such children must be residents of the district. The board may reopen such school at any time upon its own motion.

2. To organize, establish and maintain such schools in said district as it may deem requisite and expedient, including high schools as provided in section 15-41-09*, and to change and discontinue the same; to acquire sites, construct buildings, and operate schools, to discontinue such schools and liquidate the assets thereof. With the approval of the state board of public school education, the board may acquire sites, construct buildings and

*Note: Section 15-41-09 was repealed by section 89 of this chapter.

- operate schools outside its district boundaries, and discontinue such schools and liquidate the assets thereof.
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 board may arrange, and when petitioned to do so by a majority of electors of the district shall arrange, with the school boards of other districts to send to such other districts pupils who can be taught conveniently therein, and for the payment of their tuition and for furnishing and paying for their transportation to and from the schools in such other districts. Such other districts shall receive pupils only when the board of the sending district and the board or boards of the receiving district or districts have entered into an agreement governing the attendance of such pupils as may be enrolled.
 4. To determine and establish courses of study which shall be followed, in addition to those courses prescribed or approved by the superintendent of public instruction or by law.
 5. To purchase, sell and exchange schoolhouses and rooms, lots, or sites for schoolhouses, teacherages and dormitories, and to lease such facilities for a period not to exceed one year.
 6. To exercise the power of eminent domain when necessary to acquire real property for school purposes and proper functions incidental thereto.
 7. To improve lots and sites, and to build, alter, enlarge, improve, and repair such schoolhouses, teacherages, dormitories, outhouses, appurtenances, as it may deem advisable upon lots and sites owned by the district.
 8. To purchase, sell, exchange, improve, and repair school apparatus, textbooks for the use of the pupils, furniture, and appendages, and to provide fuel and other needful supplies for the schools.
 9. To have the custody and control of all school property belonging to the district, and, when the school district is located within a city or village, to see that the ordinances and bylaws of the city or village in relation to such school property are observed.
 10. To contract with, employ, and pay all teachers in the schools and to dismiss and remove for cause any teacher when the interests of the school may require it. Every teacher shall be required to hold a valid North Dakota teaching certificate issued by the superintendent of

public instruction. No person who is related to any member of the board by blood or marriage shall be employed as a teacher without the concurrence of the entire board.

11. To employ, should it deem it expedient, a superintendent of schools for a period not to exceed three years, and to pay such person a reasonable salary. The superintendent may be required to act as principal or teacher in the school system of the district.
12. To defray the necessary and contingent expenses of the board, including the compensation of its clerk and its treasurer.
13. To adopt, alter, and repeal, when it deems it expedient, rules and regulations for the reception, organization, grading, government, and instruction of pupils, and for their suspension, expulsion, or transfer from one school to another. No pupil shall be suspended or expelled except for insubordination, habitual indolence, or disorderly conduct, and a suspension shall not be for a longer period than ten days, nor shall an expulsion be in effect beyond the end of the current term of 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 costs 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 non-resident high school students shall be governed by the provisions of chapter 15-40.

15. To levy a tax upon the property in the district for school purposes as provided in the title Taxation.
16. To cause an enumeration to be made, between the first and twentieth days of June in each odd numbered year, of all unmarried persons under twenty-one years of age within the school district, and to return the same to the county superintendent of schools.
17. To make a report on July first of each year, or as soon thereafter as practicable, of the progress and financial and educational condition of all the schools under its charge. A copy of such report, together with such further information as shall be required by the superintendent of public instruction, shall be forwarded to the county superintendent of schools. The report of financial condition and such other portions as the school board shall consider advantageous to the public, shall be published in a newspaper published in the school district or, if there is none, then in the official county newspaper.

15-29-09. Duties of the Clerk of the School Board.) The clerk of the school board shall:

1. Keep a true and complete record of all of the proceedings of the school board;
2. Take charge of all the books and documents of the district and deliver them to his successor in office;
3. Prepare and submit to the board and to the county superintendent of schools an annual report which shall contain such items as may be required by the superintendent of public instruction;
4. Countersign all warrants for school moneys drawn upon the school district treasurer by order of the board;
5. Perform all duties enjoined upon him under the title Taxation and under the title Governmental Finance; and
6. Perform such other duties as the board may require.

15-29-10. District Records Open to Examination—Records as Evidence.) The records, books, vouchers, and papers of the district shall be open to examination by any taxpayer of the

district. Such records, or a transcript thereof certified by the clerk shall be received in all courts as prima facie evidence of the facts therein set forth.

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 the maximum amount of money that shall be subject to the treasurer's control at any one time.

15-29-12. Duties of School District Treasurer.) The treasurer of a public school district shall:

1. Keep a separate true and correct account of the receipts and expenditures of each fund of the district.
2. Prepare and submit quarterly to the board a written report of the state of the finances of the district, and to submit such report at any other time upon the request of the board, provided, however, that in school districts in which are located only one or two room schools the treasurer shall be required to submit such a report only upon the request of the board.
3. Produce at any meeting of the board or of any committee appointed to examine his accounts, whenever ordered to do so by the board, all of the books and papers pertaining to his office.
4. Keep safely in his possession or under his control all school moneys coming into his hands.
5. Pay out district moneys under his control in accordance with the provisions of section 15-29-13. The form of warrant shall be prescribed by the superintendent of public instruction and shall be so drawn that when signed by the treasurer in an appropriate place it becomes a check on the school district depository.
6. Shall receive and have custody of all moneys from every source which the school board of the district is authorized to receive, except as provided by law when the district has a population of under four thousand.
7. Attend meetings of the board when requested and perform all duties required of him under the title Taxation and the title Governmental Finance.

15-29-13. Form of Warrants—How Warrants Paid by Treasurer.) The treasurer shall pay out moneys only upon the presentation of a warrant signed by the president of the

board and countersigned by the clerk, and only if there is money in his hands or subject to his order sufficient for the payment thereof. The form of warrant to be used by a school district shall be prescribed by the superintendent of public instruction. When making payment of a warrant on school district funds, the school district treasurer shall countersign the warrant and insert the name of the depository bank thereon, and the warrant, when so countersigned, shall become a check on the school district depository. Immediately upon countersigning any warrant and inserting the name of the depository bank thereon, he shall enter the payment in his treasurer's record. The treasurer shall not issue a check on the depository bank except as provided in this section.

§ 2. Amendment.) Section 11-14-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-14-14. Reports of Disbursements of Funds to School Districts.) Annually, on the first day of July, the county treasurer shall:

1. File with the county superintendent of schools an itemized statement of all funds remitted by him during the preceding school year to the treasurer of each school district in the county;
2. Send to the treasurer of each school district in the county an itemized statement of all payments made by the county treasurer to such school district treasurer during the preceding school year; and
3. Send to the clerk of the school board of each school district in the county a copy of the statement sent to the treasurer of his district pursuant to the provisions of subsection 2 of this section.

Such statement shall be made in substantial conformity with the forms prepared by the superintendent of public instruction for the annual report of school district treasurers.

§ 3. Amendment.) Section 15-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-01. Junior Colleges Authorized.) The school board of any public school district comprising any city of the state having a population of more than five thousand, when authorized by a two-thirds vote of the electors voting thereon, may establish and maintain, in conjunction with the high school of such district, a department of junior college work to consist of not more than two years of work beyond a four-year high school course.

§ 4. **Amendment.)** Section 15-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-03. Tuition in Junior College—Duty of School Board—Tax Levy Authorized on Vote of People—Maintenance of Department.) On or before August fifteenth in each year, the school board of a public school district which maintains a junior college shall determine the rate of tuition required to be paid by all pupils attending the department, whether or not the pupils are residents of the district, and such tuition may be at a different rate for the students nonresident in the district than for pupils resident in the district. Every public school district maintaining a junior college under the provisions of this chapter may levy a tax of not to exceed eight mills, the proceeds of which shall be used for the maintenance and operation of the junior college. When submitting the question at the election, the board may specify a levy of less than the eight mill limit authorized, and if such a limited levy is approved by the voters, subsequent levies shall not exceed the limited levy without another election authorizing a greater levy, but no election shall ever authorize a greater total levy than eight mills. The tax levy for the support of a junior college shall be in addition to all other levies authorized by law for such school districts, and the proceeds of the levy shall be used exclusively for the support, operation and maintenance of a junior college.

§ 5. **Amendment.)** Section 15-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-21-07. Duties—To Advise with County Superintendents of Schools and School Boards—Appeals.) The superintendent of public instruction shall counsel with and advise county superintendents of schools and school boards upon all matters involving the welfare of schools, and on request, he shall give them written answers to all questions concerning school laws. He shall decide all appeals from decisions of county superintendents of schools, and, for the consideration of such appeals, he may require affidavits, verified statements, or testimony under oath as to the facts in issue, as provided in chapter 28-32. As an administrative agency under chapter 28-32 and following provisions thereof, he shall prescribe, and cause to be enforced, rules of practice and regulations pertaining to the hearing and determination of appeals and such rules and regulations as may be necessary to render effective the school laws of the state.

§ 6. Amendment.) Section 15-21-07.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-21-07.1. Agreements with Federal Agencies and School Districts.) The superintendent of public instruction in order to carry out the purposes of any federal statutes pertaining to public education may enter into agreements with any agency of the federal government and with the school board of any school district in the state, may make agreements with the federal government for and in behalf of the public school districts of the state and may adopt necessary rules of administration to insure the proper and efficient operation of such agreements and to comply with such conditions as may be necessary to obtain the full benefits of such federal statutes. Provided, however, that such contracts, agreements or arrangements shall in no way impair the rights, powers, duties or authority of local school districts and school boards in the management and control of their local schools.

§ 7. Amendment.) Section 15-34-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-03. Compulsory Attendance—Exceptions.) The parent, guardian, or other person having control of a child of compulsory school age as defined in this chapter shall be excused by the school board from causing the child to attend school whenever it shall be shown to the satisfaction of the board, subject to appeal as provided by law, that one of the following reasons exists:

1. That the child is in attendance for the same length of time at a parochial or private school approved by the county superintendent of schools. No such school shall be approved unless the branches of instruction usually taught in the public schools are taught therein. The approval or disapproval of such school by the county superintendent shall be subject to appeal to the superintendent of public instruction;
2. That the child has acquired the branches of learning taught in the public schools and has completed high school;
3. That the child actually is necessary to the support of his family, which shall be a question of fact to be determined by the governing board of the district with the approval of the county superintendent of schools, and such determination shall be subject to review by the superintendent of public instruction on appeal;
4. That the child is in such physical or mental condition as to render attendance inexpedient or impracticable.

- Such condition shall be shown by a declaration of a licensed physician if required by the board;
5. That no school is taught for the required length of time within two miles of the residence of the child by the nearest route, if the child lives in a school district which does not pay transportation in accordance with the schedule contained in this chapter, or the equivalent thereof in lodging or in tuition at some other school if acceptable to the child's parents or guardians, nor furnish vehicular transportation by public conveyance for the child. The exception contained in this subsection shall not apply in the case of a deaf, blind, or feeble-minded child;
 6. That no school is taught for the required length of time within six miles of the residence of the child by the nearest route, if the child lives in a school district which does not furnish vehicular transportation by public conveyance for children living more than six miles from the nearest school. The exception contained in this subsection shall not apply in the case of a deaf, blind, or feeble-minded child.

§ 8. **Amendment.)** Section 15-34-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-04. Transportation—Payment Optional with School Board—Schedule.) The school board of any school district in the state, whether or not such district contains a consolidated school, may pay, in its discretion, to each family living more than two miles from a school in the district which is taught the required length of time, a sum per day for each day's attendance of a child or children of such family, including children in the high school department, when transported by a member of the family or by a conveyance furnished or paid for by the family or when the family has paid for lodging for the child, according to the distance between the home of the family and the school, as set forth in the following schedule:

From 2 miles to 2¼ miles.....	25¢ per day
From 2¼ to 2½ miles.....	28¢ per day
From 2½ miles to 2¾ miles.....	31¢ per day
From 2¾ miles to 3 miles.....	34¢ per day
From 3 miles to 3¼ miles.....	37¢ per day
From 3¼ miles to 3½ miles.....	40¢ per day
From 3½ miles to 3¾ miles.....	43¢ per day
From 3¾ miles to 4 miles.....	46¢ per day
From 4 miles to 4¼ miles.....	59¢ per day
From 4¼ miles to 4½ miles.....	62¢ per day
From 4½ miles to 4¾ miles.....	65¢ per day

From $4\frac{3}{4}$ to 5 miles.....	68¢ per day
From 5 miles to $5\frac{1}{4}$ miles.....	71¢ per day
From $5\frac{1}{4}$ miles to $5\frac{1}{2}$ miles.....	74¢ per day
From $5\frac{1}{2}$ miles to $5\frac{3}{4}$ miles.....	77¢ per day
From $5\frac{3}{4}$ miles to 6 miles.....	80¢ per day
Each $\frac{1}{2}$ mile over 6 miles, the further sum of.....	10¢ per day

Such distance shall be measured by the nearest route from the front door of the schoolhouse to the front door of the family's residence according to the most convenient public course of travel. If payment is made in any district based on school attendance, such payment shall be made in the amounts provided in this section except in the case of a school which has been closed for lack of sufficient number of pupils as provided in this title.

§ 9. Amendment.) Section 15-34-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-05. Vehicular Transportation, Lodging, or Tuition May Be Furnished at Option of School Board.) The school board of any school district in the state, in its discretion, may furnish to each family living more than two miles from a school in the district which is taught the required length of time:

1. Vehicular transportation by public conveyance; or
2. The equivalent of the payments specified in section 15-34-04 in lodging or tuition at some other public school if the same is acceptable to the family.

The board shall not accord the benefits of either subsection 1 or subsection 2 of this section to any family which is receiving payments under section 15-34-04.

§ 10. Amendment.) Section 15-34-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-06. Demand for Payment, Waiver.) Demand for any payments authorized by a school board under the provisions of this chapter shall be made by the family entitled thereto before the close of the school year, or the same shall be deemed to be waived.

§ 11. Amendment.) Section 15-34-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-08. Transportation Expense—Report of Clerk.) The clerk of the school board shall include an item in his annual

statement setting forth any amounts spent for transportation of pupils or in making any payment in lieu of transportation.

§ 12. **Amendment.)** Section 15-34-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-10. Prosecution for Violation of Compulsory Attendance Law — Officers Charged with Enforcement.) Every superintendent, principal, and teacher in any school system in this state, and every county superintendent of schools, shall be charged with the enforcement of the provisions of this chapter relating to compulsory school attendance. Such persons shall inquire into all cases of alleged violation of such provisions and shall obtain from any parent, guardian, or other person having custody of any child of school age not attending school in accordance with the requirements of this chapter the reason, if any, for such absence. In school districts not having a school superintendent, the county superintendent of schools shall be notified of any violation of the compulsory school attendance law, and such county superintendent shall report the facts of the violation to the state's attorney of the county. In school districts which have a school superintendent, the school superintendent or principal shall report to the state's attorney of the county the facts in connection with any violation of the compulsory attendance law. The state's attorney shall prosecute any person who violates the compulsory school attendance provisions of this chapter. The school board of any school district having more than five hundred inhabitants may employ a truant officer to assist in the enforcement of the compulsory school attendance provisions.

§ 13. **Amendment.)** Section 15-34-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-12. Vehicular Transportation — Bids, Contracts, Bonds.) The school board of any school district which furnishes vehicular transportation to any of its schools, prior to the opening of school each year, shall enter into written contracts for the furnishing of such transportation, for the ensuing school year. If vehicle furnished is privately owned, the driver of the vehicle and the school board may enter into a contract not to exceed three years. The board shall give at least ten days' notice of the time and place of the letting of such contracts and shall call for sealed bids therefor by posting notices thereof in at least three of the most public places in the school district. The notices shall describe the route to be covered by each contract, and shall state that the board reserves the right to reject any and all bids, that a bond will be required of each successful bidder, in the sum of five hundred dollars,

conditioned for the faithful performance of the duties prescribed by the contract, and that the bids submitted must name the person or persons who will operate the vehicle and describe the nature of the vehicle.

§ 14. **Amendment.)** Section 15-34-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-14. Contract for Vehicular Transportation — Conditions for Granting.) The school board shall let the contract, in each case, to the lowest responsible bidder who furnishes a bond as described in section 15-34-12, which will be approved by the board, and who agrees to use a vehicle which, in the judgment of the board, is a safe, comfortable, and suitable vehicle for the purpose, and who names one or more drivers who, in the judgment of the board, are competent and responsible. No contract shall be entered into with any member of the board, but a member of the board may be designated in the contract as the operator of a vehicle.

§ 15. **Amendment.)** Subsection 3 of section 15-34-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Describe the route or routes as fixed by the school board which the vehicle or vehicles described in the contract shall cover and provide for the amount of compensation to be paid for transportation;

§ 16. **Amendment.)** Section 15-34-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-16. Arbitration of Disagreement as to Compensation on Change of Route.) In case of a change in the route or routes specified in a vehicular transportation contract and the failure of the school board and the contract holder, to agree on an adjustment of the compensation specified in the contract, the matter shall be submitted to arbitration. One arbitrator shall be appointed by the board, and one shall be appointed by the contract holder. The two arbitrators thus appointed shall appoint a third arbitrator. The award of the arbitrators shall adjust the compensation of the contract holder to meet the changed situation and shall be binding upon the district and the contract holder.

§ 17. **Amendment.)** Section 15-34-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34-22. Violation of Compulsory Attendance Provisions—Penalty.) Any parent, guardian or other person failing to comply with the requirements of sections 15-34-20 and

15-34-21 is guilty of a misdemeanor and shall be punished by a fine of not less than five dollars nor more than twenty-five dollars for the first offense and by a fine of not less than ten dollars nor more than fifty dollars for the second and each subsequent offense. The school board, school superintendent, principal, teachers and truant officers of the school district offering school facilities to such child or children shall be charged with responsibility for the enforcement thereof in the same manner and to the same extent as in connection with children actually residing in the district.

§ 18. **Amendment.)** Section 15-35-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-35-08. Fireguards—Duty of School Board—Misdemeanor.) Every school board in the state shall provide reasonable fireguards around the rural schools of the district. If any school board fails or neglects to provide the same, the county superintendent of schools shall notify the school board of its failure. After being so notified, it shall be a misdemeanor for any member of the board to draw or receive his compensation until fireguards have been provided.

§ 19. **Amendment.)** Section 15-35-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-35-09. Fire Drills—Duty of Superintendent and Teachers.) All public school teachers who teach in school buildings consisting of more than one room shall conduct at least two fire drills each month except when the weather is inclement. No teacher shall receive his salary for any month until he has certified to the clerk of the board that fire drills have been given in compliance with this section. In districts having a superintendent, the superintendent shall prescribe rules governing fire drills and shall not receive his salary until he has certified to the clerk of the board that fire drills have been given as provided in this section.

§ 20. **Amendment.)** Section 15-35-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-35-10. Fire Drills in Rural Schools—Rules—Duty of County Superintendent and of Teachers.) The county superintendent of schools shall prescribe reasonable rules for the conduct of fire drills in the rural schools of his county with special reference to prairie fires. Any school board may direct that no teacher in a one-room school shall receive his salary until at least one fire drill has been conducted in his school each month.

§ 21. Amendment.) Section 15-35-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-35-13. Superintendent of Public Instruction May Order Change in Sanitary or Ventilating Systems—Appeal—Penalty.) If it shall appear to the superintendent of public instruction that the sanitary or ventilating system of any school building is defective or deficient and that such defect or deficiency can be remedied without unreasonable expense, he may issue a written order to the school board of the district in which the schoolhouse is situated directing that such defect or deficiency shall be remedied. The members of any board or any person having charge of any schoolhouse who shall neglect for four weeks after an order made by the superintendent under the provisions of this section is served upon such board or person to comply with such order shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars. Any person feeling aggrieved by any order made by the superintendent of public instruction under this section may apply in writing, within four weeks after the service of the order, to the city or village board of health, in the case of a school located within a city or village, or to the county board of health in all other cases, for a review of the order, and may request that such order be amended or set aside. The board of health to which the application is directed shall afford a hearing upon the order upon such reasonable notice as it shall specify and may alter, annul, or affirm such order.

§ 22. Amendment.) Section 15-35-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-35-14. Use of School Buildings for Other Than School Purposes — Penalty for Removal of Furnishings.) School boards having charge of school buildings may permit the use thereof under proper restrictions for any appropriate purpose when not in use for school purposes. Equal rights and privileges shall be accorded to all religious denominations and to all political parties. The use of school buildings under this section shall be without cost to the district, and furniture fastened to the buildings shall not be removed or unfastened. Public school and high school auditoriums and gymnasiums may be let for meetings, entertainments, or conventions of any kind, subject to such restrictions as the governing board of the district shall prescribe. Such use of the buildings shall not be permitted to interfere with the operation of the schools or with school activities. A charge shall be made for the use of the buildings in an amount at least sufficient to defray any

cost to the district for light, heat, janitor service, or other incidental expenses connected with such use. Any person who removes any school furniture for any purpose other than to repair the same or for the purpose of repairing the schoolroom, shall be punished by a fine of not less than five dollars nor more than ten dollars for each offense.

§ 23. **Amendment.)** Section 15-36-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-36-12. Certificate Must Be Exhibited to Clerk—Completion of Term after Expiration of Certificate.) No teacher shall be entitled to receive any compensation for the time he teaches in a public school without a certificate to teach which lawfully is issued and in force in the county in which the school is taught. Prior to receiving his salary for the first month taught in a school district, a teacher must exhibit his certificate to the clerk of the school board. If a teacher's certificate shall expire by its own limitations within six weeks of the close of the term, the teacher may finish the term without re-examination or renewal thereof.

§ 24. **Amendment.)** Section 15-37-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-37-04. Who May Administer Oaths.) The several township supervisors, school directors, members of the state board of higher education, and members of school boards may administer the oath required by this chapter.

§ 25. **Amendment.)** Section 15-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-01. Superintendent of City and Village Schools—Powers and Duties.) The superintendent of schools, in districts where a superintendent is employed, shall supervise the administration of the courses of study, visit schools, examine classes, and have general supervision of the professional work of the schools, including the holding of teachers' meetings and the classification of teachers, all of which shall be subject to the final authority of the school board. From time to time, he shall make reports to the board embodying recommendations relative to the employment of teachers and janitors, the adoption of textbooks, changes in the courses of study, enforcement of discipline, and school matters in general. He shall make such other reports and perform such other duties as the board may direct and delegate. The superintendent of schools 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. Such bond shall be in an amount set by the school board but shall not be less than the maximum amount of money that shall be subject to the superintendent's control at one time. Such bond shall be written through the state bonding fund and shall be at the expense of the school district.

§ 26. Amendment.) Section 15-38-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-03. Teacher's Register — Contents — Report.) Each teacher shall keep a school register and at the close of each term shall make a report stating the number of visits of the county superintendent of schools and such other items as may be required by the county superintendent. The report shall be made in duplicate, and both copies shall be sent to the county superintendent. If he finds the report correct, he shall send one copy immediately to the clerk of the school district. No teacher shall be paid any salary for the last month of a term until the report has been approved by the county superintendent and filed with the clerk.

§ 27. Amendment.) Section 15-38-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-09. Physical Education To Be Taught in All Schools.) Physical education shall be taught as a regular subject to all pupils in all departments of the public schools and in all educational institutions supported wholly or in part by money from the state. All school boards and boards of educational institutions receiving money from the state shall make provision for daily instruction in all the schools and institutions under their respective jurisdictions and shall adopt such methods as will adapt progressive physical exercises to the development, health, and discipline of the pupils in the various grades and classes of such schools and institutions.

§ 28. Amendment.) Section 15-38-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-13. Suspension of Pupils—Cause—Notice.) A teacher may suspend any pupil from school for not more than five days for insubordination, habitual disobedience, or disorderly conduct. In each case, the teacher shall give immediate notice of the suspension, and the reason therefor, to the parent or guardian of the pupil and to a member of the school board.

§ 29. **Amendment.**) Section 15-38-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-14. Assignment of Studies to Pupils—Classification of Pupils.) The teacher, or the principal or local superintendent in graded schools under the charge of a principal or local superintendent, shall assign to each pupil, in accordance with the provisions of this chapter, such studies as he is qualified to pursue and shall place such pupil in the proper grade or class in the school. If any parent or guardian shall be dissatisfied with such assignment or classification given by a teacher in a school not having a principal or local superintendent, the matter shall be referred to and decided by the county superintendent of schools having supervision of such school.

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

15-38-15. Duty to Attend Teachers' Institutes and Training Schools—Notice—Penalty for Failure to Attend.) When a teachers' institute or teachers' training school is appointed to be held in or for any county, the county superintendent of schools shall give written or printed notice thereof and of the time when and the place where the same will be held to each teacher in the public schools of the county, and, as far as possible, to others not then engaged in teaching who are holders of teachers' certificates. The notice shall be given at least ten days before the opening of the institute or teachers' training school. Each teacher who receives the notice, and who is engaged in teaching a term of school during the time when the teachers' institute or training school is in session, shall close the school and attend the institute or training school, and shall be paid the regular salary as teacher by the board of the school district for the time during which he is in attendance as certified by the county superintendent of schools. The county superintendent of schools may revoke the certificate of any teacher in the county for inexcusable neglect or refusal, after due notice, to attend a teachers' institute or teachers' training school held for the county. The provisions of this section shall not apply to high school teachers.

§ 31. **Amendment.**) Subdivision a of subsection 1 of section 15-39-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 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;

§ 32. Amendment.) Subsection 1 of section 15-39-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Each school board or other governing body of any school district or of any county agricultural and training school shall retain the amounts of the assessments provided in this chapter from the monthly salary of each teacher in the district or county agricultural and training school who is subject to the provisions of this chapter;

§ 33. Amendment.) Section 15-39-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-19. District Wherein no Assessment is Made—Reports Required.) The school board of a school district in which there is no teacher who comes under the provisions of this chapter shall report that fact to the county treasurer under the oath of the clerk thereof, and at the same time, shall forward copies of such statement to the county superintendent of schools and to the county auditor.

§ 34. Amendment.) Section 15-39-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-20. Report of Assessments in County To Be Made by County Superintendent of Schools.) Every county superintendent of schools between the thirtieth day of June and the tenth day of July of each year, shall furnish to the board a report containing an itemized and consolidated account of the statements received by him from the school boards and other governing bodies of school organizations in the county and a statement of the total amount withheld from the salaries of all of the teachers included in the report.

§ 35. Amendment.) Section 15-39-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-22. Assessments Reports To Be Preserved.) The board, and each county superintendent of schools, county treasurer, county auditor, school board, managing body of any school organization, board of county commissioners, disbursing officer of each state institution, state board of higher education, and board of directors of the North Dakota education association shall keep complete records of the data contained in any reports and shall retain copies of any statements made by or to such officer or board under the provisions of this chapter.

§ 36. **Amendment.)** Section 15-39-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-23. Sum To Be Set Aside from County Equalization Fund and Transmitted to State Treasurer.) Each county treasurer, annually, shall set aside from the county equalization fund a sum equal to twenty cents for each child enumerated on school census report in his county and shall transmit such sum to the state treasurer at the time at which he transmits the funds received from the school boards and board of county commissioners under the provisions of this chapter. The county treasurers shall certify to the board under oath the amount so transmitted to the state treasurer.

§ 37. **Amendment.)** Section 15-39-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-24. Failure to Report and Account Deprives District of Right to Participate in State Equalization Fund.) No school district shall share in the apportionment of the state equalization fund for any year unless the school board, or an officer thereof, has made the reports required under the provisions of this chapter and has paid over for credit to the fund the percentage provided in section 15-39-14 of the total wages paid to teachers in the district who are members of the fund, and has paid the required funds for matching the assessments required of the teachers, nor unless the county treasurer has remitted to the state treasurer the portion of the county equalization fund designated in section 15-39-23.

§ 38. **Amendment.)** Section 15-41-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-41-18. Admission of Nonresident High School Students.) Nonresident high school students may be admitted to the high school department of a standardized graded school or standardized high school. The school board in any school district having a standardized high school or high school department shall admit to such high school department, whenever the facilities for seating and instruction will warrant, any nonresident high school student who is prepared to enter such department. A pupil who has not completed the first eight grades shall not be considered prepared to enter the high school department. A school district which is located on the boundary line of this state, which does not have a full four-year high school course of at least fifteen units, and which is adjacent to a school district in an adjoining state which does have a full four-year high school course, shall arrange for

any pupil living in the district to attend the high school in the adjacent district, notwithstanding that it is an adjacent state, until he has completed such part of the full four-year high school course of at least fifteen units as is not offered in his home district.

§ 39. Amendment.) Subdivisions b and d of subsection 2 of section 15-43-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- b. That the price and terms filed are to be reduced automatically in North Dakota whenever reductions are made by the publisher elsewhere in the United States so that at no time shall any book so filed and listed be sold to district school boards, or to their authorized purchasing agents, at a higher price than is received for the book by the publisher elsewhere in the United States;
- d. That in case an abridged or special edition of any book shall be prepared, the person, firm, or corporation manufacturing the same shall sell the special edition to district school boards in this state, or to their authorized purchasing agents, at the same wholesale price as that for which the book is sold elsewhere;

§ 40. Amendment.) Section 15-43-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-43-03. Breach of Conditions in Bond—Proceedings to Collect on Bond.) If any person, firm, or corporation shall supply, to any district school board, or any purchasing agent thereof, books that are inferior to the samples on file with the superintendent of public instruction, or shall charge a higher price than that filed or than is charged elsewhere in the United States, the county superintendent of schools, on written complaint filed with him by the school board, shall inform the superintendent of public instruction of the breach of the terms of the bond. The superintendent shall notify the person, firm, or corporation of the complaint, and if the notice is disregarded, or if such person, firm, or corporation fails to comply with the terms of the agreement filed with the superintendent, the bond shall be forfeited, and the attorney general, on written request of the superintendent of public instruction, shall proceed to collect the full amount thereof.

§ 41. Amendment.) Section 15-43-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-43-04. Lists of Textbooks To Be Furnished to School Districts.) The superintendent of public instruction shall dis-

tribute to the clerks of district school boards and the county superintendents of schools, a complete printed list of books filed with his department, giving the prices and terms of sale and, annually, shall cause a supplementary list of textbooks filed during the year, with prices and terms of sale, to be printed and distributed. All books used in the public schools of the state shall be selected, adopted, and purchased by contract from such list by the district school boards. School boards may use supplementary books not shown on the lists described in this section.

§ 42. **Amendment.)** Section 15-43-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-43-06. Agents for Purchase of Books—Sale Price to Pupils.) A district school board may appoint agents or dealers to purchase, handle, and sell selected books for which contracts have been made. No dealer or purchasing agent of a school district shall sell any books listed with the superintendent of public instruction as provided in this chapter to pupils of the district at a price exceeding fifteen per cent above the net cost of the book as listed and as named in the contract with the school district. The net cost of transportation, however, may be added to the selling price as determined under the provisions of this section.

§ 43. **Amendment.)** Section 15-43-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-43-07. Textbooks—Purchase and Sale by School District—Loan to Indigent Pupils—Use by Teachers.) A school board may purchase textbooks from the publisher at prices and terms listed with the superintendent of public instruction, and may sell such books to the pupils at cost price or at prices including the cost of transportation and of handling. Such board may purchase all necessary books for indigent pupils and loan such books free of expense to such pupils, and shall purchase all books necessary for the use of the teachers in conducting the work of the schools of the district. Books purchased for the use of indigent pupils and of the teachers shall be paid for out of the funds of the district and shall remain the property of the district.

§ 44. **Amendment.)** Section 15-43-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-43-08. Purchase of Textbooks from Family Removing from District.) When a family removes from a school district in which free textbooks are not provided, the school board of

the district from which the family removes may purchase the textbooks in actual use by the children of such family at a fair price based upon the cost of the books and upon the condition thereof. The books so purchased may be resold to other children in the district.

§ 45. **Amendment.)** Section 15-43-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-43-09. Free Textbooks—Discretion of Board—Petition.) When the school board of any school district shall deem it desirable or necessary, or whenever such board is petitioned so to do by two-thirds of the voters of the district, it shall provide free textbooks and supplies for all schools under its charge. All books purchased under this section shall be paid for out of the funds of the district, and the school board shall see that sufficient funds are raised and set aside therefor. The clerk of the district shall keep a record of all books furnished to the schools in the district. Any school board which has adopted the free textbook system must dispense with such system if petitioned so to do by two-thirds of the voters of such district. No petition to dispense with the free textbook system shall be acted upon by the board within a period of four years after such system was adopted, and after such system has been dispensed with, it shall not be installed again until the expiration of four years thereafter.

§ 46. **Amendment.)** Section 15-43-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-43-10. Duty of Parent or Guardian to Furnish Textbooks.) In any school district which does not have the free textbook system, the parent or guardian of any child in school shall provide him with the textbooks adopted by the school board necessary to the reasonably successful progress of the child in class in all of the subjects of study of the grade to which the child is assigned by his teacher.

§ 47. **Amendment.)** Section 15-45-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-01. Establishing Kindergartens—Petition—Election.) The school board of any school district, at any annual election, may submit the question of establishing free kindergartens in connection with the public schools of the district for the instruction of resident children below school age. On the petition of not less than one-fifth of the electors of the school district, the board must submit the question at the next annual school election. If a majority of the votes cast on the

proposal favor the establishment of kindergartens, the board shall establish kindergartens and shall maintain them until they are discontinued as provided in this chapter.

§ 48. **Amendment.)** Section 15-46-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-46-01. Evening Schools—Establishment—Supervision.) The school board of any public school district may establish and maintain a public evening school as a branch of the public schools. At the direction of the superintendent of schools of the county or city in which the district or territory is situated, or at the direction of the superintendent of public instruction, the board shall establish and maintain such evening school. An evening school, when maintained, shall be available to all persons over sixteen years of age who, from any cause, are unable to attend the public schools of the district. The branches taught at evening schools and the general conduct thereof shall be subject to the direction and control of the superintendent of public instruction.

§ 49. **Amendment.)** Section 15-46-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-46-04. County Appropriation and Levy for Evening Schools.) The board of county commissioners of each county in the state, when petitioned by the board of a public school district, shall make an annual appropriation of five hundred dollars, and may levy a tax upon all of the taxable property of the county to raise such amount, for the purpose of aiding and promoting any evening school established by the school board of such district. The school board of any district receiving aid from the county under the provisions of this section shall contribute to the maintenance of the evening school an amount equal to the amount received from the county for that purpose.

§ 50. **Amendment.)** Section 15-47-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-05. Qualifications of School Electors and Officers.) Any person who is a qualified elector under the general laws of the state is qualified to vote at the election of school officers in any school district of the state in which he is a resident, and is eligible to the office of school district treasurer, school district clerk, or member of the school board, or may be appointed as a judge or clerk of election.

§ 51. **Amendment.)** Section 15-47-06 of 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.) 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.

§ 52. **Amendment.)** Section 15-47-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-07. Certificate of Election—Notice to County Superintendent of Schools.) Within five days after any school district election, the clerk of the district shall notify each person elected to a school district office, by written notice, of his election and of his duty to take the oath of office as such officer. The clerk, within ten days after the election, shall certify the persons so elected and the terms to the county superintendent of schools.

§ 53. **Amendment.)** Section 15-47-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-08. Oath of Office of School District Officers.) Each person elected or appointed as a member of the school board or as a school district treasurer, before entering upon the duties of his office, shall take and file with the clerk of the district the oath prescribed for civil officers.

§ 54. **Amendment.)** Section 15-47-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-10. Ten Commandments To Be Displayed in Classrooms.) The school board of every school district, and the president of every institution of higher education in the state which is supported by appropriations or by tax levies, shall cause a placard containing the Ten Commandments of the Christian religion to be displayed in a conspicuous place in every schoolroom, classroom, or other place where classes convene for instruction. The superintendent of public instruction may cause such placards to be printed and may charge an amount therefor that will cover the cost of printing and distribution.

§ 55. **Amendment.)** Section 15-47-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-11. United States Flag To Be Displayed.) The school board of every school district shall purchase, at the expense of the district, one or more flags of the United States. Such flag shall be displayed in seasonable weather on each schoolhouse or upon a flagstaff on the school grounds of each school during the school hours of each day's session of school.

§ 56. **Amendment.)** Section 15-47-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-13. School Census—Report.) The school board of each public school district shall cause an enumeration to be made between the first and twentieth days of June of each odd numbered year, of all unmarried persons under twenty-one years of age, as of such twentieth day of June, having their legal residence in the district. The census also shall include the following information:

1. The names and ages of such persons and the names of parents or guardians having the care and custody of each;
2. The names and ages of all deaf and dumb, blind, and feeble-minded persons between the ages of five years and twenty-five years residing in the district, including all such persons who are too deaf or feeble-minded to acquire an education in the common schools;
3. The names and ages of all crippled persons of any age residing in the district; and
4. The names and post office addresses of the parents or guardians of all of the persons mentioned in subsections 2 and 3 of this section.

The enumeration shall be made upon and in accordance with forms furnished by the county superintendent of schools, and shall be approved by the school board and returned to the county superintendent prior to the fifteenth day of July in the year in which it is made, and immediately upon receipt of such report the county superintendent of schools shall furnish a copy of the enumeration of deaf and dumb persons to the superintendent of the school for the deaf, a copy of the enumeration of blind persons to the superintendent of the school for the blind, and a copy of the enumeration of feeble-minded persons to the superintendent of the institution for the feeble-minded.

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

15-47-14. Education Association Meetings — Attendance by Superintendents, Principals, and Teachers.) The school board of any school district shall allow the superintendent, principal, and teachers of the schools, without loss of salary, to attend any meeting of the North Dakota education association and other educational associations held within the state while the schools of the district are in session.

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

15-47-15. School Contracts—Advertisement for Bids—Publication—Exceptions.) No contract involving the expenditure of an aggregate amount greater than one thousand dollars, except as hereinafter set forth, shall be entered into by any school district of any kind or class except upon sealed proposals and to the lowest responsible bidder after ten days' notice by at least one publication in a legal newspaper published in the county in which the school district, or a portion thereof, is located. If no newspaper is published in such county, the publication shall be made in a newspaper published in an adjacent county. The provisions of this section shall not apply to the following classes of contracts, namely:

1. For personal services of employees of the district;
2. For school text or reference books;
3. For any article which is not for sale on the open market;
4. For any patented, copyrighted, or exclusively sold device or feature required to match articles already in use;
5. For any patented, copyrighted, or exclusively sold article of so distinctive a nature that only one make of the article can be purchased; or
6. Any building contract.

Such exceptions shall be strictly construed. Every member of a school board who participates in a violation of this section shall be guilty of a misdemeanor.

§ 59. **Amendment.)** Section 15-47-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-17. School Census To Be Taken by County Superintendent of Schools in Defunct District Within Indian Reservation.) If the school board of a school district within an Indian reservation in this state shall cease to exist or function, the county superintendent of schools of the county within which the Indian reservation is situated shall cause the school census or enumeration to be taken and reported as required by this title. The cost of taking the census shall be paid out of that part of the county equalization fund apportionable to the United States and shall be deducted therefrom and paid by the county treasurer upon the presentation of a bill therefor approved by the county superintendent of schools.

§ 60. **Amendment.)** Section 15-47-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-18. Tuition for Children Whose Parents Live on County Poor Farms.) Any child whose parents or guardians reside upon land owned and used by any county in this state as a poor farm is not a resident of any school district for school purposes. A school district shall be entitled to charge tuition at the rate of one dollar and fifty cents per week for the time any such child is enrolled in a grade or high school, or high school department, in the district. Such tuition, unless it is paid from the state equalization fund, shall be paid by the county which owns the land upon which the parent or guardian of the child resides. On or before the first day of July in each year, the clerk of the school board shall file with the county auditor of such county a claim for tuition showing the name and age of the child and the date when the child was enrolled in the school, the description of the land upon which the child resides, and the total amount due from the county as tuition for such child. Such claim shall be audited, allowed, and paid in the same manner as any other claim against the county is audited, allowed, and paid.

§ 61. **Amendment.)** Section 15-47-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-22. Health Inspection of Pupils.) Upon being petitioned in writing by a majority of the school board members of the county, the board of county commissioners may employ

one or more licensed physicians, or graduate nurses duly registered and licensed to practice nursing under the laws of this state, whose duty it shall be to visit the schools in the county and to examine and inspect the pupils attending the schools. The school board of any school district, when petitioned to do so by a majority of the persons having children attending the schools of the district, may employ one or more licensed physicians, or graduate nurses duly registered and licensed to practice nursing in this state, to visit the schools in the district to examine and inspect the children attending such schools.

§ 62. **Amendment.)** Section 15-47-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-23. Duty of County Board of Health as to School Buildings and Persons of School Age.) When the county superintendent of schools shall report to the county board of health that a schoolhouse or school outbuilding is in an unsanitary or unsafe condition, or that any pupil or any person of school age is alleged to be defective in mind or body, the board shall investigate the report without delay and shall direct the school board, or a person in charge of the alleged defective person, to take such action as shall be for the best interests of the persons immediately concerned.

§ 63. **Amendment.)** Section 15-47-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-25. Reward—Destruction of School Property.) The school boards of the school districts in this state are hereby authorized and empowered to offer and pay a reward not to exceed one hundred dollars to any person furnishing information for the apprehension and conviction of any person or persons appropriating or destroying property or equipment belonging to the school districts of this state.

§ 64. **Amendment.)** Section 15-47-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-26. Definitions.) The term "teacher" as used in sections 15-47-27 and 15-47-28, shall be construed to include all teachers, principals, and superintendents in all public school districts within this state, and all persons employed in teaching in any state institution. The term "state institution" as used in section 15-47-27 shall include the state university of North Dakota, state agricultural college, county agricultural and training schools, state normal schools, state teachers col-

leges, state school of forestry, state school of science, North Dakota school for the deaf, state institution for feeble-minded, and state training school.

§ 65. Amendment.) Section 15-47-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-27. Time for Renewal of Teachers' Contracts.) Any teacher who has been employed by any school district or state board of higher education in this state during any school year, shall be notified in writing by the school board or state board of higher education, as the case may be, not earlier than the fifteenth day of February and not later than the fifteenth day of April in the school year in which he or she has been employed to teach, of the board's determination not to renew the teacher's contract for the ensuing school year, and failure to give such written notice on or before said date shall constitute an offer on the part of the board to renew the contract for the ensuing school year under the same terms and conditions as the contract for the then current year. On or before April fifteenth in any year and not earlier than February fifteenth, the board shall notify all teachers of a date, which shall not be less than thirty days after the date of such notice, upon which they will be required to accept or reject such proffered re-employment, and failure on the part of the teacher to accept said offer within such time shall be deemed to be a rejection of the offer. Any teacher who shall have accepted the offer of re-employment, either by the action of the board, or nonaction of the board on or before April fifteenth, as herein provided, shall be entitled to the usual written contract for the ensuing school year, as provided by law and shall notify the board in writing of his or her acceptance or rejection on or before the date specified by the board or before May first whichever is earlier. Failure on the part of the teacher to so notify the board shall relieve the board of the continuing contract provision of sections 15-47-26 through 15-47-28. Nothing in this section shall be construed as in any manner repealing or limiting the operation of any existing law with reference to the dismissal of teachers for cause.

§ 66. Amendment.) Section 15-48-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-48-01. Petition for Election — Authority of Board.) Whenever there shall be presented to, and filed with, the school board of any public school district, a petition, signed by at least one-third of the electors of such school district, requesting that the school board submit to the electors of the district the question of increasing the limit of indebtedness of such dis-

trict five per cent on the assessed value of the taxable property of said district beyond the five per cent limit of indebtedness fixed by the Constitution, the board must submit said question to the electors at the next annual school election, or at a special election called in said district for that purpose, provided, that the board may submit said question to the electors at a regular or special election on its own motion without such petition.

§ 67. **Amendment.)** Section 15-48-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-48-02. Notice of Election—Special Elections.) The notice of election, whether for the annual school election or for a special election held pursuant to the provisions of this chapter, shall state clearly the question to be voted upon. Unless such question is submitted at the annual school election, a special election shall be called, and at least fourteen days' notice of such election shall be given by publishing a notice thereof in the official newspaper of the county in which the school district is located, and if no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in the state.

§ 68. **Amendment.)** Section 15-49-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-49-02. Personal Interest in School District Contracts Prohibited—Exceptions.) No member of the school board, and no other school officer, in a school district having a population of over 10,000, shall be interested personally, directly or indirectly, in any contract for the building or making of any improvements or repairs to school buildings, or for the erecting of any school building, or for furnishing any materials or supplies for the district, or in any contract requiring the expenditure of school funds except for the purchase of fuel and the procuring of insurance and such supplies as are in daily use. Any violation of the provisions of this section shall be a misdemeanor.

§ 69. **Amendment.)** Section 15-49-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-49-09. School Supplies—Penalty for Receiving Commission on Purchase.) Any county superintendent of schools, deputy county superintendent of schools, school board member, clerk, treasurer, or principal of a school, or teacher therein, who receives any commission, fee, or reward for or on account of any school books, furniture, or other supplies purchased

during his incumbency, for the use of the school district or school under his supervision, is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and may be removed from office.

§ 70. Amendment.) Section 15-49-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-49-11. Offering or Giving Commission, Fee or Reward to School Purchasing Agent Prohibited—Penalty.) It shall be unlawful for any person to give or offer to any county superintendent of schools, deputy county superintendent of schools, school board member, clerk, treasurer, or principal of any accredited school or to a teacher or employee therein or for such persons to receive, any commission, fee, reward or remuneration for or on account of a purchase of school books, furniture or other supplies for use of the school district, school, their employees, or students. Any person who violates the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of one thousand dollars or by imprisonment in the county jail for one year, or by both such fine and imprisonment.

§ 71. Amendment.) Section 15-53-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-09. Public Hearing on Proposals for Reorganization—Hearing Testimony for Adjusting.) The county committee shall hold a public hearing on the advisability of any proposal by such committee for the reorganization of school districts which involves the formation of a new district or the transfer from one established district to another of any territory in which children of school age reside. Notice of such hearings as are held under the provisions of this section shall be given by publishing a notice in the official county newspaper at least fourteen days prior to the date of such hearing. Such committee shall also hear at such time as may be fixed by it, testimony offered by any person or school district interested in any proposal of the county committee to form a new district or to transfer territory from one school district to another or to attach to an established district or districts all or any part of another district subject to disorganization for any of the reasons now specified by law, said testimony to be heard for the purpose of finding and determining the value and amount of all school property of whatever nature involved in the proposed action, the nature and amount and value of all bonded, warrant and other indebtedness of each school district affected by the proposed action, including all legal uncompleted

obligations then existing and in so doing to consider the amount of such outstanding indebtedness incurred for current expenses, the amount incurred for permanent improvements and the location of such improvements and to make an equitable adjustment of all property, debts, and liabilities among the districts involved; and to keep a record of all hearings on the reorganization of school districts and of all findings and terms of adjustment of property, debts and liabilities among the districts involved, and to submit the same to the state committee at the time of submitting a plan for the reorganization of school districts as provided in section 15-53-10. A subcommittee composed of not less than three members of a county committee, or three members of the county committee of each county concerned in case territory in two or more counties is involved, may hold any hearing that the county committee is required to hold.

§ 72. Amendment.) Subsection 5 of section 15-53-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Recommendations specifying whether such reorganized districts shall have three, five, seven, or nine member school boards, and whether such members shall be elected at large or from designated geographic districts; and

§ 73. Amendment.) Section 15-53-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-14. Approved Plan Received by County Superintendent—Duty of Superintendent to Call Special Election—Definition of Voting Units—Favorable Results.) Upon receipt from the state committee of an approved plan for the reorganization of school districts, and approved terms of adjustment of property, debts and liabilities among the districts involved, the county superintendent shall call a special election of the voters residing within the territory of each district, such election to be held at the place or places therein which have been determined by the county superintendent to be convenient for the voters. In holding such election all existing districts within the proposed new district containing one or more incorporated villages or cities regardless of number or size shall vote as a single unit; and, all existing districts within such proposed new district regardless of number or size which do not contain one or more incorporated cities or villages shall vote as a single unit. For the purposes of this section, all districts containing incorporated cities or villages shall be considered an incorporated area, and all districts which do not contain at least one incorporated city or village shall

be considered a rural area. Notice of such election, stating the time and place of holding the election, shall be published by the county superintendent in the official county newspaper at least fourteen days next preceding such election, and by posting not less than fourteen days before the election one such notice on each schoolhouse door of each school district containing a school building and included in the proposed change. The election notices shall clearly state that the election has been called for the purpose of affording the voters an opportunity to approve or reject a proposal for the formation of a new school district and shall also contain a description of the boundaries of the proposed new district and a statement, if there be any, of the terms of adjustment of property, debts and liabilities applicable thereto. The county superintendent shall appoint judges and clerks of the elections and the election shall be held and conducted in the same manner and the polls shall open and close at the same time as is specified for elections in public school districts. The result of the elections shall be certified and delivered to the county superintendent within three days after the closing of the polls. If a majority of all votes cast by the electors residing within the rural area of a proposed new district and the majority of all votes cast by the electors within the incorporated area of a proposed new district are both in favor of the formation of the district, the county superintendent shall make the proper adjustment of the property, assets, debts, and liabilities as provided in such approved plan and shall organize and establish such districts and in so doing shall perform all other necessary duties that are required by law to be performed by the county superintendent in connection with the organization and establishment of new school districts of any kind or type.

§ 74. **Amendment.)** Section 15-53-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-18. School Boards in Reorganized and Original Districts.) After the establishment of any new school district, the school board for such new school district shall be elected at the regular annual school district election or at a special election called by the county superintendent of schools for that purpose. The first election to elect a school board in a newly reorganized district shall be governed by the provisions of sections 15-28-01 and 15-28-02. Members of school boards elected in the newly reorganized districts shall not enter upon the duties of such office until the time specified in section 15-53-20. School boards in original school districts included within a reorganized district shall continue and remain in existence until the time specified in section 15-53-20 at which time the

new school board elected for the newly reorganized district as provided in this section shall become the governing body of such school districts; provided, however, that prior to the completion of the reorganization of any school district under the provisions of this chapter the existing school board of any school district shall not contract or place such district under any obligation, except upon the recommendation of the county committee. Subsequent annual elections in such school district shall be governed by the laws pertaining hereto.

§ 75. **Amendment.**) Section 15-53-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-19. Continuance of Elementary Schools in Reorganized Districts.) Each common school in the local districts included in reorganized school districts shall be kept in session as provided by law, except that any school may be discontinued when the people in the old district where the school is located, by a majority vote, approve its closing or when a petition requesting that the school be discontinued is signed by two-thirds of the electors in the old district where the school is located and is presented to the school board in the reorganized district. The board shall reopen any school which has been closed for the next ensuing term upon the written demand of the parents or guardians of six or more children of compulsory school age residing within two and one-half miles of the school. The parents or guardians of at least four such children must be residents of the district. The board may reopen such school at any time upon its own motion.

§ 76. **Amendment.**) Section 15-53-26 of 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 taxable assessed valuation 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 terri-

tory 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.

§ 77. Amendment.) Subsections 1 and 2 of section 21-03-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Municipality" shall mean a county, city, village, township, public school district, or park district empowered to borrow money and issue written obligations to repay the same out of public funds or revenue;
2. "Governing body" shall mean a board of county commissioners, city council, board of city commissioners, board of village trustees, school board of any school district, and the similarly constituted and acting board of any other municipality enumerated in subsection 1 of this section.

§ 78. Amendment.) Subsection 4 of section 21-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. By any public school district, or the school district of the city of Fargo, to purchase, erect, enlarge, and improve school buildings and teacherages, to acquire sites therefor and for playgrounds, to furnish and equip the same with heat, light, and ventilation or other necessary apparatus, to pay advance rentals to the state school construction fund, and also to purchase school bus equipment which shall meet the standards set up by the state superintendent of public instruction and the highway commissioner.

§ 79. Amendment.) Subsections 2 and 3 of section 21-04-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Board" shall mean the governing board of any public corporation, including the board of county commissioners, the city council, the board of city commissioners, the board of trustees of a village, the school board, the board of township supervisors, and the park board;
3. "Clerk" shall mean the person who performs for any public corporation the duties ordinarily performed by

a clerk, including the county auditor, the city auditor, the village clerk, the township clerk, and the clerk of the school board;

§ 80. **Amendment.)** Section 21-04-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-13. Board Meetings—Notice to Banks.) The governing board of any public corporation, except the board of supervisors of any township and the school board of any public school district, at its regular meeting in January of each even numbered year, shall assemble and examine all outstanding bonds and require new bonds whenever necessary in order to comply with the provisions of this chapter. If no regular meeting of the board in January is required by any other law, the board shall assemble for said purpose not later than the third Tuesday in January. At such meeting, the board shall designate depositories of public funds as herein provided. The clerk of such board, at least ten days before such meeting, shall notify every bank in the county, both state and national, that at the next regular meeting, or if no meeting is required by law to be held in January of each even numbered year, then at a meeting to be called for that purpose, the board will designate a depository or depositories of public funds. Such notice shall be given by registered or certified mail. The notice shall recite further the probable amount of public funds to be deposited, indicating separately sinking funds to be deposited on time and call funds to be deposited subject to check and draft. Such notice shall advise the bank that proposals will be received for such deposits, and that the interest rate on such deposits shall not exceed two per cent on call deposits and shall not exceed four per cent on time deposits. It shall recite further that the board expects the depository to pay interest on public funds at substantially the rate of interest which it pays on funds deposited by private persons.

§ 81. **Amendment.)** Section 21-04-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-15. Townships and Public School Districts—Selection of Depositories at Any Time.) The board of supervisors of any township and the school board of any public school district may designate depositories at any meeting of such board and no notice to banks need be given and no formal proposals need be received.

§ 82. **Amendment.)** Section 40-38-03 of 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. 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.

§ 83. **Amendment.)** Section 40-38-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-05. Board of Directors May Purchase, Build, or Lease Building for Library.) The board of directors, with the approval of the school board or the board of county commissioners, may build, lease or purchase an appropriate building for a library and purchase a site therefor. Not more than one-half of the income of the library fund shall be employed in such purchase of building in any one year. Such lease, purchase or contract shall not be valid without the approval of the school board or board of county commissioners, as the case may be.

§ 84. **Amendment.)** Section 40-41-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-41-04. Local Boards to Submit Preliminary Budget to Board of Budget Review for Examination.) The governing

body of the municipality, the school board, and the park board, if there is one, shall submit to the board of budget review its annual preliminary budget before it finally is adopted. The board of budget review shall review and examine in detail the items of each preliminary budget submitted to it by such local boards and shall certify its approval, disapproval, or modification thereof before the time provided in chapter 40-40 for the final adoption of the budgets. Whenever under the provisions of this chapter a budget or bond issue would have to be submitted to more than one board of budget review such boards of budget review shall combine and sit as one body to pass upon such budget or bond issue and shall be known as the board of budget review for the governmental subdivision proposing such budget or bond issue. Such combined board of budget review shall elect a chairman and a secretary from its combined membership but the chairman shall not vote except in the case of a tie.

§ 85. Amendment.) Section 44-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-01. Preference to North Dakota Bidders and Sellers.) The department of accounts and purchases, or any board, commission, city council, board of city commissioners, board of park commissioners, school board, board of village trustees, or any other governing body of any political subdivision of the state, or of any state institution, in purchasing any goods, merchandise, supplies, or equipment of any kind, shall give preference to bidders or sellers resident in North Dakota. In specifying or purchasing goods, merchandise, supplies, or equipment to be purchased, such board shall not specify any trade-marked or copyrighted brand or name, nor the product of any one manufacturer, nor any patented product, apparatus, device, or equipment, where the same will prevent proper competition, unless bidders also are asked for bids or offers upon other articles of like nature, utility, and merit. Utility, fitness, and quality being equal, the bid or offer of a resident North Dakota bidder or seller shall be accepted, when such bid or offer is not more than two per cent higher than that of a low bidder or seller who is not a resident of this state.

§ 86. Amendment.) Section 57-15-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-13. School District Tax Levies.) School district taxes shall be levied by the governing body of each school district on or before the last day of July of each year. Taxes for school district purposes shall be based upon an itemized budget statement which shall show the complete expenditure program

of the district for the current fiscal year and the sources of the revenue from which it is to be financed. The school board of each public school district, in levying taxes, shall be limited by the amount necessary to be raised for the purpose of meeting the appropriations included in the school budget of the current fiscal year, and the sum necessary to be provided as an interim fund, together with a tax sufficient in amount to pay the interest on the bonded debt of the district and to provide a sinking fund to pay and discharge the principal thereof at maturity.

§ 87. **Amendment.)** Section 57-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. Tax Levy Limitations in School Districts.) The aggregate amount levied by any school district, except the Fargo school district, shall not exceed such amount as will be produced by a levy of nineteen mills on the dollar of the net assessed valuation of the district, except that:

1. Any school district giving two years of standard high school work may levy taxes not to exceed twenty-one mills;
2. Any school district giving three years of standard high school work may levy taxes not to exceed twenty-four mills;
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 seven thousand five hundred according to the last federal decennial census if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted and approved by a majority of the electors voting at any regular or special election upon such question. In the event such election is held in a reorganized district it shall be conducted and approved or disapproved in the same manner and subject to the same conditions as provided in section 15-53-14 for elections for approval of school district reorganization plans. Thereafter, the question of authorizing or discontinuing such unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon the filing with the school board of a petition containing the signatures of not less than five per cent of the electors of the district as determined by the number voting in such school district at the most recent regular school district election. The election

shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing an unlimited mill levy;

4. Any school district maintaining an elementary school with two or more teachers may levy taxes not to exceed twenty-two mills on the dollar of its net taxable valuation, except that where high school work is offered by such school the limitations on the regular high school levy shall apply.

§ 88. Readjustment of Liabilities.) After the reorganization plan has become effective any provision of the reorganization plan heretofore or hereafter adopted affecting the adjustment of assets and liabilities may be changed by a majority vote of the electorate. The school board in the reorganized district may submit the question of authorizing the change at any regular or special election. The new election shall follow the election procedure provided in section 15-53-14 and shall involve the same geographic areas as were concerned with the original reorganization election. If a majority of all votes cast by the electors residing in each of said geographic areas are in favor of the proposed change then the proposed change shall be effected.

§ 89. Repeal.) Chapters 15-23, 15-24, 15-25, 15-26, 15-30, 15-31, 15-32, and 15-33, of the North Dakota Century Code, and sections 15-41-09, 15-41-10, 15-41-11, 15-41-12, 15-41-13, 15-41-14, 15-41-15, 15-41-16, 15-41-17, 15-41-20, 15-41-21, 15-41-23, and 15-53-17 of the North Dakota Century Code are hereby repealed.

Approved March 17, 1961.

CHAPTER 159

S. B. No. 138

(Trenbeath, Lautenschlager)

STORAGE FACILITIES FOR SCHOOL BUSES

AN ACT

To create and enact section 15-34-18.1 of the North Dakota Century Code, relating to the authority of school boards to lease for purchase, purchase, or construct storage facilities for school buses.

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

§ 1.) Section 15-34-18.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-34-18.1. Storage Facilities for Buses.) School boards shall have the power to lease for purchase, purchase, or construct storage facilities for school buses upon advertised bids as provided in section 15-47-15. For the purpose of such lease for purchase, purchase or construction, the school board may use moneys not otherwise obligated, in the general fund or the building fund of the district.

Approved February 28, 1961.

CHAPTER 160

H. B. No. 583

(Stallman, Haugen, Fraase, Wheeler)

LAND TRANSFER IN REORGANIZATION OR ANNEXATION

AN ACT

To create and enact section 15-23-27.1 of the North Dakota Century Code, relating to the transfer of land in a school district reorganization or annexation proceedings.

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

§ 1.) Section 15-53-27.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-53-27.1. Transfer of Land Upon Reorganization or Annexation.) The legal title to all land owned by an original school district which has been included in a reorganized district or annexed to another district and which is not subject to a possibility of reverter or right of re-entry shall be vested in the school board of the reorganized school district or the district to which such property is annexed upon approval of the reorganization plan by the electors or upon orders of the county superintendent of schools or the reorganization committee, as the case may be. If the reorganized district or district to which such property is annexed includes less than the whole of the former district, legal title to the land of the former district shall vest in the school board of the district in which such land is situated after reorganization or annexation. A certificate prepared by the superintendent of schools wherein the land in question is located, stating the legal description of the land involved, and the fact that the school district formerly owning the land has become either annexed, attached or reorganized with another school district, may be recorded in the office of the register of deeds of the county in which the land is situated.

Approved March 17, 1961.

CHAPTER 161

S. B. No. 233
(Hernett)EDUCATION AND TRANSPORTATION RECIPROCAL
AGREEMENTS

AN ACT

To create and enact section 15-34-27 of the North Dakota Century Code, relating to transportation of students outside state by school bus, and to amend and reenact section 15-40-15 of the North Dakota Century Code, relating to reciprocal agreement for payment for the education and transportation of students in a bordering state.

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

§ 1.) Section 15-34-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-34-27. Transportation of Students Outside State by School Bus—When Permitted.) A school district may extend its route into a bordering state for the purpose of transporting students from such bordering state when the superintendent of public instruction has entered into a reciprocal agreement with such bordering state as provided for by section 15-40-15 and such agreement includes payment for transportation costs connected with the education of such children.

§ 2. **Amendment.)** Section 15-40-15 of 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 payments from the county equalization fund for high school and elementary students attending public school 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 high schools for students from such bordering states. The superintendent of public instruction by certificate to the state auditor may authorize such payments, from the appropriation from the state equalization fund to the county equalization fund, to schools in adjoining states for the attendance of such high school and elementary students. The payment for each student shall not exceed the payments

established by reciprocal agreement less the amounts otherwise paid for such student from state and county equalization funds. The auditor by voucher drawn upon the state equalization fund 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.

Approved March 15, 1961.

CHAPTER 162

H. B. No. 592

(Bloom, Miller of Walsh, Davis of Dickey,
(Bowman, Tescher, Hagen, Gietzen)

HIGH SCHOOL STUDENTS

AN ACT

To amend and reenact sections 15-40-14 and 15-40-17 of the North Dakota Century Code, relating to admission of high school students from other districts and tuition charges.

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

§ 1. Amendment.) Section 15-40-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40-17. High School Payments Are Exclusive — Exception.) No school district shall charge or collect from any non-resident high school student, his parents or guardian, or the district of his residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident high school students. However, a high school district shall charge tuition for nonresident high school students. The whole amount of such tuition, except as hereinafter provided, shall be paid by the district from which the pupil is admitted and shall equal the average cost of high school education per child in the county less payments from county equalization and state 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. 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 or state equalization fund payments to the district of residence of the student shall be withheld until the tuition due the admitting district has been fully paid.

The parent or guardian of any student who is a resident of a district providing a high school education may apply to the school board of the school district of residence of the student for approval of the payment of tuition charges to another school district for attendance of the student at the high school in such other school district. If the school board of the district of residence shall approve such application, it shall pay the tuition charges in accordance with the application as approved. In the event such application shall be disapproved, the parent or guardian of the child may appeal the question to the county superintendent of schools, and a committee consisting of the county judge, state's attorney, and the county superintendent of schools shall within fifteen days consult with the school boards of the districts concerned and with the parent or guardian of the student concerned and render a decision in regard to the tuition charges. If the committee shall find the attendance of the student in question is necessitated by shorter distance or other reasons of convenience, including previous attendance in another high school, it may approve the payment of such tuition charges. The school district of residence of the student shall thereafter be required to pay such tuition charges, and upon notification by the admitting district of the failure of the district of residence to pay such tuition charges, all county and state equalization payments to the district of residence shall be withheld in the same manner as provided in this section in the case of a district not providing a high school education. If the committee shall find that the attendance of the student at a high school outside the district is not necessitated by shorter distance or other reasons of convenience, the district of residence shall not be required to pay such tuition charges. The school board of any school district approving the payment of high school tuition charges or required to make such payments under the provisions of this section may levy an amount sufficient to pay tuition charges which levy shall not be subject to any mill levy limitations prescribed by law. This chapter, however, shall not affect the right of a school district to charge and collect such tuition as may be fixed by agreement from students who are not residents of this state.

§ 2. **Amendment.)** Section 15-40-14 of 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, all county agricultural and training schools, the state school for the blind, the state school for the deaf and state training school, that amount of money resulting from multiplying the factor 1.32 times one hundred fifty dollars from each high school pupil in average daily membership in such schools each year. However no payment shall be made for Indian pupils in districts in which the school facilities are being provided, maintained and staffed wholly or in part by the federal government for the education of the Indian pupils. Such payments shall not be made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only certificated teachers have been employed, teachers have been paid not less than the minimum legal salaries, and the other standards prescribed by this chapter have been met. Districts that did not maintain high schools during the year of 1954-1955 shall not be eligible for payments unless they have a minimum enrollment of twenty-five pupils if four years of high school work are offered, a minimum enrollment of twenty pupils if three years of high school work are offered, a minimum enrollment of fifteen pupils if two years of high school work are offered, and a minimum enrollment of ten pupils if one year of high school work is offered. A student who lives within twenty miles of another state or in a county bordering on another state and in a school district which has no high school, or which does have a high school and the attendance has been authorized in accordance with the provisions of section 15-40-17, with the approval of the county superintendent of schools, may attend a four year public high school in an adjoining state and payments from the county equalization fund shall be paid to the district in which the high school which he attends is located in the amount provided for in this section. For purposes of this chapter "average daily membership" shall mean the total days all students in a given school are in attendance, including legal school holidays and days set aside for a North Dakota education association convention, plus the total days all students are absent, divided by one hundred eighty days.

Approved March 11, 1961.

CHAPTER 163

H. B. No. 701
(Committee on Education)

PAYMENTS FOR ELEMENTARY SCHOOL EDUCATION

AN ACT

To amend and reenact section 15-40-19 of the North Dakota Century Code, relating to the time when payments shall be made from the state equalization fund to the county equalization fund for elementary school education.

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

§ 1. **Amendment.)** Section 15-40-19 of 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.) Upon receiving the certifications of the county superintendent of schools, 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 the payments due such funds. The department of accounts and purchases shall pay to the county equalization fund from the state equalization fund, upon warrants prepared and issued by the department and signed by the state auditor, fifty percent of the sum found to be due under the provisions of this chapter on December first and the balance on March first.

Approved March 11, 1961.

CHAPTER 164

H. B. No. 775

(Christensen of Ward, Scott, Hofstrand, Breum)

CONSERVATION OF NATURAL RESOURCES

AN ACT

To amend and reenact section 15-47-24 of the North Dakota Century Code, relating to teaching conservation of natural resources.

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

§ 1. **Amendment.)** Section 15-47-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-24. Conservation of Natural Resources To Be Taught.) In connection with the subjects now taught in all public schools of this state, the state superintendent of public instruction shall cause to be set up courses in the teaching of conservation of natural resources, including irrigation and conservation of water and soil, and in teacher training institutions, courses in teaching of those subjects shall be offered.

Approved March 11, 1961.

CHAPTER 165

S. B. No. 178

(Longmire, Lips, Garaas)

LOANS TO DENTAL STUDENTS

AN ACT

To amend and reenact sections 15-52-10, 15-52-15, 15-52-16, 15-52-17, 15-52-18, 15-52-19, 15-52-20, subsection 2 of section 15-52-22, sections 15-52-26, and 15-52-27 of the North Dakota Century Code, relating to loans for dental students from the medical center loan fund.

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

§ 1. **Amendment.)** Section 15-52-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-10. Medical Center Loan Fund Board.) There is hereby created a medical center loan fund board hereinafter called the "board" which shall consist of the business manager

of the university of North Dakota, who shall serve ex officio as secretary of the board, the dean of the school of medicine, and four qualified electors of the state of North Dakota appointed by the board of higher education, at least one of whom shall be a practicing physician and one of whom shall be a practicing dentist in this state.

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

15-52-15. Loan Board Duties.) It shall be the duty of the medical center loan fund board to receive and pass upon, and to allow or disallow, all applications for loans submitted by qualified applicants who desire to complete an education in medicine or dentistry for the purpose of entering medical or dental practice in the state of North Dakota. It shall also be the duty of the medical center loan fund board to compile a list of cities, towns, villages and other municipalities in this state without a qualified physician or dentist or with an insufficient number of qualified physicians or dentists, and to endeavor to supply physicians or dentists to such cities, towns, villages and other municipalities.

§ 3. **Amendment.)** Section 15-52-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-16. Qualifications of Loan Applicants.) An applicant shall be deemed qualified only if he or she:

1. Has been a resident of the state of North Dakota at least two years prior to the date of his entering medical school or dental school;
2. Has successfully completed the first and second year of the curriculum in medicine at the university of North Dakota or has successfully completed the first and second year of the curriculum in dentistry in a qualified and reputable dental school;
3. Can present to the board satisfactory proof that he or she has been accepted as a student in the third or fourth year of a qualified and reputable four year school of medicine or dentistry, or will be so accepted upon payment of tuition; and
4. Is of good moral character.

§ 4. **Amendment.)** Section 15-52-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-17. Loan Board Investigations.) The board shall make a careful investigation to ascertain the truth of all matters set forth in applications received by it, and for that purpose

may propound such examinations and questions for each applicant as it deems proper. The investigation shall include a study of the ability of the applicant or the applicant's parents to pay his own expenses at an out-of-state medical or dental school, and the committee shall give preference to qualified applicants who, or whose parents, are unable to pay the applicant's expenses at such medical or dental school.

§ 5. Amendment.) Section 15-52-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-18. Amount of Loans.) Loans may be granted to qualified applicants by the board in amounts not in excess of two thousand dollars for the purpose of completing the third year of medical or dental study and a sum not to exceed two thousand dollars for the purpose of completing the fourth year of medical or dental study in a qualified and reputable four year school of medicine or dentistry. However, if the applicant agrees in writing to enter medical or dental practice in a city, town, village or municipality in this state which is without a qualified physician or dentist or in need of additional medical or dental personnel then such applicant may be granted a loan of two thousand five hundred dollars for the purpose of completing the third year of medical or dental study and a like sum for the purpose of completing the fourth year of medical or dental study.

§ 6. Amendment.) Section 15-52-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-19. Loan Payments.) Loans authorized by sections 15-52-10 through 15-52-28 may be apportioned in such manner as to pay directly to the medical or dental school to which any applicant is admitted such funds as are required by that school for tuition and other expenses of study. The balance shall be paid directly to the applicant upon such terms and conditions as may be established by the board.

§ 7. Amendment.) Section 15-52-20 of 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 three 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.

§ 8. Amendment.) Subsection 2 of section 15-52-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Withdrawals from the school of medicine or dentistry he is attending; or

§ 9. Amendment.) Section 15-52-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-26. Availability of Funds.) The board of higher education is hereby directed and authorized to make available to the medical center loan fund board, from the portion of the proceeds of the one mill levy provided by article 60 of the Constitution of North Dakota as the board of higher education shall have retained in its possession pursuant to the provisions of section 15-52-09 for the purpose of establishing third and fourth year courses of medicine at the university of North Dakota, such funds as may be required for the operation of the medical center loan fund board, but not in excess of one hundred thousand dollars in any one year.

§ 10. Amendment.) Section 15-52-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-27. Purposes of Loan Fund.) The purposes of sections 15-52-10 through 15-52-28 are hereby declared to be to develop and maintain the North Dakota state medical center by making it possible for all qualified students attending such center to complete their education in medicine or in the case of dental students who are residents of the state of North Dakota to complete their education in dentistry.

Approved March 15, 1961.

CHAPTER 166

H. B. No. 601
(Bier, Tweten, Johnson, Breum)

ELECTIONS, PROPERTY, AND ASSETS OF REORGANIZED
DISTRICTS

AN ACT

To amend and reenact sections 15-53-16 and 15-53-20 of the North Dakota Century Code, relating to school district reorganization elections and property and assets of reorganized school districts.

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

§ 1. **Amendment.)** Section 15-53-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-16. Proposal Rejected, Revision Made—New Election Held.) If a proposal for the formation of a new school district is rejected by the voters at the election provided for in section 15-53-14, the county committee may at any time after six months from the date of such election, and after a public hearing is held in the manner provided in section 15-53-09, make such revision as it deems advisable in the boundaries proposed for such new district and in the terms of adjustment of the property, debts and liabilities thereof, as the case may be, and resubmit the same to the state committee for approval. If the boundaries of the proposed new district or the terms of adjustment, as the case may be, as revised, are approved by the state committee, notice thereof shall be transmitted to the county superintendent, as provided for in section 15-53-13. Upon receipt of such notice the county superintendent shall call, in the manner and for the purpose specified in section 15-53-14, a special election of the voters residing within the revised boundaries of the proposed new district. If a majority of all votes cast by the electors residing within the rural area of a proposed new district and a majority of all votes cast by electors within the incorporated area of the proposed new district are both in favor of the formation of the district, the county superintendent shall proceed to organize and establish such district and to perform the necessary duties related thereto in the same manner and to the same effect as it is provided in section 15-53-14.

§ 2. **Amendment.)** Section 15-53-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53-20. Effective Date of Approved Reorganization Plans —Transfer of All Property.) Any reorganization plan voted upon and approved shall become operative and effective on the first day of July succeeding final approval of the same. Any officer of a school district incorporated in whole or in part into a reorganized school district shall within thirty days from the date the reorganization was effective, turn over to such reorganized school district all of the property and other assets as finally adjusted and determined by the county committee. Unless it is otherwise agreed and provided by the reorganization plan, debts, obligations and liabilities of the several districts or parts of districts incorporated into the reorganized district shall become the general obligation debt and liability of the reorganized district.

Approved March 17, 1961.

CHAPTER 167

H. B. No. 579
(Johnson)

HEALTH CERTIFICATES

AN ACT

To create and enact section 15-54-08 of the North Dakota Century Code, relating to health certificates of employees of school lunch programs.

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

§ 1.) Section 15-54-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-54-08. Health Certificates Required of Employees.) No person shall be employed by any school district in the preparation or serving of school lunches under the provisions of this chapter unless such person shall file with the school board or clerk thereof a health certificate. Such certificate shall be filed annually prior to the first day of September, shall state that the employee is not afflicted with any communicable disease, and shall be signed by a licensed physician. The cost of obtaining such certificate shall be borne by the employee.

Approved February 25, 1961.

CHAPTER 168

S. B. No. 249
(Longmire, Brooks)

REVENUE PRODUCING BUILDINGS

AN ACT

To amend and reenact sections 15-55-02, 15-55-05, 15-55-06, and 15-55-14 of the North Dakota Century Code, relating to constructing, operating and financing revenue producing buildings at higher educational institutions.

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

§ 1. **Amendment.)** Section 15-55-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-02. Board May Borrow Money and Issue Bonds—Conditions—Bonds Tax Free.) For the purpose of paying all or part of the cost of construction, equipment and furnishing of any such buildings or any addition to existing buildings, the state board of higher education may borrow money on the credit of the income and revenue to be derived from the operation of the said building or buildings, and, in anticipation of such collections of such income and revenues, may issue negotiable bonds in such an amount as, in the opinion of the said board, may be necessary for such purposes, all within the limits of the authority granted by the legislative assembly in each instance, and may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. Such bonds shall be payable serially, and may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their date, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium or payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest as may be provided by resolution or resolutions to be adopted by the state board of higher education. Such bonds may be sold in such manner and at such price or prices not less than par plus accrued interest to date of delivery, as may be considered by the board to be advisable, but interest cost to maturity for any bonds issued hereunder shall not exceed five percent per annum, computed on the basis of average maturities according to standard tables of

bond values. Such bonds shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota, or by any county, municipality, or political subdivision therein. The board, in its discretion may authorize one issue of bonds hereunder for the construction, furnishing and equipment of more than one building and may make the bonds payable from the combined revenues of all buildings acquired in whole or in part with the proceeds thereof, and where bonds are so issued the words "the building," as herein used, shall be construed to refer to all the buildings so acquired.

§ 2. **Amendment.)** Section 15-55-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-05. Deposit and Use of Proceeds of Bonds—Authorizing Issuing of Warrants—Contracts.) The proceeds from the sale of the bonds herein authorized shall be deposited to the credit of the board and kept in a separate fund in the state treasury, in the Bank of North Dakota or in a bank which is a duly designated depository for state funds. Such proceeds shall be used solely for the purpose for which the bonds are authorized except that the board may invest such funds in obligations of the United States of America, of the state of North Dakota or of any municipality as defined in section 21-03-01 prior to or during building construction except to the extent such investment is prohibited or restricted by any covenant made with or for the benefit of bondholders. The board is authorized to make all contracts and to cause the execution of all instruments which in its discretion may be deemed necessary or advisable to provide for the construction, furnishing and equipment of the building or for the sale of the bonds or for interim financing deemed necessary or advisable pending the sale of the bonds and pledging the proceeds of the bonds. The state auditor is hereby authorized and directed to issue warrants upon the state treasury against such funds, if any, deposited by the board in the state treasury for such amounts as he may from time to time find to be due upon audited itemized estimates and claims which bear the approval of the officials designated by the board for such purpose.

§ 3. **Amendment.)** Section 15-55-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-06. Designations of Agent and Depositories—Disposition and Use of Revenues—Funds Created.) All income and revenues derived from the operation of any building financed or the revenues of which are pledged in the manner provided in this chapter shall be collected by such officer or agent of

the institution where the building is located as the state board of higher education from time to time, may designate, and shall be accounted for by him, deposited and remitted as in this section provided. The said board, in its resolution authorizing the bonds or in the trust agreement or agreements executed and delivered by the board, shall provide for the disposition of and accounting for all such revenues by such officer or agent, including the designation of a depository or depositories, the payment of expenses of operation and maintenance, the remittance of revenues to the paying agent designated in the bonds for payment of principal of and interest on the bonds when due, and the investment and disposition of revenues not immediately required for payment of expenses, principal and interest. The board may designate as a depository for such revenues and funds either the state treasury or the Bank of North Dakota or the trustee under the trust agreement for the bondholders or a bank which is a duly designated depository for state funds. The said board may in its resolution authorizing the bonds or in the trust agreement or agreements executed and delivered by the board provide for an expense fund to be retained by the collecting officer for the purpose of paying and may direct him to pay the accrued or anticipated expenses of operation and maintenance of the building, and if the board so directs or if such expense fund is so provided, the collecting officer may pay such expenses as so directed by the board or from said fund. The funds required to be remitted to the state treasurer, if any, and any funds derived from revenues pledged to the bondholders shall be held by him or the depository for such funds designated by the board in a special fund or funds, to be applied solely to the payment of the principal and interest on said bonds, and the establishment of a reserve for future payments until all of said bonds and interest thereon have been fully paid, provided that to the extent not prohibited or restricted by any covenant made with or for the benefit of bondholders, the board may invest any such funds in obligations of the United States of America, of the state of North Dakota or of any municipality as defined in section 21-03-01 and may devote revenues not currently required for payment of principal and interest, for the creation or maintenance of a debt service reserve, or for expenses of operation and maintenance to such purposes as the board may from time to time designate, including replacing the furnishings and equipment of such building or buildings and improving said building or buildings. As principal and interest become due, the state auditor, not less than fifteen days prior to the payment dates, shall issue warrants upon the treasurer against any such special fund maintained with the state treasurer for the amount of such payment coming due, and the state treasurer shall make payment from any such fund of the amounts due.

§ 4. **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, said board is hereby authorized to cover into the interest and principal payment fund for bonds issued, 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.
3. The rental income from said revenue producing buildings and the proceeds of insurance thereon shall be irrepealably pledged to the payment of the principal and interest of the bonds issued as in this chapter provided.
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 into the bond payment fund for the payment of the cost of a new revenue producing building for such educational institution and not to any other institution.

Approved March 11, 1961.

CHAPTER 169

H. B. No. 624
(Education Committee)

TEACHER PREPARATION SCHOLARSHIPS, REPEAL

AN ACT

To repeal chapter 15-57 of the North Dakota Century Code, relating to teacher preparation scholarships.

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

§ 1. Repeal.) Chapter 15-57 of the North Dakota Century Code is hereby repealed.

Approved March 11, 1961.

CHAPTER 170

S. B. No. 158
(Baker)

BLIND CHILDREN

AN ACT

To amend and reenact section 15-59-01 of the North Dakota Century Code, relating to special education of blind children.

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

§ 1. Amendment.) Section 15-59-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-01. Definitions.) As used in this chapter:

1. "Exceptional children" shall mean educable children under the age of twenty-one whose educational needs are not adequately provided for through the usual facilities and services of the public schools, school districts, or state institutions because of physical, mental, emotional or social conditions; and
2. "Special education" shall mean the provision of facilities, instruction, supervision, and other necessary services not otherwise provided such children in the public schools and institutions except that facilities, instruction, supervision and other necessary services may be provided for blind children even though the same are provided in state institutions.

Approved March 15, 1961.

CHAPTER 171

S. B. No. 239
(Meidinger)

PHYSICALLY HANDICAPPED

AN ACT

To create and enact section 15-59-07 of the North Dakota Century Code, relating to the special education of physically handicapped children and providing financial aid therefor.

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

§ 1.) Section 15-59-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-59-07. Education of Physically Handicapped—Contract.)

If any school district in this state has any elementary or high school student who because of his physical handicap is unable to attend the public schools in the district, such school district shall contract with any accredited private non-sectarian non-profit corporation within or without the state which has proper facilities for the education of such student, if there are no public schools in the state with the necessary facilities which will accept such student. Prior to the time any school district enters into a contract with any private non-sectarian non-profit corporation for the education of any physically handicapped student the curriculum provided by such school and the contract shall be approved by the superintendent of public instruction. The contract shall provide that such school district agrees to pay to the private non-sectarian nonprofit corporation as part of the cost of educating such student an amount for the school year equal to the county average per pupil elementary or high school cost depending on whether enrollment would be in grade or high school department, in the county in which the contracting district is located. If the attendance of such student at such school is operated for less than a school year, then the contract shall provide for such lesser amount prorated on a monthly basis. For the purpose of this Act, any student contracted for to attend a school as herein provided shall be considered as enrolled in the contracting district and the district shall be entitled to the per pupil payment out of the county equalization fund the same as other regularly enrolled students in the district.

Approved March 11, 1961.

ELECTIONS

CHAPTER 172

S. B. No. 284
(Garaas, Nesvig)

OPENING AND CLOSING OF POLLS

AN ACT

To amend and reenact section 16-01-02 of the North Dakota Century Code, relating to the opening and closing of polls.

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

§ 1. **Amendment.)** Section 16-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-01-02. Opening and Closing of Polls.) The polls at all primary, general, and special elections shall be opened at nine o'clock a.m. or at such earlier hour, but not earlier than seven o'clock a.m., that may be designated for any precinct by resolution of the governing body of the city, village, or township in which such precinct is located. They shall remain open continuously until seven o'clock p.m., or such later hour not exceeding eight o'clock p.m. as may be designated for any precinct by resolution of the governing body of the city, village, or township in which the precinct is located. Twenty minutes prior to the hour of closing the polls, the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed.

Approved March 11, 1961.

CHAPTER 173

H. B. No. 634
(Annear, Loftesnes, Davis)

USE OF STICKERS

AN ACT

To amend and reenact section 16-05-08 of the North Dakota Century Code, relating to use of stickers when a vacancy occurs after election ballots are printed and crossing out name of original nominee causing such vacancy.

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

§ 1. **Amendment.**) Section 16-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-05-08. Vacancy Occurring on Ballot Before Election Day But After Ballots Are Printed—Stickers Used.) If a vacancy occurs before election day and after the printing of the ballots, and any person is nominated according to the provisions of this title to fill such vacancy, the officer whose duty it is to have the ballots printed and distributed shall have printed on a requisite number of stickers the name of such substitute candidate and no other name. Such officer shall mail by registered or certified letter, or send such stickers by other reliable method, to the judges of election in the various precincts affected by such vacancy. The judges of election whose duty it is to distribute the ballots shall affix such stickers in the proper place on each ballot before it is given to the elector and shall cross out or otherwise obliterate the name of the original nominee causing such vacancy.

Approved March 2, 1961.

CHAPTER 174

S. B. No. 198

(Kamrath, Erickson, Roen, Garaas)

VOTING PRECINCTS

AN ACT

To amend and reenact section 16-09-01 of the North Dakota Century Code, to grant to boards of county commissioners additional authority in redividing, combining, vacating and annexing of voting precincts.

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

§ 1. **Amendment.)** Section 16-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-09-01. Board of County Commissioners May Divide County Into Precincts—Preservation of Boundaries—Number of Electors—May Redivide, Annex, Vacate or Combine Voting Precincts, When.) The board of county commissioners may divide the county into precincts and establish the boundaries of the same except where, pursuant to the provisions of title 40, Municipal Government, wards and precincts have been legally established. The entirety of civil townships, cities, or villages shall be preserved as precincts except when such preservation would be in conflict with the provisions of this chapter. In such case, the civil township, city, or village, except as provided in this chapter, shall be divided into two or more precincts, but in no case shall a precinct be composed of parts of two civil townships, or part of a township and of a city or village, except as provided in this chapter. No precinct in which voting machines are not used shall contain more than five hundred electors. It is further provided that the board of county commissioners may redivide the county into precincts, annex an existing precinct to another existing precinct, or combine two or more existing precincts one to another when

1. A petition signed by seventy percent of the electors residing within an existing precinct is presented requesting such existing precinct to be annexed to and become a part of another existing precinct;

2. In the board's discretion, prompted by inaccessibility of polling places, difficulty in obtaining election boards, or economic infeasibility, an existing precinct may be annexed to and become a part of another existing precinct; or

3. The board of county commissioners may combine in their entirety two or more adjoining civil townships into one

voting precinct with a common polling place for all elections other than township or school district elections or as otherwise provided by this chapter.

Approved March 1, 1961.

CHAPTER 175

S. B. No. 234
(Fiedler and Holand)

MEETING OF STATE'S ATTORNEYS AND COUNTY AUDITORS
WITH INSPECTORS OF ELECTIONS

AN ACT

To create and enact section 16-10-17 of the North Dakota Century Code, relating to a meeting of all inspectors of elections with state's attorneys and county auditors.

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

§ 1.) Section 16-10-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

16-10-17. State's Attorneys and County Auditors to Meet with Inspectors.) In every even-numbered year and not more than twenty days nor less than ten days before each primary election, the state's attorney of each county shall direct all persons who will act as inspectors of elections to meet with him at the county seat. At such meeting the state's attorney shall inform and familiarize such persons with the laws governing elections and the duties of inspectors of elections. Each person who will act as inspector of elections attending the meeting provided for in this section shall be paid mileage at the rate provided in section 11-10-15 for each mile necessarily and actually traveled in attending such meeting. The mileage shall be paid from the county general fund.

Approved March 3, 1961.

CHAPTER 176

H. B. No. 810
(Powers)

PREPARATION OF BALLOT BY ELECTOR

AN ACT

To amend and reenact section 16-12-05 of the North Dakota Century Code, relating to the preparation of a ballot by an elector.

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

§ 1. **Amendment.)** Section 16-12-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-12-05. Preparation of Ballot by Elector — Folding — Depositing.) Upon receipt of his ballot, the elector, forthwith and without leaving the polling place, shall retire alone to one of the booths or compartments provided, to prepare his ballot by placing a cross mark (X) or other mark which clearly shows the intention of the voter within the square opposite the name of each person for whom he wishes to vote, or in case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, by placing a cross mark (X) or other mark within the square opposite the word or words expressing his wish. After preparing his ballot, the elector shall fold it so that the face of the ballot will be concealed and so that the endorsement stamped thereon may be seen. He then shall hand it to the judge, who, without opening the same or permitting it to be opened, or examined except to ascertain whether it is a single ballot, shall deposit it in the ballot box.

Approved March 6, 1961.

CHAPTER 177

S. B. No. 267

(George, Roen, Hernet, Erickson)

DELEGATES TO STATE CENTRAL COMMITTEE

AN ACT

To amend and reenact section 16-17-11 of the North Dakota Century Code, relating to selection of delegates to the state central committee; and to repeal section 16-17-12 of the North Dakota Century Code, relating to selection of delegates to state central committee when two or more counties are embraced in a legislative district.

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

§ 1. **Amendment.)** Section 16-17-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-11. County Committee to Select Delegate for State Central Committee.) In a county consisting of one legislative district, the county committee, at the meeting provided for in section 16-17-10, shall select a legal voter to act upon and be a member of the state central committee of such party. In counties having more than one legislative district, the precinct committeemen from each legislative district, meeting separately, shall select a legal voter from their legislative district to serve on such state central committee. When two or more counties are embraced in one legislative district, each county shall be entitled to elect a member to the state central committee and such member shall be selected by the precinct committeemen from each county meeting separately.

§ 2. **Repeal.)** Section 16-17-12 of the North Dakota Century Code is hereby repealed.

Approved March 11, 1961.

CHAPTER 178

H. B. No. 872
(Winge, Frank, Bier, Fraase)

STATE CENTRAL COMMITTEE MEETINGS

AN ACT

To amend and reenact section 16-17-15 of the North Dakota Century Code, relating to state's central committee meetings.

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

§ 1. Amendment.) Section 16-17-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-15. State Central Committee—Meetings—Organization—Vacancies.) Members elected as state central committee-men shall meet within thirty days after each general election at the call of the chairman. Such meeting shall be held at the state capitol and shall convene at ten o'clock a.m. Such committeemen shall organize by selecting a chairman, a vice-chairman, a secretary, and a treasurer and by adopting rules and modes of procedure. The officers elected need not be members of such committee. A vacancy on the state central committee shall be filled by a majority of the state central committee by appointment from the legislative district in which the vacancy exists.

Approved March 11, 1961.

FIRES

CHAPTER 179

H. B. No. 666
(Poling, Fossum)

CODE FOR CONSTRUCTION AND REMODELING OF SCHOOL BUILDINGS

AN ACT

Providing for a fire prevention code for the construction and remodeling of school buildings.

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

§ 1. Application.) The provisions of this Act shall apply to the construction of all new school buildings, additions thereto, and remodeling of school buildings, both public and private, at either the elementary or secondary level and shall further apply to all instructional areas of all institutions of higher education.

§ 2. Definitions.) A public school building shall be defined as a building used wholly or in part as an instructional or recreational facility by students. A private school is defined as an educational institution which students attend in lieu of public school attendance.

§ 3. Plans and Specifications.) Plans and specifications for all new public school buildings and for all additions to and remodeling of existing public school buildings shall be submitted for approval to the superintendent of public instruction or to the board of higher education. In the case of private school plans and specifications they shall be submitted directly to the state fire marshal for approval.

§ 4. Employment of Registered Architects and Engineers.) All plans and specifications for construction, except agricultural sheds and barns, the monetary worth of which is twelve thousand dollars or more, must be prepared by and the construction supervised by architects or engineers registered in this state. The architect or engineer shall be legally responsible for designing the building in accordance with the provisions of this Act of adequate strength so as to resist fire, and constructing the building in a workmanlike manner, according to the plans and specifications as approved. All projects where the tax money exceeds two thousand dollars must be submitted

to the department of public instruction or the board of higher education for approval.

§ 5. State Fire Marshal.) The state fire marshal shall approve plans and specifications for school buildings before construction is started. The state fire marshal shall review public school building plans upon referral from the superintendent of public instruction or the board of higher education. In the case of private school buildings the architects and engineers preparing plans shall submit them to the state fire marshal for approval. It shall be the duty of the architect or engineer preparing the plans or supervising the construction to notify the state fire marshal when the building has been completed.

§ 6. Fire Protection Requirements.) The following are the fire protection requirements which shall be included in the plans and specifications submitted for approval:

1. Plans for additions to existing buildings shall include portions of the building being added to, showing existing exits and room occupancies which may be affected by such additions.
2. The following types of construction shall be as defined in the National Building Code recommended by the National Board of Fire Underwriters:
 - (a) Wood frame or ordinary construction shall be limited to one story buildings of not over two classrooms;
 - (b) Unprotected noncombustible or heavy timber construction shall be limited to one story buildings;
 - (c) Protected noncombustible construction shall be limited to two story buildings; and
 - (d) Fire resistive construction—type A and type B shall not be limited in the size of the building.

For the purpose of determining the type of construction a basement shall be considered a story when one half or more of its clear height is above grade. All basement framing, walls, partitions and ceilings shall be noncombustible type of construction.

3. In one story construction, any open combustible attic sections regardless of depth of area between the ceiling and roof, shall be subdivided into areas not exceeding three thousand square feet, with noncombustible partitions.
4. Two hour fire walls with B labeled fire door with at least one and one-half hour rating and frame assemblies in openings shall be provided between school buildings of combustible construction and buildings of noncombustible construction.

5. Forming materials which are left in place as part of the permanent structure must be noncombustible in buildings of more than one story and noncombustible in one story buildings in those areas required to be of a fire resistant nature.
6. In case of questions as to the interpretation of the law as to fire resistant materials, fire ratings established by the National Board of Fire Underwriters and the National Bureau of Standards shall be used as a guide.
7. Subdivisions of a building of mixed occupancy which are separated by standard four hour fire walls shall be classified as separate buildings; and further provided that any opening shall be protected by Class A three hour closures.
8. In buildings where a fire resistive ceiling constitutes an essential part of a floor or roof assembly to meet the required fire resistance rating, it shall be installed as tested and may have openings to accommodate noncombustible piping, ducts or electrical outlets. The aggregate area of such openings in the ceiling shall not exceed one hundred square inches for each ninety square feet of ceiling area, unless such equipment was a part of the test assembly. All duct openings larger than one hundred square inches shall be protected with approved noncombustible fire dampers.

§ 7. Shops and Industrial Arts.)

1. Automotive shops and farm mechanics shops shall not be located beneath any other part of the school unless separated by a four hour rated construction assembly from the rest of the school building unless the shops are protected with approved automatic sprinklers.
2. Shop units shall be vented with at least six air changes per hour, and where dust from certain types of equipment becomes a fire hazard, separate exhaust systems shall be provided to discharge it either to the atmosphere or to specially designed dust collectors. All motors and equipment shall be dust type.
3. All shop or industrial arts areas not covered by subdivision one shall be segregated from the remainder of the building by at least a one hour separation, and any opening shall be protected by a B labeled fire door of one hour rating.
4. When one story shop and industrial arts structures over one thousand square feet in area, having a combustible roof deck, are connected to a multi-story school building, all exposed windows above the one story roof deck shall be steel frame glazed with one-fourth inch wired glass.

5. When spray coating operations are planned, provision shall be made for an approved booth or a separate room to meet the requirements of the National Fire Protection Association's pamphlet No. 33, and all electrical fixtures, wiring and outlets shall comply with the National Electrical Code for such locations.

§ 8. Auditorium Stage Area Protection.)

1. All material and equipment on the stage shall be flame-proofed.
2. The top of unit loft stages shall have a ventilator or ventilators which can be opened manually and automatically by a heat actuating device. This ventilator or ventilators shall be of noncombustible construction and have an aggregate clear area of opening not less than one-eighth the area of the stage.
3. Where thirty-five millimeter motion picture projectors are used, the motion picture booth construction shall comply with the State Electrical and Motion Picture Code.

§ 9. Corridors.) The aggregate width of required corridors leading to any exit shall be at least equal to the required width of the exit. Where several corridors lead to an exit, each shall have a width suitable for the travel which it may be called on to accommodate. Required corridors serving classrooms shall not be less than eight feet wide in the clear. Locker doors swinging into corridors shall not at any point in their swing reduce the clear effective width of the corridor to less than eight feet, nor shall drinking fountains or other equipment, fixed or movable, be so placed as to obstruct the required minimum eight foot width. All corridor lockers shall be constructed of noncombustible material.

§ 10. Exits.) There shall be a minimum of two exits remote from each other from every floor. All doors from classrooms and other student occupied rooms shall enter the corridors between exits or there shall be direct egress to the outside from the rooms.

If a balcony seating capacity is to exceed five hundred persons, three separate exits must be provided. When a balcony is divided by a folding wall into two teaching areas, a connecting door shall be placed in this wall or other provisions made so that both portions of the balcony will have two approved means of egress.

Required exit doors shall be side hinged swing doors only. No required exit travel shall be through openings protected with sliding, folding, or roll down doors.

At least one exit or stairway shall be within one hundred feet measured along the line of travel from the corridor door of every room used by pupils. The basis of exit requirements is a unit designated as a "unit of exit door width" which is defined as a twenty-two inch clear width.

The minimum number of units of exit door width from the first, or entrance story, shall be as follows:

1. One story buildings: One unit for each one hundred pupils or fraction thereof. Where the number of pupils cannot readily be determined, figure one pupil per forty square feet of gross floor area. One additional unit for each one thousand square feet of floor area of the gymnasium or multi-purpose room.
2. One additional unit for each one thousand square feet of floor area of the auditorium.
3. Multi-story buildings: One unit for each required unit of stairway width from upper floors.
4. One additional unit for each one hundred pupils of the first or entrance story. Where the number of pupils cannot readily be determined, figure one pupil per forty square feet of gross floor area.
5. One additional unit for each one thousand square feet of floor area of gymnasium or multi-purpose room.
6. One additional unit for each one thousand square feet of floor area of auditorium.

A door which leads from a classroom to a corridor shall be not less than thirty-six inches wide. Any single door that serves as an exit directly to the outside from a corridor shall be not less than thirty-six inches wide. Where double doors are used, with or without a mullion, each door shall be not less than thirty inches wide.

The required exterior exit doors from all traffic corridors shall be equipped with panic hardware. All required exit doors from places of public assembly shall be equipped with panic hardware or push-pull hardware with no locking or latching devices. In all cases in which a doorway used for exit purposes from a public assembly area has a pair of doors, either or both of which are equipped with hardware for locking and holding, such hardware actuating the top and bottom bolts on the standing leaf shall be of the panic hardware type. Supplemental exterior doors from corridors, places of public assembly, and the exterior doors of individual classrooms shall be equipped with classroom hardware, nonlockable against egress or panic hardware.

If exterior doors and adjacent side lights are glazed for visibility, such glazing shall be tempered glass or wired glass,

unless such glazing is located at least six inches above the opening hardware.

Vestibules shall be at least as wide as the required exit corridor.

Exit doors shall be not less than six feet, eight inches in height.

Required exit doors shall swing outward with exit travel.

The distance from any point within a place of public assemblage shall not be in excess of one hundred fifty feet, measured by the nearest available exit route, to the exterior exit of the building. This one hundred fifty feet total shall include distance traversed within the room, ramps or stair runs, if any, and corridor and lobby distance. Not more than sixty feet of the one hundred fifty feet maximum for any required exit route shall consist of corridor and lobby distance.

Separate exits shall be provided from stage and wings, without entering the auditorium or gymnasium.

The swing of room doors into corridors shall be in the direction of egress and shall not encroach upon the clear required width of the passageway at the termination of its swing. No door shall project more than eight inches into the corridor at the termination of its swing. Where the provision of sufficient depth for a full recess is not feasible, doors shall be hung flush with the face of the corridor walls so that they may swing one hundred eighty degrees against the walls in the direction of normal egress travel to the nearest exit.

The number and location of exits from any area shall be determined by the occupancy of that area and the nature of its use.

Student occupied rooms having a normal occupancy in excess of one hundred students shall have two means of egress. This category includes music rooms, libraries, and similar facilities.

Student occupied rooms above the first floor level having an inherent fire hazard with a student occupancy in excess of twenty-five shall have two means of egress. This category includes shops, laboratories, cooking areas of homemaking suites, and other similar facilities.

Auditoriums, gymnasiums, study halls, and cafeterias are considered as places of public assembly and shall have exits as set forth herein, if designed for spectator assembly, shall also be treated as places of public assembly.

When two exits are required to be provided for a classroom at least one shall be to a corridor or to the building exterior. The second exit may be through an adjoining class-

room, with a connecting door swinging in the direction of egress and being nonlockable in that direction. When two exits are required they shall be separated from each other by a distance of not less than one-half the longest dimension of the room. No required exit from a place of public assembly may be through another occupied area.

Double action doors shall not be permitted in any exitway. Exit hardware from early elementary grade rooms to the outside shall be installed low enough for easy operation by the children.

Locks shall be operated from the inside at all times.

Fire doors and frames equipped with door closers shall be provided as follows:

1. Doors to stairways from non-student occupied corridors or tunnels serving storage areas shall be B labeled.
2. Doors from student occupied floors to stair-shafts and stairways shall be C labeled.
3. Interior doors to heater and fuel rooms, incinerator rooms, projection booths, transformer rooms, attics, certain storage rooms, shop and industrial arts areas, certain fan rooms where there is a flame, and in openings to vertical shafts shall be B labeled, and other hazardous rooms as defined in the National Building Code.
4. Openings in fire walls shall be equipped with at least B labeled fire doors and frame assemblies.

Enclosed courts used for pupil activities shall be considered as classrooms and comply with sections applying to classrooms, or shall be provided with at least two properly separated nonlockable exit doors located within one hundred feet of an exterior exit of the building. If a court would normally have an occupancy in excess of one hundred persons, it shall be classed as a place of public assembly, and shall have sufficient exits as required by section ten hereof. A public assemblage court shall come under the exit requirements of interior public assemblage areas as set out in section ten of this Act. No required exit from a public assembly court may be through another instructional area. No required exits shall be through enclosed courts.

When additions, remodeling or alterations are being made to an existing building which obstructs required exits, emergency exit facilities shall be provided for use during the time that the building is being occupied.

Rooms housing groups of children, handicapped by immobility—orthopedic rooms— shall be provided with approved

exits direct to the outside, and/or completely equipped with automatic sprinkler system, Underwriters' approved.

§ 11. Stairways.) All required stairways and stair shafts between floors shall be continuous to the outside at or above grade. All exits from floors above the first shall be by inside stairways, and no permanent exterior fire escapes shall be permitted.

There shall be at least two stairways or exits remote from each other, accessible from the corridor door of every room used by pupils. Two stairways with a common termination point or intermediate landing shall be considered as a single stairway.

Stairways or exits shall be located so that the distance of travel from any classroom will not be more than one hundred feet to reach the nearest stairway or exterior exit. Stairways shall be so located with respect to corridors, passages and rooms, that there will be no dead ends in which pupils might be trapped.

A unit of stairway or exit door width shall be twenty-two inches. All width shall be taken clear between, but not including, handrails, and newels.

No required stair shall be less than forty-four inches wide.

One unit of stairway width, twenty-two inches, shall be required for each sixty pupils or major fraction thereof on floors above or below the first. Where the number of pupils on a floor cannot readily be determined, figure one pupil per forty square feet of gross floor area. Each run of stairs shall be of constant width throughout its length.

No stairways shall have a continuous run with a rise of more than nine feet between landings. Ramps may be substituted for runs, and shall conform to the requirements of the National Building Code.

No riser shall be more than seven inches in elementary schools, and seven and one-half inches in other school buildings. No tread shall be less than ten inches, exclusive of the nosing.

No winders shall be permitted on stairs required for pupil use.

Width and depth of landings shall be not less than the width of the stairs they serve. No door shall open immediately at the top or bottom of a flight of stairs for pupil use, but a landing shall be provided between such door or doorway and the stairs. Doors, during their swing, shall not reduce the effective width of stairs or landings and when open shall not interfere with the full use of stairs.

Handrails varying between two feet six inches and two feet nine inches in height shall be provided upon both sides of every stair. The vertical distance to the top of the horizontal balustrade shall be not less than forty-two inches from the floor or nosing. Handrails that do not continue around landings shall terminate by being returned against the wall. If a stairway wide enough for four lanes of traffic is used, there must be center handrails.

All stairways serving more than two stories above exit level shall be enclosed stair shafts of one hour fire rating.

Required stair shaft enclosures shall have a one hour fire rating and doors shall be C labeled fire doors and frame assemblies, except doors from non-classroom floors, storage and tunnel areas shall have B labeled fire doors and frame assemblies. Stair shaft enclosures may have windows in the exterior walls for natural light, providing they are not subject to fire exposure from nearby buildings.

Stairway or stair shaft doors serving classroom floors shall have panic hardware only.

Storage spaces over or under stairs shall be of fire resistant construction and shall not open into the stairwell or exit space.

Stairs shall be adequately lighted by artificial means.

No ramp for pupil use shall exceed one foot of rise in ten feet of run. Regulations pertaining to landings shall not apply to ramps. Ramp floors shall have a non-slip finish.

§ 12. Interior Finish.) Ceilings in multi-story buildings shall be class A finish in all areas.

Ceilings in one story buildings shall be class A finish in corridors and exitways and rooms exceeding two hundred persons capacities. In all other occupied rooms, ceilings must have class A finish, which may be applied directly to wood roof decks if desired, and provided that such rooms have partition construction, except doors, of at least three-fourths hour fire rating separating them from corridors. Such a separation may have one-fourth inch wired glass in steel framing as part of the partition, with not more than ten percent of the aggregate wall area being combustible.

Walls in multi-story buildings shall be class A finish in corridors and exitways, except that in lobbies not over ten percent of the aggregate wall and ceiling area may be combustible. Walls in one-story buildings shall be class A or B finish in corridors and exitways. In all schools, walls of rooms exceeding two hundred persons capacities shall be class A finish. In all other occupied rooms, walls shall have class B

finish provided such rooms have partition construction, except doors, of at least three-fourths hour fire rating separating them from corridors. Such a separation may have one-fourth inch wired glass in steel framing as a part of the partition. Where the wall finish is class A or B with not more than a permissible ten percent of the aggregate wall area being combustible, or where outside exits are provided from every room in the affected section, such partitions will not be required.

Flame spread ratings are those of the basic materials themselves and will not be affected by ordinary varnish or paint, but any highly combustible material application such as lacquer pyroxylin base materials shall not be used. This section shall not apply to buildings protected with approved automatic sprinklers.

The alphabetical classification of finish materials used is for flame spread and combustibility and shall be in accordance with the National Fire Protection Association designation of the American Society for Testing Materials, ASTM E-84 50T, "A" having a flame spread of 0 - 20, "B" having a flame spread of 20 - 75, or under Federal Specifications SS-A-118b.

§ 13. Fire Extinguishers.)

1. Fire extinguishers shall be of a type approved by the Underwriters' Laboratories, Inc.
2. They shall be housed in a special cabinet or wall rack readily accessible at all times.
3. Extinguishers shall be sized and located as prescribed in the current edition of National Fire Protection Association's pamphlet No. 10.
4. Fire extinguishers of class A type shall be located in corridors, storage areas of combustible materials, wood shops, on auditorium stages.
5. Fire extinguishers of B and C type shall be located in heating plant rooms, shops, homemaking rooms, chemistry and physics laboratories, kitchens and garages.
6. No vaporizing liquid type fire extinguishers shall be installed in any school.
7. It is important to have the right type of fire extinguisher readily available for the kind of fire likely to occur in the particular location. The following information shall be used in selecting and locating fire extinguishers:
 - (a) Standpipes and Hose Racks. General use throughout school buildings. Class A. Do not use for electrical and flammable liquid fires.
 - (b) Carbon Dioxide. Near flammable liquid storage, electrical equipment panels and science laboratory

equipment. Class B and C. Good for use on flammable liquid or electrical fires. Not good for deep seated or smoldering fires.

- (c) Dry Chemical. Near flammable liquid storage, garages, auto mechanics shops. Class B and C. Good for use on flammable liquid fires and electric fires.

Class A fire extinguishers are water under pressure to be used for corridor, storage areas, work shops, areas of combustible materials, and auditoriums.

Where the source of fuel for boiler or furnace rooms, or garages, is liquefied petroleum gas, natural gas or fuel oil, a ten pound dry chemical type of extinguisher shall be used.

For kitchens, science rooms, chemistry rooms, laboratories, at least five pound CO² type is recommended.

Standpipe system shall be installed in buildings over two stories in height above the highest grade and more than ten thousand square feet in area per floor.

§ 14. Storage Rooms — Ordinary Combustibles.) Any general or janitorial area for combustible materials shall have walls and ceilings of noncombustible materials, and when having a floor area in excess of one hundred square feet, or having any opening exposing a corridor, shall be segregated from the remainder of the building with material having a one hour fire rating.

§ 15. Storage Rooms—Flammable Liquids and Dangerous Chemicals.) Approved storage rooms shall be provided for hazardous chemicals and liquids for laboratories. The walls, ceilings and openings shall be constructed of noncombustible material of at least one and one-half hour rating, and any opening protected with class B fire door shall be of at least one and one-half hour rating and frame assemblies, except that where amounts of such chemicals and liquids are so minor as to make the construction of such a room impractical, closed cabinets of noncombustible construction shall be provided and located in the laboratories where used, so as not to obstruct any of the means of egress from the room.

Storage rooms for major bulk storage of hazardous chemicals and liquids shall be separated from the rest of the building by construction which will afford at least a one and one-half hour fire rating. Such room shall have at least one wall an outside wall of the building and shall be ventilated to the outside. All electrical switches, outlets, wiring, and fixtures shall be in accordance with the state electrical law, rules and regulations and the current edition of the National Electrical Code for such locations. Any doorway exposed to

the interior of the building shall be ramped or curbed to a height that will contain any flammable liquid spill within the room, as set out in section seven of this Act.

Flammable liquid dispensing equipment for fueling of vehicles shall be located in relation to a building containing a classroom so that no portion of any vehicle being served or the dispensing equipment, fill pipe or vent shall be closer than forty feet to such building.

Powered grounds equipment shall be stored in separate buildings of noncombustible construction or in separate rooms meeting the construction requirements of automotive and farm shops.

§ 16. Fire Alarm Systems.) Every new school building and every addition to a school building shall be equipped with an approved electrical, closed circuit, supervised fire alarm system with the supply fused ahead of the main switch or disconnect, except that this shall not apply to one room schools. The fire alarm disconnect shall be painted red and clearly marked DISCONNECT, and the control panel shall have an automatic outlet which can be connected to city system.

New fire alarm systems in additions shall be connected to systems in the existing building so that all stations throughout the entire building will actuate all alarms.

Fire alarm systems shall be painted red in color and be clearly marked FIRE ALARM.

Manual stations shall be located in the kitchen area, public assembly areas, auditorium stages, main office, and in corridors, preferably near exits or stairs, so that it will not be necessary to travel more than one hundred feet from the door of any room to reach a station on the same floor. A pull box station shall be located in the main office of a school or elsewhere if directed by the local fire authorities and connected directly to the local fire department in localities which are equipped with a pull box system. This pull box station may be independent of the fire alarm system in the school building. Automatic fire alarm systems shall be provided in boiler and furnace rooms, kitchens, and dangerous storage rooms over one hundred square feet in area.

Fire alarm signals shall be located throughout the building so that persons in all areas of the building, including high noise areas, will be able to hear the signal.

Fire alarm signals shall have an auditory sound distinct from other signals in use in the building for other purpose.

All fire alarm equipment shall be listed for its intended use by Underwriters' Laboratories, Inc.

The wiring in the fire alarm systems and controls shall be installed in a metallic raceway.

§ 17. **Sprinklers.**) Where more than two sprinklers are required to any one room or area, the supply shall be taken from ahead of any control valve to the domestic supply, and the installation made in accordance with the current edition of National Board of Fire Underwriters' pamphlet No. 13.

§ 18. **Heating Plant Rooms.**) The heating plant room shall not be located beneath any portion of the building. This shall include heating plants for heating swimming pool water.

An existing heating plant room located beneath a portion of a building shall not be expanded in heating capacity without the permission of the state fire marshal.

Heating plant room walls shall be of fire resistant construction extending to the roof and having a one hour fire rating, except where the heating plant room is not connected to the school building.

Where air ducts or pipes penetrate heating plant room walls, the construction around the pipes or ducts shall be such as to prevent fire spread through or around the openings. At the point where heating ducts pierce heating plant room walls, they shall be equipped with heat actuated metal fire dampers. All heating rooms with flame producing equipment shall be provided with a light weight panel window, or skylight.

A permanent outside vent, which cannot be closed off, shall be incorporated in the design of heating plant rooms so that adequate air for proper combustion will be assured, or a type of automatic system which would permit a supply of fresh air, before combustion appears.

At any opening between the heating plant room and the rest of the building there shall be installed a fire door and frame assembly with at least a one hour fire rating, equipped with an automatic closer. Such door opening into a corridor shall be hung to swing into the heating plant room.

Heating plant rooms containing furnaces or boilers with three hundred thousand B.T.U.'s per hour shall have one approved exit. Heating plant rooms containing furnaces or boilers having in excess of three hundred thousand B.T.U.'s shall have two approved exits remotely located.

§ 19. **Incinerators.**) If an incinerator is installed in the furnace or boiler room, or in other rooms meeting the same requirements of construction and fire protection as a furnace or boiler room, the incinerator shall be vented with a class A flue or stack. Incinerators shall not be fed from a corridor.

§ 20. Ventilation.) Where power exhaust ventilation is to be used, there must be provision for an air supply equal to the amount exhausted, especially in areas housing combustion equipment, lest negative pressures be developed, resulting in reversal of drafts in chimney flues. A heat actuated type of fire damper, or heat actuated device shall be installed to open the air circulating device on the fan.

Plenum spaces used for warm air supply or heating and ventilation supply ducts shall be constructed of noncombustible materials.

Fans and air handling equipment used for recirculating air in more than one classroom or single instructional area shall have a heat actuated device which shall open the electrical circuit supplying the fan motor.

Where recirculating air duct systems serve two or more floors, fire dampers shall be installed either, first, at each direct outlet or inlet and in each branch duct at its junction with the main vertical duct, or, second, at each point where a floor is pierced.

Where ducts pass through fire walls, heat actuated fire dampers shall be installed in accordance with National Fire Protection Association's pamphlet No. 90A.

All return ducts and plenum spaces shall be constructed of noncombustible materials. Where fans and air actuated equipment is used for recirculating the air in more than one classroom or instructional area, the electrical circuit shall be broken by a device operated from a fire alarm system.

§ 21. Hot Water.) Hot water heaters producing flame, other than booster heaters, for dishwashers, shall be installed in the heating plant room or in an enclosure of like fire resistant construction.

§ 22. Gas.) A master valve shall be provided in each room where there are three or more gas outlets. This valve shall be conveniently located and easily distinguishable so that it may be readily closed when the room is not in use. If a room is not in use, the administrator's desk and the laboratory proper should be kept under lock and key.

A shut-off valve shall be provided outside the building.

All gas heaters shall be vented unless approved by the state fire marshal.

All liquefied petroleum gas, or bottled gas, installations shall be in accordance with the state regulations for such use. When such gas supply lines are placed in tunnels, they shall be without joints and the tunnels shall have forced ventila-

tion, except when the length of the line does not exceed the width of the tunnel ventilation does not have to be provided.

§ 23. Electrical.) All electrical wiring and apparatus shall be installed in accordance with the provisions of the state electrical law, rules and regulations, and local ordinances, and the current edition of the National Electrical Code.

Electrical plans and specifications shall be reviewed by the state electrical board upon referral by the superintendent of public instruction, the board of higher education, and the state fire marshal, and complete inspection service with final certificate of compliance covering the electrical installation shall be made by the same agency, or by the local inspection authority where available.

In all school buildings an emergency lighting system shall be provided. All required exits shall be designated with illuminated exit signs and directional exit signs shall be installed where needed.

Exit emergency lighting circuits shall be installed in a metal raceway on separate circuits placed ahead of the main line switch.

No other wiring shall be in the same raceway or conduit which serves the exit and emergency lighting.

§ 24. Change of Occupancy.) When an approved designated occupancy is changed during planning or construction to another occupancy, all of the fire protection requirements for the new occupancy shall be complied with.

§ 25. Reference Data.) The latest edition of the following data shall be used as reference and as an aid in the interpretation of this Act:

1. National Building Code—National Board of Fire Underwriters.
2. Building Exit Code—National Fire Protection Association.
3. Fire Ratings of Materials—National Board of Fire Underwriters—United States Bureau of Standards.
4. National Electrical Code—National Board of Fire Underwriters—National Fire Protection Association.

Approved March 11, 1961.

CHAPTER 180

H. B. No. 594
(Poling)

COMBUSTIBLES AND EXPLOSIVES

AN ACT

To provide for the promulgation of safety rules and regulations concerning the storage, sale and use of combustibles and explosives, and providing a penalty for failure to comply with the safety rules and regulations.

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

§ 1.) State Fire Marshal Has Authority to Promulgate Rules and Regulations—Penalty for Violation.) The state fire marshal shall have the authority to promulgate safety rules and regulations for the storage, sale, and use of combustibles and explosives, not otherwise provided by law. Any person who willfully shall fail, neglect, or refuse to comply with the safety rules and regulations as promulgated by the state fire marshal 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, provided, that in no event shall the rules and regulations adopted by the state fire marshal be more restrictive than those promulgated by the National Fire Codes of the National Fire Protection Association and shall not apply to the transportation of explosives and dangerous articles regulated by the Interstate Commerce Commission. Provided, however, that the state fire marshal may make reasonable provision for the application or nonapplication thereof.

Approved March 1, 1961.

CHAPTER 181

H. B. No. 929
(Delayed Bills Committee)

CONTRACTS FOR FIRE PREVENTION IN UNORGANIZED
TOWNSHIPS AND MILL LEVY

AN ACT

To amend and reenact section 18-06-11 of the North Dakota Century Code, relating to contracts for fire protection in unorganized townships and mill levy, and declaring an emergency.

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

§ 1. **Amendment.)** Section 18-06-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-06-11. Contracts for Fire Protection in Unorganized Townships—Mill Levy.) Upon the petition of a majority of the electors in one or more unorganized townships or in school districts comprising unorganized townships, the board of county commissioners shall have authority to execute contracts with any incorporated municipality, rural fire protection districts, or rural fire departments of this or adjacent states to provide for the prevention of, the protection from, and the extinguishment of fires within such unorganized townships or districts in such manner as may be agreed upon by the board of county commissioners and the governing body of the municipality contracting to perform such services. The board of county commissioners is further authorized to levy a sum sufficient for the reimbursement of municipalities performing such services upon all taxable property within the unorganized townships or school district comprising unorganized townships for which such fire protection service is provided. The mill levy provided herein shall be over and above any mill levy limitation provided by law and shall be collected and paid as other county taxes are collected and paid. The proceeds of such tax shall be placed by the county treasurer in a special fund for the reimbursement of the municipality providing fire protection service to the unorganized townships or districts from which the tax is collected, and shall be disbursed upon the order of the board of county commissioners.

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

Approved March 2, 1961.

CHAPTER 182

S. B. No. 254
(Becker, Hystad)

RURAL FIRE PROTECTION DISTRICTS

AN ACT

To amend and reenact sections 18-10-07, 18-10-08, and 18-10-09 of the North Dakota Century Code, relating to rural fire protection districts.

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

§ 1. **Amendment.)** Section 18-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-07. Fire Protection Policy To Be Determined.) The board of directors shall have the power and duty to determine upon a general fire protection policy for the district and shall annually estimate the probable expense for carrying out such contemplated program. Such estimate shall be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax not to exceed five mills upon the taxable property within said district for the maintenance of the fire protection district for the fiscal year as provided by law. Said tax shall be:

1. Collected as other taxes are collected in the county;
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars;
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank; and
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the counter-signature of the president of the rural fire protection district.

In no case shall the amount of tax levy exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense including the amount of principal and interest upon the indebtedness of the district for the ensuing year.

§ 2. **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 ten 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 evidences of indebtedness thereof.

§ 3. **Amendment.)** Section 18-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-09. Funds Collected To Be Deposited.)

1. All funds collected on behalf of the district through the levy of taxes;
2. All donations, contributions, bequests, or annuities, and
3. All borrowed money received by or on behalf of the district shall be deposited in a state or national bank to the credit of the district fund and shall be drawn out only by warrant.

Such claim voucher shall be authorized by the board of directors and shall bear the signature of the treasurer and the countersignature of the president of such district. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district. Once each year at the same time the state examiner examines other county records he shall examine the records of the secretary-treasurer of the rural fire protection district, and the cost of such examination shall be paid by such district. The secretary-treasurer of the rural fire protection district shall bring his records to the office of the county auditor for such examination.

Approved March 11, 1961.

CHAPTER 183

H. B. No. 644

(Saugstad, Haugland, Lowe, Aamoth,
(Stockman, Johnston, Breum, Wilkie, Hauf)

TAXATION FOR RURAL FIRE PROTECTION

AN ACT

To create and enact section 18-10-15 of the North Dakota Century Code, relating to taxation of certain property for rural fire protection purposes.

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

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

18-10-15. Payments by Certain Organizations.) Any club, lodge, chapter, charitable home, dormitory, state or county fair association, or like organization located within a rural fire protection district and outside the boundaries of any city or village, shall pay to the board of directors of the district annually for fire protection such amount as may be agreed upon, but not less than twenty-five percent of the amount which would be levied against such property under the provisions of this chapter if such property were subject to such levy.

Funds derived from such payments shall be expended by the district for fire fighting supplies and equipment and the training of fire department personnel. The board of directors shall file an annual statement with the state fire marshal showing the names of persons or organizations making payments and the amounts of payments made under this section.

Approved March 11, 1961.

FOODS, DRUGS, OIL AND COMPOUNDS

CHAPTER 184

S. B. No. 64

(Morgan, Ringsak, Van Horn, Hernet, Wadeson and Witteman)

VIOLATION OF NARCOTICS LAWS

AN ACT

To amend and reenact sections 19-03-02 and 19-03-31 of the North Dakota Century Code relating to the violation of narcotics laws and to repeal section 19-03-28 of the North Dakota Century Code relating to sale and possession of marijuana and providing a penalty.

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

§ 1. **Amendment.)** Section 19-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03-02. Acts Prohibited—Penalty.) It shall be unlawful for any person to grow, manufacture, possess, have under his control, sell, prescribe, administer, dispense, furnish, give away, trade, or compound any narcotic drug, except as authorized in this chapter. Any person violating any of the provisions of this section shall be guilty of a felony and shall be punished by a fine of not more than ten thousand dollars or by imprisonment at hard labor in the penitentiary for not more than ninety-nine years, or by both such fine and imprisonment.

§ 2. **Amendment.)** Section 19-03-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03-31. Penalties.) Any person violating any provision of this chapter, if another penalty is not specifically prescribed, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the penitentiary for not less than one year nor more than three years, or in the county jail for not more than one year, or by both such fine and imprisonment.

§ 3. **Repeal.)** Section 19-03-28 of the North Dakota Century Code is hereby repealed.

Approved February 23, 1961.

CHAPTER 185

S. B. No. 197

(Morgan, Baker, Foss, Garaas, Fiedler)

EXEMPTED MEDICINAL PREPARATIONS

AN ACT

To amend and reenact section 19-03-12 of the North Dakota Century Code, relating to exempted medicinal preparations.

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

§ 1. **Amendment.)** Section 19-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03-12. Preparations Exempted.) Medicinal preparations which under the regulations promulgated by the United States Commissioner under the federal narcotics law are permitted to be administered, dispensed, or sold at retail without a prescription from a licensed physician and are designated as "exempt" under such regulations, are exempt from the provisions of this Act unless otherwise specifically provided. The exemption authorized by this section shall be subject to the following conditions:

1. That the medicinal preparation administered, dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone; and
2. That such preparation shall be administered, dispensed, and sold in good faith as a medicine and not for the purpose of evading the provisions of this chapter; and
3. That the following medicinal preparations are not exempt under this section and shall be administered, dispensed, or sold only upon a prescription from a licensed physician:
 - a. Opium in quantities of two grains to the ounce or more; or
 - b. Morphine in quantities of one-quarter grain to the ounce or more.

Nothing in this section shall be construed to limit the quantity of codeine or of any of its salts that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this chapter.

Approved February 28, 1961.

GAME, FISH, AND PREDATORS

CHAPTER 186

S. B. No. 111

(Becker, Brooks, Kamrath, Mutch, Baker, Morgan)

ARTIFICIAL BLINDS

AN ACT

To create and enact subsection 18 of section 20-01-01, and to amend and reenact sections 20-01-04 and 20-04-07 of the North Dakota Century Code, relating to use of artificial blinds in the taking of game birds.

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

§ 1.) Subsection 18 of section 20-01-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

18. "Sinkbox" or "sunken device" shall mean a raft or any type of low floating device having a depression which affords a hunter a means of concealing himself below the surface of the water.

§ 2. **Amendment.)** Section 20-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-01-04. Unauthorized Methods of Taking Game Birds and Game Animals.) Except as otherwise provided in this title, no person, for the purpose of catching, taking, killing, or raising any game birds or game animals shall:

1. Set, lay, or prepare any trap, snare, artificial light, net, birdlime, swivel gun, or any other device;
2. Drag, in any manner, any wire, rope, or other contrivance;
3. Use or cause to be used, except for transportation, any floating device or apparatus operated by electricity, steam, or gasoline, or any other floating vessel;
4. Use a firearm with any kind or type of silencer on it; or
5. Discharge any firearm while in or on a motor vehicle.

§ 3. **Amendment.)** Section 20-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-04-07. When Blinds, Boats, and Decoys Lawfully Usable in Taking Ducks and Geese.) Wild ducks and geese may be taken:

1. In the open or from a stationary natural or artificial blind or other place of concealment on land or water, except a sinkbox;
2. From a floating craft, excluding a sinkbox but including a sailboat or other craft having a motor attached when such sailboat, boat, or other craft with motor attached is beached, or fastened within or tied immediately alongside of any type of fixed hunting blind; or from such craft resting at anchor if authorized by governor's proclamation;
3. With the aid of a motorboat, sailboat, or other craft when used solely as a means of picking up dead or injured birds;
4. With the aid of artificial decoys. The use, directly or indirectly, of live duck or goose decoys shall not be permitted.

Approved March 15, 1961.

CHAPTER 187

H. B. No. 610

(Anderson of McHenry, Karabensh,
Vinje, Berg, Einarson, Christopher)

BOUNTIES AND LICENSE FEES

AN ACT

To amend and reenact section 20-03-12 of the North Dakota Century Code, relating to hunting license fees, and to repeal chapter 20-13 of the North Dakota Century Code, relating to the predatory animal bounty.

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

§ 1. Amendment.) Section 20-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-12. Schedule of Fees for All Hunting, Trapping, or Fishing Licenses.) The various hunting, trapping, or fishing license fees shall be as follows:

1. For a resident hunting license, the sum of one dollar and fifty cents;
2. For a nonresident hunting license, the sum of twenty-five dollars;

3. For a resident big game hunting license, the sum of five dollars;
4. For a nonresident big game hunting license, the sum of fifty dollars and for a nonresident bow license, the sum of twenty-five dollars;
5. For a resident trapping license, the sum of one dollar;
6. For a nonresident trapping license, the sum of one hundred dollars;
7. For a resident fishing license, the sum of two dollars;
8. For a nonresident fishing license, the sum of five dollars;
9. For a nonresident short term fishing license, the sum of one dollar; and
10. For a resident family fishing license, the sum of three dollars.

§ 2. **Repeal.**) Chapter 20-13 of the North Dakota Century Code is hereby repealed.

Approved March 16, 1961.

CHAPTER 188

H. B. No. 638
(Goebel, Wheeler, Haugen)

LICENSES

AN ACT

To amend and reenact section 20-03-21 of the North Dakota Century Code, relating to issuance of hunting, trapping, fishing, and taxidermists' licenses.

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

§ 1. **Amendment.**) Section 20-03-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-21. Issuance of Licenses — Who to Issue — County Auditor May Appoint Agents Who Shall Receive Compensation—Disposition of Proceeds.) All hunting, trapping, fishing, and taxidermists' licenses shall be issued by the several county auditors, the commissioner, the deputy commissioner, and the bonded game wardens. The deputy commissioner and each bonded game warden shall transmit to the commissioner all moneys collected from the issuance of licenses. For each license issued by him, the county auditor shall collect the charges authorized under this title and shall record the same in his record of cash received. He shall retain as his compensation for the issuance of each resident hunting, fishing, or

trapping license the sum of ten cents; for the issuance of each nonresident hunting or trapping license the sum of one dollar; and for the issuance of each nonresident fishing license the sum of twenty-five cents. The county auditor may appoint agents to distribute hunting and fishing licenses and may compensate such agents from the fees retained by him as prescribed in this section. The remainder of the license fees shall be deposited with the county treasurer at least once each month, and not later than three days after the close of the month, accompanied by a report showing the amounts received from the sale of each type of license, the amount retained, and the net amounts deposited. The county treasurer shall credit the fees so deposited to a separate account and shall hold such fees, subject to warrant for payment thereof drawn by the county auditor in favor of the state game and fish commissioner. The commissioner shall deposit all receipts from the issuance of licenses transmitted to or received by him with the state treasurer to be credited to the game and fish fund.

Approved March 15, 1961.

CHAPTER 189

H. B. No. 767
(Saugstad)

BIG GAME CARCASS SEALS

AN ACT

To amend and reenact section 20-05-07 of the North Dakota Century Code, relating to the attaching of seals to the carcasses of big game animals.

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

§ 1. **Amendment.)** Section 20-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-05-07. When Seals To Be Attached to Carcasses of Big Game Animals—Commissioner to Furnish Seals.) Each person having a big game hunting license, immediately after killing a big game animal, shall affix to the carcass of such animal, before it is transported in any manner, or offered for transportation, a metal locking seal bearing his big game hunting license number. Such seal shall be attached and sealed between the leg bone and tendon in such a manner as not to be lost or removed. Failure to attach such seal in the manner

provided by this section shall be a misdemeanor and be punishable as provided by section 20-05-08 of this title. The metal locking seal shall be furnished by the commissioner with each big game hunting license issued.

Approved March 11, 1961.

CHAPTER 190

H. B. No. 645
(Solberg, Dick, Sorlie,
Breum)

BAG AND POSSESSION LIMITS AND SEASONS ON GAME BIRDS

AN ACT

To amend and reenact section 20-08-02 of the North Dakota Century Code, relating to the limitations on the governor's power to establish bag and possession limits and seasons on game birds.

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

§ 1. **Amendment.)** Section 20-08-02 of 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 exceeds fifteen birds in the aggregate;
2. A bag limit on migratory waterfowl which is less than the federal bag limit thereon;
3. An open season on any game bird that begins before the fifteenth day of September or that ends not later than the first day of March of the following year.

Approved March 11, 1961.

CHAPTER 191

H. B. No. 703
(Aamoth)

GOVERNOR'S PROCLAMATION

AN ACT

To amend and reenact section 20-08-03 of the North Dakota Century Code, relating to contents of the governor's proclamation relating to the taking of game birds, fish, and game animals.

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

§ 1. **Amendment.)** Section 20-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-08-03. Contents of Governor's Order or Proclamation Relating to the Taking of Game Birds, Fish, and Game Animals.) An order or proclamation issued by the governor pursuant to the provisions of this chapter shall prescribe, as to each species of game birds, fish, or game animals named therein, the following:

1. In what manner the same may be taken;
2. In what number the same may be taken and possessed and may limit such numbers by sex;
3. In what places the same may be taken; and
4. At what times the same may be taken and possessed.

The governor, in his order or proclamation, may provide for the number of big game permits or licenses to be issued for the taking of each species and the manner in which such permits or licenses shall be issued for the big game only. When a limited number of big game licenses are issued by lottery and the number of applicants is greater than the number of licenses to be issued, any applicant who is successful in obtaining such a license shall not be eligible to apply for a license to hunt the same species of big game for the four ensuing lottery years, except that owner operators or operators, living within the boundaries of the legal open area shall be entitled to purchase one such license for each farmstead unit in each consecutive season. By 1963 any person who has been an applicant for license in four successive lottery seasons and who shall not have been successful in any such lottery, shall be eligible to receive a license upon application therefor without having such application included in the lottery.

Approved March 3, 1961.

CHAPTER 192

H. B. No. 675
(Saugstad, Schuler)

RELINQUISHING CERTAIN GAME REFUGES

AN ACT

To repeal section 20-11-05 of the North Dakota Century Code, relating to the islands in the waters of Devils Lake and the Missouri River being set aside as state game refuges.

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

§ 1. Repeal.) Section 20-11-05 of the North Dakota Century Code is hereby repealed.

Approved March 7, 1961.

GOVERNMENTAL FINANCE

CHAPTER 193

H. B. No. 705
(Stockman, Baldwin, Boe,
Fitch, Aamoth)

1961 BOND VALIDATING ACT

AN ACT

Validating, ratifying, approving and confirming bonds and other instruments or obligations, heretofore issued by public bodies of this state, and all proceedings heretofore taken by such public bodies, to authorize and issue such bonds, instruments and other obligations, however described, and to provide funds for their payment; providing that this Act may be cited as "The 1961 Bond Validating Act", and declaring an emergency.

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

§ 1. Citation.) This Act may be cited as "The 1961 Bond Validating Act".

§ 2. Definitions.) The following terms, wherever used or referred to in this Act, shall have the following meanings:

1. The term "public body" shall include any county, city, village, township, school district, irrigation district, drainage district, special improvement district, and any other political or governmental subdivision of the state of North Dakota, and any board, commission, agency or officer thereof.
2. The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all revenue bonds, special improvement warrants, refunding improvement bonds and warrants, and, without limitation by the enumeration of the foregoing, all other instruments and obligations, whether payable from a special fund or supported by a pledge of the full faith and credit of the public body issuing the same.

§ 3. Validation of Bonds and Incidental Proceedings.) All bonds heretofore issued by any public body for any purpose

and in any manner consistent with the Constitution of the state, and all proceedings heretofore taken by any such body for the authorization, issuance, sale, exchange, execution and delivery of its bonds, and for the performance of any conditions precedent thereto, and for the provision of taxes, special assessments and other funds to pay such bonds and interest thereon, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power of such public body, or of the governing board, council, commission or officers thereof, to authorize, issue, sell, exchange, execute or deliver the same, and notwithstanding any defects, irregularities or omissions in such proceedings or in such authorization, issuance, sale, exchange, execution or delivery; and all bonds heretofore issued by such public bodies, and all bonds hereafter issued by them under the authority of proceedings heretofore taken, are and shall be binding, legal and enforceable obligations of such public bodies respectively.

§ 4. Matters Validated.) It is the intent hereof that, without limiting the generality of the foregoing:

1. This Act shall apply to all defects, irregularities and omissions, other than constitutional, in the calling, notice or conduct of any election, any public hearing, or any meeting of a governing board, council or commission held for the purpose of authorizing bonds or any project financed by bonds; in the creation of an improvement district, the determination of the necessity and the making of contracts for the acquisition or construction of such project; in the levy of any tax or special assessment appropriated for the payment of bonds; in the establishment of rates and charges for the service of any project; in the pledge of net revenues derived therefrom to the payment of bonds, and in the making of covenants securing such payment.
2. This Act shall apply notwithstanding any lack of power, other than constitutional, to engage in a project or any portion thereof, or to finance the same by issuing bonds; to combine two or more projects or bond issues in the same proceedings; to conduct proceedings in the sequence actually followed; or to exercise jurisdiction over the site at which any project is located, within or without the corporate limits of the public body or of the county in which it is situated or of the state of North Dakota.

§ 5. Repeal.) All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 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 7, 1961.

CHAPTER 194

S. B. No. 143
(Foss)

REAL ESTATE SERIES BONDS

AN ACT

To provide for the final payment of North Dakota Real Estate Series Bonds heretofore issued, and interest thereon, and to authorize delivery of properties and assets of the Real Estate Bond Trust to the custody and control of the manager of the Bank of North Dakota for the ultimate benefit of the state general fund.

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

§ 1. **Real Estate Bond Funds.)** The real estate bond funds on deposit with the state treasurer shall be maintained in the sums needed to pay outstanding valid enforceable real estate series bonds of the state of North Dakota and lawful interest thereon. All money in said funds not needed for such bonds and interest shall upon the effective date of this Act be transferred by the state treasurer to the general fund in accordance with the provisions of subsection 2 of section 54-30-11 of the North Dakota Century Code.

§ 2. **Transfer of Real Estate Bond Trust.)** With the exception of funds controlled by the provisions of section 1 of this Act, all contracts for deed, tracts of real property, leases and miscellaneous assets and things of value belonging to the State Real Estate Bond Trust and owned and held in the name of the state treasurer, as trustee for the state of North Dakota, together with future increments, accruals and recoveries coming, arising or resulting from any of such things, or from dealing therewith in whatever form, are each and all hereby transferred, assigned, conveyed and granted and shall be by the state treasurer delivered to the manager of the Bank of North Dakota in Bismarck, North Dakota. This transfer is self-executing; no evidence other than the provisions of this Act shall ever be required to establish the fact of transfer of the title to the manager of the Bank of North Dakota thereunder. Proper and sufficient delivery of all title documents shall be presumed. Everything received by the manager of the

Bank of North Dakota under the provisions hereof shall be accepted and held by him in trust with power of sale. Further transfers or releases may be made by the manager of the Bank of North Dakota for and in the name of the state treasurer, as trustee for the state of North Dakota as his agent, substitute and total successor. The expense of protecting, managing and conducting the trust herein provided shall be a paramount charge on the whole thereof, subject to the needs of the real estate series bonds and interest thereon.

§ 3. Consideration.) In consideration of the transfer of such contracts for deed the Bank of North Dakota shall pay to the state treasurer, as trustee for the state of North Dakota, for deposit in the real estate bond payment funds and ultimate transfer to the general fund, a sum equal to the unpaid principal balance payable by the purchasers, adjusted for commissions and advances of the Bank of North Dakota, and the books and accounts relating to such contracts for deed shall be finally closed.

§ 4. Management of the Trust.) During the intervals between remittances to the state treasurer for the state general fund, funds available therefor may be invested as other moneys of the Bank of North Dakota are invested. The manager of the Bank of North Dakota shall collect upon and enforce to the fullest extent all rights, things and properties belonging or accruing to the trust in his custody. He may foreclose mortgages by advertisement under power of sale in the manner that mortgages of the state school funds are foreclosed, and all remedies and procedures available to the state or any department thereof shall be available to him to protect, manage and conduct the trust. No special power of attorney nor affidavit as to attorney's fees shall be required.

§ 5. Remittances to the State General Fund.) Following each calendar quarter for which the manager of the Bank of North Dakota receives funds of said trust over and above costs and expenses of the Bank of North Dakota incident thereto and exceeding a proper portion of the regular bank appropriation and a reasonable reserve for contingencies, the Bank of North Dakota shall remit such funds to the state treasurer for deposit in the general fund of the state. Such remittances shall be deemed credited against money borrowed to service and pay real estate bonds of the state of North Dakota heretofore issued.

Approved February 28, 1961.

CHAPTER 195

S. B. No. 60
(Gefreh)

BORROWING MONEY AND ISSUING BONDS BY COUNTY

AN ACT

To amend and reenact subsection 1 of section 21-03-06 of the North Dakota Century Code, relating to the borrowing of money and the issuance of bonds by a county.

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

§ 1. Amendment.) Subsection 1 of section 21-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. By any county:

- a. To provide county buildings, but all outstanding unpaid bonds, for this purpose shall not exceed in amount at any one time one and one-half percent of the value of the taxable property in such county, except that any county maintaining a county agricultural and training school may issue bonds in excess of such limit to provide buildings for such school but all outstanding unpaid bonds for such purpose shall not exceed in amount at any one time one percent of the value of the taxable property in such county;
- b. To construct or aid in the construction of bridges within or without such county, but all outstanding unpaid bonds for such purpose shall not exceed in amount at any one time one percent of the value of the taxable property in such county; and
- c. To provide funds for the original construction and for the improvement and maintenance of highways, but all outstanding unpaid bonds for these purposes shall not exceed in amount at any one time one percent of the value of the taxable property in such county.

Approved February 28, 1961.

CHAPTER 196

S. B. No. 171
(Meidinger)

TAXES FOR MUNICIPAL BONDS

AN ACT

To amend and reenact section 21-03-15 of the North Dakota Century Code, relating to taxes for municipal bonds.

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

§ 1. **Amendment.)** Section 21-03-15 of 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 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 to obstruct the collection of said tax until such payments have been made or provided for. A copy of such resolution or ordinance shall be certified to and filed with the county auditor, and after the issuance of such bonds, such tax from year to year shall be carried into the tax roll of the municipality and collected as other taxes are collected. No further annual levy for that purpose shall be necessary. 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 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.

Approved March 15, 1961.

CHAPTER 197

S. B. No. 297

(Morgan, Hernett, Nesvig, Garaas, Redlin)

BOND PROCEEDS

AN ACT

To amend and reenact section 21-03-38 of the North Dakota Century Code, relating to proceeds from bond issue kept in separate fund for protection of purchaser and to authorize investment thereof.

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

§ 1. **Amendment.)** Section 21-03-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-38. Bond Proceeds—Kept in Separate Fund—Protection of Purchaser.) All borrowed money shall be paid into the treasury of the municipality borrowing it, shall be kept there until used, in a fund separate and distinct from all other funds, to be used for the purpose for which it was borrowed and for no other purpose except that such funds may be temporarily invested in securities as shall be approved by the governing board in accordance with the provisions of 21-03-43 and as otherwise provided by section 21-03-42, and shall be withdrawn only upon order or warrants made payable out of said fund and expressing the purpose for which they were drawn. The purchaser of any bonds issued pursuant to this chapter 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 county treasurer or of the officer delivering such bonds as provided by section 21-03-22. Income from the temporary investing of receipts from bond issues shall be available for use for such purpose as such bond issue was approved or upon resolution of the governing body of the municipality, shall be paid into the sinking fund for use in payment of bonds issued.

Approved March 3, 1961.

HEALTH AND SAFETY

CHAPTER 198

H. B. No. 588

(Neukircher, Dahl, Glaspey, Hornstein,
(Loewen, Ostrem, Scott)

ENFORCEMENT OF CEMETERY REGULATIONS

AN ACT

To amend and reenact subsection 5 of section 23-06-21 and section 23-06-23 of the North Dakota Century Code, relating to the state department of health enforcement of cemetery regulations including furnishing reports and submitting plans.

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

§ 1. **Amendment.)** Subsection 5 of section 23-06-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Furnish such information and reports as the state health department may require including but not limited to the submission of plans and specifications for review and approval before constructing, erecting, or placing on the burial site for the burial or disposition of any human remains any interment structure or device constructed or placed wholly or partially above the natural surface of the ground; and

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

23-06-23. State Department of Health to Enforce Regulation of Cemeteries—Injunction.) The state department of health shall make and enforce such rules and regulations as are necessary to carry out the laws relating to the regulation of cemeteries and may through injunction or other legal process enforce compliance.

Approved February 25, 1961.

CHAPTER 199

S. B. No. 182

(Committee on State and Federal Government)

HEALTH DEPARTMENT INSPECTIONS, CONSULTATIONS
AND INJUNCTIONS

AN ACT

To amend and reenact section 23-16-05 and section 23-16-12 of the North Dakota Century Code, relating to state department of health inspections, consultations, and injunctions, and declaring an emergency.

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

§ 1. **Amendment.)** Section 23-16-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-16-05. Inspections, Consultations, and Approval of Plans.) The state department of health shall make or cause to be made such inspections as may be prescribed by regulation. The health council may prescribe by regulations that any licensee or prospective applicant desiring to make a substantial alteration or addition to its facilities or to construct new facilities shall before commencing such alteration, addition or new construction, submit plans and specifications therefor to the state department of health for preliminary inspection, recommendation and approval.

§ 2. **Amendment.)** Section 23-16-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-16-12. Injunction.) The department of health, in accordance with the laws of the state governing injunctions and other process, may maintain an action in the name of the state against any person, partnership, association, or corporation, for establishing, conducting, managing or operating any hospital within the meaning of the chapter without first having a license therefor as herein provided or without first obtaining from the state department of health written approval of plans and specifications for major alterations of, additions to, or construction of health facilities.

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

Approved February 28, 1961.

CHAPTER 200

H. B. No. 542
(Haugland, Karabensh, Sorlie,
(Stallman, Trom)
(From LRC Study)

STERILIZATION

AN ACT

To amend and reenact sections 23-08-03 and 23-08-06 of the North Dakota Century Code, relating to sterilization of persons in state institutions.

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

§ 1. **Amendment.)** Section 23-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-08-03. Heads of State Institutions Report Persons Who Should Be Sterilized to Board of Examiners.) The warden, superintendent, or other head of the penitentiary, the state hospital, the state training school, and the Grafton state school shall report quarterly to the board of examiners each feeble-minded, or mentally ill person and each habitual criminal, moral degenerate, or sexual pervert within his institution who is a potential producer of offspring and who, in the opinion of the superintendent or warden should be sterilized, because of the inheritance of inferior or antisocial traits of such persons, they probably would become social menaces or wards of the state. The criminals who shall come within the operation of the provisions of this chapter shall be those who are moral degenerates or sexual perverts or who are addicted to the practice of sodomy, the crime against nature, or to other gross, bestial, and perverted sexual habits and practices prohibited by statute.

§ 2. **Amendment.)** Section 23-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-08-06. When Sterilization Ordered.) If, in the judgment of all the members of the board of examiners, procreation by any person reported to it under the provisions of this chapter would produce children with an inherited tendency to feeble-mindedness, mental illness, criminality, or degeneracy, and there is no probability that the condition of the person so examined will improve to such an extent as to render pro-

creation by any such person advisable, or if the physical or mental condition of any such person will be substantially improved by sterilization, the board, after the examination and hearing, may make an order requiring the person to be sterilized.

Approved February 28, 1961.

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 201

S. B. No. 79

(Redlin, Trenbeath, Hernett, Reichert)

INVENTORY OF HIGHWAY DEPARTMENT PROPERTY

AN ACT

Providing for a spot check of the perpetual physical property inventory of the state highway department by the state auditor and designating that cost thereof be paid from state highway funds.

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

§ 1.) The state auditor shall be responsible for a spot check of the perpetual physical property inventory of the state highway department and the costs thereof shall be paid from the state highway fund; such cost not to exceed five thousand dollars annually.

Approved February 23, 1961.

CHAPTER 202

S. B. No. 76

(Garaas, Kee)

DESIGNATION OF THROUGH HIGHWAYS

AN ACT

To amend and reenact sections 24-01-15 and 39-07-03 of the North Dakota Century Code, relating to the designation of through highways.

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

§ 1. **Amendment.)** Section 24-01-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-15. Commissioner To Designate Through Highways.) The highway commissioner with reference to highways under his jurisdiction, may designate as through highways any state highway or part thereof by proclamation and erecting stop or

yield right-of-way signs at the entrances thereto where vehicles are not otherwise required by law to stop or yield right-of-way.

§ 2. **Amendment.)** Section 39-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-03. Through Highways Designated by Commissioner and Local Authorities; Drivers of Vehicles Required to Stop; Illuminating Signs.) The commissioner with reference to state highways, and local authorities, with reference to highways under their jurisdiction, may, by proclamation, designate as through highways, any highway, street, or part thereof, and erecting stop or yield right-of-way signs at the entrances thereto where vehicles are not otherwise required by law to stop or yield right-of-way. Whenever such signs have been erected, no driver of any vehicle shall fail to stop or yield right-of-way in obedience thereto. All such signs shall be illuminated at night or coated with reflectorizing paint and shall be so placed as to be illuminated by the headlights of an approaching vehicle or by street lights.

Approved February 23, 1961.

CHAPTER 203

S. B. No. 98

(Van Horn, Andre, Garaas, Mutch, Gefreh)

CONTRACTS WITHOUT ADVERTISEMENT

AN ACT

To amend and reenact sections 24-02-17 and 24-02-19 of the North Dakota Century Code, relating to the amount for which the highway commissioner may contract without advertising for bids.

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

§ 1. **Amendment.)** Section 24-02-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-17. Contracts—Bids.) Whenever the cost of any construction improvement shall exceed the sum of two thousand dollars, the department shall proceed to advertise the same, request bids, and award such contracts in the manner provided in this chapter. Whenever any proposed contract or work of the department shall be for a sum less than two thousand

dollars, it shall be discretionary with the department whether the same shall be awarded after advertising for bids. The department shall award such contracts in the manner provided in this chapter, but where contracts are in excess of one thousand dollars, the department shall request bids from as many contractors, manufacturers, and dealers as can be requested conveniently.

§ 2. Amendment.) Section 24-02-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-19. Request for Bids—How Advertised.) Any request for bids for construction work or the improvement of any state highway, or any structure in excess of two thousand dollars, shall be advertised by publication once a week for a period of two successive weeks, prior to the opening of such bids, in the official newspaper of the county in which the project is located. Such advertisement shall state where the bidder may inspect the plans and specifications, with whom bids shall be filed, and the time and place where bids shall be opened. Such place shall be the office of the department. All requests for bids for the purchase of equipment, materials, and supplies, exclusive of repairs to equipment in excess of the sum of two thousand dollars shall be advertised in the official newspaper of Burleigh County once a week for a period of two successive weeks prior to the opening of such bids.

Approved March 15, 1961.

CHAPTER 204

S. B. No. 145
(Fiedler and Hernet)

HIGHWAY SIGNS AND MARKINGS

AN ACT

To amend and reenact sections 24-03-09 and 24-12-04 of the North Dakota Century Code, relating to warning signs of road construction, injury to highway signs and markings and to provide for a reward for information leading to conviction of persons injuring highway signs.

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

§ 1. Amendment.) Section 24-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-03-09. Warning Signs of Road Construction.) Whenever the department or any county or township shall enter into a contract for the construction and improvement of any road or culvert, or bridge thereon, it, as a condition of such contract, shall provide therein that the contractor shall place suitable warning signs which can be read for a distance of one hundred feet in daytime, and also shall erect and place at night a red or white lantern or a torch or other effective device, of a type approved by the department, at both ends of such construction work, no less than three hundred feet therefrom, warning the public that such road is under construction or improvement and either is closed, or hazardous for travel thereon, and when a highway is so marked, the traveler shall proceed only with great care and diligence, but nothing contained in this section shall make any township, county or the state liable for the failure of any contractor to erect such warning signs.

§ 2. Amendment.) Section 24-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-12-04. Injury to Mileboards, Guideposts, Traffic Control Signals, Signs, or Markings.) No person shall remove, injure, or destroy any mileboard, milestone, or guidepost, traffic control signals, signs or markings, or any inscription thereon, erected or placed upon any highway, road or street by any public authority or by any contractor, subcontractor or employee engaged in construction activities pursuant to a contract with a public authority therefor.

§ 3.) The highway commissioner or any political subdivision of this state is hereby authorized to offer a reward, the amount of which shall be determined by the highway commissioner or the governing body of the political subdivision not exceeding however the sum of three hundred dollars, for any information leading to the conviction of any person or persons violating the provisions of 24-12-04.

Approved February 24, 1961.

CHAPTER 205

S. B. No. 148

(Brooks, Hernet, Thompson,
(Luick, Garaas, Fiedler)

ROAD MAPS AND TOURIST INFORMATION

AN ACT

To amend and reenact section 24-03-21 of the North Dakota Century Code, relating to the preparation and distribution of road maps and to authorize the highway commissioner to provide for the publication of tourist information, and declaring an emergency.

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

§ 1. **Amendment.**) Section 24-03-21 of 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. However, expenditures made pursuant to the provisions of this section shall not exceed one hundred twenty-five thousand dollars in any biennium.

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

Approved March 9, 1961.

CHAPTER 206

S. B. No. 86

(Holand)

RAILROAD CROSSINGS

AN ACT

To amend and reenact sections 24-09-14 and 39-10-43 of the North Dakota Century Code, and to repeal section 24-09-07 of the North Dakota Century Code, relating to motor vehicles approaching, stopping, and proceeding through railroad crossings.

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

§ 1. **Amendment.)** Section 24-09-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-14. Failure to Stop at Crossing Does Not Affect Right to Recover for Injuries—Penalty.) The violation of the duties imposed under section 24-09-06 shall not affect the right of any person to recover damages for an injury, if such person was exercising due care at the time of such injury, but such person shall be liable to a fine of not to exceed ten dollars for each such violation.

§ 2. **Amendment.)** Section 39-10-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-43. Certain Vehicles Must Stop at All Railroad Grade Crossings—All Vehicles to Use Caution.)

1. The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks;

2. No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed;
3. This section shall not apply at street-railway grade crossings within a business or residence district; and
4. The driver of any motor vehicle that is not required to stop at railroad crossings shall exercise caution in approaching and proceeding through all such crossings.

§ 3. **Repeal.**) Section 24-09-07 of the North Dakota Century Code is hereby repealed.

Approved February 25, 1961.

CHAPTER 207

S. B. No. 308

(Committee on Delayed Bills)

(By request of Committee on Appropriations)

HIGHWAY SAFETY COORDINATION

AN ACT

To create and enact section 24-14-04 of the North Dakota Century Code, relating to meetings of the highway commissioner, motor vehicle registrar, superintendent of the highway patrol, public safety director, and the director of the safety responsibility division of the state highway department for the purpose of coordination of all phases of highway and traffic safety.

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

§ 1.) Section 24-14-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

24-14-04. Coordination of Highway Safety—Meetings.) At least four times each year the highway commissioner, motor vehicle registrar, superintendent of the highway patrol, public safety director, and the director of the safety responsibility division of the state highway department shall meet for the purpose of coordinating all phases of highway and traffic safety and to make recommendations to the director of the public safety division regarding highway and traffic safety operations and policy. The highway commissioner shall act as chairman at all such meetings unless he is unable to act, in which case he shall appoint another member to preside at such meeting. In addition to coordination of highway and traffic safety, all of the above members shall cooperate as far as possible to insure that their respective departments carry

out highway and traffic safety policies established by such committee that may pertain to them. The members serving on this committee shall not receive any additional compensation for such service.

Approved March 4, 1961.

MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND AND DEAF

CHAPTER 208

S. B. No. 49

(Fiedler, Holand, Hystad, Longmire, Yunker)
(From LRC Study)

MENTAL HEALTH AUTHORITY

AN ACT

To provide for the establishment of a mental health authority in the state health department and prescribing its powers and duties, establishment of a mental health coordinating committee and prescribing its functions, the transfer and continuance of the state psychiatric out-patient clinic, and to repeal chapter 39 of the 1959 Session Laws relating to the children's psychiatric clinic.

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

§ 1. State Mental Health Authority.) 1. There is hereby established within the state department of health a division to be known as the state mental health authority, such authority 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:

- a. 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;
- b. Assist in providing informational and educational services regarding mental health to the public and lay and professional groups;
- c. Assist in providing consultative services to schools, courts, and health and welfare agencies, both public and private;
- d. Assist in providing out-patient diagnostic and treatment services; and
- e. 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.

§ 2. 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 authority 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 authority to a limited extent in carrying out other mental health services and programs undertaken by the state mental health authority. The clinic may operate under the supervision of a qualified psychiatrist until the certified psychiatrist heading the mental health authority is appointed, who shall upon appointment become the director of the clinic.

§ 3. 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 committee. 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.

§ 4. Amendment.) Section 25-02-04 of 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 board of administration 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.

§ 5. **Repeal.**) Chapter 39 of the 1959 Session Laws of North Dakota is hereby repealed.

Approved March 16, 1961.

CHAPTER 209

H. B. No. 562
(Solberg, Wilkie)

TUBERCULOSIS SANATORIUM

AN ACT

To amend and reenact subsection 5 of section 25-01-01, and sections 25-01-02, 25-04-01, and 25-05-01 of the North Dakota Century Code, relating to location of the state tuberculosis sanatorium, and to repeal subsection 12 of section 25-01-01 and sections 25-04-12 and 25-05-31 of the North Dakota Century Code, relating to name, location, and use of federal funds concerning the state tuberculosis sanatorium, and the furnishing of electric power to Dunseith from San Haven power plant.

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

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

5. "State school" shall mean the Grafton state school for the feeble-minded and such portion of the state institution at San Haven that is designated for the care of the feeble-minded;

§ 2. **Amendment.**) Section 25-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-02. General Supervision Over State Hospital, State School, State Sanatorium, School for the Blind, and School for the Deaf.) The board shall have general control and management of the state hospital, the state school, the state sanatorium, school for the blind and the school for the deaf. The board shall make all bylaws, rules, and regulations, not inconsistent with

the laws of this state, which are necessary for the government of such institutions, and for the admission of persons thereto and the parole and discharge of persons therefrom. The board shall be authorized to transfer patients between the Grafton state school for the feeble-minded and the state sanatorium for such purposes the board may deem necessary.

§ 3. Amendment.) Section 25-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-01. State School for the Feeble-Minded—Maintained—Name.) An institution for the feeble-minded shall be maintained at or near the city of Grafton in the county of Walsh. Such institution shall be known and designated as Grafton State School for the Feeble-minded.

§ 4. Amendment.) Section 25-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-01. North Dakota State Tuberculosis Sanatorium — Maintained—Location.) There shall be maintained at Dunseith, in the county of Rolette, a sanatorium known as the North Dakota State Tuberculosis Sanatorium for the prevention and treatment of tuberculosis of every kind or nature. The North Dakota state tuberculosis sanatorium and the North Dakota state medical center at the university of North Dakota shall cooperate in the joint use of facilities in the furtherance of the purposes for which each institution is organized, but the state board of administration shall be in charge of the administration of the tuberculosis sanatorium in the manner provided by law.

§ 5. Repeal.) Subsection 12 of section 25-01-01 and sections 25-04-12 and 25-05-31 of the North Dakota Century Code are hereby repealed.

Approved March 8, 1961.

CHAPTER 210

H. B. No. 543

(Haugland, Karabensh, Sorlie, Stallman, Trom)
(From LRC Study)

VOLUNTARY ADMISSION TO GRAFTON STATE SCHOOL

AN ACT

To amend and reenact section 25-04-06 of the North Dakota Century Code, relating to voluntary admission to the Grafton state school.

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

§ 1. **Amendment.**) Section 25-04-06 of the North Dakota Century Code is hereby amended and reenacted as follows:

25-04-06. Patients Admitted to State School Temporarily for Observation.) The superintendent may admit to the state school, temporarily for the purposes of observation, without commitment, under such rules and regulations as the board of administration may prescribe, any child or adult who is suspected of being feeble-minded or idiotic, to ascertain whether or not such person is actually mentally defective and a proper case for care, treatment, and training in the state school. If in the opinion of the superintendent the person temporarily admitted to the state school is a proper subject for institutional care, treatment, and training at such school, such person may remain as a voluntary patient at such school at the discretion of the superintendent if accommodations are available, and if the parent or guardian of such person applies therefor. The superintendent may discharge any voluntary patient whose hospitalization he determines to be no longer advisable or necessary, or if in his opinion such discharge would contribute to the effective use of the state school in the care and treatment of the mentally retarded. In addition if any parent or guardian makes written application to the superintendent for the release of any voluntary patient at the Grafton state school, such person shall be released, except if in the opinion of the superintendent a voluntary patient should remain at the state school for further care and treatment, the superintendent shall institute proceedings within six months from the date of request for release for the formal commitment of such person as provided in section 25-04-05. The provisions of this section shall not prohibit the release of any person upon a suitable writ from the district court.

Prior to admitting any person as a voluntary patient under the provisions of this section the superintendent shall require that such patient, his parents, legal guardian, or other guaran-

tor agree to pay all expenses incurred by such care and treatment at the Grafton state school and may require a guarantee for such payment. However, upon receiving a certificate from the county judge that the persons legally responsible for the support of such person are unable to pay the cost of care and treatment as provided in section 25-08-23*, the superintendent may in his discretion admit such person as a voluntary patient.

Approved February 25, 1961.

CHAPTER 211

S. B. No. 51

(Foss, Hernet, Lautenschlager, Trenbeath)
(From LRC Study)

STATE HOSPITAL, STATE SCHOOL, TUBERCULOSIS SANATORIUM

AN ACT

Providing for a transfer of all funds in the charitable institutions revolving fund and the institutional support funds and providing that all collections from liquor taxes be deposited in the general fund and to relieve the counties of any share of costs of operation and administration of the state hospital, state school, and tuberculosis sanatorium, and further providing for the collection of expenses incurred by the state for care and treatment of patients at such institutions to create and enact chapter 25-09 of the North Dakota Century Code, and to amend and reenact sections 5-03-09, 5-03-11, 25-03-15, 25-03-26, 25-04-04, and 25-05-34 of the North Dakota Century Code and to repeal sections 25-01-14, 25-02-07, 25-02-08, 25-02-10, 25-03-03, 25-03-04, 25-04-09, 25-04-10, 25-05-08, 25-05-09, and 25-05-10, and chapter 25-08 of the North Dakota Century Code, relating to institutional care and treatment and expenses thereof and the disposition of liquor taxes.

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

§ 1.) Chapter 25-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

Chapter 25-09

Expenses of Care and Treatment of Patients

25-09-01. Operational and Administrative Expense of Institutional Care and Treatment.) All of the operational and administrative expense of the state hospital, state school, and tuberculosis sanatorium shall be appropriated from the state treasury.

*Note: Chapter 25-08 was repealed by section 9 of chapter 211 of the 1961 Session Laws.

25-09-02. Expenses Chargeable Against Patient or His Estate—Filing Claims—Duties of County Judge.) Expenses for care and treatment of each patient at the state hospital, state school, or tuberculosis sanatorium shall be the actual average per patient cost incurred by the state at each such institution. The board of administration shall recover quarterly from the patient if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans administration, such expenses shall be a current claim against such patient and may be recovered monthly by the board of administration except that the amount of seven dollars and fifty cents shall be credited to the patient's personal account from any social security money received. Claims for expenses incurred by the state for care and treatment of a patient at the state hospital, state school, or tuberculosis sanatorium may be filed against the estate of such patient after his death, at any time prior to final distribution thereof, by the board of administration in the same manner and with the same effect as claims of general creditors are filed against estates of decedents. Every county judge shall forward to the board of administration a list of the names of all persons whose estates have been entered for probate or heirship proceedings in his respective county court together with the legatees, devisees, and heirs at law of such estates within thirty days after the filing of the original certificate of any probate or heirship proceedings. The board of administration shall provide all county judges with forms for the purpose of carrying out the provisions of this section.

25-09-03. Expenses Chargeable Against Guardianship Estate of Patient—Restrictions.) The expenses incurred by the state for the care and treatment of any patient at the state hospital, state school, or tuberculosis sanatorium shall be charged against the guardianship estate of such patient, if he has such an estate, subject to the following restrictions:

1. No part of such estate shall be taken for such purpose if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of such estate would result in undue hardship to such dependents;
2. No real property belonging to such estate shall be sold during the lifetime of the patient except for the maintenance and support of his or her dependents, unless it is shown that the sale of such property will not result in undue hardship to such dependents, and in either such

event, it shall be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the board of administration; and

3. No personal property belonging to such estate shall be sold within five years from the date upon which the patient was sent to the institution unless such property is ordered sold by the county court having jurisdiction of the estate for the reason that such property is likely to deteriorate in value during the time herein specified.

If any real or personal property is sold pursuant to the provisions of this section, the county court shall order the proceeds of the sale to be invested safely for the benefit of the patient or to be used for the support and maintenance of his dependents, or used to pay the costs of care and treatment of the patient.

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, state school, or tuberculosis sanatorium shall pay to the board of administration quarterly, such costs as the board may determine reasonable for the care and treatment of patients at each institution. For purposes of this chapter and title 25 of this code "responsible relatives" shall mean the patient's spouse, father, mother or children.

25-09-05. Inability to Pay All or Part of Expenses.) The patient, his responsible relatives, or the executor, administrator, or guardian may make application to the board of administration to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state hospital, state school, or tuberculosis sanatorium. Such application shall be accompanied by proof of the patient's or his estate's or responsible relatives' or their estates' inability to pay. Upon receipt of such application the board shall direct the county mental health board of the county from which the patient was admitted in the case of a patient at the state hospital or the state school, or the county judge of the county from which the patient was admitted in the case of a patient at the tuberculosis sanatorium, to determine whether the patient or his responsible relatives or their estates are able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The board of administration shall approve, reject, or amend the determination made by the county mental health board or the county judge. The determination made by the board of administration may be appealed to the district court of Burleigh County or the district court of the county of residence of the patient or his responsible relatives.

25-09-06. Application for Review of Ability to Pay.) Any patient at the state hospital, state school, or tuberculosis sanatorium or any responsible relative or their executors, administrators or guardians, may make application to the board of administration not more often than once each calendar year for a review of the determination made by the board in regard to the ability of such persons or their estates to pay costs of care and treatment. Such application and review shall be treated in the same manner as an original application by such persons for a determination of their inability to pay costs of care and treatment. Upon such review, the board may reaffirm or alter the previous determination and shall have authority to make such redetermination retroactive. In addition the board on its own motion may review the ability of the patient, or his responsible relatives, or their estates, to pay for costs of care and treatment.

25-09-07. State's Attorneys to Bring Action for Expenses.) Upon the request of the board of administration to the various state's attorneys, in regard to expenses incurred by the state of North Dakota for the care and treatment of a patient at the state hospital, state school, or tuberculosis sanatorium, 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.

25-09-08. Disposition of Funds Collected.) The amount collected from patients, their estates, or responsible relatives or their estates, by the board of administration under the provisions of this chapter shall be deposited with the state treasurer and credited to the general fund of this state.

25-09-09. Statutes of Limitations Not Bar to Recovery.) No statute of limitations or similar statute shall bar the right of recovery for the expense incurred by the state for care and treatment at the state hospital, state school, or tuberculosis sanatorium from the patient or his estate, but this section shall not apply to claims that may be otherwise barred by law prior to July 1, 1961.

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 a 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 board of administration shall immediately inquire as to the residence of such person, and if found to be in another state or country the board may arrange for transportation of such person to the place where he belongs. The board of administration 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 any laws of this state.

§ 2. Amendment.) Section 5-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***5-03-09. Disposition of Tax Moneys.)** All moneys received representing the excise tax herein provided for shall be deposited into the general fund of this state.

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

5-03-11. Disposition of Tax.) All revenue from the tax provided for under section 5-03-10 shall be deposited in the general fund of this state.

§ 4. Amendment.) Section 25-03-15 of 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 board of administration 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 regarding the residency of a patient for purposes of this section, it shall be determined by the board of administration. 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 board of administration 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

***Note:** Section 5-03-09 was also amended by section 4 of chapter 107 of the 1961 Session Laws; however the section reads identically the same in both amendments.

board of administration, 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.

§ 5. **Amendment.)** Section 25-03-26 of 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 board of administration.

§ 6. **Amendment.)** Section 25-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-04. Who May Receive Benefits of State School.) Subject to the provisions of chapter 25-09 and to such rules and regulations as may be made by the board, the benefits of the state school may be received by persons who are residents of this state and who are:

1. Feeble-minded and, in the opinion of the superintendent of the state school, are of suitable age and capacity to receive instruction in such school and whose defects prevent them from receiving proper training and instruction in the public schools; or
2. Idiotic.

§ 7. **Amendment.)** Section 25-05-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-34. Transfer of Tubercular Persons to the Sanatorium.) When required for the protection of the public health, the control of tuberculosis, or the protection or treatment of the individual patient, any person committed to or confined in a state or county institution who has active, infectious tuberculosis may be removed from such institution to the state tuberculosis sanatorium or other appropriate institution under the control of the state board of administration. Such transfer may be made in the discretion of the board of administration, if from an institution controlled by such board, or, in the case

of transfer from an institution not so controlled, by agreement of the board of administration and the agency responsible for the control of such other institution. If any person, so transferred, is maintained at the expense of a federal governmental unit or agency, the cost of maintenance in the institution to which he is transferred shall be charged to and collected from such governmental unit or agency.

§ 8. Transfer of Certain Funds.) All unencumbered balances on July 1, 1961, in the charitable institutions revolving fund, the institutional support fund, state hospital, the institutional support fund, Grafton state school, and the institutional support fund, tubercular are hereby transferred to the general fund of this state.

§ 9. Repeal.) Sections 25-01-14, 25-02-07, 25-02-08, 25-02-10, 25-03-03, 25-03-04, 25-04-09, 25-04-10, 25-05-08, 25-05-09, and 25-05-10, and chapter 25-08 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1961.

INSURANCE

CHAPTER 212

S. B. No. 166
(Lips, Longmire, Brooks)

INSURANCE COMPANY INVESTMENTS AND LOANS

AN ACT

To amend and reenact subsection 3 of section 26-08-11 of the North Dakota Century Code, relating to investments authorized for domestic insurance companies and providing for an increase in the amount of secured amortized loans from sixty-six and two-thirds percent of the value of the property mortgaged to seventy-five percent.

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

§ 1. **Amendment.)** Subsection 3 of section 26-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Notes secured by mortgages on improved unencumbered real estate, including leaseholds substantially having and furnishing the rights and protection of a first real estate mortgage, within this state or within any state in which such company is, or becomes, authorized and licensed to transact business, or within any state contiguous to the state of North Dakota. No loan shall be made under this subsection, however, unless the property mortgaged is worth double the amount of the loan secured by the mortgage, except that where a loan is amortized on the basis of a final maturity twenty-five years or less from the date of the loan, it may be made in an amount not exceeding seventy-five percent of the value of the property mortgaged. Buildings shall not be included in the valuation of such property unless they are insured and the policies are made payable to the company as its interest may appear. In no event shall a loan be made in excess of the amount of insurance carried on the buildings plus the value of the land. No insurance company shall hold less than the entire loan represented by such bonds or notes described in this subsection unless the security of said bonds or notes, as well as all collateral papers, including insurance policies, executed in connection therewith, are made to and held by a trustee, which trustee shall be a solvent bank or

trust company having a paid-in capital of not less than two hundred and fifty thousand dollars, except in case of banks or trust companies incorporated under the laws of the state of North Dakota, wherein a paid-in capital of not less than one hundred thousand dollars shall be required, and that in case of proper notification of default such trustee, upon request of at least twenty-five percent of the holders of the bonds outstanding, and proper indemnification, shall proceed to protect the rights of such bond holders under the provisions of the trust indentures.

Approved February 28, 1961.

CHAPTER 213

S. B. No. 258
(Lips)

OFFICERS AND AGENTS OF DOMESTIC LIFE
INSURANCE COMPANIES

AN ACT

To repeal subsection 2 and subsection 3 of section 26-11-10 of the North Dakota Century Code, relating to salaries and expenses of officers and agents of domestic life insurance companies, regulation and restrictions thereof.

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

§ 1. Repeal.) Subsections 2 and 3 of section 26-11-10 of the North Dakota Century Code is hereby repealed.

Approved February 28, 1961.

CHAPTER 214

H. B. No. 735

(Leet, Saugstad, Idso, Otos,
(Kitzmann, Alme, Wilkie)

HAIL INSURANCE

AN ACT

To amend and reenact sections 26-22-11, 26-22-30, 26-22-46, and 26-22-54 of the North Dakota Century Code, relating to the state hail insurance department, coverage of fire losses, and declaring an emergency.

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

§ 1. **Amendment.)** Section 26-22-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-11. Crops Insurable—Dates When Coverage on Insured Crops Commences and Terminates.) Crops of rye, wheat, speltz, barley, oats, flax, corn, buckwheat, millet, sweet clover, alfalfa and cane grown on cultivated land which is listed as actually cropped are insurable in the state hail insurance department in the manner specified in this chapter. Insurance obtained under the provisions of this chapter shall become effective at midnight of the postmark date shown on the envelope in which the application was mailed to the department, or if delivered in person, midnight of the date of delivery. Expiration dates for all crops in townships 129 through 150 inclusive are as follows: oats, speltz, barley, winter rye or winter wheat, September first; corn and wheat and all other insurable crops except flax, September tenth; flax, September twentieth. Expiration dates for all crops in townships 151 through 164 inclusive are as follows: oats, speltz, barley, winter rye or winter wheat, September tenth; corn and wheat and all other insurable crops except flax, September fifteenth; flax, September twentieth. All expirations shall become effective at twelve o'clock midnight of the dates above specified. Any crops which have been damaged materially by hail before an application is filed with the state hail insurance department shall not be insured until the percent of damage has been determined. This damage is to be taken into consideration in case additional hail loss is sustained.

§ 2. **Amendment.)** Section 26-22-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-30. Zones and Districts in State for Purposes of Levying Hail Indemnity Tax—Rates Between Zone and District

Levies.) For the purpose of levying the acreage indemnity tax required under the provisions of this chapter, the state shall be divided into four zones as follows:

Zone No. 1 shall include the counties of Pembina, Ramsey, Walsh, Nelson, Grand Forks, Steele, Traill, Cass, Ransom, Sargent and Richland;

Zone No. 2 shall include the counties of Bottineau, Rolette, Towner, Cavalier, McHenry, Pierce, Benson, Wells, Eddy, Foster, Griggs, Kidder, Stutsman, Barnes, LaMoure and Dickey;

Zone No. 3 shall include the counties of Burke, Renville, Mountrail, Ward, McLean, Sheridan, Mercer, Oliver, Morton, Burleigh, Grant, Sioux, Emmons, Logan and McIntosh;

Zone No. 4 shall include the counties of Divide, Williams, McKenzie, Dunn, Golden Valley, Billings, Stark, Slope, Hettinger, Bowman and Adams.

The following proportions or loss ratios shall be used in Zone No. 1 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than one percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over one percent but not more than two percent of the risk carried;
3. District No. 3 shall consist of all counties showing an actual cost of over two percent but not more than three percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over three percent but not more than four percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over four percent but not more than five percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over five percent of the risk carried and such counties with an average loss ratio of five percent or over for the current year and the next two preceding years when insurance is carried.

The following proportions or loss ratios shall be used in Zone No. 2 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than two percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over two percent but not more than four percent of the risk carried;

3. District No. 3 shall consist of all counties showing an actual cost of over four percent but not more than five percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over five percent but not more than six percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over six percent but not more than seven percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over seven percent of the risk carried and such counties with an average loss ratio of seven percent or over for the current year and the next two preceding years when insurance is carried.

The following proportions or loss ratios shall be used in Zone No. 3 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than three percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over three percent but not more than five percent of the risk carried;
3. District No. 3 shall consist of all counties showing an actual cost of over five percent but not more than six percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over six percent but not more than seven percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over seven percent but not more than eight percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over eight percent of the risk carried and such counties with an average loss ratio of nine percent or over for the current year and the next two preceding years when insurance is carried.

The following proportions or loss ratios shall be used in Zone No. 4 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than four percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over four percent but not more than six percent of the risk carried;

3. District No. 3 shall consist of all counties showing an actual cost of over six percent but not more than eight percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over eight percent but not more than ten percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over ten percent but not more than twelve percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over twelve percent of the risk carried and such counties with an average loss ratio of twelve percent or over for the current year and the next two preceding years when insurance is carried.

In Zone No. 1 the following rates shall be used:

1. District No. 1, not more than 2½%
2. District No. 2, not more than 3%
3. District No. 3, not more than 4%
4. District No. 4, not more than 4½%
5. District No. 5, not more than 5%
6. District No. 6, not more than 6%

In Zone No. 2 the following rates shall be used:

1. District No. 1, not more than 4%
2. District No. 2, not more than 5%
3. District No. 3, not more than 6%
4. District No. 4, not more than 7%
5. District No. 5, not more than 8%
6. District No. 6, not more than 9%

In Zone No. 3 the following rates shall be used:

1. District No. 1, not more than 5%
2. District No. 2, not more than 6%
3. District No. 3, not more than 7%
4. District No. 4, not more than 8%
5. District No. 5, not more than 9%
6. District No. 6, not more than 11%

In Zone No. 4 the following rates shall be used:

1. District No. 1, not more than 6%
2. District No. 2, not more than 8%
3. District No. 3, not more than 10%
4. District No. 4, not more than 12%
5. District No. 5, not more than 14%
6. District No. 6, not more than 16%

In all four Zones a surcharge of thirty percent of the rate in each county shall be charged on all barley and rye crops.

§ 3. **Amendment.**) Section 26-22-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-46. Arbitration of Loss—Appointment of Arbitrators—Deposit by Insured—Expenses of Arbitration—Effect of Determination.) If, upon the reinspection provided for in section 26-22-45, the insured still refuses to concur in the adjustment as found by the inspector, the deputy inspector shall notify the claimant of his intention to submit the case to arbitration. Within six hours after such notice, the claimant shall deposit with the deputy inspector an amount not less than twenty-five dollars nor more than fifty dollars, to be determined by the deputy inspector, as security for the payment of the fees and expenses of any attendant selected to compose the board of arbitration and deputy or chief inspector, if the finding of the members of the board of arbitration and deputy inspector is in an amount not greater than that offered by the deputy inspector. Such deposit shall be in a certified check, bank draft, or postal money order drawn to the order of the state hail insurance department. Within twelve hours after the deposit is made, excluding the time between seven o'clock p.m. and seven o'clock a.m., the deputy inspector and the claimant each shall appoint and produce on the premises where the loss was sustained one disinterested person. The person appointed by the inspector and the person appointed by the claimant shall appoint a third person. The three persons so appointed shall constitute the board of arbitration, and the findings concurred in by a majority of such board shall be final and binding upon the state hail insurance department and the claimant. If the board of arbitration finds more loss than was allowed by the deputy inspector, the expenses and costs of the adjustment shall be paid by the state hail insurance department. If the board does not find a greater loss than was allowed by the deputy inspector, the inspector shall forward the deposit received from the claimant to the state hail insurance department, together with vouchers signed by the members of the board of arbitration and by any witnesses called before the board, and certified by the deputy inspector. The state hail insurance department shall place such deposit to the credit of the state hail insurance fund, and warrants shall be drawn thereon for the payment of the fees of the members of the board of arbitration, the expenses of the deputy inspector, and the fees of witnesses, and any balance remaining from such deposit shall be returned to the claimant. The fees to be paid to arbitrators and witnesses under this section shall be at the discretion of the commissioner of insurance.

§ 4. **Amendment.)** Section 26-22-54 of 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 in Zone Number One at the rate of six cents for each dollar of insurance applied for, in Zone Number Two at the rate of nine cents for each dollar of insurance applied for, in Zone Number Three at the rate of eleven cents for each dollar of insurance applied for and in Zone Number Four at the rate of sixteen cents for each dollar of insurance applied for. The commissioner of insurance, when crops are insured under the provisions of this section, shall refund, after the actual levy per acre has been ascertained, such amounts to such applicants as will make the cost per acre the same for crops insured under the provisions of this section as the cost per acre within the same county to those who carry the insurance in the regular manner. The commissioner, through the manager of the state hail insurance department, shall draw warrants on the state treasurer, payable out of the state hail insurance fund, to the persons to whom such refunds are due. Such warrants shall be mailed by the state hail insurance department to the parties who are entitled thereto according to the records.

§ 5. **Loss by Fire.)** Crops insured for hail shall also be insured for fire, not of an incendiary nature, while standing in fields, or in bundles, shocks, stacks, swaths, or windrows. Expiration dates shall be the same as those listed in this chapter. Loss due to nuclear reaction or nuclear radiation or to radioactive contamination shall not be allowed.

§ 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 15, 1961.

CHAPTER 215

S. B. No. 119
(Ringsak and Van Horn)

SALES REPRESENTATIVES

AN ACT

To create and enact section 26-27-14 of the North Dakota Century Code, relating to the licensing of sales representatives of nonprofit medical service corporations.

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

§ 1.) Section 26-27-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27-14. Licensing of Sales Representatives.) The sales representatives of any corporation subject to the provisions of this chapter shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17, where applicable. The license or certificate for such sales representatives shall be issued on a form as prescribed by the commissioner of insurance, and the fee therefor shall be two dollars.

Approved March 3, 1961.

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 216

S. B. No. 216

(Longmire, Reichert, Murphy, Garaas,
(Lips, Brooks, Harris, Gefreh)

FEES FOR TRANSCRIPTS

AN ACT

To amend and reenact section 27-06-08 of the North Dakota Century Code, relating to fees for transcripts.

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

§ 1. **Amendment.)** Section 27-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-08. Fees for Transcripts.) For the preparation of a transcript, a court reporter shall be entitled to receive compensation at the rate of twenty cents for each one hundred words thereof. Such compensation shall be paid by the party requesting the transcript or by the county chargeable with the costs of the action, when the transcript is ordered prepared, by the judge, at such county's expense. If four additional copies are ordered at the same time by the same party, such court reporter shall be entitled to receive twelve cents per hundred words for such additional copies.

Approved March 14, 1961.

CHAPTER 217

H. B. No. 615

(Alme, Anderson of McHenry, Knudsen of LaMoure, Idso, Backes,
(Bloom, Loftesnes)

FEES AND MILEAGE OF JURORS AND BAILIFFS

AN ACT

To amend and reenact sections 27-06-09, 27-08-19 and 27-09-05 of the North Dakota Century Code, relating to the fees and mileage paid to jurors and bailiffs.

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

§ 1. **Amendment.)** Section 27-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-05. Fees and Mileage for Jurors.) A juror shall receive:

1. Eight dollars, payable by the county, for each day's attendance in district or county court as a regular or special juror;
2. Four dollars for each day's attendance as a juror in justice court;
3. Four dollars, payable by the county, for each day's attendance at a coroner's inquest; and
4. Traveling expenses, payable by the county, of ten cents per mile for each mile actually and necessarily traveled each way.

§ 2. Amendment.) Section 27-06-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-09. Bailiffs of District Courts—Appointment, Salary.) The district court at each term thereof shall appoint a sufficient number of competent bailiffs to wait on the jury and the court during the term. Such bailiffs shall be allowed for their services eight dollars per day to be paid by the county.

§ 3. Amendment.) Section 27-08-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-19. Bailiffs of County Courts Having Increased Jurisdiction—Appointment, Terms, Powers, Compensation.) The judge of a county court having increased jurisdiction may appoint one or more competent persons as bailiffs of the court. Such bailiffs shall hold office at the pleasure of the judge, shall have the same powers as a constable, and shall receive for their services eight dollars per day.

Approved March 15, 1961.

CHAPTER 218

S. B. No. 220
(Holand)

JURORS, NOTICE

AN ACT

To amend and reenact sections 27-09-12 and 27-09-16 of the North Dakota Century Code, relating to selection of persons qualified to act as jurors and to require notice by mail be sent to each person so selected.

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

§ 1. **Amendment.)** Section 27-09-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-12. Selecting New Names of Persons Qualified to Act as Jurors — Ground for Challenge.) A list of two hundred names of persons qualified to act as jurors shall be kept in each county. After each jury term for which a jury was empaneled and sworn to try a case, the clerk of the district court shall make a requisition upon the county commissioners for the furnishing of as many names as were persons selected and examined or sworn to try a case at such jury term. The county commissioners shall remove from the list the name of any person known to be dead, to be an invalid, or to have lost his residence from that county. The board of county commissioners shall then proceed to apportion new names to the jury list in the manner provided for by law for the selecting of the original list except the posting of notices shall not be required and the drawing of new names may be done by the appropriate body at its next regular meeting. A challenge for cause may be made against any person who has served as a juror within five years next preceding a jury term and was not selected as juror at such jury term in accordance with the provisions of this section.

§ 2. **Amendment.)** Section 27-09-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-09-16. Issuance of Venire for Grand or Petit Jurors.) The clerk of the district court, after the drawing of the names of the persons to be summoned as jurors, and on the day on which the drawing is held, shall issue a venire or venires, as the case may be, directed to the proper county officer, commanding him to summon the persons whose names are drawn

to appear before the district court at the hour, day, and place designated in the order of the judge for the summoning of a jury. A separate venire shall be issued for the grand jury when such jury is ordered summoned. Such clerk, when issuing such venire, shall ascertain and insert therein the post-office addresses of the jurors to be summoned. Immediately after the drawing of names of persons to be summoned as jurors, the clerk of the district court shall send by mail to each person whose name was drawn a list of all names so drawn and a copy of sections 27-09-02, 27-09-03, and 27-09-04 of this code relating to persons not qualified or compelled to serve as jurors.

Approved March 4, 1961.

CHAPTER 219

H. B. No. 814
(Haugland, Poling, Fossum,)
(Powers, Kelly)

CHILD PLACEMENT, RELIGIOUS FAITH

AN ACT

To amend and reenact section 27-16-22 of the North Dakota Century Code, relating to the placement of children in a family or institution of the same religious faith as that of the parents of said child.

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

§ 1. **Amendment.**) Section 27-16-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-22. Religious Belief.) In the placement by such court under the provisions of this chapter due regard shall be given to the religious faith held by the parent or parents of the child and so far as is practicable the child shall be placed with a family or institution holding or representing the same religious faith as that held by the parent or parents of said child.

Approved February 28, 1961.

CHAPTER 220

H. B. No. 809

(Haugland, Poling, Fossum, Powers)

HEARING AND SERVICE OF NOTICE IN JUVENILE COURT

AN ACT

To amend and reenact section 27-16-35 of the North Dakota Century Code, relating to hearing and service of notice thereon in juvenile court.

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

§ 1. Amendment.) Section 27-16-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-35. Hearing and Service of Notice Thereon.) Unless the petition, initiated pursuant to section 27-16-12, shall pray for the termination of parental rights with reference to the child, the transfer of the permanent care, control, and custody of the child and the termination of such parental rights shall be made only after a special hearing before the court. The court shall cause notice of the time, place, and purpose of such hearing to be served within or without the state on the parents or surviving parent or the father of an illegitimate child who has acknowledged paternity or against whom paternity has been adjudicated and who has not disclaimed in writing all parental rights with reference to the child, upon any general guardian or guardian ad litem of the child, and on the director of the division of child welfare of the public welfare board at least ten days prior to the date of the hearing. When it appears to the satisfaction of the court that personal service cannot be made upon any respondent, then service as to such respondent shall be made by registered or certified mail or by publication of the notice of hearing in a qualified newspaper once a week for three consecutive weeks prior to the date of the hearing as may be directed by the court.

Approved March 3, 1961.

CHAPTER 221

H. B. No. 815

(Haugland, Poling, Fossum, Powers, Kelly)

PARENTAL RIGHTS

AN ACT

To amend and reenact section 27-16-36 of the North Dakota Century Code, relating to the termination of parental rights upon petition of parent and notice of hearing such petition.

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

§ 1. **Amendment.**) Section 27-16-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-36. Termination of Parental Rights Upon Petition of Parent—Notice and Hearing.) The parent of any child, whether natural or adoptive, may petition the juvenile court of the county in which the parent resides or in which the child is born or is found, for the termination of all parental rights with reference to the child. Upon the filing of the petition the court shall fix a time and place for hearing the petition and shall cause notice of the time, place and purpose of the hearing to be given to the director of the division of child welfare of the public welfare board at least ten days prior to the date of the hearing. An acknowledged, adjudicated, or lawful parent, including the mother of an illegitimate child, who has not disclaimed in writing all parental rights with reference to the child, if not the petitioner, shall be named as a respondent and served with notice of the hearing in the manner prescribed by section 27-16-35. Upon the hearing and for good cause shown, the court may terminate all parental rights with reference to the child and transfer the care, custody and control of the child to the director of the division of child welfare of the public welfare board, or to a licensed child-placing agency, or to some suitable adult person including a respondent parent as the court may direct.

Approved March 3, 1961.

CHAPTER 222

S. B. No. 181

(Longmire, Reichert, Murphy, Garaas)

RETIREMENT, SUPREME AND DISTRICT COURT JUDGES

AN ACT

To amend and reenact section 27-17-01 of the North Dakota Century Code, relating to retirement of supreme court judges and district court judges.

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

§ 1. Amendment.) Section 27-17-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-17-01. Retirement of Supreme Court Judges and District Court Judges.)

1. Every judge of the supreme court or of the district court, including one who has served or shall have served in either or both capacities, shall, at the time he ceases to be such judge and regardless of his age at that time and without further payment by him into the judicial retirement fund, acquire a vested right to the judicial retirement salary herein provided for, payable upon application therefor at any time after he has attained any of the retirement ages with years of service, as follows:

65 and 20 years of service, or
66 and 18 years of service, or
67 and 16 years of service, or
68 and 14 years of service, or
69 and 12 years of service, or

70 and 10 years of service; provided however that any judge of the supreme court or district court who is appointed or elected to such court from and after July 1, 1960, who has become eligible for retirement hereunder but fails to make application therefor prior to his attaining the age of seventy-three years, shall automatically waive all retirement benefits hereunder and shall receive a return of only such moneys as have been retained by the state of North Dakota as a judicial retirement assessment, upon the salary of such judge.

2. If such judge shall have served fewer than the years of service above required for any given retirement age, he shall be entitled to receive judicial retirement salary only in the proportion that his years of service bear to the years of service otherwise required for retirement at such age.

3. The amount of judicial retirement salary payable to a retired judge under subsection 1, of this section shall be equal to fifty percent of the annual salary payable from time to time to judges of the classification the retired judge last had prior to making his application for judicial retirement salary, but in no event shall his judicial retirement salary be computed upon a judicial salary less than the one he last received while in office.

4. The judicial retirement salary payable under this section shall be paid to the retired judge during the remainder of his natural life and shall be paid by the state auditor, within thirty days after receiving application therefor, in the same manner as salaries are paid to judges of the district court and judges of the supreme court, except that judicial retirement salaries shall not be subject to judicial retirement assessment.

5. In lieu of receiving the judicial retirement salary otherwise payable under this chapter, the judge, at any time after having attained retirement age, may irrevocably elect to receive judicial retirement salary according to one of the following optional modes of payment:

- a. First Option. Three-fourths of his judicial retirement salary payable to him alone until he dies and thereafter one-half of such amount payable to his widow upon her attaining 62 years of age and until she remarries or until she dies.
- b. Second Option. Two-thirds of his judicial retirement salary payable to him alone until he dies and thereafter a like amount payable to his widow upon her attaining 62 years of age and until she remarries or until she dies.
- c. Third Option. One-half of his judicial retirement salary payable to him until he dies and a like amount payable to his wife upon her attaining 62 years of age and so long as she continues to be his wife or unremarried widow.

The election of one of the foregoing optional modes of payment shall be made in the application for payment of judicial retirement salary, or by written declaration of such election, signed by the judge and delivered to the state auditor. In the event the judge shall have elected an optional mode of payment and dies without having made application for judicial retirement salary, the judicial retirement salary payable to his widow according to his option shall be payable to her in the same manner as if he had made application for judicial retirement salary. In the event that a judge entitled to retirement pay shall die without having elected an optional mode of payment, his widow shall be entitled to payments as provided by the first option as set forth in subsection 5a. of this Act.

Judicial retirement salary payable according to one of the foregoing optional modes of payment shall be paid in like manner as the full judicial retirement salary is paid.

Approved March 15, 1961.

CHAPTER 223

H. B. No. 613
(Stockman)

ESTABLISHMENT OF COUNTY JUSTICE

AN ACT

To amend and reenact section 27-18-01 of the North Dakota Century Code, relating to the establishment of the office of county justice in counties other than counties which have a county court of increased jurisdiction.

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

§ 1. **Amendment.**) Section 27-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-18-01. Office of County Justice — When Created — How Filled.) The office of county justice may be created by resolution of the board of county commissioners in any county, except in counties maintaining county courts of increased jurisdiction. The holder of such office shall be a qualified person and shall be elected by the electors of the county, or counties, for which he serves, in the same manner as other elective county offices. In the event the office of county justice, when created, is not filled by election, the board of county commissioners shall have the power to appoint a qualified person to said office.

Approved March 2, 1961.

CHAPTER 224

S. B. No. 123

(Bopp, Kamrath, Yunker, Reichert)

COUNTY JUSTICE, APPOINTMENT, NUMBER

AN ACT

To create and enact section 27-18-06 and to amend and reenact section 11-10-02 of the North Dakota Century Code, relating to the office of county justice.

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

§ 1.) Section 27-18-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-18-06. Appointment of County Justice Under Certain Circumstances.) If the board of county commissioners in any county shall determine that no person possessing the qualifications required of a county justice by section 27-18-02 will accept such position or is available within said county and that the election or appointment of a person possessing such qualifications from another county is not feasible because of distance, inaccessibility, or other factors, the board of county commissioners may submit the names of not less than three qualified electors of the county, who need not possess the qualifications required by section 27-18-02, whom said commissioners deem qualified to perform the duties of a county justice, to the senior judge of the district court in and for such county. The district judge may appoint not more than two of the persons from the list submitted to him to serve as county justice. In the event the district judge shall determine that two or more of the persons whose names are submitted are not suitable or qualified for appointment, the county commissioners upon request of the district judge shall submit additional lists of names.

§ 2. **Amendment.)** Section 11-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-02. Number and Election of Officers.) Each organized county, unless it has adopted one of the optional forms of county government, provided by the code, shall have the following officers:

1. One county auditor;
2. One register of deeds;
3. One clerk of the district court;

4. One state's attorney;
5. One sheriff;
6. One county judge;
7. One county treasurer;
8. One coroner;
9. One county superintendent of schools;
10. One or more county justices as provided in chapter 27-18;
11. Four constables;
12. One public administrator; and
13. A board of county commissioners consisting of three or five members as provided in this title.

In counties having a population of more than six thousand and not more than fifteen thousand, the county judge shall be an ex officio clerk of the district court, and in counties having a population of six thousand or less, the register of deeds shall be ex officio clerk of the district court and county judge. The required officers shall be chosen by the qualified electors of the respective counties at the general election in each even numbered year, except the members of the board of county commissioners, who shall be chosen in the manner prescribed in section 11-11-02, the public administrator, who shall be chosen in the manner prescribed in section 11-21-01, the county justice, who shall be chosen in the manner prescribed in section 27-18-01, the county coroner, who shall be chosen in the manner prescribed in section 11-19A-03, and the constables, who shall be appointed by the board of county commissioners.

Approved March 16, 1961.

JUDICIAL PROCEDURE, CIVIL

CHAPTER 225

S. B. No. 133
(Brooks, Wartner)

BANKRUPTCY PROCEEDINGS, RECORDING NOTICE

AN ACT

Relating to the recording of a petition for bankruptcy, or a decree of adjudication, or an order approving the trustee's bond in order to provide constructive notice of commencement of bankruptcy proceeding.

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

§ 1. Recording Petition, Decree of Adjudication, or Order Approving Trustee's Bond in Bankruptcy Proceeding.) When a petition for bankruptcy, or a decree of adjudication, or an order approving the trustee's bond is made, pursuant to the Federal Bankruptcy Act of 1898, as amended by the Bankruptcy Act of 1938, Chapter 575, 52 Statutes 840, Section 21 g, the bankrupt, trustee, receiver, custodian, referee, or any creditor may record a certified copy of the petition, decree, or order in the office of the register of deeds of any county in this state wherein is located real property of the bankrupt as shown by the schedules of the bankruptcy proceedings.

Approved February 23, 1961.

CHAPTER 226

H. B. No. 650
(Fraase, Stockman)

INTEREST RATE ON JUDGMENTS

AN ACT

To amend and reenact section 28-20-34 of the North Dakota Century Code, relating to the interest rate upon judgments.

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

§ 1. Amendment.) Section 28-20-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-34. Interest Rate on Judgments.) Interest shall be payable on judgments recovered in the courts of this state at the same rate as is provided in the original instrument upon which the action resulting in the judgment is based, which rate shall not exceed the maximum rate provided in section 47-14-09. If such original instrument contains no provision as to an interest rate, or if the action resulting in the judgment was not based upon an instrument, interest shall be payable at the legal rate as provided in section 47-14-05. Such interest shall not be compounded in any manner or form.

Approved March 2, 1961.

CHAPTER 227

S. B. No. 90
(Garaas)

EXEMPTIONS FROM PROCESS, LEVY, OR SALE

AN ACT

To amend and reenact section 28-22-02 of the North Dakota Century Code, relating to exemptions from process, levy, or sale.

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

§ 1. Amendment.) Section 28-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-22-02. Absolute Exemption.) The property mentioned in this section is absolutely exempt from all process, levy, or sale:

1. All family pictures;
2. A pew or other sitting in any house of worship;
3. A lot or lots in any burial ground;
4. The family Bible and all school books used by the family and all other books used as a part of the family library not exceeding in value one hundred dollars;
5. All wearing apparel and clothing of the debtor and his family;
6. The provisions for the debtor and his family necessary for one year's supply, either provided or growing, or both, and fuel necessary for one year;
7. The homestead as created, defined, and limited by law;
8. All crops and grain, both threshed and unthreshed, raised by the debtor on not to exceed one hundred sixty

acres of land in one tract occupied by the debtor, either as owner or tenant, as his home, but the provisions of this subsection in no way shall affect seed, farm labor, thresher, or landlord liens, and if the debtor takes advantage of this subsection he shall not avail himself of any additional alternative exemptions provided under this chapter;

9. All insurance benefits resulting from insurance covering any or all of the absolute exemptions; and
10. Any house trailer or mobile home occupied as a residence by the debtor or his family.

Approved March 16, 1961.

JUDICIAL PROCEDURE, PROBATE

CHAPTER 228

S. B. No. 75
(Garaas, Longmire)

DECEDENT'S ESTATE

AN ACT

To create and enact section 30-13-05.1, and to amend and reenact sections 30-21-01 and 30-21-03, and subdivisions a, b, c, and d of subsection 2 of section 56-01-04 of the North Dakota Century Code, relating to the administration and distribution of decedent's estate.

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

§ 1.) Section 30-13-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

30-13-05.1. Easements Authorized.) Whenever it is in the best interest of the estate or those interested therein the personal representative may, either with or without consideration, dedicate or convey an easement over any real property of the estate to the state or any agency or instrumentality thereof, or to any person, firm, association or public or private corporation, or the United States or any agency or instrumentality thereof. Such easement shall be subject to approval by the county court after notice and hearing have been given to all persons interested in the estate in the manner provided in chapters 30-02 and 30-03. Such easement and a certified copy of the court order approving the same shall be recorded in the office of the register of deeds of the county in which the land is situated.

§ 2. **Amendment.)** Section 30-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-21-01. Petition for Legacy or Share—Hearing.) At any time after the hearing on claims presented against an estate, any heir, devisee, or legatee may present his petition to the court for the legacy or share of the estate to which he is entitled, to be given to him upon his giving bond for the payment of his proportion of the debts of the estate, if any. In such case, a hearing must be held upon the petition after the citation of all parties interested.

§ 3. Amendment.) Section 30-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-21-03. Petition May Be Allowed—Bond Required—Partition—Costs.) If at a hearing upon a petition for the payment of a legacy or share of an estate, it appears that the share of the party applying may be allowed to him without loss to the creditors of the estate, the court must make an order in conformity with the prayer of the applicant, requiring:

1. Each heir, legatee, or devisee obtaining such order, before receiving his share or any portion thereof, to execute and deliver to the executor or administrator a bond in such sum as shall be designated by the county judge, with sureties to be approved by the judge, payable to the executor or administrator, and conditioned for the payment, whenever required, of his proportion of the debts due from the estate, not exceeding the value or amount of the legacy or portion of the estate to which he is entitled;
2. The executor or administrator to deliver to the heir, legatee, or devisee the whole portion of the estate to which he may be entitled, or only a part thereof, designating it.

The requirement of a bond imposed by subsection 1 of this section may be dispensed with at the discretion of the court, whenever there are no debts or taxes due from the estate. If in the execution of the order a partition between two or more of the parties interested is necessary, it must be made in the manner prescribed in this chapter. The costs of such proceeding shall be paid by the applicant, or if there is more than one, they shall be apportioned equally among all of the applicants.

§ 4. Amendment.) Subdivisions a, b, c and d of subsection 2 of section 56-01-04 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- a. No issue, and the estate does not exceed in value the sum of fifty thousand dollars, all the estate goes to the surviving husband or wife;
- b. No issue, and the estate exceeds in value the sum of fifty thousand dollars, all of the estate in excess in value of such sum goes, one-half to the surviving husband or wife, and the other one-half to the decedent's father and mother in equal shares, and, if either is dead, to the survivor;
- c. No issue, and both the father and mother are dead, and the estate does not exceed one hundred thousand dollars,

the whole thereof goes to the surviving husband or wife;

- d. No issue, and both the father and mother are dead, and the estate exceeds in value the sum of one hundred thousand dollars, all of the estate in excess of such sum in value goes, one-half thereof to the surviving husband or wife, and if the decedent leaves brothers or sisters or children of deceased brothers or sisters, then the other one-half thereof goes in equal shares to the brothers or sisters of decedent and to the children of any deceased brother or sister by right of representation;

Approved March 3, 1961.

CHAPTER 229

S. B. No. 248
(Gronvold, Ringsak)

DEBTS, ORDER OF PAYMENT

AN ACT

To amend and reenact section 30-18-18 of the North Dakota Century Code, relating to debts and the order of their payment.

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

§ 1. **Amendment.**) Section 30-18-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-18-18. Debts, Order of Payment.) The acknowledged debts of an estate and charges must be paid in the following order:

1. The necessary expenses of the administration;
2. The expenses of the last sickness and funeral;
3. Allowances made to the family in excess of the exempt property;
4. Claims in favor of the county for poor relief;
5. Claims, whether secured or unsecured, in favor of the state under the Old Age Assistance Act or Aid to the Permanently and Totally Disabled Act, after payments of the expenses authorized to be paid as provided in sections 50-07-34 and 50-10A-31;
6. Debts having preference by the laws of the United States;
7. Personal property taxes which are not liens on property belonging to the estate;
8. All other demands against the estate.

Approved March 3, 1961.

JUDICIAL PROOF

CHAPTER 230

S. B. No. 134

(Brooks, Meidinger, Longmire, Saumur, Baker, Lips)

WITNESS FEES OF POLICE OFFICERS

AN ACT

Relating to municipal police officers' witness fees in criminal actions.

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

§ 1.) Police officers of municipalities in this state shall be entitled to and be paid the witness fees and mileage expenses allowed by law for other witnesses, while off duty when such officers are subpoenaed to testify in criminal actions where a plea of not guilty was entered.

Approved February 28, 1961.

JUDICIAL REMEDIES

CHAPTER 231

H. B. No. 728
(Aamoth and Burk)

DAMAGES FOR BREACH OF OBLIGATION

AN ACT

To provide a measure of damages for injury to property caused by the breach of an obligation not arising from contract.

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

§ 1. Measure of Damages for Injury to Property.) The measure of damages for injury to property caused by the breach of an obligation not arising from contract, except when otherwise expressly provided by law, is presumed to be the reasonable cost of repairs necessary to restore the property to the condition it was in immediately before the injury was inflicted and the reasonable value of the loss of use pending restoration of the property, unless restoration of the property within a reasonable period of time is impossible or impracticable, in which case the measure of damages is presumed to be the difference between the market value of the property immediately before and immediately after the injury and the reasonable value of the loss of use pending replacement of the property. Restoration of the property shall be deemed impracticable when the reasonable cost of necessary repairs and the reasonable value of the loss of use pending restoration is greater than the amount by which the market value of the property has been diminished because of the injury and the reasonable value of the loss of use pending replacement.

Approved March 3, 1961.

CHAPTER 232

H. B. No. 801
(Boe)

LIABILITY OF GARNISHEE

AN ACT

To amend and reenact section 32-09-28 of the North Dakota Century Code, relating to liability of a garnishee.

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

§ 1. **Amendment.)** Section 32-09-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09-28. Liability of Garnishee.) From the time of the service of the summons upon the garnishee, he shall stand liable to the plaintiff to the amount of the property, money, credits, and effects belonging to the defendant then in, or which prior to the making of his disclosure may come into, his possession or under his control, or in which he shall be interested, to the extent of his right or interest therein, and all debts due or to become due to the defendant, except such as by law may be exempt from the execution. Any property, moneys, credits, and effects held by a conveyance or title void as to the creditors of the defendant shall be embraced in such liability. Provided however, that the contents of a safety deposit box in a bank is not property in the possession of or under control of such bank within the meaning of this chapter.

Approved March 7, 1961.

LABOR AND EMPLOYMENT

CHAPTER 233

H. B. No. 837
(Lowe, Aamoth)

TERMINATION OF EMPLOYMENT, COMPENSATION

AN ACT

To provide for a right of payment to employees who terminate employment for cause and employees who are discharged for cause, and to repeal sections 34-03-07 and 34-03-08 of the North Dakota Century Code.

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

§ 1. Compensation of Employees Upon Termination of Employment.) An employee who quits the service of his employer for good cause and an employee who is dismissed by his employer for good cause shall be entitled to such proportion of the compensation which would have become due upon full performance of the contract of employment as the services already rendered by such employee bear to the services he was obligated to render had the contract of employment been fully performed.

§ 2. Repeal.) Sections 34-03-07 and 34-03-08 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1961.

CHAPTER 234

H. B. No. 835
(Lowe, Aamoth)

MASTER AND SERVANT, REPEAL

AN ACT

To repeal chapter 34-04 of the North Dakota Century Code, relating to the principles of the law of master and servant.

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

§ 1. Repeal.) Chapter 34-04 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1961.

CHAPTER 235

H. B. No. 838
(Lowe, Aamoth)

RESTRAINING ORDERS OR INJUNCTIONS

AN ACT

To amend and reenact section 34-08-07 of the North Dakota Century Code, relating to the basis upon which restraining orders or injunctions may be issued in labor disputes.

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

§ 1. **Amendment.)** Section 34-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-08-07. Basis Upon Which Restraining Order or Injunction May Be Issued.) No court of this state shall issue a restraining order or a temporary or permanent injunction in any case involving or growing out of a labor dispute except after hearing the testimony of witnesses in open court in support of the allegations of a complaint made under oath and the testimony offered in opposition thereto, and the granting to opposing parties of the right to cross-examine such witnesses, and except after the court has made and filed with the records in the case findings of fact to the effect that:

1. Unlawful acts have been threatened and will be committed, or have been committed and will be continued, unless restrained;
2. Substantial irreparable injury to complainant's property will follow;
3. As to each item of relief granted, greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief; and
4. Complainant has no adequate remedy at law.

No such restraining order or injunction shall be issued on account of any threat or unlawful act except against a person, association, or organization making the threat or committing the unlawful act or authorizing or ratifying the same with actual knowledge thereof. Every restraining order or injunction granted in a case involving or growing out of a labor dispute shall include only a prohibition of such specific act or acts as may be expressly complained of in the complaint filed in such case and as shall be expressly included in the findings of fact.

Approved March 16, 1961.

CHAPTER 236

H. B. No. 831
(Lowe, Aamoth)

LABOR, MANAGEMENT RELATIONS

AN ACT

To regulate relationships between management and labor in North Dakota, and to repeal section 34-10-05 of the North Dakota Century Code as in conflict therewith.

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. "Person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;
2. "Employer" includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly-owned government corporation, or any federal reserve bank, or any state or political subdivision thereof, or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization, or any farmer;
3. "Employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor or guard, or any individual employed by an employer subject to the Railway Labor Act, as amended from time to time, or by any other person who is not an employer as herein defined;

4. "Representatives" includes any individual or labor organization;
5. "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work;
6. "Unfair labor practice" means any unfair labor practice as provided in section 3;
7. "Commissioner" shall mean the North Dakota commissioner of agriculture and labor, his successor or his duly authorized deputy.

§ 2. Right of Employees as to Organization, Collective Bargaining.) Employees shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other lawful concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities and shall be free to decline to associate with their fellows and shall be free to obtain employment wherever possible without interference or being hindered in any way.

§ 3. Unfair Labor Practices.) 1. It shall be an unfair labor practice for any employer:

- a. To interfere with, restrain, or coerce employees in the exercise of the right guaranteed in section 2 of this Act;
- b. To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it. This shall not be construed to prohibit an employer from conferring with employees or their bona fide representatives and including, but not by way of limitation, explaining the position of management in connection with the problems of the employer during working hours without the loss of pay;
- c. By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization;
- d. To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act; or
- e. To refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 2 of this Act.

2. It shall be an unfair labor practice for a labor organization or its agents:

- a. To restrain or coerce employees in the exercise of rights guaranteed in section 2 of this Act, provided that a labor organization may prescribe its own rules for the acquisition and maintenance of membership in said labor organization;
- b. To cause or attempt to cause an employer to discriminate or restrain or coerce employees in the exercise of rights set forth in section 2 of this Act;
- c. To restrain or coerce an employer in the selection of his representatives or to refuse to bargain with an employer if labor organization or its agent is the representative of his employees;
- d. To force or attempt to force an employer or self-employed person to join any organization;
- e. To engage in, or to induce or encourage any employee to engage in, a strike or a refusal in the course of his employment to use or work on any goods, articles, materials or commodities, or to perform any services, or to threaten, coerce or restrain any person for the purpose of forcing or requiring any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or forcing or requiring any employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of his employees under the provisions of section 5 of this Act; but nothing in this subsection shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing, and nothing contained in this subsection shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer, other than his own employer, if the employees of such other employer are engaged in a lawful strike;
- f. To require of employees as a condition for membership the payment of fees found by the commissioner to be excessive or discriminatory;
- g. To cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed;
- h. To make, circulate, or cause to be circulated, a blacklist;
- i. To coerce or intimidate an employee in the enjoyment of his legal rights, or to intimidate his family or any

member thereof, picket his domicile, or injure the person or property of such employee or his family or of any member thereof;

- j. To hinder or prevent by unlawful picketing, threats, intimidation, force or coercion of any kind, the pursuit of any lawful work or employment, or to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports or other ways of travel or conveyance.

3. The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

§ 4. Collective Bargaining.) 1. For the purposes of this Act, to bargain collectively means the performance of the mutual obligations of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation or renegotiation of an agreement, or any question thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession;

2. Where there is in effect a collective bargaining contract, the duty to bargain also shall mean that no party to such contract shall terminate or modify such contract at the conclusion of its term until sixty days after either of them mails notice of a desire to terminate or to modify. A strike or lockout for economic purposes shall be unlawful until the end of the sixty-day period. The duty to bargain collectively shall continue despite termination of a collective bargaining contract unless the employee bargaining representative has lost its majority status.

§ 5. Exclusive Representation—Employees' Adjustment of Grievances Directly With Employer.) 1. Representatives designated or selected for the purpose of collective bargaining of the employees in a unit appropriate for such purposes shall be exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment.

2. Any individual employee or group of employees shall have the right at any time to present grievances to their em-

ployer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect. The bargaining representative shall be given an opportunity to be present at such adjustment.

§ 6. Determination of Bargaining Unit by Commissioner.)

The commissioner shall decide in each case whether in order to assure to employees the fullest freedom in exercising rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof. The commissioner shall not:

1. Decide that any unit is appropriate for such purposes if such unit includes both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit; or
2. Decide that any craft unit is inappropriate for such purposes on the ground that a different unit has been established by a prior commissioner determination, unless a majority of the employees in the proposed craft unit vote against separate representation; or
3. Decide that any unit is appropriate for such purposes if it includes, together with other employees, any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises; but no labor organization shall be certified as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

In determining whether a unit is appropriate, the extent to which the employees have organized shall not be controlling.

§ 7. Hearing on Representation Questions — Rules and Regulations.)

1. Whenever a petition shall have been filed, in accordance with this Act:
 - a. By an employee or group of employees or any individual or labor organization acting in their behalf alleging that at least thirty percent of employees wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in section 5, or assert that the individual or labor organization, which has been certi-

- fied or is being currently recognized by their employer as the bargaining representative, is no longer a representative as defined in section 5; or
- b. By an employer, alleging that one or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in section 5;
2. The commissioner shall promptly fix a date for an informal conference upon due notice to all parties:
 - a. If, upon the informal conference, all parties agree that a question of representation exists and consent to an election, the commissioner shall conduct an election upon secret ballot forthwith.
 - b. If upon such informal conference the parties cannot agree that a question of representation exists, the commissioner shall hold a hearing and if upon such hearing the commissioner finds a question of representation exists, he shall conduct an election by secret ballot and shall certify the results thereof.
 - c. No election shall be directed in any bargaining unit or any subdivision within which in the preceding twelve-month period a valid election shall have been held. Employees on strike who are not entitled to reinstatement shall not be eligible to vote. In any election where none of the choices on the ballot receives a majority, a run-off shall be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.
 3. When a petition is filed as above provided, or the bargaining representative has been questioned, or a strike is to be called by the bargaining representative certified to represent employees, and the issue cannot be determined informally, the commissioner shall notify the employees, the employer and such other persons as he deems necessary, requiring employees and the employer to each appoint a representative to act with the commissioner in the conduct of an impartial and secret ballot election to determine a bargaining agent, or whether a strike shall be had, or determine whether the present bargaining agent is no longer the representative bargaining agent. If any party shall decline or neglect to appoint a representative, the commissioner shall appoint some fair and impartial person to act as such party's representative. Such election board, consisting of a representative of the employees, a representative of the employer and the commissioner shall thereupon designate a reasonable time within ten days after such board is constituted when such vote shall be held, which election shall be upon the premises of the employer during working hours. The board shall conduct an impartial secret

ballot in which all employees of the appropriate bargaining unit involved shall have the right to cast a vote. Within twenty-four hours immediately after the completion of the election, such election board shall make an accurate and complete tabulation of the votes cast in such election and shall prepare a written certificate, which shall bear the signature of the commissioner, and a copy of such certificate shall be delivered to the employer and to the employees or their bargaining agent.

4. No election shall be valid unless at least fifty-one percent of the employees in the appropriate bargaining unit shall cast valid ballots. If fifty-one percent of the employees in the appropriate bargaining unit shall fail to cast valid ballots at such election a second election shall be held forthwith. If on such second election fifty-one percent participation shall not be obtained no further elections shall be held for a period of one year.

§ 8. Authority of Commissioner.) Whenever it is charged that any person is engaging in or has engaged in any unfair labor practice, the commissioner shall investigate the charges informally and if it appears that an unfair labor practice is occurring or has occurred, the commissioner shall have power to issue and cause to be served upon such person a written specification of the issues which are to be considered and determined. If, upon the evidence, the commissioner shall be of the opinion that any person named in the written specifications has engaged in or is engaging in any such unfair labor practice, he shall issue and cause to be served upon such person an order requiring such person to cease and desist from such unfair labor practice. If the order is not obeyed, the commissioner shall have the authority to apply to the appropriate district court for an injunction under the provisions of chapter 32-06. The commissioner may act as a conciliator in any labor dispute.

§ 9. Power to Promulgate Regulations.) The commissioner shall have the authority to promulgate reasonable regulations to effectuate the purposes of this Act.

§ 10. Applicability of Administrative Agencies Practice Act.) All proceedings hereunder and all appeals to the courts shall be governed by the provisions of chapter 28-32, except that the findings of the commissioner on appeal shall not be entitled to affirmative weight.

§ 11. Right of Suit for Damages Preserved.) Any person injured in his person or property by reason of the commission of an unfair labor practice as defined in this Act may sue therefor in the district court and shall recover the damages by him sustained and the cost of the suit.

§ 12. Reporting by Labor Organization.) The commissioner is hereby designated as the official of the state of North Dakota authorized to receive copies of reports made to the secretary of labor of the United States by virtue of the Labor-Management Reporting and Disclosure Act of 1959, 73 Statutes at Large 525, as amended from time to time. In the event such reports have not been made to the secretary of labor of the United States by a labor organization, such labor organization shall file with the North Dakota commissioner, within ninety days after the close of its fiscal year, a report giving the name of the labor organization, its mailing address, and the name, title and address of each of its officers. The governor shall request copies of all reports filed by labor organizations subject to the jurisdiction of the state of North Dakota from the United States secretary of labor.

§ 13. Severability Clause.) If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

§ 14. Name of Act.) This Act may be cited as the "North Dakota Labor-Management Relations Act".

§ 15. Repeal.) Section 34-10-05 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1961.

LIENS

CHAPTER 237

H. B. No. 779

(Hagen, Renfrow, Klinger, Sorlie,
Shablow, Glaspey)

CROP LIENS

AN ACT

To create a lien upon crops in favor of any person who furnishes motor fuel to be used in the production of such crops.

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

§ 1.) Any person who furnishes gasoline, diesel fuel, tractor fuel, or other motor fuel to another to be used for the production of any agricultural crop shall be entitled to a lien upon all crops produced by the use of such fuel to secure the payment of the purchase price thereof upon compliance with the provisions of this Act.

§ 2.) At any time after the fuel has been furnished, but in no event later than the first day of November in the year such fuel was furnished, the person selling such fuel shall perfect his lien by filing in the office of the register of deeds of the county in which the crop is produced a verified statement showing the name and address of the person claiming the lien, the name of the person to whom the fuel has been furnished, the name of the crop or crops grown by such purchaser, a description of the land upon which the crop was grown and the amount of fuel furnished.

§ 3.) From and after the date of filing of the statement provided in section 2, the claimant shall have a lien upon the crops therein described to the amount of the purchase price of the fuel sold. Such lien shall have priority over all other liens except threshing liens, seed liens, farm labor liens and crop production liens.

§ 4.) The register of deeds shall charge a fee of one dollar for the filing of a verified statement perfecting the lien. Such lien shall be indexed and filed in the same manner as chattel mortgages are filed and may be satisfied by an instrument similar to a satisfaction of chattel mortgages.

Approved March 11, 1961.

CHAPTER 238

H. B. No. 584

(Loewen, Haugland, Karabensh,
(Saugstad, Balerud, Bader, Dahl, Maragos)

MECHANIC'S LIENS

AN ACT

Creating mechanic's liens; relating to lands subject to such liens; prescribing procedures to perfect and enforce such liens; declaring certain acts as larceny; providing penalty for filing unlawful liens; making the provisions of title 35 of the North Dakota Century Code not in conflict herewith applicable to this Act; and repealing chapter 35-12 of the North Dakota Century Code.

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. "Contract" means any agreement for improving real property, written or unwritten, express or implied;
2. "Materials" means materials or fixtures which are incorporated in the improvement and those which become normal wastage in construction operations, custom or specially fabricated materials for incorporation in the improvement, building materials used for construction, but not remaining in the improvement, subject to diminution by the salvage value of such materials, tools, appliances, or machinery, excluding hand tools, used in the construction of the improvement to the extent of the reasonable value for the period of actual use. The rental value shall not be determinable by the contract for rental unless the owner is a party thereto;
3. "Improve" means to build, erect, place, make, alter, remove, repair or demolish any improvement upon, connected with, or beneath the surface of any land, or excavate any land, or furnish materials for any of such purposes, or dig or construct any fences, wells or drains upon such improvement, or perform any labor or services upon such improvement; or perform any labor or services or furnish any materials in laying upon the real estate or in the adjoining street or alley any pipes, wires, fences, curbs, gutters, paving, sewer pipes or conduit, or sidewalks, or in grading, seeding, sodding or planting for landscaping purposes, or in equipping any such improvement with fixtures or permanent apparatus;
4. "Improvement" means any building, structure, erection, construction, alteration, repair, removal, demolition,

- excavation, landscaping, or any part thereof, existing, built, erected, improved, placed, made or done on real estate for its permanent benefit;
5. "Owner" means the legal or equitable owner and also every person for whose immediate use and benefit any building, erection, or improvement is made, having the capacity to contract, including guardians of minors or other persons, and including any agent, trustee, contractor, or subcontractor of such owner;
 6. "Subcontractor" means all persons contributing any skill, labor or materials to the improvement except such as have contracts therefor directly with the owner; and, includes any person who enters into a contract with a subcontractor as above defined, for the performance of any part of such subcontractor's contract; and
 7. "Person" means every natural person, fiduciary, association or corporation.

§ 2. Who Entitled to Mechanic's Lien.) Any person who improves real estate by the contribution of labor, skill or materials, whether under contract with the owner of such real estate, or at the instance of any agent, trustee, contractor or subcontractor of such owner, shall have a lien upon the improvement, and upon the land on which it is situated or to which it may be removed, for the price or value of such contribution.

§ 3. When Lien Attaches.) As against the owner of the land, such liens shall attach and take effect from the time the first item of material or labor is furnished upon the premises for the beginning of the improvement. As against a bona fide purchaser, mortgagee, or encumbrancer without notice, no lien shall attach prior to the actual and visible beginning of the improvement on the ground. Subject to the exception set forth in section 4 of this Act, all such liens shall be preferred to any mortgage or other encumbrance not then of record, unless the lienholder had actual notice thereof.

§ 4. When Lien Attaches—Exception—Notice—Filing.) As against a mortgage given in good faith for the purpose of providing funds for the payment of materials or labor for the improvement, no such lien shall be preferred to such mortgage even though such mortgage is recorded subsequent to the time the first item of material or labor is furnished upon the premises, or subsequent to the actual visible beginning of the improvement unless the person furnishing such labor, skill or material for such improvement shall, prior to the recording of such mortgage, file for record a notice of his intention to claim a mechanic's lien pursuant to the provisions of section 5 of this Act.

§ 5. Notice of Intention to Claim Lien—Filing.) Any person having a contract for the improvement of land may file for record, with the clerk of court of the county within which the land is situated, a notice of intention to claim a mechanic's lien, which notice shall be notice to all of his intention to perfect a lien for the contract price or value of all contributions to such improvement thereafter made by him or at his instance. Such notice of intention to claim a mechanic's lien shall contain the following:

1. The name of the person in possession of the land;
2. The description of the property to be charged with the lien;
3. The date of the contract; and
4. That a mechanic's lien against the building, improvement, or premises will be perfected according to law unless the account shall have been paid.

The clerk of court shall file and record the notice of intention to claim a mechanic's lien as is provided in section 12 of this Act.

§ 6. Extent and Amount of Lien.) If the contribution be made under a contract with the owner and for an agreed price, the lien as against him shall be for the sum so agreed upon, otherwise, and in all cases as against others than the owner, it shall be for the reasonable value of the work done, and of the skill and material furnished.

§ 7. Title of Vendor or Consenting Owner—Subject To.) When land is sold under an executory contract requiring the vendee to improve the same and such contract is forfeited or surrendered after liens have attached by reason of such improvements, the title of the vendor shall be subject thereto, but he shall not be personally liable if the contract was made in good faith. When improvements are made by one person upon the land of another, all persons interested therein otherwise than as bona fide prior encumbrancers or lienors shall be deemed to have authorized such improvements, insofar as to subject their interest to liens therefor. Any person who has not authorized the same may protect his interest from such liens by serving upon the person doing work or otherwise contributing to such improvement within five days after knowledge thereof, written notice that the improvement is not being made at his instance, or by posting like notice, and keeping the same posted, in a conspicuous place on the premises. As against a lessor no lien is given for repairs made by or at the instance of his lessee, unless the lessor shall have actual or constructive notice thereof and not object thereto.

§ 8. Contractor or Subcontractor Improperly Using Proceeds of Payment—Larceny.) Any contractor or subcontractor

improving real estate within the meaning of this Act who, with intent to defraud, shall use a payment made to him by the owner of the real estate or the person having the improvement made for any purpose other than the payment for labor performed upon the improvement, or for materials, machinery, or fixtures furnished for the improvement while the labor was performed, or for materials, machinery, or fixtures furnished for the improvement which have not been paid for at the time of the payment, is guilty of larceny. If the amount of the payment so used exceeds one hundred dollars, the contractor or subcontractor is guilty of grand larceny. If the amount of the payment so used is the sum of one hundred dollars or less, he is guilty of petit larceny.

§ 9. Payment to Contractors Withheld.) The owner may withhold from his contractor so much of the contract price as may be necessary to meet the demands of all persons, other than such contractor, having a lien upon the premises for labor, skill, or material furnished for the improvement, and for which the contractor is liable, and he may pay and discharge all such liens and deduct the cost thereof from such contract price. Any such person having a lien under the contractor, may serve upon the owner at any time, a notice of his claim. The owner, within fifteen days after the completion of the contract, may require any person having a lien hereunder, by written request therefor, to furnish to him an itemized and verified account of his claim, the amount thereof, and his name and address, and no action or other proceeding shall be commenced for the enforcement of such lien until ten days after such statement is so furnished. The word "owner", as used in this section, includes any person interested in the premises otherwise than as a lienor thereunder.

§ 10. Mingling of Charges Defeats Right to Lien.) The mingling of charges for materials to be used in the construction, alteration, repair, or improvement of the property of different persons, except in the cases of joint ownership or ownership in common, shall defeat the right to a lien against either or any of such persons.

§ 11. Itemized Account and Demand Conditions Precedent to Obtaining Lien for Materials.) No person shall be entitled to a lien under this Act unless he shall:

1. Keep an itemized account thereof separate and apart from all other items of account against purchaser;
2. Serve a written notice by registered or certified mail upon the owner demanding payment of such account and notifying such owner if payment is not made within fifteen days of the date of mailing such notice a lien will be perfected according to law; and

3. File with the clerk of the district court of the county in which the land, building, or improvement is situated a notice in writing signed by the person entitled to the mechanic's lien or by his authorized agent stating:
 - a. The name of the person in possession of the land;
 - b. The description of the property to be charged with the lien;
 - c. The date of the contract; and
 - d. That a mechanic's lien against the building, improvement, or premises will be perfected according to law unless the account shall have been paid.

§ 12. Clerk of Court to Record Notice.) The clerk of district court shall file and record the notice of intention to file a lien in a book entitled, "book of mechanic's lien notice". The "book of mechanic's lien notice" shall be indexed according to tracts. The fee for such filing and indexing shall be one dollar.

§ 13. How Lien Perfected—Account Filed.) Every person desiring to perfect his lien shall file with the clerk of the district court of the county in which the property to be charged with the lien is situated, within ninety days after all his contribution is done, and having complied with the provisions of this Act, a true account of the demand due him after allowing all credits and containing a correct description of the property to be charged with a lien, which account shall be verified by affidavit.

§ 14. Lien Not Lost for Failure to File Within Time—Exception.) A failure to file the lien account within ninety days shall not defeat the lien except as against purchasers or encumbrancers in good faith and for value whose rights accrue after the ninety days and before any claim for the lien is filed, and as against the owner to the extent of the amount paid to a contractor after the expiration of the ninety days and before the filing of the account.

§ 15. Account—Duty of Clerk of Court.) The clerk of the district court shall endorse upon every account the date of its filing and shall make an abstract thereof in a book to be kept by him for that purpose, and properly indexed, containing the date of its filing, the name of the person filing the lien, the amount of the lien, the name of the person against whose property the lien is filed, and a description of the property to be charged with the same. He also shall make and keep a tract index in which shall be entered a description of all property covered or charged with the lien.

§ 16. Inaccuracies in Lien Statement.) In no case shall the liens given by this Act be affected by any inaccuracy in the particulars of the lien account, but, as against all persons

except the owner of the property, the lien claimant shall be concluded by the dates therein given, showing the first and last items of his account. In no case shall a lien exist for a greater amount than the sum claimed in the lien account, nor for any amount, if it be made to appear that the claimant has knowingly demanded in the statement more than is justly due.

§ 17. Single Contract for Several Buildings — Amount of Claim Apportioned.) If labor is done or materials furnished under a single contract for several buildings, structures, or improvements, the person furnishing the same shall be entitled to a lien therefor as follows:

1. If the improvements are upon a single farm, tract, or lot, upon all such buildings, structures and improvements and the farm, tract, or lot upon which the same are situated; and
2. If the improvements are upon separate farms, tracts, or lots, upon all the buildings, structures, and improvements and the farms, tracts, or lots upon which the same are situated, but upon the foreclosure of the lien the court, in the cases provided for in this subsection, may apportion the amount of the claim among the several farms, tracts, or lots in proportion to the enhanced value of the same produced by means of the labor or materials, if such apportionment is necessary to protect the rights of third persons.

§ 18. Mechanic's Lien on Railway Contracts Obtainable.) Every person who furnishes any labor, skill, or material for constructing, altering, or repairing any line of railway, or any improvement or structure appertaining to any line of railway by virtue of any contract with the owner, his agent, contractor, or subcontractor, shall have a lien upon such line of railway and the right-of-way thereof, and upon all bridges, depots, offices, and other structures appertaining to the line of railway, and all franchises, privileges, and immunities granted to the owner of the line of railway for the construction and operation thereof, to secure the payment for the labor, skill and materials, upon filing a statement of his demand therefor in accordance with the provisions of section 13, within ninety days from the last day of the month in which the labor or material was furnished, but a failure to file the same within the time aforesaid shall not defeat the lien except to the extent specified in section 14.

§ 19. Land Subject To Lien.) The entire land upon which any building, structure, or other improvement is situated, or to improve which labor is done or materials furnished, includ-

ing that portion of the land not covered thereby, shall be subject to all liens created under this Act to the extent of all the right, title, and interest of the owner for whose immediate use or benefit the labor was done or materials furnished.

§ 20. Collateral Security Does Not Impair Lien—Exception.) The taking of collateral or other security for an indebtedness for which a lien might be claimed under the provisions of this Act shall in no way impair the right to the lien unless the security, by express agreement, shall be given and received in lieu of the lien.

§ 21. Complete and Independent Building—Lien Independent of Land—Notice to Owner.) In addition to the lien provided by this chapter, when material is furnished or labor performed in the erection or construction of an original, complete, and independent building, structure, or improvement, whether the same is placed upon a foundation or not, the lien shall attach to the building or improvement in preference to any prior title, claim, lien, encumbrance, or mortgage upon the land upon which the building, erection, or improvement is erected. Upon the foreclosure of the lien, the building or improvement may be sold separately from the land and may be removed from the land within thirty days after the sale. The sale and removal of a structure or improvement separately from the land shall operate as a full satisfaction and discharge of the lien upon the real estate. At the time the material is furnished for such improvement, the seller shall notify the purchaser by delivering to him a written notice stating that the seller claims the right to foreclose the lien under the laws of the state, and in the event that there is a default in payment for the improvement, to remove the building from the real estate upon which it is placed regardless of whether or not said building is placed upon a foundation.

§ 22. Order of Priority of Classes of Mechanic's Liens.) Liens perfected under the provisions of this Act shall have priority in the following order:

1. For manual labor;
2. For materials;
3. Subcontractors other than manual laborers; and
4. Original contractors.

Liens for manual labor filed within the ninety-day period shall share ratably in the security. Liens for manual labor filed thereafter shall have priority in the order of the filing of such liens. Liens for materials filed within the ninety-day period shall share ratably in the security and such liens filed thereafter shall have priority in the order of the filing of such liens.

§ 23. Improvements on Leasehold Interest—Extent of Lien—Sale of Building.) When the interest owned in land by the owner of the building, structure, or other improvement for which a lien is claimed, is only a leasehold interest, the forfeiture of the lease for nonpayment of rent or for noncompliance with any of the stipulations of the lease shall not impair the lien so far as it applies to the building, structures, or improvements, but the improvements may be sold to satisfy the lien and may be removed by the purchaser within thirty days after the sale.

§ 24. Action to Enforce Mechanic's Lien—Notice of Deficiency Judgment.) Any person having a lien by virtue of this Act may bring an action to enforce the lien in the district court of the county in which the property is situated. Any number of persons claiming liens against the same property may join in the action and when separate actions are commenced the court may consolidate them. Before a lienholder may enforce a lien, he shall give written notice of his intention so to do, which notice shall be given by personal service upon the record owner of the property affected at least ten days before an action to enforce the lien is commenced, or by registered mail directed to the owner's last known address at least twenty days before the action is commenced. The judgment may direct that in the event that a deficiency remains after the sale of the real or personal property subject to the lien an execution may issue for such deficiency.

§ 25. Requiring Suit To Be Commenced—Demand—Limitations of Action.) Upon written demand of the owner, his agent, or contractor, served on the person holding the lien, suit shall be commenced within thirty days thereafter if the debt for which the lien is security is due, and if not due, within thirty days after the same becomes due, or the lien shall be forfeited. No lien shall be valid or effective as such, nor shall the same be enforced in any case, and the clerk of the district court shall cancel any such lien of record, unless the holder thereof shall assert the same either by complaint or answer within six years after the date of the last item of his claim as set forth in the recorded lien account, or within six years after it becomes due, if the lien account shows that it is not then due. If a summons and complaint or answer asserting the validity of the lien is not filed in the office of the clerk of court in which the lien is filed within the limitation herein provided, the clerk of court, upon request of any interested person, shall cancel the lien of record.

§ 26. Penalty for Filing Unlawful Lien.) Any person who signs and files a mechanic's lien and who knowingly and willfully includes, in the statement of lien filed in connection

therewith, classes of material not subject to a mechanic's lien under the provisions of this Act is guilty of a misdemeanor.

§ 27. **Assignment of Claims.)** Any claim for which a lien may be or has been filed and the right of action to recover therefor under the provisions of this Act may be assigned by an instrument in writing. Such assignment shall vest in the assignee all rights and remedies herein given, subject to all defenses that might have been interposed if such assignment had not been made.

§ 28. **General Provisions.)** The general provisions of title 35 of the North Dakota Century Code not in conflict with the provisions of this Act shall be applicable to this Act.

§ 29. **Repeal.)** Chapter 35-12 of the North Dakota Century Code is hereby repealed.

Approved March 7, 1961.

CHAPTER 239

S. B. No. 147

(Wartner, Gefreh, Garaas)

FORECLOSURE OF REAL ESTATE MORTGAGES

AN ACT

To amend and reenact section 35-22-01 of the North Dakota Century Code, relating to foreclosure of mortgages of real property.

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

§ 1. **Amendment.)** Section 35-22-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-22-01. Foreclosure Under Power of Sale—Prohibition—Exception.) Every mortgage of real property executed to the manager of the Bank of North Dakota, as mortgagee, and every mortgage of real property heretofore or hereafter executed to the Bank of North Dakota, as mortgagee, and every mortgage negotiated by the board of university and school lands to the state of North Dakota as mortgagee, containing a power of sale, upon default being made in the conditions of such mortgage, may be foreclosed by advertisement in the manner provided by law. No other mortgage of real property shall be so foreclosed, but must be foreclosed by action.

Approved February 24, 1961.

CHAPTER 240

H. B. No. 909
(Lynch, Backes, Vinje,
(Fossum, Glaspey, Bloom))

OIL AND GAS WORKING INTEREST

AN ACT

To create and enact subsection 13 of section 35-24-01 of the North Dakota Century Code, relating to definitions of "working interest" for well or pipeline construction liens.

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

§ 1.) Subsection 13 of section 35-24-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

13. "Working interest" shall mean interest in oil and gas that may be produced from a well but shall not include royalty or overriding royalty interests.

Approved March 8, 1961.

LIVESTOCK

CHAPTER 241

H. B. No. 646

(Miller of Walsh, Kelly, Overbo, Leet, Currie, Powers,)
(Hagen, Davis of Dunn, Schuler, Heller, Tescher)

LICENSING AUCTION MARKETS

AN ACT

To amend and reenact sections 36-05-03, 36-05-04, 36-05-05, 36-05-06, 36-05-09, and 36-05-13 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 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 with the livestock sanitary board a statement 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.

§ 2. 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 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 the provisions of this code relating to the purchase, sale or holding of livestock.

Such bond shall cover the entire license period.

§ 3. Amendment.) Section 36-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-05. Expiration and Renewal of License—Fee Returned Upon Failure to Issue or Renew License.) Each license issued under the provisions of this chapter shall expire on the thirty-first day of January next following the date of issuance thereof. Each license shall be renewed annually on or before January thirty-first. The fee for a renewal license shall be the same as that prescribed for an original license. If the livestock sanitary board does not issue a requested original license or renewal license, the fee paid shall be refunded to the applicant.

§ 4. Amendment.) Section 36-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-06. Investigation of Auction Market—Hearing Conducted to Determine Whether License Should Be Issued or Revoked.) The livestock sanitary board upon its own motion

or upon a complaint by any person, may enter into an investigation of the sales and transactions of any livestock auction market and of the conditions under which its business is conducted. The livestock sanitary board when it deems it necessary, may conduct a hearing to determine whether the license of any auction market should be revoked or whether the application of the owner or operator of a livestock auction market for an original or renewal license should be denied.

§ 5. Amendment.) Section 36-05-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-09. Records To Be Kept by Operator of Auction Market—Contents—Examination—Report.) The operator of each livestock auction market shall keep on file an accurate record of:

1. The date on which each consignment of animals was received and sold;
2. The name and address of the buyer and seller of such animals;
3. The number and species of the animals received and sold; and
4. The marks and brands on each such animal.

Such record, together with the gross selling price, commission, and other proper care, handling, and sales charges on each consignment of livestock shall be available for inspection by the livestock sanitary board or its authorized inspector, and a copy thereof shall be supplied to the owner of such livestock. All records of sales during the preceding twelve months shall be kept readily accessible for immediate examination.

§ 6. Amendment.) Section 36-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-13. Use of Fees Collected by Livestock Sanitary Board—Grounds for Refusal or Revocation of License—Procedure on Revocation and on Default of Licensee.) All fees collected by the livestock sanitary board under the provisions of this chapter shall be credited to the general fund of the state treasury. A license to operate a livestock auction market may be refused or revoked for any of the reasons specified in section 36-04-10, and the provisions of section 36-04-11 shall govern the procedure under which a hearing shall be had before the livestock sanitary board to determine whether such license shall be revoked. When the holder of a license issued under the provisions of this chapter shall default in any of the conditions of any bond filed with the livestock sanitary

board by such licensee this board shall become trustee of such bond and the provisions of sections 36-04-12 to 36-04-19, both inclusive, shall govern the procedure to be followed.

§ 7.) Section 36-05-13.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

36-05-13.1. Review by the Court.) The action of the livestock sanitary board in denying an application for a license or in revoking or suspending a license may be appealed to the district court of Burleigh County by procedure applicable to appeals taken in the manner provided in chapter 28-32 of the title Judicial Procedure, Civil, as now or hereafter amended, except that the livestock sanitary board's order revoking or suspending the license may be stayed by the court appealed to upon filing with the clerk of said court a bond approved by and in the amount set by the judge of said district court for the faithful observance of the laws of the state relative to the operation of the business licensed during the pendency of the appeal.

Approved March 17, 1961.

CHAPTER 242

H. B. No. 664
(Trom, Otos, Fraase)

RENDERING DONE BY CERTAIN PACKING PLANTS

AN ACT

To amend and reenact section 36-07-11 of the North Dakota Century Code, relating to rendering done by packing plants operating under federal inspection, and declaring an emergency.

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

§ 1. **Amendment.)** Section 36-07-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-11. Rendering Done by Packing Plants Operating Under Federal Inspection—Exception.) All rendering done by a packing plant operating under federal inspection in a building adjacent to or on the same premises as said packing plant shall be exempt from the provisions of this chapter, except that the transportation by such packing plant or a rendering plant of carcasses and other animal substances on any public highway or street shall be subject to the sanitary

requirements of this chapter and the rules and regulations of the state livestock sanitary board made pursuant thereto.

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

Approved February 20, 1961.

CHAPTER 243

H. B. No. 697

(Link, Davis of Dunn, Stallman,
Dick, Tescher)

DIRECTORS OF GRAZING ASSOCIATIONS

AN ACT

To amend and reenact section 36-08-05 of the North Dakota Century Code, relating to election of directors of co-operative grazing associations.

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

§ 1. **Amendment.)** Section 36-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-08-05. Election of Directors.) The association may establish through its bylaws various sub-districts within the grazing district. When sub-districts are so established, one director of the association shall be elected from each sub-district by the majority vote of the members therein who are eligible to vote. If sub-districts are not established by the association, one director shall be elected from each congressional township in the district by the majority vote of the members in such township who are eligible to vote. However, in a small acreage group, all of the directors may be elected from any one or more congressional townships.

Approved February 28, 1961.

CHAPTER 244

H. B. No. 699
(Link, Davis of Dunn, Stallman,
(Dick, Tescher)

LIVESTOCK OWNERS' LIABILITY

AN ACT

To amend and reenact section 36-11-07 of the North Dakota Century Code, relating to liability of owners of livestock inflicting damage to persons or property of another.

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

§ 1. **Amendment.)** Section 36-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-11-07. Liability of Owners of Horses, Mules, Cattle, Sheep and Swine Injuring Persons or Property of Others.) The owner or possessor of any horse, mule, head of cattle, sheep or swine, which shall inflict any damage or injury to motor vehicles or their occupants upon a public highway within a grazing area shall not be civilly liable to any person sustaining such damage or injury providing proper signs, approved by the state highway commissioner, indicating such limited liability are posted at a point adjacent to such highway not less than two hundred (200) feet nor more than four hundred (400) feet from the entrance of such highway into such grazing area and so posted as to be plainly visible to persons approaching such entrance. For the purpose of this section a "grazing area" shall mean any area designated as such by the board of county commissioners and used primarily for the purpose of grazing livestock and enclosed by a fence or other suitable means.

Except as hereinabove provided, the owner or possessor of any horse, mule, head of cattle, sheep or swine which shall inflict any damage to the crops or other property of another or which shall trespass upon the lands of another, whether such lands are fenced or unfenced, shall be liable to the persons sustaining the injuries or to the owner of the lands for all damages suffered by him, together with the statutory costs of the action to recover such damages, and a reasonable attorney's fee therein to be allowed by the court.

Approved March 7, 1961.

CHAPTER 245

H. B. No. 744
(Annear, Tescher)

IMMUNIZATION OF SWINE AT STATE OR COUNTY FAIRS,
REPEAL

AN ACT

To repeal section 36-14-08 of the North Dakota Century Code, relating to the immunization of all swine to be exhibited at any state or county fairs.

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

§ 1. Repeal.) Section 36-14-08 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1961.

CHAPTER 246

H. B. No. 893
(Miller of Walsh, Rickford, Collette,
Currie, Tescher, Johnson)

CONDEMNATION AND APPRAISAL OF DISEASED ANIMALS,
PAYMENT OF CLAIMS

AN ACT

To amend and reenact subsection 3 of section 36-15-01, section 36-15-02, section 36-15-04, section 36-15-09, and subsection 7 of section 36-15-11 of the North Dakota Century Code, relating to the condemnation, and the appraisal, by the livestock sanitary board or its agents of diseased animals afflicted with tuberculosis or paratuberculosis (Johne's disease), providing for maximum indemnity payments to livestock owners, and providing when livestock owners may not be indemnified; and to repeal section 36-15-05 of the North Dakota Century Code, relating to maximum valuations of diseased animals.

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

§ 1. Amendment.) Subsection 3 of section 36-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Diseased", when used to describe any animals, shall mean animals infected with either bovine tuberculosis or paratuberculosis (Johne's disease); and

§ 2. **Amendment.)** Section 36-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-02. Notice of Condemnation of Diseased Animal — Animal To Be Destroyed Within Fifteen Days, Exception.) Whenever any animal has been adjudged by the board to be infected with bovine tuberculosis or paratuberculosis, such board or its authorized agent shall serve a written notice of its decision upon the owner or keeper of the animal before the condemned animal is killed. Such animal shall be destroyed within fifteen days after notice of condemnation, in either a federal or state inspected slaughtering plant, or under the supervision of an agent of the board. The fifteen-day period may be extended by the state veterinarian if he deems it advisable due to the circumstances involved in each case, and such extension must be in writing. Such notice shall advise the owner or keeper of his right to protest against the diagnosis and determination of the board within twenty-four hours after the service of the notice upon him. If no protest is made within such time by the owner or keeper of the condemned animal, it shall be appraised in the manner provided in this chapter.

§ 3. **Amendment.)** Section 36-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-04. Protest of Board's Appraisal—Board of Appraisers Appointed—Appraisal To Be Final.) If the owner of any animal which is condemned to be killed under the provisions of this chapter, or his agent, is not satisfied with the appraisal by the board or its agents, he may protest against the same, and a board of three appraisers shall then be formed. One member of the board of appraisers shall be the agent of the board, one member shall be selected by the owner of the animal involved, and the third member shall be selected by the first two members. An appraisal of the animal shall be made by the board of appraisers according to section 36-15-09, and if two or more of the appraisers agree upon a certain valuation, such appraisal shall be final.

§ 4. **Amendment.)** Section 36-15-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-09. Return of Appraisalment—Payment of Claims for Diseased Animals.) The return of an appraisalment made under the provisions of this chapter shall be in writing and signed by the board or by the agent thereof which made the appraisalment, or by the members of the board of appraisers if a re-

appraisement is made after a protest, and by the owner of the condemned animal. The return shall be certified by the executive officer of the board to the state auditor, who shall draw a warrant upon the state treasurer in favor of the owner of the animal. The amount of indemnity paid by this state, however, shall be:

1. In the case of an animal condemned because it is infected with tuberculosis or paratuberculosis, one-third of the difference between the appraised value of the animal and the net value of the salvage received by the owner, however, the indemnity payments shall not exceed twenty-five dollars for each grade animal or fifty dollars for each registered purebred animal, except, that if the federal government fails to provide an amount of indemnity equal to that provided by the state, the owner shall be paid one-half of the difference between the appraised value of the animal and the net value of the salvage thereof. Before any indemnity payment is made for such registered purebred animals, a certificate of registration in a recognized herd book shall be submitted to the state veterinarian prior to the date set for slaughter of said animal;
2. This state shall not be liable for indemnity under the provisions of this chapter in excess of the amount appropriated for the payment of such indemnity by the legislative assembly, and the state shall not be liable for indemnity for any animal killed during a biennium after the appropriation for such biennium has been exhausted.

§ 5. Amendment.) Subsection 7 of section 36-15-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. When the owner shall have been guilty of violating any laws or rules or regulations of the board.

§ 6. Repeal.) Section 36-15-05 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1961.

MILITARY

CHAPTER 247

S. B. No. 121

(Holand)

SOLDIERS' HOME

AN ACT

To amend and reenact sections 37-15-06, 37-15-07, 37-15-15, and 37-15-17 of the North Dakota Century Code, relating to members of the board of trustees of the soldiers' home, the commandant of the soldiers' home, and estates of resident members of the soldiers' home.

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

§ 1. **Amendment.)** Section 37-15-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-06. Compensation of Members of Board of Trustees of the Soldiers' Home.) Each member of the board of trustees of the soldiers' home shall receive ten dollars for each day in which he is engaged in the performance of his duties under the provisions of this chapter and his necessary expenses in connection therewith, except that the treasurer shall be compensated in such amount as may be determined by the board of trustees. No member of the board, except the treasurer, shall receive any compensation for more than thirty days in any one year.

§ 2. **Amendment.)** Section 37-15-07 of 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 the pleasure of the board. He shall receive such salary as is provided in legislative appropriation from time to time, 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.

§ 3. **Amendment.**) Section 37-15-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-17. Intestate Members Leaving Estates Valued in Excess of Three Hundred Dollars—Commandant to Administer.) If a member of the soldiers' home shall die leaving property in excess of three hundred dollars in value not disposed of by will, the commandant shall be entitled to letters of administration upon such estate. He shall make application to the proper court for letters of administration, qualify as administrator, and distribute and dispose of such estate as is provided by this code. If no valid claim shall be made to such estate by the heirs or the next of kin of the deceased member for a period of one year after the granting of letters of administration, the residue of the estate shall revert to this state for the benefit of the soldiers' home.

§ 4. **Amendment.**) Section 37-15-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-15. Disbursement of Moneys Derived for the Support and Maintenance of Soldiers' Home.) On the first day of July in each odd numbered year, the department of accounts and purchases shall pay to the treasurer of the soldiers' home fifty percent of the soldiers' home fund appropriated by the legislative assembly from the general fund of this state for the support and maintenance of the home during the biennium beginning on that date and twenty-five percent of the soldiers' home fund on the first day of January in each even numbered year. The remaining twenty-five percent of the soldiers' home fund shall be paid to the treasurer of the soldiers' home by warrants prepared and issued by the department of accounts and purchases, and signed by the state auditor on the first day of the fourth quarter of the biennium. Upon requisition by the commandant of the soldiers' home, at any time during the biennium, the department of accounts and purchases shall, by warrants prepared by the department and signed by the state auditor, pay to the treasurer of the soldiers' home moneys accumulated in the United States aid fund, soldiers' home, interest and income fund, soldiers' home, and institutional revolving fund, soldiers' home. All moneys received by the soldiers' home shall be disbursed by the treasurer of the soldiers' home subject to the order of the board of trustees of the home and shall be used exclusively for the benefit of the home. No payments shall be made to the treasurer of the home until he has qualified as required by the laws of this state. During the fourth quarter of the biennium, moneys which accrue during said quarter to the United States aid

fund, soldiers' home, interest and income fund, soldiers' home, and institutional revolving fund, soldiers' home, and moneys which have accumulated in said funds and have not been requisitioned as above provided, shall be used for the support and maintenance of the soldiers' home as far as such funds are available and shall be supplemented, as necessity requires, by the twenty-five percent of the soldiers' home fund appropriated by the legislative assembly from the general fund of this state and paid to the treasurer of the soldiers' home on the first day of the fourth quarter of the biennium. At the end of the biennium, moneys remaining unexpended in the soldiers' home fund shall be repaid by the treasurer of the soldiers' home to the state treasurer and shall be credited to the general fund of this state.

At the end of each quarter of the biennium the commandant of the soldiers' home shall make a report to the department of accounts and purchases duly certified upon oath, showing the amount of money received from the soldiers' fund, the United States aid fund, soldiers' home, interest and income fund, soldiers' home, and institutional revolving fund, soldiers' home, respectively; the amount remaining unexpended from each fund; and the estimated amount which will be required for the support and maintenance of the home during the next succeeding six month period. At the end of each month the commandant shall submit a statement of expenditures to the department of accounts and purchases, duly certified upon oath, showing the amount paid to each person and firm, designating the type of service rendered and commodity purchased during the month. The department of accounts and purchases shall submit the monthly statement to the state auditing board for approval and should that board not approve the payments thereon listed or any of them, the payments herein provided to be made from the soldiers' home fund to the treasurer of the soldiers' home shall be made by the department of accounts and purchases only to the extent that the said payments exceed the unapproved items, until such corrections as the state auditing board may require are effected.

Approved March 15, 1961.

CHAPTER 248

H. B. No. 547

(Bye, Knudsen of LaMoure, Solberg)
(From LRC Study)

CIVIL DEFENSE

AN ACT

To amend and reenact chapter 37-17 of the North Dakota Century Code, relating to civil defense within the state, by creating a civil defense division to serve in event of major man-made disasters; to provide for a director thereof; to define the powers and duties of the director and the governor in relation thereto; to provide for the organization of civil defense organizations on the local levels within the state; to provide immunities from certain liabilities for civil defense workers; to create and enact section 37-12-14 and 37-17-16 of the North Dakota Century Code, relating to the authority of the governor to commission local civil defense directors as officers in the state guard; and declaring an emergency.

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

§ 1. **Amendment.)** Chapter 37-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17-01. Policy and Purpose.) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, and in order to insure that preparations of this state will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

1. To create a state civil defense division, and to authorize the creation of local organizations for civil defense in the political subdivisions of the state;
2. To confer upon the governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided herein; and
3. To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of civil defense functions.

It is further declared to be the purpose of this Act and the policy of the state that all civil defense functions of this state be coordinated to the maximum extent with the comparable

functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

37-17-02. Definitions.) As used in this Act:

1. "Civil defense" means the preparation for and the carrying out of all emergency functions, other than functions for which federal military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action. These functions shall include, but shall not be limited to, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions;
2. "Mobile support unit" means an organization for civil defense created in accordance with the provisions of this Act by state or local authority to be dispatched by the governor to supplement local organizations for civil defense in a stricken area;
3. "Political subdivision" means counties, cities and villages of this state; and
4. "Civil defense worker" means any full or part-time paid, volunteer or auxiliary employee of this state, or other states, territories, possessions, or the District of Columbia, of the federal government, or any neighboring country, or of any political subdivision thereof, or of any agency or organization or other authorized person performing civil defense services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision thereof.

37-17-03. State Civil Defense Division.) There is hereby created a division of civil defense with a director who shall be the head thereof. The director shall be appointed by the

governor. 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 Act.

The director, subject to the direction and control of the governor, shall be the executive head of the civil defense division and shall be responsible to the 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 Act as may be prescribed by the governor.

37-17-04. Civil Defense Advisory Council.) The North Dakota civil defense advisory council shall consist of the governor as chairman, state auditor, state treasurer, secretary of state, attorney general, adjutant general, and such other persons as the governor may appoint. Persons so appointed by the governor shall serve at his pleasure. The governor may appoint a representative to serve in his stead at meetings of the council he is unable to attend, but powers conferred upon him by this chapter shall not be delegated. The council shall advise the governor and the director of civil defense on all matters pertaining to civil defense. Members of the council shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

37-17-05. Civil Defense Powers of the Governor.) The governor shall have general direction and control of the civil defense division, and shall be responsible for the carrying out of the provisions of this Act, and in the event of disaster beyond local control, may assume direct operational control over all or any part of the civil defense functions within this state.

In performing his duties under this Act, the governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the civil defense of this state and of the nation.

In performing his duties under this Act and to effect its policy and purpose, the governor is further authorized and empowered:

1. To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this Act within the limits of the authority conferred upon him herein;
2. To prepare a comprehensive plan and program for the civil defense of this state, such plan and program to be integrated into and coordinated with the civil defense plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for civil defense by the political subdivisions of this state, such plans to be integrated into and coordinated with the civil defense plan and program of this state to the fullest possible extent;
3. In accordance with such plan and program for the civil defense of this state, to procure supplies and equipment, to institute training programs and to take all other preparatory steps including the partial or full mobilization of civil defense organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of civil defense personnel in time of need provided, however, that neither the state nor any political subdivision may, in the course of accomplishing the objectives of this subsection, expend funds in excess of its share of the estimated cost of the material or service being procured;
4. To make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for civil defense, and to plan for the most efficient emergency use thereof;
5. On behalf of this state, to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of this state;
6. To delegate any administrative authority vested in him under this Act, and to provide for the sub-delegation of any such authority;
7. To appoint, in cooperation with local authorities, local area directors when practicable; and
8. To cooperate with the president and the heads of the armed forces, the office of civil and defense mobilization, and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the civil defense of the state and nation including the mobilization of civil

defense forces, and conduct of tests and exercises; warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith; shutting off water mains, gas mains, electric power connections and the suspension of all other utility services; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to drills or attack; and the evacuation and reception of the civilian population.

37-17-06. Emergency Powers.) The provisions of this section shall be operative only during the existence of a state of civil defense emergency. The existence of such emergency may be proclaimed by the governor or by concurrent resolution of the legislative assembly if the governor in such proclamation, or the legislative assembly in such resolution, finds that an attack upon the United States has occurred or is anticipated in the immediate future, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. Any such emergency, whether proclaimed by the governor or by the legislative assembly, shall terminate upon the proclamation of the termination thereof by the governor, or the passage by the legislative assembly of a concurrent resolution terminating such emergency. During such period as such state of emergency exists or continues, the governor shall have and may exercise the following additional emergency powers:

1. To enforce all laws, rules, and regulations, relating to civil defense subject to constitutional restrictions and to assume direct operational control of any or all civil defense forces and helpers in the state;
2. To sell, lend, lease, give, transfer, or deliver publicly owned materials and perform services for civil defense purposes subject to constitutional restrictions on such terms and conditions as the governor shall prescribe and without regard to the limitations of any existing law, and to account to the state treasurer for any funds received for such property;
3. To provide for the evacuation of all or part of the population from any stricken or threatened area or areas within the state and to take such steps as are necessary for the receipt and care of such evacuees;
4. Subject to the provisions of the state Constitution, to remove from office any public officer having administrative responsibilities under this Act for willful failure to obey an order, rule or regulation adopted pursuant to this Act. Such removal shall be upon charges after

service upon such person of a copy of such charges and after giving him an opportunity to be heard in his defense. Pending the preparation and disposition of charges, the governor may suspend such person for a period not exceeding thirty days. A vacancy resulting from removal or suspension pursuant to this section shall be filled by the governor until it is filled as otherwise provided by law; and

5. To perform such other functions and duties as are necessary to carry out the purposes and provisions of this Act.

37-17-07. Mobile Support Units.) The governor or his duly designated representative is authorized to create and establish such number of mobile support units as may be necessary to reinforce civil defense organizations in stricken areas. He shall appoint a commander for each such unit who shall have primary responsibility for the organization, administration and operation of such unit. Mobile support units shall be called to duty upon orders of the governor and shall perform their functions in any part of the state, or, upon the conditions specified in this section, in other states.

Personnel of mobile support units while on duty, whether within or without the state, shall:

1. If they are employees of the state or a political subdivision, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment; or
2. If they are not employees of the state or a political subdivision thereof, be entitled to compensation by the state at ten dollars per day and to the same rights and immunities as are provided by law for the employees of this state.

All personnel of mobile support units shall, while on duty, be subject to the operational control of the authority in charge of civil defense activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.

The state shall reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of employees of such political subdivision while serving as members of a mobile support unit, and for all payments for death, disability or injury of such employees incurred in the course of such duty when not otherwise compensable under workmen's compensation laws, and for all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of such

mobile support unit. Payments for the death, disability or injury of employees shall be in accordance with benefits as outlined in the North Dakota workmen's compensation laws and claims and payments will be administered by the workmen's compensation bureau for the state, contingent upon funds appropriated for this specific purpose by the legislative assembly or any federal agency established for this purpose.

37-17-08. Local Organization for Civil Defense.) Each political subdivision of this state is hereby authorized and directed to establish a local organization for civil defense in accordance with the state civil defense plan and program. Each local organization for civil defense shall have a director who shall be appointed by the executive officer or governing body of the political subdivision, and who shall have direct responsibility for the organization, administration and operation of such local organization for civil defense, subject to the direction and control of such executive officer or governing body. Each local organization for civil defense shall perform civil defense functions within the territorial limits as may be required pursuant to the provisions of section 37-17-09.

In carrying out the provisions of this Act each political subdivision, in which any disaster as described in section 37-17-01 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law, excepting mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, and the purchase of supplies and materials.

37-17-09. Mutual Aid Arrangements.) The director of each local organization for civil defense may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state civil defense plan and program, and in time of emergency it shall be the duty of each local organization for civil defense to render assistance in accordance with the provisions of such mutual aid arrangements.

The director of each local organization for civil defense may, subject to the approval of the governor, enter into mutual

aid arrangements with civil defense agencies or organizations in other states for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted.

37-17-10. Immunity and Exemption.) All functions hereunder and all other activities relating to civil defense are hereby declared to be governmental functions. Neither the state nor any political subdivision or their departments and agencies, or any civil defense worker complying with or reasonably attempting to comply with this Act, or any order, rule or regulation promulgated pursuant to the provisions of this Act, or pursuant to any ordinance relating to black-out or other precautionary measures enacted by any political subdivision of the state, except in case of willful misconduct, gross negligence, or bad faith, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this Act, or under the workmen's compensation law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress.

Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized civil defense worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during a civil defense emergency.

37-17-11. No Private Liability.) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock or practice attack shall, together with his successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises or for loss of, or damage to, the property of such person.

37-17-12. Appropriations and Authority to Accept Services, Gifts, Grants, and Loans.) Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for civil defense.

Whenever the federal government or any agency or officer thereof or any person, firm or corporation shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of

gift, grant or loan, for purposes of civil defense, the state, acting through the governor or civil defense director, or such political subdivision, acting through its executive officer or governing body, may accept such offer and may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

37-17-13. Utilization of Existing Services and Facilities.) In carrying out the provisions of this Act, the governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are required and directed to cooperate with and extend such services and facilities to the governor and to the civil defense organizations of the state upon request.

37-17-14. Political Activity Prohibited.) No organization for civil defense established under the authority of this Act shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

37-17-15. Civil Defense Personnel.) No person shall be employed or associated in any capacity in any civil defense organization established under this Act who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States.

37-17-16. Natural Disasters.) Nothing herein provided shall prevent the governor from requesting and ordering the civil defense division from aiding in natural disasters.

§ 2.) Section 37-12-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

37-12-14. Local Civil Defense Directors May Be Commissioned.) The governor may at any time commission any director of civil defense for a county, city, or village as an officer in the state guard, and the rank of any director so commissioned shall be commensurate with the qualifications and experience of the director. The provisions of section 37-12-01, relating to conditions under which the state guard

may be organized and maintained shall in no way prevent a local civil defense director from being commissioned pursuant to the provisions of this section at any time. Any local civil defense director so commissioned shall receive no additional remuneration or emolument as a result of his holding a commission in the state guard, and any remuneration or emolument received by him in his capacity as local civil defense director shall be prescribed and paid by the political subdivision which he is serving. Any civil defense director commissioned in the state guard shall be authorized to command such state guard as may be directed by the governor.

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

Approved March 14, 1961.

MINING AND GAS AND OIL PRODUCTION

CHAPTER 249

H. B. No. 849
(Lowe, Aamoth)

SEIZURE OF MINING PROPERTY, REPEAL

AN ACT

To repeal sections 38-02-16, 38-02-17, and 38-02-18 of the North Dakota Century Code, dealing with injunctions against seizure of mining property by threats, force, or stealth, and making it a misdemeanor to form a conspiracy to seize a lode, gulch, or placer claim in the possession of another.

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

§ 1. Repeal.) Sections 38-02-16, 38-02-17, and 38-02-18 of the North Dakota Century Code are hereby repealed.

Approved March 8, 1961.

CHAPTER 250

S. B. No. 43
(Legislative Research Committee)

MARKETING DISTRICTS

AN ACT

To amend and reenact sections 38-08-04 and 38-08-06 of the North Dakota Century Code, relating to powers of the industrial commission in regard to oil and gas conservation and authorizing oil and gas marketing districts.

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

§ 1. Amendment.) Section 38-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08-04. Jurisdiction of Commission.) The commission has continuing jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this chapter. The state geologist shall act as a

supervisor charged with the duty of enforcing the regulations and orders of the commission applicable to the crude petroleum oil and natural gas resources of this state and the provisions of this chapter. The commission has authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the commission. The commission acting through the office of the state geologist has the authority:

1. To require:

- a. Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;
- b. The making and filing of all mechanical well logs and the filing of directional surveys if taken, and the filing of reports on well location, drilling and production, and the filing free of charge of samples and core chips and of complete cores when requested in the office of the state geologist within six months after the completion or abandonment of the well;
- c. The drilling, casing, operation, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of fresh water into oil or gas stratum, the pollution of fresh water supplies by oil, gas, or salt water, and to prevent blowouts, cavings, seepages, and fires;
- d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and regulations of the industrial commission of the state of North Dakota prescribed to govern the production of oil and gas on state and private lands within the state of North Dakota;
- e. That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured by such means and upon such standards as may be prescribed by the commission;
- f. The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios;
- g. Certificates of clearance in connection with the transportation or delivery of oil, gas, or any product;
- h. Metering or other measuring of oil, gas, or product in pipelines, gathering systems, barge terminals, loading racks, refineries, or other places; and

- i. That every person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas in this state shall keep and maintain within this state complete and accurate records of the quantities thereof, which records shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may prescribe with respect to such oil or gas or the products thereof.
2. To regulate:
 - a. The drilling, producing, and plugging of wells, and all other operations for the production of oil or gas;
 - b. The shooting and chemical treatment of wells;
 - c. The spacing of wells;
 - d. Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; and
 - e. Disposal of salt water and oil field wastes.
3. To limit and to allocate the production of oil and gas from any field, pool, or area and to establish and define as separate marketing districts those contiguous areas within the state which supply oil and gas to different markets, and to limit and allocate the production of oil and gas for each separate marketing district.
4. To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter.
5. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of this chapter.

§ 2. Amendment.) Section 38-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08-06. Commission Shall Determine Market Demand and Regulate the Amount of Production.) The commission shall determine market demand for each marketing district and regulate the amount of production as follows:

1. The commission shall limit the production of oil and gas within each marketing district to that amount which can be produced without waste, and which does not exceed the reasonable market demand.

2. Whenever the commission limits the total amount of oil or gas which may be produced in the state or a marketing district, the commission shall allocate or distribute the allowable production among the pools therein on a reasonable basis, giving, where reasonable under the circumstances to each pool with small wells of settled production, an allowable production which prevents the general premature abandonment of such wells in the pool.
3. Whenever the commission limits the total amount of oil or gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction was imposed, which limitation is imposed either incidental to, or without, a limitation of the total amount of oil or gas produced in the marketing district wherein the pool is located, the commission shall allocate or distribute the allowable production among the several wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonable avoidable drainage, so that each property will have the opportunity to produce or to receive its just and equitable share, subject to the reasonable necessities for the prevention of waste.
4. In allocating the market demand for gas as between pools within marketing districts, the commission shall give due regard to the fact that gas produced from oil pools is to be regulated in a manner as will protect the reasonable use of its energy for oil production.
5. The commission shall not be required to determine the reasonable market demand applicable to any single pool, except in relation to all other pools within the same marketing district, and in relation to the demand applicable to the marketing district. In allocating allowables to pools, the commission may consider, but shall not be bound by, nominations of purchasers to purchase from particular fields, pools, or portions thereof. The commission shall allocate the total allowable for the state in such manner as prevents undue discrimination between marketing districts, fields, pools, or portions thereof resulting from selective buying or nomination by purchasers.

Approved March 15, 1961.

CHAPTER 251

S. B. No. 45
(Legislative Research Committee)

EXAMINERS

AN ACT

To create and enact section 38-08-04.1 of the North Dakota Century Code, authorizing the industrial commission to use examiners.

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

§ 1.) Section 38-08-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-04.1. Commission May Employ Examiners.) Industrial commission may use hearing examiners under such rules and regulations as the commission may prescribe.

Approved March 16, 1961.

CHAPTER 252

S. B. No. 311
(Committee on Delayed Bills)
(Erickson)

APPLICATIONS FOR REHEARING BEFORE
INDUSTRIAL COMMISSION

AN ACT

To amend and reenact section 38-08-13 of the North Dakota Century Code, relating to applications for rehearings before the industrial commission.

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

§ 1. **Amendment.)** Section 38-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08-13. Person Adversely Affected May Apply for Rehearing.) Any person adversely affected by any rule, regulation, or order of commission may within thirty days after its effective date apply to the commission in writing for a rehearing. The application for rehearing shall be acted upon within fifteen days after its filing, and if granted, the rehearing shall be held without undue delay.

Approved March 16, 1961.

MOTOR VEHICLES

CHAPTER 253

H. B. No. 824

(Annear, Anderson of Richland, Dahl, Poling)

TRAILERS, TRANSPORTERS, MOBILE HOMES, MISCELLANEOUS

AN ACT

To amend and reenact subsection 7 of section 39-01-01, relating to the definition of trailer; section 39-04-48, relating to driveaway transporters; subsection 1 of section 39-04A-01, relating to the definition of trailer; section 39-05-01, relating to the definition of motor vehicle; section 39-05-12, relating to carrying of registration cards for vehicles; section 39-18-01, relating to the definition of mobile home; section 39-18-02, relating to bond required from mobile home dealers; section 39-18-03, relating to titling and licensing of mobile homes; section 57-40-12, relating to use tax on motor vehicles and house trailers or mobile homes; section 39-18-05, relating to restrictions on the operation of mobile homes; and to repeal section 39-05-29; all of the North Dakota Century Code, and providing a penalty.

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

§ 1. **Amendment.**) Subsection 7 of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. "Trailer" shall include every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it shall not include a "house trailer" or "mobile home", which terms shall mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers;

§ 2. **Amendment.**) Section 39-04-48 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-48. Driveaway Transporter Registration — Application.) Sections 39-04-45 through 39-04-53 shall not apply to vehicles regularly used in the hauling of vehicles by the truckaway method nor to vehicles so transported, vehicles operated under dealers' or manufacturers' plates, vehicles, other

than house trailers or mobile homes, registerable under any other provisions of law, nor to any person not issued a license hereunder.

§ 3. Amendment.) Subsection 1 of section 39-04A-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Motor vehicles" shall mean and include any motor driven truck, or combination of truck and trailer or semitrailer, used upon any public highway of the state for the purpose of transporting property, provided that the term "trailer" as used herein shall not include a trailer house or mobile home;

§ 4. Amendment.) Section 39-05-01 of the North Dakota Century Code is hereby amended by creating and enacting a new subsection to read as follows:

6. The term "motor vehicle" as used in this chapter shall include a house trailer or mobile home.

§ 5. Amendment.) Section 39-05-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-12. Registration Card To Be Carried in Driver's Compartment—Inspection of Card—Penalty.) The registration card issued for a vehicle shall be carried in the driver's compartment of the vehicle or, in the case of a house trailer or mobile home, inside such vehicle at all times while the vehicle is being operated upon a highway in this state. Any person violating any of the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty-five dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

§ 6. Repeal.) Section 39-05-29 of the North Dakota Century Code is hereby repealed.

§ 7. Amendment.) Section 39-18-01 of the North Dakota Century Code is hereby amended and reenacted by adding a new paragraph to read as follows:

39-18-01. Mobile Home Dealers' Licenses — Fees — Dealers' Plates.) No person, firm or corporation shall sell or distribute mobile homes within the state of North Dakota unless he shall first have been licensed so to do by the motor vehicle department as herein provided.

Application for dealer's license and renewal license shall be made to the motor vehicle department, on such forms as the department shall prescribe and furnish, and such application shall be accompanied by an annual fee of twenty-five

dollars. Such dealer's license shall expire on December thirty-first of each year, and application for renewal of such dealer's license shall be made on or before the expiration of the current dealer's license.

A mobile home dealer's license shall be issued only to persons whose character, fitness and financial ability, in the opinion of the motor vehicle registrar, are such as to justify the belief that such applicant can and will deal and serve the buying public fairly and honestly, will maintain a permanent office and place of business, and an adequate service department, during the licensing year, and will abide by all the provisions of law pertaining to mobile home dealers, and will obey the lawful orders of the motor vehicle registrar.

Upon the payment of a fee of five dollars, the motor vehicle department shall register and issue dealer's license plates for mobile homes owned by the licensed dealer, and such mobile homes bearing such dealer's license plates may be lawfully operated upon the public highways of the state of North Dakota by such dealer, his agents and servants, during the year of such registration. Such dealer's license plates shall expire on December thirty-first of each year.

The term "mobile home" as used in this chapter shall include and shall have the same meaning as "house trailer", and both terms shall have the meaning prescribed in subsection 7 of section 39-01-01.

§ 8. Amendment.) Section 39-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-18-02. Bond Required.) Before the issuance of a mobile home dealer's license, as provided by law, the applicant for such license shall furnish a surety bond executed by the applicant as principal and executed by a surety company licensed and qualified to do business within the state of North Dakota, which bond shall run to the state of North Dakota, be in the amount of five thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer, if such license be issued to it or him, that such dealer will comply with all of the laws of the state of North Dakota pertaining to such business, and regulating or being applicable to the business of said dealer as a dealer in mobile homes, and indemnifying any person dealing or transacting business with such dealer in connection with any mobile home from any loss or damage occasioned by the failure of such dealer to comply with the provisions of the laws of the state of North Dakota, including, but not limited to, the furnishing of a proper and valid certificate of title to the vendee of the mobile home within 90 days of

the sale of such mobile home, and that such bond shall be filed with the registrar of motor vehicles prior to the issuance of the license herein provided for. Provided, however, that the aggregate liability of the surety to all such persons for all such losses or damages shall, in no event, exceed the amount of such bond.

§ 9. Amendment.) Section 39-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-18-03. Titling and Licensing of Mobile Homes.) Every person other than a dealer who acquires a house trailer or mobile home shall within 90 days thereafter apply to the motor vehicle registrar for an official certificate of title to such vehicle in the manner and subject to the conditions prescribed in chapter 39-05. No person shall haul a mobile home upon the highways of the state of North Dakota unless such mobile home shall first be registered with and titled by the motor vehicle department, and a certificate of title has been issued for such mobile home, and it displays a number plate issued by and under such regulations as the registrar of motor vehicles may prescribe. The annual fee for such licensing shall be ten dollars. If such mobile home enters the state carrying the current number plate of another state, no number plate shall be required by the state of North Dakota for a period of thirty days.

If such mobile home remains stationary or parked within the state of North Dakota for a period of one year, no mobile home license shall be required for that year; provided that nothing in this chapter shall permit the use of a dealer's tag on such mobile home after the said mobile home has been sold by the dealer to whom such tag was issued.

§ 10. Amendment.) Section 57-40-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40-12. Use Tax Imposed on Motor Vehicles and Trailer Houses or Mobile Homes—Penalty.) There is imposed an excise tax of two percent of the purchase price of any motor vehicle purchased or acquired for use on the streets and highways of this state and required to be registered under the laws of this state, and a like rate of tax upon the purchase price of every trailer house or mobile home as defined in subsection 7 of section 39-01-01 purchased or acquired for use in this state. Such tax shall be paid by the purchaser to the motor vehicle registrar at the time that application for the first registration plate or certificate of title of such motor vehicle or trailer house or mobile home is made within this

state. No registration plate or certificate of title shall be issued upon such application until such tax has been paid. Any person who violates any of the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

§ 11. **Amendment.)** Section 39-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-18-05. Width, Length and Height of Mobile Homes, Operated in the State of North Dakota—Oversize Permits.) It shall be unlawful for any person to operate or tow a mobile home upon the highways of the state of North Dakota, the length of which mobile home shall be over sixty feet, or which shall have a body width of over eight feet, and a height of over twelve and one-half feet, except as otherwise provided in this section. Mobile homes moved in the interest of merchandising or relocation of a man's home shall be considered "good cause".

1. For good cause shown, therefore, the state highway department may, at their discretion, issue single trip permits for movement of a mobile home exceeding statutory size to persons or firms having adequate towing vehicle and insurance coverage. The state highway department shall have authority to establish reasonable permit conditions and regulations in the interest of safety, public interest and adverse weather conditions. The state highway department shall have authority to revoke permits when such holder violates or abuses the privilege or conditions of permit.
2. For good cause shown, therefore, the state highway department may, in their ordinary course of business, issue annual permits for movement of mobile homes exceeding statutory size, to mobile home manufacturers, dealers or transport companies; providing, however, that the towing vehicle shall consist of a three-fourth ton or larger truck with dual wheels, and that no annual permits shall be issued for movement of mobile homes exceeding over-all dimensions of one hundred and twenty inches wide, plus safety equipment, if required.
3. No oversize permits shall be valid during period of sunset to sunrise or during period of twelve o'clock noon Saturday to sunrise Monday or on holidays of New Year's, Memorial, Independence, Labor, Thanksgiving and Christmas days.

4. For each permit issued there shall be charged a fee of five dollars, except that on annual permits each movement shall be charged a transit fee of five dollars. Further, no mobile home having a width in excess of eight feet shall be moved at a speed in excess of fifty miles per hour. No mobile home shall be moved unless such movement is covered by liability insurance in the amount of at least one hundred thousand dollars for bodily injury liability for one person, at least three hundred thousand dollars for bodily injury liability for one accident, and at least twenty thousand dollars property damage liability.

Provided, however, that the limitations as to width, length and height of mobile homes herein provided for, shall not apply to mobile homes which are now in use in North Dakota which exceed these limitations and which have heretofore been licensed by the state of North Dakota.

Approved March 17, 1961.

CHAPTER 254

H. B. No. 724

(Goebel, Fitch, Johnston, Dahl)

APPLICATION FOR MOTOR VEHICLE REGISTRATION

AN ACT

To amend and reenact subsection 4 of section 39-04-02 of the North Dakota Century Code, relating to application for the registration of a motor vehicle.

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

§ 1. Amendment.) Subsection 4 of section 39-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. If the vehicle for which registration is sought is a new vehicle, no registration shall be issued unless a certificate of origin executed by the manufacturer of such vehicle is attached to the application for registration or is attached to the application for the certificate of title for such vehicle. If the new motor vehicle for which registration is sought is of foreign manufacture, the certificate of origin shall be furnished by the importer of such vehicle. The manufacturer or importer of all new vehicles shall designate the total shipping weight of the vehicle on the certificate of origin.

Approved February 17, 1961.

CHAPTER 255

H. B. No. 550

(Bye, Knudsen of LaMoure, Solberg)

(From LRC Study)

REGISTRATION FEES, DISTRIBUTION

AN ACT

To amend and reenact subsection 2 of section 39-04-19 and section 39-04-39 of the North Dakota Century Code, relating to the motor vehicle registration fees and the distribution thereof.

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

§ 1. **Amendment.)** Subsection 2 of section 39-04-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Motor vehicles required to be registered in this state shall be furnished license plates upon the payment of the following annual fees; however, if a motor vehicle first becomes subject to registration other than at the beginning of the registration period such fees shall be prorated on a monthly basis:

- a. Passenger motor vehicles, including buses for hire, hearses and ambulances:

Weight	Years Registered				
	1st, 2nd, and 3rd years	4th, 5th, and 6th years	7th, 8th, and 9th years	10th & sub- sequent years	
1999 or less	\$ 26.00	\$ 20.75	\$ 15.50	\$10.50	
2000-2399	28.00	22.50	16.75	11.25	
2400-2799	30.00	24.00	18.00	12.00	
2800-3199	32.00	25.50	19.25	12.75	
3200-3599	36.00	28.75	21.50	14.50	
3600-3999	40.00	32.00	24.00	16.00	
4000-4499	50.00	40.00	30.00	20.00	
4500-4999	66.00	52.75	39.50	26.50	
5000-5999	94.00	75.25	56.50	37.50	
6000-6999	124.00	99.25	74.50	49.50	
7000-7999	154.00	123.25	92.50	61.50	
8000-8999	184.00	147.25	110.50	73.50	
9000 and over	214.00	171.25	128.50	85.50	

In addition to the fees required in this subsection and section 49-18-32, all motor buses used for the transportation of persons for hire over the highways of this state, which have a seating capacity of more than seven passengers shall pay an annual additional license fee of eight dollars and fifty cents for each passenger capacity in excess of seven. The registrar shall design a distinctive number plate for such vehicles. Motor passenger buses operating exclusively within the corporate limits of any village or city shall not be required to pay this fee.

- b. School buses and trucks or combination trucks and trailers, including commercial and noncommercial trucks:

Gross Weights	Years Registered				
	1st, 2nd, and 3rd years	4th and 5th years	6th and 7th years	8th & subsequent years	
0- 4,000	\$18.00	\$14.50	\$10.75	\$10.00	
4,001- 6,000	23.25	18.50	14.00	10.00	
6,001- 8,000	28.50	22.75	17.00	10.00	
8,001-10,000	33.75	27.00	20.25	11.75	
10,001-12,000	39.00	31.25	23.50	13.75	
12,001-14,000	44.25	35.50	26.50	15.50	
14,001-16,000	49.50	39.50	29.75	17.25	
16,001-18,000	54.75	43.75	32.75	19.25	
18,001-20,000	60.00	48.00	36.00	21.00	
20,001-22,000	65.25	52.25	39.25	22.75	
22,001-24,000	70.50	56.50	42.25	24.75	

Gross Weights	Years Registered		
	1st, 2nd, 3rd & 4th years	5th, 6th, 7th, 8th & 9th years	10th & sub- sequent years
24,001-26,000	\$155.00	\$124.00	\$108.50
26,001-28,000	190.00	152.00	133.00
28,001-30,000	225.00	180.00	157.50
30,001-32,000	260.00	208.00	182.00
32,001-34,000	295.00	236.00	206.50
34,001-36,000	330.00	264.00	231.00
36,001-38,000	365.00	292.00	255.50
38,001-40,000	400.00	320.00	280.00
40,001-42,000	435.00	348.00	304.50
42,001-44,000	470.00	376.00	329.00
44,001-46,000	505.00	404.00	353.50
46,001-48,000	540.00	432.00	378.00
48,001-50,000	575.00	460.00	402.50
50,001-52,000	610.00	488.00	427.00
52,001-54,000	645.00	516.00	451.50
54,001-56,000	680.00	544.00	476.00
56,001-58,000	715.00	572.00	500.50
58,001-60,000	750.00	600.00	525.00
60,001-62,000	785.00	628.00	549.50
62,001-64,000	820.00	656.00	574.00
64,001-66,000	855.00	684.00	598.50
66,001-68,000	890.00	712.00	623.00
68,001-70,000	925.00	740.00	647.50
70,001-72,000	960.00	768.00	672.00
72,001-73,280	995.00	796.00	696.50

c. Motorcycles:

- (1) Without side car, five dollars per motorcycle;
- (2) With side car, eight dollars per unit.

§ 2. **Amendment.)** Section 39-04-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-39. Distribution of Registration Fees Collected.) Any moneys in the registration fund accruing from license fees or from other like sources, in excess of the amount required to pay salaries and other necessary expenses, in accordance with the legislative assembly's appropriation for such purposes, shall be transferred and credited by the state treasurer, as follows:

1. First, nine percent of all fees collected pursuant to subsection 2a of section 39-04-19, and fourteen and one-half percent of all fees collected pursuant to subsection 2b of section 39-04-19, shall be transferred quarterly to the state highway department for construction and reconstruction of roads on the secondary state highway system, and the balance of such fees shall be transferred in accordance with subsections 2 and 3 of this section;
2. Fifty percent shall be transferred quarterly to the state highway department; and
3. From and after July 1, 1961, the remaining balance shall be distributed as follows:
 - a. An amount equal to the sum credited and transferred to the counties from such fees for the fiscal year ending June 30, 1960, shall be distributed quarterly to the counties of this state in proportion to the number of motor vehicle registrations credited to each county; provided, however, that in no event, shall any county receive, under the provisions of this subsection, an amount in excess of the sum dispersed to it during the fiscal year ending June 30, 1960. Each county shall be credited with the certificates of title of all motor vehicles registered by residents of such county; and
 - b. On or before the first day of August of each year all moneys in excess of the amount referred to in subsection 3a of this Act shall be distributed as follows:
 - (1) Thirty-five percent of such excess to the counties of this state in the same proportions as set forth in subsection 3a of this Act; and
 - (2) The balance of such excess is hereby appropriated and shall be distributed by the state treasurer and allocated to counties of this state on the basis of the per capita population of all of the incorporated cities and villages situated within such county as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 of the North Dakota Century Code in case of a city or village incorporated subsequent to such census and shall be deposited in a special municipal highway fund of such county, which fund is hereby created, provided however, upon application by any city or village situated within such county, the county treasurer shall disburse to such city or village its proportionate share of

such excess as based upon its population as determined by such census, to be used by such city or village solely for the construction, reconstruction, repair and maintenance of the public highways and streets situated therein. Any city or village which shall fail to make application for its share of such special municipal highway fund prior to June 30th of any year shall forfeit its share to the county for expenditure in accordance with law.

Approved March 3, 1961.

CHAPTER 256

H. B. No. 671

(Stallman, Leet, Overbo,)

(Renfro, Haugen)

REGISTRATION OF CERTAIN MOTOR VEHICLES

AN ACT

To amend and reenact sections 39-04-22 and 39-04-26, relating to the registration of motor vehicles or combinations thereof which are used for the transportation of property; providing for a minimum gross weight registration and to exempt certain farm vehicles.

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

§ 1. **Amendment.)** Section 39-04-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-22. Motor Vehicle Exceeding Gross Weight for Which Licensed Not To Be Operated on Highway—Exception.) Except as otherwise provided by law a motor vehicle, or a combination of motor vehicles, shall not be operated upon the highways of this state when the gross weight exceeds the gross weight for which the vehicle or combination of vehicles was licensed. Any person violating the provisions of this section will be required to license such motor vehicle at the higher legal rate in accordance with the weight carried by the motor vehicle at the time of the violation for the entire license period. However, such registration shall not be construed to authorize the movement of loads in violation of chapter 39-12.

§ 2. **Amendment.)** Section 39-04-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-26. Registration of Vehicles Transporting Property—Based on Gross Weight—Minimum Gross Weight—Farm Exemption.) The registration and license fee for a motor vehicle or for any lawful combination of motor vehicles used for the transportation of property shall be based upon the gross weight of such motor vehicle or combination of vehicles. The minimum gross weight for which such motor vehicle or combination of motor vehicles can be licensed shall be double the unloaded weight of such motor vehicle or such combination of vehicles and, subject to such minimum, the owner of any motor vehicle or combination of vehicles in his application for license shall set out the gross weight for which he desires a license. A vehicle owned and operated by a bona fide resident farmer who uses such vehicle exclusively for transporting his own property between farms and the usual local trading places and not for hire shall not be required to include the weight of any trailer being towed for registration purposes.

Approved February 28, 1961.

CHAPTER 257

S. B. No. 250
(Longmire)

LICENSING OF CAB DRIVERS

AN ACT

To amend and reenact section 39-06-01 of the North Dakota Century Code, relating to municipal licensing of taxi drivers.

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

§ 1. Amendment.) Section 39-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-01. Operators Must Be Licensed.) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid license as an operator or chauffeur under the provisions of this chapter.

Any person licensed as an operator hereunder may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations, except that municipalities may license dray-

men, parcel delivery men, bus drivers, taxi drivers, porters, expressmen, watermen, and others pursuing like occupations, and the operation of taxicabs, as provided by subsection 27 of section 40-05-01.

Approved March 1, 1961.

CHAPTER 258

H. B. No. 807
(Burk)

POSSESSION OF OPERATOR'S LICENSE OR PERMIT

AN ACT

To amend and reenact section 39-06-16 of the North Dakota Century Code, relating to the carrying of one's operator's license or permit in his possession at all times.

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

§ 1. Amendment.) Section 39-06-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-16. License To Be Carried and Exhibited on Demand.) Every licensee shall have his operator's license or permit in his immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of any court, police magistrate, a county justice, a patrolman, peace officer, or a field deputy or inspector of the highway department. However, no person charged with violating this section shall be convicted or assessed any court costs if he produces in court or the office of the arresting officer an operator's license or permit theretofore issued to him and valid at the time of his arrest.

Approved March 8, 1961.

CHAPTER 259

H. B. No. 652

(Maragos, Saugstad, Haugland,
(Aamoth, Balerud)

DRIVING UNDER THE INFLUENCE

AN ACT

To amend and reenact subsection 2 of section 39-08-01 of the North Dakota Century Code, relating to persons driving motor vehicles while under the influence of intoxicating liquor or narcotic drugs, and providing penalties therefor.

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

§ 1. Amendment.) Subsection 2 of section 39-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Upon a first conviction or a subsequent conviction not within an eighteen-month period, any person violating any provision of this section shall be punished by a fine of not less than twenty-five 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. Upon a second or subsequent conviction within an eighteen-month period, such person shall be punished by imprisonment in the county jail for not less than three days nor more than ninety days, and in the discretion of the court, a fine of not more than one thousand dollars. The minimum penalty provided in this section for punishment for a second or subsequent conviction within an eighteen-month period shall be mandatory notwithstanding any other provision of law.

Approved March 7, 1961.

CHAPTER 260

S. B. No. 81

(Longmire and Redlin)

CARE IN OPERATION OF MOTOR VEHICLES

AN ACT

To amend and reenact section 39-09-01 of the North Dakota Century Code, relating to care required in operating motor vehicles on the highways of this state.

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

§ 1. **Amendment.)** Section 39-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-01. Care Required in Operating Vehicle.) Any person driving a vehicle on a highway shall drive the same in a careful and prudent manner having due regard to the traffic, surface and width of the highway and any other conditions then existing. No person shall drive any vehicle upon a highway in a manner to endanger the life, limb, or property of any person.

Approved February 25, 1961.

CHAPTER 261

S. B. No. 78

(Kee, Erickson, Holand, Lips, Redlin,
(Hernett, and Garaas)

SPEED LIMITATIONS

AN ACT

To amend and reenact section 39-09-02 of the North Dakota Century Code, relating to speed limitations.

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

§ 1. **Amendment.)** Section 39-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-02. Speed Limitations.) a. Subject to the provisions of section 39-09-01 and except in those instances where a lower

speed is specified in this chapter, it presumably shall be lawful for the driver of a vehicle to drive the same at a speed not exceeding:

1. Twenty miles an hour when approaching within fifty feet of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred feet of his approach to such crossing he does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet in each direction from such crossing;
2. Twenty miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;
3. Twenty miles an hour when approaching within fifty feet and in traversing an intersection of highways when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty feet of his approach to such intersection, he does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet from such intersection;
4. Twenty miles an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred feet;
5. Twenty-five miles an hour on any highway in a business district or in a residence district or in a public park, unless a different speed limit is designated and posted by local authorities; and
6. Except as provided in subsection e of this section sixty miles an hour under other circumstances, unless otherwise permitted, restricted, or required by conditions.

b. Except as provided in subsection e of this section the highway commissioner may designate and post special areas of the state highways where the maximum speed limit of seventy miles an hour is permitted for passenger vehicles from sunrise to sunset. For the purposes of this section a pickup truck not exceeding a gross weight of eight thousand pounds shall be regarded as a passenger vehicle. The highway commissioner may also designate and post special areas of state highways where lower speed limits shall be observed as he shall deem warranted by conditions.

c. Except as provided by law it shall be unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.

d. In charging a violation of the provisions of this section, the complaint shall specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes shall be prima facie lawful at the time and place of the alleged offense.

e. The highway commissioner may designate and post special areas of controlled access highways, commonly called interstate highways, where the maximum speed limit of seventy-five miles an hour is permitted for passenger vehicles from sunrise to sunset, and sixty-five miles an hour is permitted for passenger vehicles from sunset to sunrise, and where the maximum speed limit of sixty miles per hour is permitted for trucks day and night. It shall be unlawful for any person to drive a vehicle upon interstate highways at a speed that is unsafe or at a speed prohibited by this subsection.

Approved March 17, 1961.

CHAPTER 262

S. B. No. 305

(Committee on Delayed Bills)
(Erickson)

RULES OF OPERATION

AN ACT

To amend and reenact subsection 2 of section 39-10-01 of the North Dakota Century Code, relating to the general rules of the road regarding the operation of vehicles upon highways and elsewhere throughout the state, and declaring an emergency.

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

§ 1. Amendment.) Subsection 2 of section 39-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The provisions of chapter 39-08, relating to reckless driving, driving while intoxicated, aggravated reckless driving, and negligent homicide shall apply upon highways and elsewhere throughout the 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 3, 1961.

CHAPTER 263

S. B. No. 180

(Hystad)

TURN SIGNALS ON MOTOR VEHICLES

AN ACT

To amend and reenact section 39-11-10.1 of the North Dakota Century Code, relating to the requirement for turn signals on motor vehicles.

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

§ 1. **Amendment.)** Section 39-11-10.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-11-10.1. Turn Signals on Motor Vehicles.) No person shall sell, offer to sell, or operate upon the highways of this state any motor vehicle manufactured or assembled after January 1, 1952 unless it is equipped with turn signals in good working order and of a type approved by the motor vehicle registrar, under the provisions of title 39.

Approved February 23, 1961.

CHAPTER 264

H. B. No. 843
(Bowman, Johnson, Sorlie)

RED OR GREEN LIGHTS

AN ACT

To amend and reenact section 39-11-20 of the North Dakota Century Code, relating to lights on motor vehicles.

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

§ 1. **Amendment.**) Section 39-11-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-11-20. Red or Green Light Visible from in Front of Vehicle Prohibited—Exception.) No person shall drive or move any vehicle upon a highway with any red or green light thereon visible from directly in front thereof. This section shall not apply to police, fire department, fire patrol, school buses, or authorized emergency vehicles.

Approved March 2, 1961.

CHAPTER 265

H. B. No. 620

(Education Committee)

SCHOOL BUSES, SPECIAL EQUIPMENT

AN ACT

To amend and reenact section 39-11-36 of the North Dakota Century Code, relating to special lighting and warning equipment and specifications for school buses.

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

§ 1. **Amendment.)** Section 39-11-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-11-36. Special Lighting and Warning Equipment on School Buses, Standards for Buses.) The superintendent of public instruction in cooperation with the registrar is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses and other vehicles transporting children to school for compensation, consistent with the provisions of chapter 39-11, but supplemental thereto.

Only motor vehicles which have been designed by the manufacturer for the purpose of carrying passengers shall be used as school buses. The superintendent of public instruction may adopt reasonable regulations relating to the construction, design, operation, equipment and color of school buses and shall prepare and publish standards for North Dakota school buses which shall set forth the regulations. The superintendent of public instruction may issue an order prohibiting the operation on public streets, highways and elsewhere of any school bus which does not comply with the regulations, and school districts operating buses which do not meet the regulations will not be eligible to receive state reimbursement for vehicular transportation.

Highway patrolmen and all peace officers are authorized to make necessary investigations relating to compliance with the regulations adopted by the superintendent of public instruction and to make reports of their findings to the office of the superintendent of public instruction.

Approved March 2, 1961.

CHAPTER 266

H. B. No. 854

(Meyer, Mueller, Breum, Tescher)

HAYSTACK MOVERS

AN ACT

To amend and reenact subsection 1 of section 39-12-04 of the North Dakota Century Code, relating to width limitations on vehicles and equipment operated on the highways of this state and providing for an exception for haystack moving.

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

§ 1. Amendment.) Subsection 1 of section 39-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A total outside width, including load thereon, of eight feet. This limitation shall not apply to construction and building moving contractor's equipment, or to equipment used by such contractors to move their own equipment and when so moved by its owner or owners, which moving equipment shall not exceed ten feet, nor to implements of husbandry temporarily propelled or moved upon the highways of this state between sunrise and sunset; nor shall such limitation apply to farmers or ranchers or employees under their supervision when moving hay in the stack for his or their own use or in cooperation with other owners, providing that equipment used for this purpose shall be operated along the extreme right edge of the road or highway, and shall be operated only between the hours of sunrise and sunset and in accordance with reasonable rules and regulations prescribed by the state highway commissioner; nor shall such limitation apply to a commercial haystack mover who shall have first obtained a seasonal haystack moving permit from the state highway commissioner. The fee for such permit shall be fifteen dollars which shall be in lieu of registration requirements while such vehicle is used for haystack moving only. Applicant shall have filed proof of liability insurance coverage in an amount not less than five thousand dollars and shall provide a red flag both to the front and to the rear of such haystack at all times when located upon any public highway and shall operate only between the hours of

sunrise and sunset and in accordance with such additional reasonable rules and regulations as may be prescribed by the state highway commissioner.

Approved March 17, 1961.

CHAPTER 267

S. B. No. 172

(Murphy)

SPECIAL COUNSEL FOR ATTORNEY GENERAL

AN ACT

To amend and reenact section 39-17-04.1 of the North Dakota Century Code, providing for appointment of special counsel for the attorney general.

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

39-17-04.1. Empowering Attorney General to Appoint Special Counsel.) The attorney general at his discretion may appoint special counsel to defend the fund. The trial judge of the district court shall fix the amount of such special attorney's fees and expenditures, and certify such amount, to the attorney general who, after approving, shall certify same to the administrator of the unsatisfied judgment fund.

Approved February 25, 1961.

CHAPTER 268

H. B. No. 611
(Burk)

RESTORATION OF DRIVER'S PERMIT

AN ACT

To amend and reenact section 39-17-10 of the North Dakota Century Code, relating to amount to be repaid before privileges are restored after revocation of driver's permit.

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

§ 1. Amendment.) Section 39-17-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-17-10. Amount To Be Repaid Before Privileges Restored — Interest — Installment Payments Permissible.) Where the driver's license or driving privileges of any person, or the registration of a motor vehicle registered in his name, has been suspended or revoked pursuant to the laws of this state, and the state treasurer has paid from the fund any amount toward the satisfaction of a judgment and costs recovered against such person, the suspension or revocation shall not be removed, nor the driver's license or driving privileges or registration restored, nor any new license or driving privilege issued or granted to or registration be permitted to be made by such person until he has repaid in full to the state treasurer the amount so paid from such fund, together with interest thereon at the rate of two percent per annum from the date of such payment; and has furnished proof of financial responsibility as required by the laws of this state; provided that the court in which such judgment was rendered, may, upon ten days notice to the attorney general, making an order permitting payment of the amount which such person is indebted to the fund, to be paid in installments, and in such case, such person's driver's license, or his driving privileges, or registration privileges, if the same have been suspended or revoked, or have expired, may be restored and shall remain in effect until and unless such person defaults in making any installment payment specified in such order. In the event of any such default, the commissioner shall, upon notice of such default, suspend such person's driver's license, or driving privileges, or registration privileges until the amount of default has been paid in full and the additional sum of \$200.00 has been paid to the fund to be applied to the judgment.

Approved March 8, 1961.

CHAPTER 269

S. B. No. 89

(Garaas, Erickstad)

TEST FOR INTOXICATION

AN ACT

To amend and reenact sections 39-20-01, 39-20-03, and 39-20-07 of the North Dakota Century Code, relating to the alcoholic content in the blood for purposes of determining intoxication and relating to the test to be given for such purpose and the consent of a person incapable of refusal to give consent to a chemical test, and limiting liability.

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

§ 1. **Amendment.)** Section 39-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-01. Implied Consent to Determine Alcoholic Content of Blood.) Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent subject to the provisions of this chapter to a chemical test, or tests, of his blood, breath, saliva, or urine for the purpose of determining the alcoholic content of his blood. The test or tests shall be administered at the direction of a law enforcement officer only after placing such person except persons mentioned in section 39-20-03 under arrest and informing him that he is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor. The arresting officer shall determine which of the aforesaid tests shall be used.

§ 2. **Amendment.)** Section 39-20-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-03. Consent of Person Incapable of Refusal Withdrawn.) Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed to have withdrawn the consent provided by section 39-20-01 and the test or tests may not be given. Nothing herein shall prevent the taking of the test or tests from a dead person.

§ 3. **Amendment.)** Section 39-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-07. Interpretation of Chemical Tests.) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor, evidence of the amount of alcohol in the person's blood at the time of the act alleged as shown by a chemical analysis of his blood, breath, saliva or urine is admissible. For the purpose of this section:

1. A person having, at that time, five-hundredths of one percent or less by weight of alcohol in his blood is presumed not to be under the influence of intoxicating liquor;
2. Evidence that there was at that time more than five-hundredths of one percent and less than ten-hundredths of one percent by weight of alcohol in the person's blood is relevant evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of intoxicating liquor;
3. A person having, at that time, ten-hundredths of one percent or more by weight of alcohol in his blood shall be presumed to be under the influence of intoxicating liquor;
4. Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred milligrams of blood;
5. The results of a test given by means of the Harger Drunkometer or other similar device approved by the American Medical Association and the National Safety Council shall be received in evidence when it is shown that the test was fairly administered.

§ 4. Liability.) If any licensed physician, nurse, technician or an employee of a hospital who shall draw blood from any person pursuant to a request of any arresting officer he shall not be liable in any civil action for damages arising out of said act except for gross negligence.

Approved March 11, 1961.

CHAPTER 270

S. B. No. 252

(Erickstad, Garaas)

DRIVER'S LICENSE REVOCATION, REVIEW

AN ACT

To amend and reenact sections 39-20-05 and 39-20-06 of the North Dakota Century Code, relating to administrative and judicial review of an order of revocation of driver's license arising from refusal to take a chemical test to determine degree of intoxication.

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

§ 1. **Amendment.)** Section 39-20-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-05. Administrative Hearing on Request.) Upon the written request of a person whose privilege to drive has been revoked or denied the commissioner shall grant the person an opportunity to be heard within ten days after the receipt of the request, but the request must be made within sixty days after notice of revocation or denial is given such person. The hearing shall be before the commissioner or his authorized agent in the county wherein the alleged events occurred for which the person was arrested, unless the commissioner or his authorized agent and the person agree that the hearing may be held in some other county. The hearing shall be transcribed and its scope shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor; whether the person was placed under arrest; and, whether he refused to submit to the test or tests. Whether the person was informed that his privilege to drive would be revoked or denied if he refused to submit to the test or tests shall not be an issue. The commissioner or his authorized agent shall order either that the revocation or denial be rescinded or sustained.

§ 2. **Amendment.)** Section 39-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-06. Judicial Review.) If the revocation or denial is sustained, the person whose license or permit to drive or non-resident operating privilege has been revoked or denied, may

file a petition within sixty days after notice of revocation or denial is given such person by the commissioner or his authorized agent, for a hearing of the matter in the district court in the county wherein the alleged events occurred for which he was arrested or in the county in which the administrative hearing was held. It shall be the duty of the court to set the matter for hearing, and the petitioner shall give twenty days' notice thereof to the commissioner. Within fifteen days after the receipt of the notice, the commissioner shall file in the office of the clerk of the court to which the appeal is taken a certified transcript of the testimony and all other proceedings. It shall constitute the record on which appeal shall be determined. No additional evidence shall be heard. The court shall affirm the decision of the commissioner or his authorized agent unless it finds the evidence insufficient to warrant the conclusion reached by the commissioner. The court may in its discretion direct that the matter be returned to the commission for rehearing and the presentation of additional evidence.

Approved March 4, 1961.

MUNICIPAL GOVERNMENT

CHAPTER 271

S. B. No. 274

(Longmire)

CHANGE FROM COUNCIL SYSTEM

AN ACT

Relating to a change from the council system of government, providing the petition required therefor, the determination of the sufficiency of said petition by the city auditor, the procedure to be followed when said petition is filed, and for a special election and ballot thereon.

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

§ 1. Change from Council System of Government—Petition Required.) Any city which shall have operated for more than six years since the adoption of the city council system of government or since the last election at which the question of changing from the council system was rejected by the voters, may change its organization thereunder and adopt the city commission 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, address and age of each petitioner, 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.

§ 2. City Auditor to Pass on Sufficiency of Petition.) Within thirty days after a petition to change from the council system of government is filed, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the required number of qualified signers. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient his certificate shall show the reason for such

determination. An insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient, the petition shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same with his certificate before the governing body of the municipality.

§ 3. Procedure When Petition to Change from Council System of Government is Filed—Special Election—Ballot.) When a petition to change from the council system 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 council 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 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 council system of government and become a city under the commission form of government?

Yes

No

Approved March 11, 1961.

CHAPTER 272

H. B. No. 642

(Stallman, Haugen, Burvee, Tescher,
(Trom, Dick)

DAYLIGHT SAVING TIME PROHIBITED

AN ACT

To prohibit municipalities from adopting seasonal standards of time.

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

§ 1.) No city, village, or other political subdivision within the state shall adopt daylight saving time or any other seasonal standard of time which varies from the time in effect in such city, village, or political subdivision during the greater portion of the year. All ordinances, resolutions, or other enactments, whether enacted prior to or subsequent to the effective date of this Act, are hereby nullified.

Approved February 25, 1961.

CHAPTER 273

H. B. No. 793

(Burk, Wheeler, Baldwin)

CHANGE IN FORM OF GOVERNMENT

AN ACT

To amend and reenact sections 40-04-08, 40-04-09, and 40-04-10 of the North Dakota Century Code, relating to a change from the commission system of government, providing the petition required therefor, the determination of the sufficiency of said petition by the city auditor, the procedure to be followed when said petition is filed, and for a special election and ballot thereon.

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

§ 1. **Amendment.)** Section 40-04-08 of the North Dakota 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 since the adoption of the city commission system of government, or since the last election at which the

question of changing from the commission system was rejected by the voters, may change its organization thereunder and adopt the city 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, his age, 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.

§ 2. **Amendment.**) Section 40-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-04-09. City Auditor to Pass on Sufficiency of Petition to Change from Commission System of Government.) Within thirty days after a petition to change from the commission system of government is filed, the city auditor shall examine the petition and ascertain whether or not the petition is signed by the required number of signers. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient his certificate shall show the reason for such determination. An insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient it shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same, with his certificate, before the governing body of the municipality.

§ 3. **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 system 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

Approved March 8, 1961.

CHAPTER 274

S. B. No. 287

(Erickstad, Garaas, Longmire, Harris,)

(Fiedler and Wartner)

(By request)

CONDEMNATION AND RIGHTS-OF-WAY FOR
 SPECIAL IMPROVEMENTS

AN ACT

To amend and reenact section 40-22-05 of the North Dakota Century Code, relating to the condemnation of land and rights-of-way by municipalities for special improvements and issuance of warrants therefor, and declaring an emergency.

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

§ 1. **Amendment.**) Section 40-22-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-05. Condemnation of Land and Rights-of-Way for Special Improvements—Taking of Possession—Trial—Appeal—Vacation of Judgment.) Whenever property required to make

any improvement authorized by this chapter is to be taken by condemnation proceedings, the court, upon request by resolution of the governing body of the municipality making such improvement, shall call a special term of court for the trial of such proceedings and may summon a jury for such trial whenever necessary. Such proceedings shall be instituted and prosecuted in accordance with the provisions of chapter 32-15, except that when the interest sought to be acquired is a right-of-way for the opening, laying out, widening, or enlargement of any street, highway, avenue, boulevard, or alley in the municipality, or for the laying of any main, pipe, ditch, canal, aqueduct or flume for conducting water, storm water, or sewage, whether within or without the municipality, the municipality may make an offer to purchase such right-of-way and may deposit the amount of such offer with the clerk of the district court of the county wherein the right-of-way is located, and may thereupon take possession of such right-of-way forthwith. Such offer shall be made by resolution of the governing body of the municipality, a copy of which shall be attached to the complaint filed with said clerk of court in accordance with section 32-15-18. The clerk shall immediately notify the owner or owners of the land wherein the right-of-way is located of such deposit, by causing a notice to be appended to the summons when served and published in said proceedings as provided in sections 32-15-08 to 32-15-11, stating the amount deposited or agreed in such resolution to be deposited. The owner may thereupon appeal to the court by filing an answer to the complaint in the manner provided in chapter 32-15, and may have a jury trial, unless a jury be waived, to determine the damages. However, upon due proof of the service of said notice and summons and upon deposit of the aggregate sum agreed in said resolution, the court may without further notice make and enter an order determining the municipality to be entitled to take immediate possession of the right-of-way. In the event that under laws of the United States proceedings for the acquisition of any right-of-way are required to be instituted in or removed to a federal court, such proceedings may be taken in such court in the same manner and with the same effect as herein provided; and the clerk of the district court of the county wherein the right-of-way is located shall perform any and all of the duties herein set forth, if and to the extent that he is directed so to do by such federal court. Such proceedings shall be determined as speedily as practicable. An appeal from a judgment in such condemnation proceedings shall be taken within sixty days after the entry of the judgment, and such appeal shall be given preference by the supreme court over all other civil cases except election contests. No final judgment in such condemnation proceedings awarding damages to property used by a

municipality for street, sewer, or other purposes shall be vacated or set aside if the municipality shall pay to the defendant, or shall pay into the court for the defendant, in cash, the amount so awarded. The municipality may levy special assessments to pay all or any part of such judgment and at the time of the next annual tax levy, may levy a general tax for the payment of such part of the judgment as is not to be paid by special assessment. For the purpose of providing funds for the payment of such judgment, or for the deposit of the amount offered for purchase of a right-of-way as hereinabove provided, the municipality may issue warrants on the fund of the improvement district as provided in section 40-24-19, in anticipation of the levy and collection of special assessments and of any taxes or revenues to be appropriated to such fund in accordance with the provisions of this title. Such warrants may be issued upon the commencement of said proceedings or at any time thereafter. Upon the failure of the municipality to make payment in accordance with this section, the judgment in the condemnation proceedings may be vacated.

§ 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, 1961.

CHAPTER 275

H. B. No. 811

(Saugstad, Wheeler, Lowe, Stockman)

AGREEMENTS WITH HIGHWAY DEPARTMENT

AN ACT

To amend and reenact section 40-22-06.1 of the North Dakota Century Code, relating to agreements by cities with a population of over ten thousand with the state highway department or county for certain improvements.

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

§ 1. Amendment.) Section 40-22-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-06.1. Cities with a Population of Over Ten Thousand May Enter Into Agreement With Highway Department or County for Certain Improvements.) Any city in this state, with a population of over ten thousand, through its governing

body, may enter into an agreement with the highway department of the state of North Dakota, or with the board of county commissioners of the county in which such city is located, or both, for the improvement of streets, sewers, and water mains, and for this purpose, may create a special improvement district or special improvement districts. Before entering into such an agreement, the governing body shall declare by resolution that it is necessary to make such improvement, setting forth the area to be assessed for the cost of said project, and shall publish such resolution once each week for two consecutive weeks in the official newspaper of the municipality. If within thirty days after the first publication the owners of seventy-five percent of the property liable to be assessed file written protests, the governing body shall not enter into such agreement.

When a city has entered into an agreement pursuant to the provisions of this section, under the terms of which the contract for such work is to be let by the state highway department or by the board of county commissioners, or by both jointly, the portion of the cost of the project to be borne by the owners of the property benefited thereby shall not exceed twenty-five percent of the total costs thereof. The governing body of such city, after taking steps to create the special improvement district or districts, as the case may be, may dispense with the balance of the requirements relating to plans for, bids upon, contracts for the construction of, and any other steps leading up to the construction of an improvement by the special assessment method. Upon the completion of such work, the governing body of the city shall cause to be certified to the special assessment commission that portion of the cost of the project to be borne by the property owners within each special improvement district, and the assessment of such amount to the owners of the property benefited shall be made as in other cases provided for in chapter 40-23.

Approved March 11, 1961.

CHAPTER 276

H. B. No. 704

(Fraase, Renfrow, Shablow,
(Einarson, Christopher)

ASSESSMENT LIST, NOTICE

AN ACT

To amend and reenact section 40-23-13 of the North Dakota Century Code, relating to the publication of notice of confirmation of assessment list and meeting for action upon assessments.

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

§ 1. Amendment.) Section 40-23-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-13. Publication of Notice of Confirmation of Assessment List and Meeting for Action Upon Assessments.) The city auditor or village clerk, as the case may be, shall publish at least once in the official newspaper of the municipality a notice stating that the assessment list has been confirmed by the special assessment commission and filed in his office and is open to public inspection. The notice also shall state the time when and the place where the governing body will act upon such assessment list. The assessment list shall be acted upon by the governing body at a regular or special meeting occurring more than fifteen days after the publication of such notice.

Approved March 11, 1961.

CHAPTER 277

H. B. No. 712

(Stockman, Boe, Fitch, Aamoth)

SPECIAL IMPROVEMENT DISTRICT FUNDS

AN ACT

To amend and reenact sections 40-24-18, 40-24-21, 40-24-22, and 40-24-23 of the North Dakota Century Code, relating to municipal special improvement district funds and the issuance of warrants thereon, providing for the issuance of temporary and definitive warrants on such funds, validating obligations issued and proceedings taken as provided in said sections as so amended, and declaring an emergency.

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

§ 1. **Amendment.**) Section 40-24-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-18. Special Improvement Moneys To Be Kept Separate—Designation and Numbering of Funds—Diversion of Moneys Prohibited.) All special assessments and taxes levied and other revenues pledged under the provisions of this title to pay the cost of an improvement shall constitute a fund for the payment of such cost, including all principal of and interest on warrants and other obligations issued by the municipality to finance the improvement, and shall be diverted to no other purpose. The treasurer of the municipality shall hold all moneys received for any such fund as a special fund to be applied to payment for the improvement. Each such fund shall be designated by the name and number of the improvement district in or for which said special assessments, taxes and revenues are collected.

§ 2. **Amendment.**) Section 40-24-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-19. Warrants—Issuance—When Payable—Amounts—Temporary Warrants—Interest—Interest Coupons—Negotiability—Eligibility as Investments.) The municipality, at any time after making a contract or otherwise providing in accordance with section 40-22-27 for the construction of any improvement to be financed in whole or in part by assessments, under authority of any chapter of this title, or prior thereto but after the period for filing protests against the making of such improvement has expired and the protests

filed, if any, have been heard and determined to be insufficient, and in anticipation of the levy and collection of such assessments and of any taxes or revenues derived from service charges pledged to pay for such improvement, may issue warrants on the fund created for such improvement. The municipality shall be responsible to the holders of such warrants for the proper advertisement and award of a contract or contracts or provision by other means for the completion of the improvement, for the acquisition of all land, easements, licenses and permits required for such completion, and for the valid and final levy of special assessments upon all properties within the improvement district to be benefited by the improvement, in an aggregate principal amount equal to the total cost of the improvement as finally ascertained, less the portions thereof, if any, determined to be paid from taxes, service charges and any other source; and the issuance of such warrants shall import a representation and covenant binding upon the municipality, that the aggregate benefits to be derived from the making of the improvement by the properties to be assessed therefor, are not less than the aggregate amount of the special assessments so required to be levied. The warrants shall be issued and shall mature in such amounts as in the judgment of the governing body will be provided for, at or before the maturity dates specified, by the taxes and assessments to be levied and spread and the revenues pledged therefor; except that in lieu of issuing definitive warrants on any such fund, the governing body may by resolution authorize the issuance and sale of temporary warrants maturing in not to exceed three years from the date of issue of the first such warrant, to be repaid with interest from the proceeds of definitive warrants maturing as hereinabove required, which the governing body shall issue and sell at or before the maturity date of said temporary warrants, in the amount required, with moneys theretofore received in such fund, to pay the total cost of the improvement and all temporary warrants theretofore issued on the fund, with interest then accrued thereon. Such warrants shall bear interest at a rate or rates not to exceed seven percent per annum payable annually or semiannually. The definitive warrants may bear interest at a rate or rates higher or lower than those borne by the temporary warrants, as determined by the governing body in effecting the sale thereof. In the sale of temporary warrants, the municipality may by resolution of the governing body agree to issue to the holder or holders thereof definitive warrants upon specified terms as to interest, maturity, redemption provisions and all other pertinent details, in the event that the municipality is unable to sell definitive warrants to others upon more favorable terms. Coupons representing the interest for each year or lesser period may be attached to the warrants, whether defini-

tive or temporary. All such warrants shall be negotiable within the meaning of and for all the purposes specified in title 41, and, to the same extent as general obligation bonds of the issuing municipality, shall be valid investments of the funds of any guardian, trustee and other fiduciary of any kind or nature, any insurance company, bank or other financial institution, any charitable, educational or eleemosynary institution, and any public corporation or official, municipality, school district or other political subdivision, including bond sinking funds, special improvement funds, municipal utility funds, and funds of the state of North Dakota and its instrumentalities and agencies.

§ 3. **Amendment.)** Section 40-24-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-21. Warrants May Be Used as Payment to Contractor or Sold for Cash.) Special improvement warrants may be used in making payments on contracts for the improvements for which the special improvement fund was created or may be sold for cash at not less than the par value thereof and the proceeds thereof credited to such fund and used for paying for such improvements.

§ 4. **Amendment.)** Section 40-24-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-22. Payment and Cancellation of Warrants by Municipal Treasurer.) The municipal treasurer shall pay special improvement warrants and the interest coupons appurtenant thereto as they mature and are presented for payment out of the district funds on which they are drawn respectively and shall cancel the warrants when paid, except that definitive improvement warrants, when refunded pursuant to the provisions of sections 40-27-06 to 40-27-12, inclusive, shall not be canceled but shall be retained by the municipality, in trust for the holders of the refunding improvement warrants or bonds issued thereunder, as therein provided. Definitive warrants shall be issued in lieu of temporary warrants at or before the time when any such warrants are to be so refunded.

§ 5. **Amendment.)** Section 40-24-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-23. Matured Improvement Warrants or Interest Coupons May Be Used to Pay Special Assessments.) Any matured special improvement warrant or interest coupon may be used in the payment of special assessments levied for the payment of the improvement for which the warrant or interest coupons were issued. The warrants or coupons so used shall be canceled and retired by the municipal treasurer.

§ 6. **Validation.**) In all cases where any municipality shall, before the effective date of this Act, have issued or commenced proceedings for the issuance of any temporary or definitive special improvement warrants or refunding improvement warrants or bonds, which warrants or bonds and proceedings authorizing the same would be valid under the provisions of sections 40-24-18, 40-24-19, 40-24-21, 40-24-22, and 40-24-23 of the North Dakota Century Code, as herein amended, all such proceedings and warrants and bonds issued pursuant thereto are hereby validated, ratified and confirmed, and all such warrants and bonds, when issued pursuant to any such proceedings heretofore taken and otherwise in accordance with the laws of the state, shall be valid and binding special obligations of such municipalities in accordance with their terms.

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

Approved March 8, 1961.

CHAPTER 278

H. B. No. 711

(Stockman, Baldwin, Boe, Fitch)

TAX LEVY FOR PAYMENT OF SPECIAL IMPROVEMENT FUNDS

AN ACT

To amend and reenact section 40-26-08 of the North Dakota Century Code, relating to the contingent obligation of municipalities to levy general taxes for the payment of deficiencies in special improvement funds.

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

§ 1. **Amendment.**) Section 40-26-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-26-08. Municipality Liable Generally for Deficiencies in Special Improvement Fund.) Whenever all special assessments and all utility revenues and taxes, if any, appropriated and theretofore collected for a special improvement, made under authority of any law authorizing the payment of the cost thereof in whole or in part from special assessments, are insufficient to pay principal or interest then due on the special

improvement warrants issued against such improvement, the governing body shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency. If at any time a deficiency is likely to occur within one year in such special improvement fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such special improvement fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

Approved March 7, 1961.

CHAPTER 279

S. B. No. 124

(Longmire, Saumur, Baker, Brooks)

REVENUE BONDS FOR AIRPORTS

AN ACT

To amend and reenact section 40-35-02 of the North Dakota Century Code, to permit the issuance of revenue bonds by municipalities for airports and related facilities, 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 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, 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, trunk connections, other sewer and water mains, filtration works, pumping stations, and equipment.

§ 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 16, 1961.

CHAPTER 280

H. B. No. 718

(Johnson, Otos, Winge)

CERTIFICATION OF MUNICIPAL TAX LEVIES

AN ACT

To amend and reenact section 40-40-10 of the North Dakota Century Code, relating to the time when municipal tax levies must be certified to the county auditor.

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

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

40-40-10. Certified Copies of Levy and Final Budget Sent to County Auditor.) Immediately after the completion of the final budget and the adoption of the annual tax levy by the governing body of a municipality in accordance with the provisions of this chapter, and in no case later than September fifteenth, the auditor or clerk of the municipality shall send to the county auditor two certified copies of the levy as adopted and two certified copies of the final budget.

Approved March 7, 1961.

CHAPTER 281

S. B. No. 307

(Committee on Delayed Bills)
(Erickson)

POLICE PENSIONS

AN ACT

To amend and reenact sections 40-45-01, 40-45-02, 40-45-08, 40-45-09, 40-45-13, and 40-45-16 of the North Dakota Century Code, relating to police pensions in cities, and declaring an emergency.

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

§ 1. Amendment.) Section 40-45-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-01. Tax Levy for Policemen's Pension Fund Authorized—Limitations.) In addition to any other levies authorized by law for general purposes, any city having a population in excess of five thousand inhabitants according to the last official federal census and having an organized and paid police department may levy an annual tax of not more than one mill for the purpose of creating and maintaining a policemen's pension fund.

§ 2. Amendment.) Section 40-45-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-02. Tax Levy for Pension Fund Where Retirement System Based Upon Actuarial Tables Is Maintained.) Any city having established by law a police retirement system based upon actuarial tables may levy for the police pension fund, in addition to any other levies authorized by law for general purposes, a total tax of not more than one and one-half mills.

§ 3. Amendment.) Section 40-45-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-08. Membership Fees and Assessments.) Every member of the police department shall pay to the treasurer of the pension fund a membership fee to be fixed by the board of trustees in an amount not exceeding twenty-five dollars. Each member shall be assessed and required to pay annually an amount not less than three percent or more than five percent per annum as determined by the governing body of the municipi-

pality upon the amount of the annual salary paid to him. Such assessment shall be deducted and retained in equal monthly installments out of such salary. No assessments shall be made of any member after he has been employed for a period of twenty-two years.

§ 4. **Amendment.**) Section 40-45-09 of 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.

§ 5. **Amendment.**) Section 40-45-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-13. Payments to Widow, Children, and Surviving Parents Upon Death of Active or Retired Member.) Upon the death of any active or retired member of the police department of a city maintaining a policemen's pension fund under this chapter, leaving a widow or minor children or dependent father or mother surviving him, there shall be paid out of the fund subject to the restrictions contained in section 40-45-14, as follows:

1. To the surviving widow, as long as she remains unmarried and of good moral character, a sum not less than fifty dollars per month and not more than one hundred and fifty dollars per month;
2. If there is no surviving widow, or upon the death or remarriage of the widow, then to his dependent father or mother, if both survive, or to either dependent parent if one survives, the sum of forty dollars per month;

3. To the guardian of each surviving child under eighteen years of age, a sum not less than twenty-five dollars per month and not more than fifty dollars per month.

The aggregate of all such payments shall not exceed sixty percent of the average monthly salary received during the highest paid consecutive thirty-six month period of his employment prior to the time of his death or retirement.

§ 6. **Amendment.)** Section 40-45-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-16. Increase of Assessments by City Having Police Retirement System Based Upon Actuarial Tables.) If the one and one-half mill levy provided for in section 40-45-02, together with contributions from beneficiaries and funds received from other sources as provided in this chapter, shall be inadequate or insufficient to establish a retirement system based upon actuarial tables, the governing body, in order to establish such system upon an actuarial basis, may:

1. Increase the amount of the contributions from beneficiaries;

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

Approved March 16, 1961.

CHAPTER 282

H. B. No. 847
(Boe, Baldwin)

TRUSTEES OF POLICEMEN'S PENSION FUNDS

AN ACT

To amend and reenact section 40-45-03 of the North Dakota Century Code, relating to the membership of the board of trustees of policemen's pension funds.

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

§ 1. **Amendment.)** Section 40-45-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-03. Board of Trustees—Officers—Bond of Treasurer—Compensation.) The board of trustees for management of the policemen's pension fund shall consist of the chief of police,

the city treasurer, the city attorney ex officio, and two persons elected by and from the members of the police department who are currently being assessed. No member shall be eligible for election until he or she has eight years service. The election shall be held on the second Tuesday in June of each year. Each elected member shall serve for a term of two years, except that at the first election one trustee shall be elected for a term of one year and the other for a term of two years. The terms of elected members shall commence on July first of each year. The chief of police shall be the president and the city treasurer shall be the treasurer of the board. The faithful performance of the duties of the treasurer shall be secured by his official bond as the city treasurer. Such trustees shall receive no compensation for their services as members of the board.

Approved March 11, 1961.

CHAPTER 283

S. B. No. 269
(Longmire)

ALDERMAN

AN ACT

To create and enact section 40-52-08 of the North Dakota Century Code, relating to status of duly elected alderman residing within the city but no longer residing within the ward from which elected because of a change in ward boundaries.

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

§ 1.) Section 40-52-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-52-08. Alderman Changing Wards Can Continue in Office.) An alderman who was duly elected, but because of the change in boundaries of the ward no longer resides within the ward from which he was elected, but is still residing within the city limits, can continue in office for the term for which he was elected and until a successor is duly elected and qualified for such ward.

Approved March 4, 1961.

CHAPTER 284

S. B. No. 272

(Hernett, Redlin)

MUNICIPAL INDUSTRIAL DEVELOPMENT

AN ACT

To create and enact sections 40-57-19 and 40-57-20, to amend and reenact sections 40-57-02, 40-57-03, 40-57-10, and 40-57-14 of the North Dakota Century Code, relating to the issuance of revenue producing bonds by municipalities for municipal industrial development and to authorize state chartered banks to purchase a certain percentage of these bonds, and authorizing the municipality to issue general obligation bonds and levy taxes to pay the interest and principal thereof in certain industrial development cases, if approved by the municipality.

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 is hereby amended and reenacted to read as follows:

40-57-02. "Projects" Defined.) The term "project", as used in this chapter, unless a different meaning clearly appears from the context, shall mean any real property, buildings and improvements on real property or the buildings thereon, 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.

In no event, however, shall the term "project" include those undertakings defined in chapter 40-35.

§ 2. **Amendment.)** Section 40-57-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-03. Powers of Municipality.) Any municipality, in addition to the powers prescribed elsewhere by the laws of this state, shall have the power to:

1. Acquire whether by purchase, lease, or gift, from any source whatsoever, any real property, buildings, improvements on real property or buildings, including but

- not limited to easements, profits, rights in land and water rights deemed necessary in connection therewith, and to construct, reconstruct, improve, better, or extend to real property, buildings, and improvements on real property and buildings of any project which shall be located within this state, whether wholly within or wholly without the municipality, or partially within and partially without the municipality;
2. Issue revenue bonds, in anticipation of the collection of revenues of such project, to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of any project, whether then in existence or not;
 3. Lease projects to any industrial or commercial enterprise in such manner that rents to be charged for the use of such projects shall be fixed, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment of interest upon all bonds issued hereunder, to create a sinking fund to pay the principal of such bonds when due, and to provide for the operation, maintenance, insurance on, and depreciation of such projects, and any taxes thereon;
 4. Pledge to the punctual payment of said bonds and the interest thereof, all or any part of the revenues of such project, including the revenues of projects which shall be acquired or constructed subsequent to the issuance of such bonds, as well as revenues of projects existing when such bonds were issued;
 5. Mortgage or otherwise encumber said projects in favor of the holder, or holders, of said revenue bonds, or a trustee therefor, provided that in creating any such mortgages or encumbrances, a municipality shall not have the power to obligate itself except with respect to the project, except as otherwise provided by section 40-57-19;
 6. Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers herein granted, or in the performance of its covenants or duties, or in order to secure the payments of its bonds;
 7. Enter into and perform such contracts and agreements with other municipalities, political subdivisions, and state agencies, authorities and institutions as the respective governing bodies of the same may deem proper and feasible for or concerning the planning, construction,

- lease, or other acquisition, and the financing of such facilities, and the maintenance thereof. Any such municipalities so contracting with each other may also provide in their contract or agreement for a board, commission, or such other body as their governing bodies may deem proper for the supervision and general management of the facilities of the project;
8. Accept from any authorized agency of the federal government loans or grants for the planning, construction, acquisition, leasing or other provision of any project, and to enter into agreements with such agency respecting such loans or grants;
 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, 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
 10. Issue said revenue bonds to refund, in whole or in part bonds previously issued by such municipality under authority of this chapter.
 11. In any instance where the project consists of the construction, reconstruction, improvement, betterment of real property, buildings and improvement on real property and buildings, the provisions of chapter 48-02 of the North Dakota Century Code and other applicable statutes shall apply.

No municipality shall have the power to operate any project referred to in this chapter as a business or in any manner whatsoever, except as the lessor thereof. No debt on the general credit of the municipality shall be incurred in any manner for any purpose under the provisions of this chapter, except as otherwise provided by section 40-57-19. No municipality may pay out of its general fund, or otherwise contribute to the cost of a project, nor can it use any land already owned by or in which the municipality has an interest, for the construction thereof of a project, except as otherwise provided by section 40-57-19.

§ 3. Amendment.) Section 40-57-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-10. Sale of Revenue Bonds—When Private Sale Authorized—Public Sale and Notice Thereof.) Revenue bonds shall be sold at not less than par plus any accrued interest. Such bonds may be sold at private sale to the United States of America, or any agency, instrumentality, or corporation thereof, or to the state of North Dakota, or agency or instrumentality thereof. Unless the bonds are sold to the United States of America, to an agency, instrumentality, or corporation thereof, to the state of North Dakota, or to an agency or instrumentality thereof, such bonds shall 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.

§ 4. Amendment.) Section 40-57-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-14. Covenants That May Be Inserted in Ordinance or Resolution Authorizing Bonds.) Any ordinance or resolution authorizing the issuance of bonds under this chapter to finance, in whole or in part, the acquisition, construction, reconstruction, improvement, betterment, or extension of any project may contain covenants, notwithstanding that such covenants may limit the exercise of powers conferred by this chapter, as to:

1. The rents to be charged for the use of properties acquired, constructed, reconstructed, improved, bettered, or extended under the authority of this chapter;
2. The use and disposition of the revenues of said projects;
3. The creation and maintenance of sinking funds and the regulation, use, and disposition thereof;
4. The creation and maintenance of funds to provide for maintaining the project and replacement of those properties which are subject to depreciation;
5. The purpose, or purposes, to which the proceeds of this sale of said bonds may be applied and the use and disposition of said proceeds;
6. The nature of mortgages or other encumbrances on the project made in favor of the holder or holders of such bonds, or a trustee therefor;

7. The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of bonds issued under this chapter may bring any suit or action on said bonds or on any coupons thereof;
8. The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of said project;
9. The insurance to be carried upon the project and the use and disposition of insurance moneys;
10. The keeping of books of account and the inspection and audit thereof;
11. The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;
12. The rights, liabilities, powers, and duties arising upon the breach by the municipality of any covenants, conditions, or obligations;
13. The vesting in a trustee or trustees of the rights to enforce any covenants made to secure, to pay, or in relation, to the bonds; the powers and duties of such trustee or trustees, and the limitation of liabilities thereof;
14. The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under this chapter or any duties imposed thereby;
15. A procedure by which the terms of any ordinance or resolution authorizing bonds or of any other contract with bondholders, including, but not limited to, an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
16. The subordination of the security of any bonds issued hereunder and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the governing body, to other bonds or obligations of the municipality issued to finance the project or that may be outstanding when the bonds thus subordinated are issued and delivered.

Nothing in this section, or in this chapter, except as provided in section 40-57-19, shall authorize any municipality to do anything or for any purpose which would result in the creation

or incurring of a debt or indebtedness or the issuance of any instrument which would constitute a bond or debt within the meaning of any provisions, limitation, or restriction of the constitution relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a bond or debt.

§ 5.) Section 40-57-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-57-19. General Obligation Bonds — Issuance — Levy.) Municipalities may issue general obligation bonds to aid, construct, reconstruct, improve, better or extend any project undertaken under the provisions of this chapter for which revenue producing bonds have been issued or to finance entirely new projects as provided in this chapter. However, before such general obligation bonds can be issued and the levy made to pay off the interest and principal of such bonds the governing body of such municipality shall hold an election for the purpose of determining whether such bonds should be issued and the tax levies made. If at such election two-thirds of the electors in the municipality vote in favor of issuing general obligation bonds, the governing body of the municipality may issue such bonds and make a levy sufficient to pay the interest and principal when due, provided the issuance of such bonds does not exceed, together with other outstanding indebtedness of the municipality, five percent of the assessed valuation of the taxable property therein. If at an election called for that purpose the governing body of the municipality determines that an increase in such indebtedness of three percent over and above such five percent limit is necessary and the proposed issue of general obligation bonds, together with other outstanding indebtedness of the municipality, does not exceed eight percent of the assessed valuation of the taxable property within the municipality, it may issue such bonds and make the tax levies to pay the interest and principal thereof, if two-thirds or more of the electors within the municipality vote in favor of such increase. The provisions of this section shall only be used when the real property, buildings, and improvements thereon of the project for which the general obligation bonds are to be issued represent an investment to the city of fifty thousand dollars or more and when the net worth of the industrial or commercial enterprise desiring to lease such project is at least five times the amount that the municipality will invest in the real property, buildings, and improvements thereon of the project. All general obligation bonds issued under the provisions of this section shall be in accordance and comply with the provisions of chapter 21-03 and those portions of title 21 that provide for the issuance of general obligation bonds. Bonds issued under

the provisions of this section shall not in any manner alter or affect revenue producing bonds issued under the provisions of this chapter.

§ 6.) Section 40-57-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-57-20. 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 the purpose of chapter 40-57 of the North Dakota Century Code to sanction, authorize and encourage activities in the public interest and for the welfare of the state of North Dakota, its municipal subdivisions and people by assisting establishment of additional industrial plants and activities within the state, and increasing production of wealth and adding to the volume of employment, particularly during those seasons when employment in farming and ranching is slack, thus alleviating unemployment among the people of the state.

Approved March 16, 1961.

NEGOTIABLE INSTRUMENTS

CHAPTER 285

H. B. No. 818
(Boe)

INLAND AND FOREIGN BILLS OF LADING

AN ACT

To amend and reenact section 41-10-04 of the North Dakota Century Code, relating to the definition of inland and foreign bills of exchange.

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

§ 1. Amendment.) Section 41-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

41-10-04. Inland and Foreign Bill of Exchange—Definition.)

An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within the United States. Any other bill is a foreign bill. For the purposes of this section the "United States" means any state, territory, dependency, or possession of the United States, the District of Columbia, or Puerto Rico. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

Approved March 11, 1961.

CHAPTER 286

H. B. No. 693
(Burk)

TRUST RECEIPT STATEMENTS

AN ACT

To amend and reenact subsection 3 of section 41-18-13 of the North Dakota Century Code, relating to filing fee and retention of trust receipt statements.

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

§ 1. Amendment.) Subsection 3 of section 41-18-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. It shall be the duty of the filing officer to mark each statement filed with a consecutive file number, and with the date and hour of filing, and to keep such statement in a separate file; and to note and index the filing in a suitable index, indexed according to the name of the trustee and containing a quotation of the trustee's chief place of business as given in the statement. The fee for such filing shall be two dollars. Central filing is essential to the plan of the chapter. Filed statements shall be retained by the secretary of state for a period of at least six years following the date of filing or the renewal thereof under subsection 5 of this section, after which time such statements may be destroyed.

Approved March 7, 1961.

OCCUPATIONS AND PROFESSIONS

CHAPTER 287

S. B. No. 207
(Lips, Mutch)

STANDARD OF CARE OF PHYSICIANS

AN ACT

To define the standard of care required of physicians and surgeons when rendering emergency care at the scene of an emergency, and protecting nonresident physicians and surgeons with respect to nonlicensure.

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

§ 1. **Degree of Care.)** Any physician or surgeon licensed under the provisions of chapter 43-17 of the North Dakota Century Code 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 his judgment is at the time indicated.

§ 2. **Nonresident Physicians.)** Any physician or surgeon duly licensed to practice his profession in another state of the United States who renders in this state emergency care at the scene of the emergency shall only be held to the degree of care as specified in section 1 of this Act; and he shall not be deemed to be practicing medicine within this state as contemplated by chapter 43-17 of the North Dakota Century Code.

Approved February 28, 1961.

CHAPTER 288

H. B. No. 822
(Aamoth, Hagen, Scott, Mueller)

NONRESIDENT CONTRACTOR'S BONDS

AN ACT

To amend and reenact section 43-07-11 of the North Dakota Century Code, relating to nonresident contractors—bond requirements.

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

§ 1. **Amendment.)** Section 43-07-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-11. Nonresident Contractors — Bond Requirements.)

Every nonresident contractor as hereinbefore defined engaging in business as a public contractor shall be required to include in the undertaking and bond required by law to be executed to insure the performance of any contract for such public work or project, further and added provisions to insure the payment of contributions due to the unemployment compensation division and to the North Dakota workmen's compensation fund of all premiums to become due on wages paid to labor employed in such work or project. Such contractor also shall include in such undertaking or bond provisions to insure the payment to the state of North Dakota of the state income tax upon income derived from such work or project and upon income to become due from such work or project.

Approved March 8, 1961.

CHAPTER 289

S. B. No. 242

(Lips)

INFORMATION ON BIDDERS**AN ACT**

To amend and reenact section 43-07-12 of the North Dakota Century Code, relating to and providing for information on bidders to be contained on bid envelopes.

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

§ 1. Amendment.) Section 43-07-12 of 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. 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.

Approved March 17, 1961.

CHAPTER 290

H. B. No. 920
(Fraase, Miller)

OIL, GAS, AND MINERAL BROKERS

AN ACT

To amend and reenact sections 43-22-02, 43-22-03, and 43-22-08 of North Dakota Century Code, relating to oil, gas, and mineral brokers.

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

§ 1. **Amendment.)** Section 43-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-22-02. Broker Shall Register.) No person shall engage in business as an oil, gas or mineral broker without first having registered with the commissioner on a form provided by the commissioner which shall include only the following information:

1. The full name of said broker and his full business address in the state of North Dakota;
2. The position or capacity of the broker if he is a member of a partnership or the employee of a corporation and the business address of such copartnership or corporation;
3. The place of legal residence of the registering broker; and
4. In addition, the commissioner shall inquire into the business reputation and character of a broker by requiring three (3) references from the broker.

The registration shall be kept permanently on file by the commissioner and shall be public records open for inspection. Such registration shall be automatically ineffective and invalid without notice June 30 after the date of initial registration, unless the registrant renews the registration for another yearly period and pays the prescribed renewal fee. The commissioner may revoke and cancel the registration of a broker prior to expiration of its term whenever the bond of the broker becomes ineffective or is canceled, by sending notice of revocation through registered or certified mail to the business post-office address shown in the registration.

§ 2. Amendment.) Section 43-22-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-22-03. Bond Required — Filing of Bond with Registration.) Every broker making the registration required by this chapter shall at the same time file with the commissioner a surety bond in an amount deemed necessary by the commissioner, but not to exceed \$5,000.00, the surety on which shall be a surety company authorized to transact business in the state of North Dakota. The obligee in such bond shall be the state of North Dakota for the use and benefit of any person dealing with such broker and shall be conditioned for the performance of any purchase, sale or other agreement made by such broker, provided, however, that the aggregate liability of the surety to all such surface holders or land owners should in no event exceed the amount of such bond.

§ 3. Amendment.) Section 43-22-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-22-08. Registration Fees.) The commissioner shall receive and the broker shall pay the following fees:

1. For initial registration as provided in this chapter the sum of fifty dollars;
2. For withdrawal of cash or securities deposited in lieu of bond the sum of fifteen dollars; and
3. For annual renewal of registration, the sum of ten dollars.

All fees received from the provisions of this section shall be deposited in the general fund.

Approved March 16, 1961.

CHAPTER 291

H. B. No. 608

(Stockman)

MASSEURS

AN ACT

To amend and reenact section 43-25-06 and repeal section 43-25-17 of the North Dakota Century Code, relating to registration of masseurs and the bond of the secretary-treasurer of the board of massage.

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

§ 1. **Amendment.)** Section 43-25-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-06. Removal of Members of Board of Massage—Officers of the Board—Meeting.) The governor may remove from office, members of the North Dakota board of massage for neglect of duties as required by this chapter or for malfeasance in office and incompetency, or for unprofessional conduct. The governor may fill any vacancy caused by removal of any member of the board of massage, on his or her resignation or death, all such appointees to be practicing masseurs or masseuses in the state.

The board of massage shall within two weeks after their appointment, meet at some convenient place within the state of North Dakota and shall then elect a president from their own members, and a secretary-treasurer. The secretary-treasurer shall be bonded in the sum of one thousand dollars in the same manner as other state officials are bonded for the faithful discharge of his duties. The board of massage shall hold examinations from time to time at such place or places as said board may designate.

It shall also be the duty of said board from time to time to examine and inspect or cause to be examined or inspected all massage establishments. Said board and its agents and employees shall have and they are hereby given authority to enter and inspect any such massage establishments at any time during which said establishment is open for the transaction of business.

§ 2. **Repeal.)** Section 43-25-17 of the North Dakota Century Code is hereby repealed.

Approved February 25, 1961.

OFFICES AND OFFICERS

CHAPTER 292

S. B. No. 188

(Hernett)

PUBLIC NOTICES AND PRINTING

AN ACT

To amend and reenact section 44-08-10 of the North Dakota Century Code, relating to public notices and printing.

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

§ 1. **Amendment.)** Section 44-08-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-10. Provision "Buy North Dakota Products" — Public Notices and Printing.) After existing supplies of all public notices, letterheads, receipts, checks, and all other printed and mimeographed forms which are passed out of their offices having printed thereon the following: "BUY DAKOTA MAID FLOUR" are exhausted, all township, school district, park district, city, village, county, and state officials, and all other officials paid by tax moneys, shall print or stamp on all public notices, letterheads, receipts, checks, and all other printed and mimeographed forms which are passed out of their offices, the following:

"BUY NORTH DAKOTA PRODUCTS"

and any person violating the provisions of this section is guilty of a misdemeanor.

Approved March 12, 1961.

PRINTING LAWS

CHAPTER 293

H. B. No. 568

(Haugland, Wheeler, Fraase)

BLUE BOOK

AN ACT

To provide for the printing and distribution of the North Dakota Blue Book, and making an appropriation therefor.

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

§ 1.) The secretary of state shall print, furnish, and distribute the North Dakota Blue Book as follows:

1. One copy to each member of the legislative assembly;
2. Two copies to the state historical society;
3. Two copies to the state law library;
4. Two copies to the university;
5. Two copies to the state university;
6. Five copies to the legislative research committee;
7. One copy to each public institution maintained by the state;
8. One copy to each elective and appointive state officer;
9. One copy to each public library in the state;
10. One copy to each county auditor;
11. One copy to each high school in the state;
12. One copy to each supreme court justice; and
13. One copy to each district judge.

The North Dakota Blue Book shall not contain more than five hundred pages and the number to be printed shall not exceed two thousand volumes. The secretary of state may sell the remaining copies of the book to individuals at cost, and the proceeds of such sales shall be deposited in the general fund. The printing and binding of the North Dakota Blue Book shall be let, as are other classes of state printing of a similar nature, upon competitive bidding to the lowest bidder.

§ 2. **Appropriation.**) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of fifteen thousand dollars, or so much thereof as may be necessary, to the secretary of state for the printing and distribution of the North Dakota Blue Book.

Approved February 17, 1961.

CHAPTER 294

S. B. No. 104
(Nesvig, Foss)

DISTRIBUTION OF LAWS AND EXECUTIVE DOCUMENTS

AN ACT

To amend and reenact sections 46-04-02 and 46-04-11 of the North Dakota Century Code, relating to the distribution of laws and executive documents.

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

§ 1. **Amendment.)** Section 46-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-02. State Libraries Entitled to Receive Copy of State Laws.) The state libraries shall receive copies of the session laws, compilations, or codifications as follows:

1. The supreme court law library, five copies;
2. The law library of the state university, fifty copies; and
3. The library in each state institution of higher education, one copy.

§ 2. **Amendment.)** Section 46-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-11. Distribution of Executive Documents.) One copy of the executive documents shall be distributed to the following:

1. Each member and officer of the legislative assembly, for himself;
2. Each clerk of a court of record;
3. Each county auditor;
4. Each university, college, academy, or other literary institution within the state except as otherwise provided by section 46-04-13; and
5. Each library in each state institution of higher education.

Approved March 15, 1961.

PROPERTY

CHAPTER 295

S. B. No. 44

(Legislative Research Committee)

OBLIGATION TO PAY ROYALTIES

AN ACT

Relating to the obligation to pay royalties under oil and gas leases and providing remedies for breach of such obligation.

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

§ 1.) The obligation arising under an oil and gas lease to pay oil or gas royalties to the mineral owner or his assignee, or to deliver oil or gas to a purchaser to the credit of such mineral owner or his assignee, or to pay the market value thereof is of the essence in the lease contract, and breach of such obligation may constitute grounds for the cancellation of such lease in such cases where it is determined by the court that the equities of the case require cancellation. This section shall not apply when mineral owners or their assignees elect to take their proportionate share of production in kind, or in the event of a dispute of title existing which would effect distribution of royalty payments.

Approved March 11, 1961.

CHAPTER 296

H. B. No. 896

(Boe, Lowe)

PATENTS

AN ACT

To provide for the patenting of inventions and discoveries of faculty, officers and employees of state institutions of higher learning in the name of the institution or a foundation authorized by it; to provide for the sharing of income therefrom with the inventor or discoverer; to provide cooperating agencies in cooperative research with an equity in inventions or discoveries resulting from cooperative research; and to repeal sections 15-11-16, 15-11-17, and 15-11-18 of the North Dakota Century Code, relating to the patenting of inventions and assignment thereof.

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

§ 1. Patenting Inventions and Discoveries by Faculty, Officials and Employees of State Institutions of Higher Learning.) All letters patent on inventions or discoveries resulting from research sponsored by a state institution of higher learning and conducted by faculty, officials or employees of a state institution of higher learning shall inure to and be taken out by or assigned to the respective state institution of higher learning in accordance with a general policy established by each institution of higher learning with the approval of the state board of higher education. Ownership, control, management, and disposal of such inventions or discoveries by faculty, officials, or employees of each institution of higher learning shall be vested in each respective institution, or in an independent foundation created by the institution for the purpose of obtaining patents or inventions, receiving gifts, administering or disposing of such patents and promoting research at the respective institution by every proper means.

§ 2. Sharing of Income from Patents with Inventor or Discoverer.) Each faculty member, official, or employee of a state institution of higher learning who conceives any inventions or makes any discovery as a result of research sponsored by his respective institution, and discharges his obligations to his respective institution shall be entitled to share in any net proceeds that may be derived from the assignment, grant, license or other disposal of such invention or discovery. The amount of such net proceeds shall be computed by or with the approval of the state board of higher education, with reasonable promptness after collection thereof, and after deducting from gross proceeds such costs and expenses as may be reason-

ably allocated to the particular invention or discovery. The amount of the net proceeds paid to the faculty member, official or employee of the institution shall be determined by the institution as a general policy determination with the approval of the state board of higher education. A minimum of fifteen percent of the net proceeds shall be paid to a faculty member, official, or employee of a state institution of higher learning who solely conceived or made the invention or discovery, and shall be paid in shares to two or more faculty members, officials or employees who jointly made the invention or discovery in such respective proportions as each institution may determine.

§ 3. Disclaimer by State Institutions of Higher Learning of Inventions and Discoveries by Faculty, Officials and Employees.) Where it is deemed inexpedient for a state institution of higher learning, or its authorized agency, to hold letters patent on an invention or discovery of a faculty member, official, or employee, it will then be permissible for the staff member himself to secure a patent and to license or dispose of the same.

§ 4. Cooperating Agencies to Have an Equity in Inventions or Discoveries Resulting from Cooperative Research.) While the results of experimental work, including patentable discoveries, carried on under the direction of the staff of the state institution of higher learning, belong to the state institution of higher learning and to the public, it is recognized that the party who originates a research problem, brings it to the state institution of higher learning for solution, and pays the cost of the research, has an equity in the fruits of that investigation: in the case of cooperative investigations, special agreements for preferential licensing may be made with the cooperating interests, with a view to compensating in part for the financial assistance rendered in the investigation. It is recognized, also, that the state institution of higher learning has an obligation to use its facilities to the best interest of industry as a whole and of the general public, and should, therefore, employ the most suitable and practical methods to have its laboratory discoveries made available as speedily as possible, safeguarding the public from undue exploitation while recognizing the interest of the originator and supporter of the research.

§ 5. Repeal.) Sections 15-11-16, 15-11-17, and 15-11-18 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1961.

CHAPTER 297

H. B. No. 817

(Boe)

ACCUMULATIONS OF INCOME, REPEAL

AN ACT

To repeal section 47-03-07 of the North Dakota Century Code, relating to the accumulations of income.

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

§ 1. Repeal.) Section 47-03-07 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1961.

CHAPTER 298

H. B. No. 771

(Aamoth)

NOTIFICATION OF STATE TAX COMMISSIONER
OF RECORDING OF DEEDS

AN ACT

To amend and reenact section 47-19-07 of the North Dakota Century Code, to require that the state tax commissioner be notified of the recording of certain deeds, and providing for a penalty.

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

§ 1. **Amendment.**) Section 47-19-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-07. Place for Recording Instruments—Fee Endorsed—Notification of State Tax Commissioner.) An instrument entitled to be recorded must be recorded by the register of deeds of the county in which the real property affected thereby is situated. The register of deeds in each case must endorse the amount of his fee for the recording on the instrument recorded.

If any deed, except a deed issued through a judicial, probate, or tax sale proceeding, is recorded more than six months after the date of its acknowledgment, the register of deeds, on such forms as the state tax commissioner may prescribe, shall notify the state tax commissioner of the recording of such deed before the end of the month following the month in which such deed was filed for record, and the willful neglect or refusal to furnish such list to the state tax commissioner as provided herein shall be punishable as provided in sections 12-08-03 and 12-08-04.

Approved March 3, 1961.

PUBLIC BUILDINGS

CHAPTER 299

S. B. No. 129
(Kisse, Trenbeath)

PLANS, DRAWINGS, AND SPECIFICATIONS

AN ACT

To amend and reenact section 48-02-02 of the North Dakota Century Code, relating to the procurement of plans, drawings, and specifications when a public building is altered, repaired, or constructed.

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

§ 1. **Amendment.**) Section 48-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-02. Prerequisite to Building and Repair by Contract.) In altering, repairing, or constructing any building belonging or appertaining to any of the public institutions of the state, or to any county, city, park district, village, school district, or other political subdivision of the state, or in making any improvements connected therewith or pertaining thereto, or in doing any work thereon amounting to more than twelve thousand dollars, the governing body of such public institution, or of such municipality or political subdivision, shall procure such plans, drawings, and specifications thereof, upon competitive bids or otherwise as such board may deem necessary. In all cases where the work exceeds twelve thousand dollars such plans, drawings, and specifications shall be procured from a licensed architect except that, in the case of public buildings in use by or to be used by the North Dakota agricultural experiment station in connection with farm or agricultural research operations, such plans, drawings and specifications may, with the approval of the board of higher education, be procured from a registered professional engineer, providing such engineer is in the regular employment of the agricultural experiment station.

Approved March 16, 1961.

PUBLIC UTILITIES

CHAPTER 300

H. B. No. 655
(Burk, Tough, Bye)

FRAUDULENT TELECOMMUNICATIONS

AN ACT

Prohibiting the obtaining of telecommunications service fraudulently, and providing a penalty.

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

§ 1.) Any individual, corporation, or other person, who, with intent to defraud or to aid and abet another to defraud any individual, corporation, or other person, of the lawful charge, in whole or in part, for any telecommunications service, shall obtain or attempt to obtain, or aid and abet another to obtain or to attempt to obtain, any telecommunications service by:

1. Charging such service to an existing telephone number or credit card number without the authority of the subscriber thereto or the legitimate holder thereof; or
2. Charging such service to a nonexistent, false, fictitious, or counterfeit telephone number or credit card number or to a suspended, terminated, expired, canceled, or revoked telephone number or credit card number; or
3. Use of a code, prearranged scheme, or other similar stratagem or device whereby said person, in effect, sends or receives information; or
4. Installing, rearranging, or tampering with any facilities or equipment, whether physically, inductively, acoustically, or electronically; or
5. Any other trick, stratagem, impersonation, false pretense, false representation, false statement, contrivance, device, or means,

shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Approved March 1, 1961.

CHAPTER 301

H. B. No. 571
(Goebel, Schuler)

FILING CONDITIONAL SALES CONTRACTS,
PISTOL LICENSES

AN ACT

To amend and reenact sections 49-09-13 and 62-01-08 of the North Dakota Century Code, relating to the filing of conditional sales contracts and pistol licenses.

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

§ 1. **Amendment.)** Section 49-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-09-13. Conditional Sale Contract—Filing—Marking Property.) A conditional sale contract affecting railroad equipment shall be filed in the office of the secretary of state, and on each locomotive or car which may be sold or leased, the name of the vendor, lessor, or assignee of the vendor or lessor shall be marked in a conspicuous place followed by the word "owner" or "lessor", as the case may be.

§ 2. **Amendment.)** Section 62-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

62-01-08. License—Form—Term—Filing.) The license shall be in the form prescribed by the superintendent of criminal identification and shall bear the name, address, description, and signature of the licensee, and the reason given for desiring a license. It shall be issued for not more than one year. It shall be prepared in triplicate, and the original shall be delivered to the licensee, the duplicate shall be sent by registered or certified mail, within seven days after issue, to the superintendent of criminal identification, and the triplicate shall be preserved for six years by the authority issuing the license.

Approved March 7, 1961.

PUBLIC WELFARE

CHAPTER 302

S. B. No. 227

(Erickstad, Meidinger, Gefreh, Ringsak, Fiedler, Redlin)

MEDICAL ASSISTANCE FOR THE AGED

AN ACT

To provide for medical assistance to the aged and providing a penalty.

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

§ 1. Purposes.) The purpose of this Act is to provide for a program of medical assistance to the aged for those applicants who have incurred burdensome medical expenses and who meet the standards and qualifications as set forth herein. Minor medical expenses are not intended to be covered under the provisions of this Act. The Act shall be called "Medical Assistance for the Aged".

§ 2. Definitions.)

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 several counties of the state;
3. "Applicant" shall mean a person who has applied for medical assistance for the aged;
4. "Recipient" shall mean any person who has received assistance under the terms of this Act;
5. "Aged" shall be defined as any person otherwise qualified by this Act who shall be sixty-five years of age or older;
6. "Medical" assistance for the aged shall be defined as the payment of part or all of the cost of furnishing of medical care and treatment by doctors of medicine and other dispensers of medical and chiropractic services or as payment for maintenance to the recipient as determined by the rules of the public welfare board of North Dakota including but not limited to (1) inpatient hospital services; (2) skilled nursing home services; (3) physicians' services; (4) outpatient hospital or clinic services; (5) private duty nursing services; (6) dental services; (7) laboratory and X-ray services; (8) pre-

scribed drugs; (9) diagnostic, screening and preventive services; and (10) authorized physical therapy. Should it be necessary to reduce expenditures for medical assistance hereunder due to lack of funds, the reduction is to be prorated among all of the dispensers of medical services equally.

§ 3. Duties of State Agency.) This Act shall be administered on a fee for services basis to dispensers of medical services, according to consistent regulations adopted for that purpose. The public welfare board may contract with private agencies or carriers to cover part or all of the benefits specified herein, provided, that no contract with a private agency or carrier shall deny the patient freedom of choice of doctor or hospital or other vendors of medical services.

The state agency shall:

1. Take such action and make such rules and regulations as may become necessary to entitle the state to receive aid from the federal government for medical assistance for the aged in North Dakota;
2. Supervise the administration of medical assistance for the aged throughout this state;
3. Take such action, give such directions, and promulgate such rules and regulations as may be necessary or desirable to carry out the provisions of this Act, including the adoption and application of suitable standards and procedures to insure uniform and equitable treatment of all applicants for medical assistance to the aged;
4. Cooperate with the federal government in matters of mutual concern pertaining to medical assistance for the aged, including the adoption of such methods of administration as are found by the federal government to be necessary for the efficient operation of the plan for such assistance;
5. Provide such qualified employees and representatives as may be necessary;
6. Prescribe the form of and print for and supply to the county agencies blanks for applications, reports, and such other forms as it may deem necessary and advisable;
7. Have authority to establish and maintain personnel standards on a merit basis for personnel employed by the state and county public assistance agencies not covered by a statewide merit system;

8. Make such reports in such form and containing such information as the federal government, from time to time, may require;
9. Comply with such provisions, rules, and regulations as the federal government, from time to time, may find it necessary to make to assure the correctness and verification of such reports; and
10. Publish a biennial report and such interim reports as may be deemed necessary.

§ 4. **Eligibility.**) Medical aid for aged shall be granted to any resident of this state sixty-five years of age or older who meets the following conditions:

1. Application has been made in the manner prescribed by the public welfare board.
2. Is not receiving old age assistance from the state or public assistance from any other state.
3. Has resided ten years in the United States, or is a citizen of the United States.
4. Has not sufficient income or other resources to provide for necessary medical and hospital care and treatment. However, the provisions of this Act shall not apply to any one applicant until after he has paid or obligated himself to pay in the amount of fifty dollars for medical assistance during the twelve month period prior to making application.
5. The ownership of real or personal property by an applicant for medical assistance for the aged 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 medical assistance for the aged if the applicant is without funds for medical care.

In determining the need for medical assistance, the state agency shall disregard such income and resources as are necessary to meet the subsistence needs of the applicant for himself and his legal dependents.

The amount of income so disregarded shall not exceed twelve hundred dollars annually for an unmarried applicant or eighteen hundred dollars annually for a married applicant and spouse living together. Income shall not include the shelter value of a residence occupied by the applicant nor the value of gifts or services contributed in kind to the applicant. 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 appli-

- cant 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 exceed the home for a married or unmarried applicant.
6. The applicant has not at any time before or after making application for medical assistance for the aged made an assignment or transfer of property for the purpose of rendering himself eligible for medical assistance for the aged.
 7. The applicant is not a patient in any medical institution as a result of a diagnosis of tuberculosis or psychosis, with respect to any period after the individual has been a patient in a medical institution, as a result of such diagnosis, for forty-two days.
 8. The applicant is not an inmate of a public institution (except as a patient in a public medical institution).
 9. The applicant is residing in the state of North Dakota; or is a legal resident of North Dakota, though he may be temporarily residing outside of the state of North Dakota.
 10. The applicant has no child or other relative of sufficient financial ability to support him, who is responsible under the law for his support, provided, however, that if such child or other relative refuses or neglects to provide necessary assistance, such refusal or neglect shall not make such applicant ineligible for medical assistance for the aged.
 11. No enrollment fee premium or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged.

§ 5. Application for Assistance.) An application for medical assistance for the aged under the provisions of this Act shall be made to the county agency of the county in which the applicant resides. It shall be in writing or reduced to writing in the manner and upon the form prescribed by the state agency and shall be verified by the oath of the applicant. The application shall contain:

1. A statement of the amount of property, both personal and real, which the applicant owns or in which he has an interest;
2. A statement of all the income which the applicant has at the time of the filing of the application; and
3. Such other information as may be prescribed by the state agency.

§ 6. Investigation of Applications.) Whenever a county agency receives an application for medical assistance for the aged, an investigation of the circumstances of the applicant shall be made to ascertain:

1. The facts supporting the application; and
2. Such other information as may be required by the state agency.

§ 7. Power of County and State Agency in Making Investigation.) In an investigation of an application for medical assistance for the aged the county agency and the state agency and the officers and employees thereof are authorized to make investigations under this Act may:

1. Conduct examinations;
2. Require the attendance of witnesses;
3. Require the production of books, records, and paper; and
4. Make application to the district court of the county to compel the attendance of witnesses and the production of such books, records, and papers.

The officers and employees designated by the county agency or the state agency also may administer oaths and affirmations.

§ 8. Findings of County Agency on Investigation of Application—Findings When Application Allowed.) The county agency, upon completion of the investigation of an application for medical assistance for the aged, shall determine whether the applicant is eligible for medical assistance for the aged and shall make a written finding to the effect that the application be allowed or rejected, as the case may be. A copy of the findings of the county agency forthwith shall be transmitted to the state agency.

§ 9. Rejection of Application—Notice of—Contents.) If the county agency, upon the investigation of an application for medical assistance for the aged, finds that the application should be rejected, it forthwith shall notify the applicant in writing of its decision. The notice to the applicant also shall state that he may appeal from the findings of the county agency to the state agency within thirty days from the receipt by the applicant of such written notice and that such appeal may be taken by filing a written notice of appeal with the county agency or state agency.

§ 10. Power of State Agency to Change Determination of County Agency.) The state agency shall have the following powers in regard to the reconsideration of and change in the amount of medical assistance for the aged that has been granted under the provisions of this Act:

1. To approve, modify, or reverse the findings of the county agency;
2. To return the application for medical assistance for the aged to the county agency for such further action or proceedings as the state agency may direct;
3. To conduct a hearing or make or cause a further investigation to be made;
4. To make such final disposition of an application for medical assistance for the aged as in its judgment the ends of justice require;
5. On its own motion, to reconsider any or all medical assistance for the aged grants made;
6. To consider any application upon which a decision has not been made by the county agency within a reasonable time;
7. To grant medical assistance for the aged where it has been refused or to change the amount of medical assistance, if after further investigation it determines that the ends of justice so require; and
8. To withdraw medical assistance if it is found that the recipient's circumstances have altered sufficiently to warrant such action.

Whenever medical assistance is withdrawn, revoked, suspended, or in any way changed, the recipient shall be notified in writing and thereupon shall have the right of a fair hearing before the state agency in the same manner as a hearing is afforded upon an appeal from the decision of the county agency rejecting an application for assistance.

§ 11. Appeal to State Agency—When Taken.) An applicant for medical assistance for the aged under the provisions of this Act may appeal to the state agency if:

1. An application is not acted upon by the county agency within a reasonable time after it is filed;
2. The application is denied; or
3. The applicant deems the allowance insufficient.

The appeal shall be taken by filing a written notice with the county agency or state agency.

§ 12. Appeal—How Heard.) Where an appeal is taken under the provisions of section 11 hereof, the state agency shall give the applicant an opportunity for a fair hearing. The state agency may designate some person to act as referee and take and certify evidence to the state agency. When an appeal is heard before a member or members of the state agency, or a referee designated by such agency, such person or persons shall make findings in writing and shall state the reason why

the application should not be granted or rejected or changed in amount, as the case may be, and report such findings to the state agency, together with all the evidence upon which the same is based. The state agency may accept and approve such findings or reverse or modify the same or hear the matter anew or make such disposition of the appeal as the facts and the law warrant. If the action of the board results in a denial of assistance or in a denial of the claim of the applicant in whole or in part, such appellant upon written demand shall be afforded a fair hearing before the state agency. The decision of the state agency shall be final, and binding upon the county agency.

§ 13. County Share of Medical Assistance for the Aged.)

Each county in this state shall reimburse the state agency for ten percent of the amount expended for medical assistance for the aged in such county in excess of the amount provided by the federal government for medical assistance for the aged payments.

§ 14. How County's Share Paid.)

The state agency shall keep records and accounts in relation to the expenditures for medical assistance for the aged in each county in North Dakota. Claims for reimbursements under the provisions of section 14 hereof shall be presented by the state agency to the board of county commissioners at the end of each calendar month. The executive director of the state agency shall certify to each county the total amount paid for medical assistance for the aged to or on behalf of persons in that county, and the county's share of such payments. The amount so certified shall be paid to the treasurer of the state agency from the county treasury upon the audit and approval of the county auditor and the chairman of the board of county commissioners.

§ 15. County Appropriation.)

The board of county commissioners in each county in this state shall appropriate annually such sum as, in its judgment, may be needed to carry out the provisions of this Act, including expenses of administration based upon a budget prepared by the county welfare board, after taking into account state aid, and shall include in the tax levy for such county the sum or sums appropriated for that purpose. Should the sum so appropriated, however, be expended or exhausted during the year and for the purpose for which it was appropriated, additional sums shall be appropriated by the board of county commissioners.

§ 16. County's Share of Fund Furnished by State When.)

If the financial condition of any county is such that it cannot make an appropriation or levy a tax for medical assistance for the aged, or cannot legally issue warrants in an amount

sufficient to provide the necessary funds to comply with the provisions of this Act, the board of county commissioners shall report such fact to the state agency. The state agency shall make, or cause to be made, a complete investigation of the financial condition of such county. If such investigation shows that the county cannot appropriate funds or legally issue warrants or levy a tax in an amount sufficient to provide the county's share of funds needed for medical assistance for the aged in that county, the state agency may provide either as a grant or as a loan that county's share of funds for medical assistance for the aged, or so much thereof as may be necessary, from state funds appropriated to the state agency for medical assistance for the aged.

§ 17. Medical Assistance for the Aged Funds.) All moneys received by the state agency for medical assistance for the aged purposes from the state of North Dakota, from any of the counties within the state, from the United States under the provisions of the Social Security Act, or from any other source, shall be placed in the old age assistance fund provided for by section 50-07-27 of the North Dakota Century Code. The treasurer of the state agency shall receive all such moneys as the same may be paid to him and shall deposit the same in such fund. The treasurer shall issue in triplicate receipts for all moneys received by him for the fund. Such receipts shall show the dates upon and the sources from which the moneys were received and there shall be delivered forthwith to the person, officer, or agency making the payment, a receipt to the executive director of the state agency, and the other receipt shall be retained by the treasurer.

§ 18. Person Handling Money to Furnish Bond.) The treasurer of the state agency and all persons having any control over or who handle any of the moneys for the medical assistance for the aged shall be bonded in such sum as the state agency by resolution shall require.

§ 19. Disbursement for Medical Assistance for the Aged.) Disbursements for medical assistance for the aged shall be made only for the purposes of this Act, which shall include:

1. Medical assistance for the aged payments;
2. Expenses of administration of the medical assistance for the aged plan in this state;

All disbursements shall be made only by checks or warrants drawn on the old age assistance fund. Such checks or warrants shall be drawn only by persons who are duly authorized so to do by resolution of the state agency.

§ 20. Recovery of Medical Assistance for the Aged from Person Liable for Support.) If, at any time during the continuance of any allowance granted under the provisions of

this Act, it is ascertained that anyone who is liable for support and care of a recipient of medical assistance for the aged is able to afford the necessary medical assistance for the aged of such recipient but fails and refuses to do so, there shall exist a cause of action for such assistance against such person. The action shall be brought by the state's attorney of the county in the name of the county in which such assistance was granted and against the person liable for the medical assistance for the aged of the recipient of the assistance. The action shall be brought for the recovery of the amount of money with interest thereon paid to such recipient, together with the costs and disbursements of the action.

§ 21. Recovery of Medical Assistance for the Aged from Person Liable for Support—How Divided.) The money recovered by any county under the provisions of section 20 of this Act from the person liable for the medical assistance of the recipient of assistance, shall be divided as provided by section 50-07-35 of the North Dakota Century Code.

§ 22. Recipient to Notify State Agency of Receipt of Property or Income—Assistance Altered or Canceled—Penalty.) If, at any time during the continuation of medical assistance for the aged under the provisions of this Act, the recipient becomes the owner of any property or income in excess of the amount stated in the application provided in section 5 of this Act, he immediately shall notify the county agency of the receipt of possession of such property or income and the state agency, after investigation, either may cancel the medical assistance or alter the amount thereof in accordance with the circumstances. Any assistance paid after the recipient has come into possession of such property or income, and in excess of his needs, shall be recoverable by the state from the estate of the recipient.

§ 23. Recovery from the Estate of Recipient of Medical Assistance for the Aged.) On the death of any recipient of medical assistance for the aged under the provisions of this Act the total amount of medical assistance paid under this Act shall be allowed as a preferred claim against the estate of such person in favor of the state, after funeral expenses for the 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.

§ 24. Authority to Compromise and Settle.) The state agency shall have the authority to enter the appearance of the state in any proceeding affecting property upon which the state may have a claim for medical assistance for the aged, to prosecute and defend in any such proceedings, to institute probate proceedings as a creditor to deceased persons, and either in the course of or in the absence of and apart from any action or proceeding enter into any stipulation, compromise, settlement or other agreement or arrangement in respect to such claim as may seem wise.

§ 25. How Money Collected from Recipient or Estate of Recipient Divided.) Any amounts received from any recipient of medical assistance for the aged or collected from his estate for medical assistance for the aged paid under the provisions of this Act shall be deposited promptly in the North Dakota old age assistance fund and credited respectively to the federal government, the state, and the county in proportion to the amounts in which the assistance payments represented funds contributed by the federal government, state, and county.

§ 26. Certification.) Medical services shall be rendered upon certification by the attending licensed doctor that medical service is required. Services of a medical institution shall be rendered only after referral by a licensed physician and certification by him that the services of the medical institution are required for the medical treatment of the individual except that referral shall not be necessary in case of an emergency.

§ 27. Choice of Services.) The applicant shall be entitled to free choice of those physicians, hospitals, nursing homes, and other licensed dispensers of medical services.

§ 28. Payment for Services.) The public welfare board is authorized to negotiate to pay dispensers of medical services according to the usual and customary fees being charged in the local community for services rendered to persons of comparable economic status. Should the board contract with private agencies or carriers for all or part of such medical services, it is authorized to make payment direct to such agencies or carriers.

§ 29. Confidential Character of Medical Assistance for the Aged.) All applications, information, and records concerning any applicant or recipient of medical assistance for the aged

under the provisions of this Act shall be confidential, and shall not be disclosed or used for any purpose not directly connected with the administration of medical assistance for the aged.

§ 30. Fraudulent Acts — Penalty.) Whoever knowingly obtains, or attempts to obtain, or aids or abets another, by means of a willfully false statement or representation, or by impersonation, or by other fraudulent device, medical assistance to which he is not entitled, or assistance greater than that to which he is justly entitled, is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than twelve months, or by both such fine and imprisonment. In assessing the penalty, the court shall take into consideration, along with other factors, the amount of money fraudulently received.

§ 31. Limitations of Act.) All medical assistance for the aged granted under this Act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing Act that hereafter may be passed. No recipient shall have any claim for compensation or otherwise because his medical assistance for the aged is affected in any way by any amending or repealing Act.

§ 32. Suspension of Act.) In the event that any provision or provisions of this Act shall be in conflict with title VI—Medical Services for the Aged, being amendments of title 1 of the Social Security Act, being Public Law 86-778, 86th Congress, H. R. 12580, dated September 13, 1960, providing a state plan for medical assistance for the aged; under which, if this Act were not in conflict, the state would be entitled to receive contributions from the United States for medical aid to the aged, such provision or provisions of this Act so in conflict with such law of the United States shall be considered as suspended and noneffective until fifty days after convening of the legislative assembly in the year 1963 so as to enable the state to qualify and participate in such contributions for medical assistance to the aged from the United States.

Approved March 16, 1961.

CHAPTER 303

S. B. No. 246

(Gefreh)

PUBLIC WELFARE BOARD

AN ACT

To amend and reenact subsection 2 of section 50-06-06 of the North Dakota Century Code, relating to the powers and duties of the public welfare board.

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

§ 1. **Amendment.**) Subsection 2 of section 50-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To administer, allocate, and distribute any state and federal funds that may be made available for the following purposes:
 - a. The relief of destitute or necessitous persons;
 - b. Mother's aid;
 - c. Old age assistance;
 - d. Aid to dependent children;
 - e. Maternal and child health;
 - f. Care of crippled children;
 - g. Aid to child welfare service; and
 - h. Public health service, physical and mental;

Approved March 11, 1961.

CHAPTER 304

H. B. No. 636

(Haugland, Fitch, Saugstad, Einarson,
(Miller of Walsh, Burk, Sorlie,
(Anderson of McHenry)

BLIND ASSISTANCE

AN ACT

To amend and reenact subsection 5 of section 50-08-03 of the North Dakota Century Code, relating to eligibility of assistance.

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

§ 1. **Amendment.)** Subsection 5 of section 50-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Has not sufficient income or other resources to provide a reasonable subsistence compatible with health and well-being, providing that the state agency shall, in determining need, disregard the first eighty-five dollars per month of earned income, plus one-half of earned income in excess of eighty-five dollars per month;

Approved February 25, 1961.

CHAPTER 305

S. B. No. 306

(Committee on Delayed Bills)

(Erickson)

CHILD PLACEMENT AGENCIES

AN ACT

To amend and reenact section 50-12-09 of the North Dakota Century Code, relating to child placement agencies.

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

§ 1. Amendment.) Section 50-12-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-12-09. Compensation Not Charged for Placing Child nor for Care of Child if Returned from Foster Home.) A child-placing agency shall not charge or receive any compensation from a person adopting any child through the agency except for a share of the expense incurred in making the investigation of the home and the supervision of the child in the home until legal adoption is completed. Such amount shall not exceed three hundred dollars. No couple shall be deprived of receiving a child on the basis of inability to pay any portion of such expense. Persons taking a child shall not receive from the agency compensation for the care, clothing, or medical attendance of the child if it is returned to the agency.

Approved March 11, 1961.

CHAPTER 306

S. B. No. 127

(Van Horn, Longmire)

LOANS TO NURSING HOMES AND HOMES FOR AGED,
APPROPRIATION

AN ACT

To amend and reenact section 50-21-03 of the North Dakota Century Code, relating to terms and conditions for state loans made to nursing homes and homes for the aged, making an appropriation, and declaring an emergency.

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

§ 1. **Amendment.)** Section 50-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-21-03. Amount of Loan—Terms and Conditions.) Loans in an amount not exceeding one-half of the cost of construction or reconstruction including the cost or value of real estate upon which the facility is located and in no event exceeding one hundred and fifty thousand dollars to any one applicant shall be made by the Bank of North Dakota to nonprofit corporations to be used in the construction or reconstruction in this state of nursing homes, homes for the aged and infirm, or combination nursing homes and homes for the aged and infirm. Such loans shall bear interest at the rate of three percent per annum and shall be repayable in the manner prescribed by the manager of the Bank of North Dakota within a period of not more than twenty-five years. In addition, in consideration of the granting of the loans, each nonprofit corporation shall execute a contract with the state to operate such home for a period of not less than twenty years, and to operate and maintain the home in accordance with the standards prescribed for the licensing of such home by the state health department or public welfare board, as the case may be. Such contract shall also require the nonprofit corporation to maintain facilities for not less than five persons referred to such home by any county welfare board. Such contract shall also provide that if the use of such home is discontinued or if it shall be diverted to other purposes, the full amount of the loan provided under this chapter shall immediately become due and payable. Loans shall be made only to an applicant who is not receiving other loans or grants of funds from this state for such construction or reconstruction. Payments of interest

and principal upon such loans shall be made to the Bank of North Dakota and credited to the revolving fund.

§ 2. **Appropriation.**) There is hereby appropriated out of any moneys in the public welfare fund in the state treasury, not otherwise appropriated, the sum of three hundred thousand dollars to be transferred to the revolving loan fund for the purpose of constructing nursing homes and homes for the aged in accordance with the provisions of chapter 50-21 of the North Dakota Century Code.

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

Approved March 15, 1961.

CHAPTER 307

S. B. No. 146

(Nesvig, Longmire, Saumur, Solberg,)

(Kamrath, Gefreh, Wartner, Murphy)

SOLICITATION OF FUNDS

AN ACT

To create and enact chapter 50-22 of the North Dakota Century Code, relating to licensing and regulation of charitable organizations which solicit funds, and to repeal chapter 50-15 of the North Dakota Century Code, relating to solicitations for benevolent associations, and providing a penalty.

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

§ 1.) Chapter 50-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-22-01. Definitions.) As used in this chapter, unless the context otherwise requires, the term:

1. "Person" means any individual, organization, group, association, partnership, corporation, or any combination of them;
2. "Charitable organization" means any benevolent, philanthropic, patriotic, or eleemosynary organization or one purporting to be such, except Boy and Girl Scouts of America organizations and organizations soliciting funds for institutions of higher learning, and organizations soliciting funds for churches operating and having a place of worship within the state; and

3. "Contribution" means the promise or grant of any money or property of any kind or value.

50-22-02. License to Solicit—Term—Revocation.) No charitable organization shall solicit contributions from persons in this state by any means whatsoever without first having obtained a license from the secretary of state. The secretary of state shall investigate the financial responsibility, experience, character, and general fitness of the applicant, and if such investigation warrants the belief that the solicitations are for a worthy charitable purpose and that the applicant will conduct solicitations in accordance with the law, a license shall be issued to such applicant, giving him the right to solicit within the state for a period of one year. If the secretary of state shall find the applicant is not qualified to be issued a license, he shall deny the application, forthwith notify the applicant of the denial, but the license fee shall be retained. All fees collected under the provisions of this chapter shall be credited to the general fund of the state. The fee for such license shall be ten dollars and may be renewed from year to year, but shall be subject to revocation by the secretary of state at any time for just cause. This Act shall not apply to solicitations conducted by or on behalf of any religious corporation.

50-22-03. Application for License—Contents.) The application for a license shall contain the information concerning such solicitation, as required by this Act, submitted on forms provided by the secretary of state. This information shall be filed with the secretary of state and shall be available to the public as a matter of public record. The forms containing such information shall be sworn to and shall include the following:

1. The name of the charitable organization for whom the solicitation is to be conducted;
2. The address thereof;
3. The purpose or purposes for which the contributions solicited are to be used;
4. The individual or officer who will have custody of the contributions;
5. The individuals responsible for the distribution thereof;
6. The period of time during which such solicitation is to be conducted;
7. A description of the method or methods of solicitation in such detail as may from time to time be determined by the secretary of state;

8. Whether such solicitation is to be conducted by voluntary unpaid solicitors, by paid solicitors, or both, and if in whole or in part by paid solicitors, the name and address of each professional fund raiser supplying such solicitors, the basis of payment and the nature of the arrangement; and
9. Such additional information as may be deemed necessary by the secretary of state for the proper administration of this Act.

50-22-04. Information Required To Be Filed Annually.)

Within sixty days after the close of the calendar year or the fiscal year, as the case may be, every charitable organization subject to the provisions of this Act which has received contributions during the previous calendar or fiscal year shall file the following information in the manner hereinbefore provided and on forms to be provided by the secretary of state:

1. The gross amount of the contributions pledged or collected;
2. The amount thereof given or to be given to the charitable purpose represented;
3. The aggregate amount paid and to be paid for the expenses of such solicitation; and
4. The aggregate amount paid to and to be paid to professional fund raisers and solicitors.

In addition, the secretary of state may make a detailed examination of the accounts of any charitable organization conducting a solicitation for funds within this state. Upon request the attorney general shall assist the secretary of state in carrying out the provisions of this Act and, for this purpose, shall have all powers herein granted to the secretary of state. Every charitable organization subject to the provisions of this Act shall keep a full and true record in such form as will enable such charitable organization to accurately provide the information required by this Act.

50-22-05. Penalty.) Any person conducting a solicitation in violation of the provisions of this Act or filing false information hereunder shall be punished by a fine not to exceed one thousand dollars or by imprisonment for not more than six months in jail, or both, and each officer or agent of a charitable organization who knowingly authorizes or conducts such solicitation in violation of this Act, shall be subject to the penalty provided in this section.

§ 2. Repeal.) Chapter 50-15 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1961.

SALES AND EXCHANGE

CHAPTER 308

H. B. No. 761

(Bloom, Lynch, Glaspey, Renfrow)

LICENSING AND BONDS OF AUCTIONEERS

AN ACT

To amend and reenact section 51-05-13 of the North Dakota Century Code, relating to the licensing and bonding of auctioneers, and providing a penalty.

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

§ 1. **Amendment.**) Section 51-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-05-13. Auctioneer's License—Fee—Bond—Penalty.) No person shall conduct any auction sale in this state as an auctioneer until he has filed with the public service commission an application for an annual auctioneer's license at least ten days prior to the date such applicant is to conduct his first auction sale. The application shall be in writing, verified, and filed annually, showing the name, residence and post-office address of the applicant. The fee for the annual license or renewal thereof is ten dollars which shall accompany the application. The license number shall appear on all advertising of sales conducted by such auctioneer, immediately following the name of such auctioneer.

At the time of filing the application the applicant shall file with the public service commission a surety bond in the penal sum of one thousand dollars, running to the state of North Dakota for the use and benefit of any person who might be injured by said licensee's improper conduct of such auction sale.

Nonresident auctioneers may conduct sales within the state only if the state of residence of such nonresident auctioneers grants similar privileges to North Dakota resident auctioneers. A nonresident thus authorized to conduct sales within the state shall be subject to the same requirements of law as is a resident auctioneer.

Nothing in this section shall require an executor or administrator of an estate, or any sheriff or other person selling

property pursuant to execution or other court order, to be licensed in order to conduct such sale in connection with their official duty, nor shall the provisions of this section apply to the selling at auction of purebred or registered livestock.

Any person violating the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine of not more than one hundred dollars. Each such sale held without the payment of a license fee as herein required shall constitute a separate offense.

Approved March 7, 1961.

CHAPTER 309

H. B. No. 721

(Goebel, Anderson of McHenry, Alme, Backes, Christensen of Ward,
(Hagen, Bader, Halcrow, Miller of Walsh, Tough,
(Mueller, Schuler, Reimers)

IMPLEMENT AND CAR DEALERS

AN ACT

To amend and reenact sections 51-07-01, 51-07-02, and 51-07-03 of the North Dakota Century Code, relating to retail implement or car dealer, prices of implements, machinery, and automobiles, and failure to pay sum specified on cancellation of contract.

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

§ 1. **Amendment.**) Section 51-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-07-01. Retail Implement or Car Dealer May Recover Price of Articles Upon Discontinuance of Contract by Wholesaler or Retail Dealer.) Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements and repair parts for farm implements, or in the business of selling and retailing automobiles, or trucks, or repair parts for automobiles or trucks, enters into a written contract evidenced by franchised agreement whereby such retailer agrees to maintain a stock of parts or complete or whole machines, and attachments with any wholesaler, manufacturer, or distributor of farm implements and machinery or repair parts for farm implements and machinery, or automobiles or trucks or repair parts for automobiles or trucks, and either such wholesaler, manufacturer, or distributor or the retailer desires to cancel or discontinue the contract, such

wholesaler, manufacturer, or distributor, shall pay to such retailer unless the retailer should desire to keep such merchandise, a sum equal to one hundred percent of the net cost of all current unused complete farm implements and machinery and attachments including transportation charges which have been paid by such retailer, and eighty-five percent of the current net prices on repair parts listed in current price list or catalogue for farm implements and machinery in stock and for all automobiles or trucks or repair parts for automobiles or trucks previously purchased from such wholesaler, manufacturer or distributor, and held by such retailer on the date of the cancellation or the discontinuation of such contract. The wholesaler, manufacturer or distributor shall also pay such retailer a sum equal to 5% of the current net price of all parts returned for the handling, packing and loading of such parts back to the wholesaler, manufacturer or distributor. Upon the payment of the sum equal to one hundred percent of the net cost of such farm implements, farm machinery, plus freight charges and eighty-five percent of the current net prices on repair parts, plus 5% handling and loading costs on repair parts only, or automobiles or trucks, plus freight charges, or repair parts therefor, plus 5% handling and loading costs on repair parts only, the title to such farm implements, farm machinery, and repair parts, or automobiles, or trucks or parts therefor, shall pass to the manufacturer, wholesaler, or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such farm implements or automobiles or trucks, or repair parts therefor.

The provisions of this section relating to a retailer's right to cancel or discontinue a contract and receive payment for machines, attachments, and parts returned shall apply to all contracts now in effect which have no expiration date and are a continuing contract, and all other contracts entered into or renewed after July 1st, 1961. Any contract in force and effect on July 1st, 1961, which by its own terms will terminate on a date subsequent thereto shall be governed by the law as it existed prior to the 1961 amendment.

§ 2. **Amendment.**) Section 51-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-07-02. Prices of Implements, Machinery, Automobiles and Parts—How Determined.) The prices of farm implements, machinery, and repair parts therefor, and of automobiles, trucks, and repair parts therefor, required to be paid to any retail dealer as provided in section 51-07-01, shall be determined by taking the net cost on farm implements, machinery, and attachments, automobiles and trucks, and eighty-five percent

of the current net price of repair parts therefor as shown upon the manufacturer's, wholesaler's, or distributor's price lists or catalogues in effect at the time such contract is canceled or discontinued.

§ 3. **Amendment.)** Section 51-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-07-03. Failure to Pay Sum Specified on Cancellation of Contract—Liability.) In the event that any manufacturer, wholesaler, or distributor of farm machinery, farm implements, and repair parts for farm machinery, and farm implements, or of automobiles, trucks, and repair parts therefor, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler or distributor, fails or refuses to make payment to such dealer as is required by section 51-07-01, or refuses to supply farm machinery, farm implements, and repair parts for farm machinery and farm implements or automobiles or trucks, or repair parts therefor, to any retailer of such products, who may have a retail sales contract dated after July 1st, 1961, or a contract with no expiration date or a continuing contract in force or effect on the effective date of the 1961 amendment, with such manufacturer, wholesaler, or distributor, such manufacturer, wholesaler or distributor shall be liable in a civil action to be brought by such retailer for eighty-five percent of the current net price of repair parts and the net cost of such farm implements, farm machinery and attachments plus freight charges which may have been paid by the retailer, or repair parts plus 5% of the current net price of all parts returned, or automobiles or trucks, plus freight charges which may have been paid by the retailer or parts therefor, plus 5% of the net current price of all such parts returned, as may be on hand on the date of the cancellation or discontinuation of such contract. Provided further that either party shall give at least ninety days notice to the other of their intention to cancel or terminate any contract under the provisions of this Act.

Approved March 16, 1961.

CHAPTER 310

H. B. No. 662

(Burk)

FALSE ADVERTISING

AN ACT

To create and enact sections 51-12-08, 51-12-09, 51-12-10, 51-12-11, 51-12-12, 51-12-13, 51-12-14, and 51-12-15 of the North Dakota Century Code, relating to false advertising in general, and particular offenses, providing for injunctions and providing a penalty therefor; and to repeal sections 51-12-01, 51-12-02, and 51-12-03 of the North Dakota Century Code, relating to false advertising.

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

§ 1.) Sections 51-12-08, 51-12-09, 51-12-10, 51-12-11, 51-12-12, 51-12-13, 51-12-14, and 51-12-15 of the North Dakota Century Code are hereby created and enacted to read as follows:

51-12-08. False Advertising—Generally.) It is unlawful for any person with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement, concerning such real or personal property or services, professional or otherwise or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

51-12-09. Representation as to Worth or Value.) For the purpose of this Act the worth or value of any thing advertised is the prevailing market price, wholesale if the offer is at wholesale, retail if the offer is at retail, at the time of publication of such advertisement in the locality wherein the advertisement is published.

No price shall be advertised as a former price of any advertised thing, unless the alleged former price was the prevailing market price as above defined within three months next immediately preceding the publication of the advertisement or unless the date when the alleged former price did prevail is clearly, exactly and conspicuously stated in the advertisement.

This section does not apply to any publisher of a newspaper, magazine, or other publication, who publishes an advertisement in good faith, without knowledge of its false, deceptive, or misleading character.

51-12-10. Real Estate.) It is unlawful for any person to make or disseminate any statement or assertion of fact in a newspaper, circular, form letter or other publication published or circulated in any language in this state, concerning the extent, location, ownership, title or other characteristic, quality or attribute of any real estate located in this state or elsewhere, which is known to him to be untrue and which is made or disseminated with the intention of misleading.

Nothing in this section shall be construed to hold the publisher of any newspaper, or any job printer, liable for any publication herein referred to unless the publisher or printer has an interest either as owner or agent, in the real estate so advertised.

51-12-11. Used Merchandise or "Seconds".) It is unlawful for any person in any newspaper, magazine, circular, form letter or any open publication, published, distributed or circulated in this state or on any billboard, card, label or other advertising medium, or by means of any other advertising device, to advertise, call attention to or give publicity to the sale of any merchandise, which merchandise is second-hand or used merchandise, or which merchandise is defective in any manner, or which merchandise consists of articles or units or parts known as "seconds", or blemished merchandise, or which merchandise has been rejected by the manufacturer thereof as not first class, unless there be conspicuously displayed directly in connection with the name and description of such merchandise and each specified article, unit or part thereof, a direct and unequivocal statement, phrase, or word which will clearly indicate that such merchandise or each article, unit or part thereof so advertised is second-hand, used, defective, or consists of "seconds" or is blemished merchandise, or has been rejected by the manufacturer thereof, as the fact shall be.

51-12-12. Newspaper — Misrepresenting Circulation.) It is unlawful for any proprietor or publisher of any newspaper or periodical willfully and knowingly to misrepresent the circulation of the newspaper or periodical, for the purpose of securing advertising or other patronage.

51-12-13. Penalty.) Any person, firm, corporation, partnership or association or any employee or agent thereof who violates any of the provisions of sections 51-12-08 through 51-12-13 is guilty of a misdemeanor and shall be punished by

a fine of not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

51-12-14. Injunction.) Any person who violates or proposes to violate any of the provisions of sections 51-12-08 through 51-12-13 may be enjoined by any court of competent jurisdiction.

Actions for injunction under this section may be prosecuted by the attorney general or any state's attorney in this state in the name of the people of the state of North Dakota upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

§ 2. Repeal.) Sections 51-12-01, 51-12-02, and 51-12-03 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1961.

SOCIAL SECURITY

CHAPTER 311

H. B. No. 714
(Fitch and Dahl)

MERIT SYSTEM AND PERSONNEL—AGREEMENTS FOR FREE EMPLOYMENT SERVICE

AN ACT

To amend and reenact section 52-02-06 of the North Dakota Century Code, relating to bureau to appoint and make rules and regulations governing personnel; and section 52-08-04, relating to director and employees of employment service—appointment—agreements for free employment service.

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

§ 1. **Amendment.)** Section 52-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-02-06. Merit System and Personnel.)

1. In accordance with chapter 54-42 of the North Dakota Century Code and on the basis of the authority granted under section 52-02-02, the bureau shall select and prescribe the duties and powers of such officers, employees, and other persons as may be necessary in the performance of its duties under the Act; provided, that in cooperation with the North Dakota Merit System the bureau shall take such action as may be necessary to meet the personnel standards promulgated by the Secretary of Labor pursuant to the Social Security Act and the Wagner-Peyser Act, both as amended.
2. Notwithstanding any provision of law to the contrary, the bureau shall have authority to dismiss without notice any person employed in the administration of this title upon receipt of notice of a determination by the United States Civil Service Commission that such person has violated the provisions of the Act of Congress entitled "An Act to prevent pernicious political activities", as amended (United States Code, title 18, section 61 (a)) and that such violation warrants the removal of such person from his employment.

§ 2. **Amendment.)** Section 52-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-08-04. Merit System and Personnel—Agreements for Free Employment Service.)

1. In accordance with chapter 54-42 of the North Dakota Century Code and on the basis of the authority granted under section 52-02-02, the bureau shall select and prescribe the duties and powers of such officers, employees, and other persons as may be necessary in the performance of its duties under the Act; provided, that in cooperation with the North Dakota Merit System the bureau shall take such action as may be necessary to meet the personnel standards promulgated by the Secretary of Labor pursuant to the Social Security Act and the Wagner-Peyser Act, both as amended.
2. Notwithstanding any provision of law to the contrary, the bureau shall have authority to dismiss without notice any person employed in the administration of this title upon receipt of notice of a determination by the United States Civil Service Commission that such person has violated the provisions of the Act of Congress entitled "An Act to prevent pernicious political activities", as amended (United States Code, title 18, section 61 (a)) and that such violation warrants the removal of such person from his employment.
3. The bureau may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of free employment service facilities.

Approved March 3, 1961.

CHAPTER 312

H. B. No. 558

(Stockman, Neukircher)

SOCIAL SECURITY, CONTRIBUTIONS, REDUCTION

AN ACT

To amend and reenact section 52-04-05 of the North Dakota Century Code, relating to standard rate of contributions, reduction of rates, and declaring an emergency.

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

§ 1. **Amendment.)** Section 52-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***52-04-05. Standard Rate of Contributions — Reduction of Rates.)** For the calendar year 1960 and each calendar year thereafter, the standard rate of contributions payable by each employer shall be three and seven-tenths percent. No employer's rate shall be reduced below the standard rate for any calendar year unless and until his account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December thirty-first of the preceding calendar year, except that an employer who has not been subject to the law for a period of time sufficient to meet this requirement may qualify for a reduced rate if his account has been chargeable with benefits throughout a lesser period of time but in no event less than the twelve consecutive calendar month period ending on December thirty-first of the preceding calendar year.

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

Approved January 18, 1961.

*Note: Section 52-04-05 was also amended by section 1 of chapter 313 of the 1961 S.L.

CHAPTER 313

S. B. No. 231

(George, Kee, Reichert, Witteman)

RATES

AN ACT

To amend and reenact section 52-04-05 of the North Dakota Century Code as amended by House Bill 558 of the Thirty-seventh Legislative Assembly of North Dakota, relating to standard rate of contributions—reduction of rates; subsection 1 of section 52-04-06 of the North Dakota Century Code, relating to variations in standard rate of contributions—how determined, and section 52-06-04 of the North Dakota Century Code, relating to the schedule of benefits and qualifying wages.

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

§ 1. **Amendment.**) Section 52-04-05 of the North Dakota Century Code as amended by House Bill 558 of the Thirty-seventh Legislative Assembly of North Dakota is hereby amended and reenacted to read as follows:

***52-04-05. Standard Rate of Contributions—Reduction of Rates.)** For the calendar year 1962 and each calendar year thereafter, the standard rate of contributions payable by each employer shall be four and two-tenths percent. No employer's rate shall be reduced below the standard rate for any calendar year unless and until his account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December thirty-first of the preceding calendar year, except that an employer who has not been subject to the law for a period of time sufficient to meet this requirement may qualify for a reduced rate if his account has been chargeable with benefits throughout a lesser period of time but in no event less than the twelve consecutive calendar month period ending on December thirty-first of the preceding calendar year.

§ 2. **Amendment.**) Subsection 1 of section 52-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***Note:** Section 52-04-05 was also amended by section 1 of chapter 312 of the 1961 S.L.

52-04-06. Variations in Standard Rate of Contributions—How Determined.) Variations from the standard rate of contributions shall be determined in accordance with the following requirements:

1. For the calendar year 1960 and for each calendar year thereafter the bureau shall determine the ratio of reserves for the payment of benefits as of December thirty-first of the preceding calendar year, to taxable wages for such preceding calendar year which have been reported to the bureau on or before January thirty-first of the succeeding calendar year. If such ratio is:
 - a. Less than three percent, the schedule of rates at column I will be in effect;
 - b. Three percent but less than four percent, the schedule of rates at column II will be in effect;
 - c. Four percent but less than five percent, the schedule of rates at column III will be in effect;
 - d. Five percent but less than seven percent, the schedule of rates at column IV will be in effect;
 - e. Seven percent but less than eight percent, the schedule of rates at column V will be in effect;
 - f. Eight percent but less than nine percent, the schedule of rates at column VI will be in effect;
 - g. Nine percent but less than ten percent, the schedule of rates at column VII will be in effect;
 - h. Ten percent or more, the schedule of rates at column VIII will be in effect.

If the fund reserve ratio decreases during the calendar year 1960 or any calendar year thereafter, the schedule of rates will not be advanced by more than one column for any calendar year, except that the schedule of rates at column I will be in effect for each calendar year that the fund reserve ratio is less than three percent on December thirty-first of the preceding calendar year. The percent of the average annual payroll by which the cumulative contributions paid by an employer on or before January thirty-first of any year, with respect to wages paid by him prior to the first day of January of that calendar year, exceeds the cumulative benefits which were chargeable to his account and paid on or before December thirty-first of the preceding calendar year, shall be such employer's reserve ratio. The contribution rate for the ensuing calendar year of an employer eligible under section 52-04-05 will be the rate of contribution on the line in the schedule of rates opposite his reserve ratio as established for that year.

Schedule of Rates—Fund Reserve Ratio

EMPLOYERS' RESERVE RATIO	Col. I— Less Than 3%	Col. II— 3% But Less Than 4%	Col. III— 4% But Less Than 5%	Col. IV— 5% But Less Than 7%	Col. V— 7% But Less Than 8%	Col. VI— 8% But Less Than 9%	Col. VII— 9% But Less Than 10%	Col. VIII— 10% and Over
Minus Balance	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%
0% but less than 1%	4.1%	4.1%	3.9%	3.9%	3.6%	2.7%	2.7%	2.7%
1% but less than 2%	4.1%	3.9%	3.9%	3.7%	3.3%	2.7%	2.7%	2.5%
2% but less than 3%	3.9%	3.9%	3.7%	3.5%	3.0%	2.7%	2.5%	2.3%
3% but less than 4%	3.9%	3.7%	3.5%	3.3%	2.7%	2.5%	2.3%	2.1%
4% but less than 5%	3.7%	3.5%	3.3%	3.1%	2.5%	2.3%	2.1%	1.9%
5% but less than 6%	3.5%	3.3%	3.1%	2.9%	2.5%	2.1%	1.9%	1.7%
6% but less than 7%	3.3%	3.1%	2.9%	2.7%	2.3%	1.9%	1.7%	1.5%
7% but less than 8%	3.1%	2.9%	2.7%	2.5%	2.1%	1.7%	1.5%	1.3%
8% but less than 9%	2.9%	2.7%	2.5%	2.3%	1.9%	1.5%	1.3%	1.1%
9% but less than 10%	2.7%	2.5%	2.3%	2.1%	1.7%	1.3%	1.1%	0.9%
10% but less than 11%	2.7%	2.3%	2.1%	1.9%	1.5%	1.1%	0.9%	0.7%
11% but less than 12%	2.7%	2.1%	1.9%	1.7%	1.3%	0.9%	0.7%	0.5%
12% but less than 13%	2.7%	1.9%	1.7%	1.5%	1.1%	0.7%	0.5%	0.3%
13% but less than 14%	2.7%	1.7%	1.5%	1.3%	0.9%	0.5%	0.3%	0.3%
14% but less than 15%	2.7%	1.5%	1.3%	1.1%	0.7%	0.3%	0.3%	0.3%
15% but less than 16%	2.7%	1.3%	1.1%	0.9%	0.5%	0.3%	0.3%	0.3%
16% and over	2.7%	1.1%	0.9%	0.7%	0.3%	0.3%	0.3%	0.3%

§ 3. Amendment.) Section 52-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-04. Schedule of Benefits—Qualifying Wage—Definitions.)

1. Subject to the other provisions of this title an insured worker's weekly benefit amount shall be the amount in column B of the table in this subsection on the line on which, in column A, there appears his total wages paid for insured work in that quarter of his base period in which such total wages are highest.

COLUMN A High Quarterly Wages	COLUMN B Weekly Benefit Amount	COLUMN C Minimum Qualifying Wages
\$ 97.50-\$260	\$10	\$ 390
260.01- 286	11	429
286.01- 312	12	468
312.01- 338	13	507
338.01- 364	14	546
364.01- 390	15	585
390.01- 416	16	624
416.01- 442	17	663
442.01- 468	18	702
468.01- 494	19	741
494.01- 520	20	780
520.01- 546	21	819
546.01- 572	22	858
572.01- 598	23	897
598.01- 624	24	936
624.01- 650	25	975
650.01- 676	26	1014
676.01- 702	27	1053
702.01- 728	28	1092
728.01- 754	29	1131
754.01- 780	30	1170
780.01- 806	31	1209
806.01- 832	32	1248
832.01- 858	33	1287
858.01- 884	34	1326
884.01- 910	35	1365
910.01- and over	36	1404

2. To qualify as an insured worker an individual must have been paid wages for insured work in his base period totaling not less than the amount in column C of the table in subsection 1 of this section on the line on which, in column B, there appears his weekly benefit amount, and such wages must have been paid in at least two quarters of his base period; however, if an individual during his base period has not been paid such an amount but has been paid wages totaling not

less than the amount appearing in column C on the line immediately above he can qualify as an insured worker and his weekly benefit amount shall be the amount appearing in column B on such line.

However, the wage credits of an individual earned during the period commencing with the end of the prior base period and ending on the date on which he filed a valid claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned wages for insured work in an amount equal to at least ten times his current weekly benefit amount.

3. For the purpose of this title, the term "insured worker" means an individual who, with respect to a base period, meets the wage and employment requirements of this chapter.

Approved March 17, 1961.

CHAPTER 314

S. B. No. 153
(Redlin, Reichert)

RATE OF CONTRIBUTIONS, DEFINITIONS

AN ACT

To amend and reenact section 52-09-09 of the North Dakota Century Code, relating to rate of contribution; and subsection B of section 52-09-20 of the North Dakota Century Code, relating to definitions.

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 is hereby amended and reenacted to read as follows:

52-09-09. Rate of Contribution.) In addition to all other taxes there is hereby levied upon each employer, as defined in section 52-09-20, and also upon each employee, as defined in section 52-09-20, a tax, equal to one and one-half per centum of the wages paid before July 1, 1955, and two per centum 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 such tax shall be equal to three percent. After June 30, 1957, there shall be no tax hereunder upon the employee.

§ 2. Amendment.) Subsection B. of section 52-09-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- B. The term "employment" means any service performed after June 30, 1947, under an employer-employee relationship, under the provisions of this chapter, except:
- (1) Any service performed in the employ of any employer which has as of the effective date of this chapter its own retirement plan.
 - (2) Any service performed by an employee of the legislative assembly during a legislative session.
 - (3) The director of the North Dakota unemployment compensation division is hereby authorized to enter into an agreement with the federal security agency, social security administration bureau of old age and survivors insurance to provide coverage for national guard state civilian employees under the old age and survivor insurance provisions of the Social Security Act as provided in section 218 of the Social Security Act amendments of 1950 (Public Law 734, 81st Congress). For the purposes of the agreement the director is authorized to make such collections, contributions and reports as may be required by the federal agency under the terms of the agreement.
 - (4) Any service performed by an undergraduate student while regularly attending a public school, college or university for such public school, college or university.

Approved March 15, 1961.

CHAPTER 315

H. B. No. 726

(Fitch, Baldwin, Aamoth)

EMPLOYER TAX PAYMENTS

AN ACT

To amend and reenact section 52-09-13 of the North Dakota Century Code, relating to employer tax payments.

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

§ 1. **Amendment.**) Section 52-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-09-13. Employer Payments—Manner of Payment.)

1. The employer taxes shall be paid in such manner, at such times and under such conditions, either by copies of payrolls or other methods necessary or helpful in securing proper identification of the taxpayer, as may be prescribed by the bureau.
2. Notwithstanding section 52-09-09, the nine institutions of higher education under the board of higher education are authorized to make lump sum payments to the old age and survivors' insurance fund. The payments, when accepted, are to be considered as full and complete for a fiscal year. Such payment to be made in advance, by August 1, each year. Computations for this payment will be made on the basis of the authorized payroll as approved by the state board of higher education, at the legal rate of contributions provided by section 52-09-09, on all positions listed in such payroll which would normally be included in computations for payment to the old age and survivors' insurance fund.

Approved March 11, 1961.

CHAPTER 316

S. B. No. 189
(Erickson, Longmire, Johnson)

PUBLIC EMPLOYEES

AN ACT

To amend and reenact section 52-10-03 of the North Dakota Century Code, relating to federal-state agreement interstate instrumentalities; section 52-10-04 of the North Dakota Century Code, relating to contributions by employees of the state and of political subdivisions; to create and enact subsection e. of section 52-10-05 of the North Dakota Century Code, relating to the plans for coverage of employees of political subdivisions; and to amend and reenact section 52-10-07 of the North Dakota Century Code, relating to referenda and certification.

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

§ 1. **Amendment.**) Section 52-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-10-03. Federal-State Agreement — Interstate Instrumentalities.) a. The state agency, with the approval of the governor, is hereby authorized to enter on behalf of the state into an agreement with the secretary of health, education, and welfare consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old age and survivors' insurance system to employees of the state or any political subdivision with respect to services specified in such agreement which constitute "employment" as defined in section 52-10-02. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and secretary of health, education, and welfare shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:

1. Benefits will be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act;
2. The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as

defined in section 52-10-02, equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that Act;

3. Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the last day of the sixth calendar year preceding the year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services, is entered into, except that an agreement or modification entered into after December 31, 1955 and prior to January 1, 1960 shall be effective with respect to services performed after December 31, 1955; or after a later date specified in such modification;
4. All services which constitute employment as defined in section 52-10-02 and are performed in the employ of the state by employees of the state, shall be covered by the agreement; all services which constitute employment as defined in section 52-10-02 and are performed in the employ of any municipality except elected officials, shall be covered by the agreement, notwithstanding the provisions of section 52-10-05, which provides for plans for coverage of employees;
5. All services which (A) constitute employment as defined in section 52-10-02 (B) are performed in the employ of a political subdivision of the state, and (C) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under section 52-10-05, shall be covered by the agreement;
6. The agreement shall include all services described in either subdivision 4 or 5 of this subsection and performed by individuals to whom section 218 (c) (3) (C) of the Social Security Act is applicable, and shall provide that the service of any such individual shall continue to be covered by the agreement in case he thereafter becomes eligible to be a member of the retirement system; and
7. The agreement shall include all services described in either subdivision 4 or 5 of this subsection and performed by individuals in positions covered by a retirement system with respect to which the governor has issued a certificate to the secretary of health, education, and welfare pursuant to subsection b of section 52-10-07.

b. Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (1) to enter into an agreement with the secretary of health, education, and welfare whereby the benefits of the federal old age and survivors' insurance system shall be extended to employees of such instrumentality, (2) to require its employees to pay, and for that purpose to deduct from their wages, contributions equal to the amounts which they would be required to pay under subsection a of section 52-10-04 if they were covered by an agreement made pursuant to subsection (a) of this section, and (3) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (a) and other provisions of this chapter.

§ 2. **Amendment.**) Section 52-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-10-04. Contributions by Employees of the State and of Political Subdivisions.) a. Every employee of the state or of a political subdivision and every employer shall be required to pay for the period of such coverage, into the contribution fund established by section 52-10-06, contributions, with respect to wages, as defined in section 52-10-02, equal to the amount of the tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act. Such employee's liability shall arise in consideration of the employee's retention in the service of the state or of a political subdivision or his entry upon such service, after the enactment of this chapter;

b. The employees' contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution;

c. If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe;

d. In addition to the contributions required in subsection a of this section, every employer shall be required to pay for the period of coverage, into the contribution fund established

by section 52-10-06, contributions, with respect to wages as defined in section 52-10-02, equal to one tenth of one percent after June, 1959. The purpose of this contribution is to provide a fund out of which the legislature may appropriate for the administration of chapter 52-10 and chapter 52-09 of the North Dakota Century Code.

§3.) Subsection e. of section 52-10-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

- e. (1) Where the state, or any political subdivision as defined in section 52-10-02, is liable for an amount due under an agreement pursuant to this chapter, the state, or such political subdivision shall remain so liable until the secretary of health, education and welfare is satisfied that the amount due has been paid to the secretary of the treasury.
- (2) Notwithstanding subdivision e (1) of this section, the state, or any political subdivision as defined in section 52-10-02, shall not be liable for an amount due under an agreement pursuant to this chapter, with respect to the wages paid to individuals, after the expiration of the latest of the following periods—
 - (a) three years, three months, and fifteen days after the year in which such wages were paid, or
 - (b) three years after the date on which such amount became due, or
 - (c) three years, three months, and fifteen days after January 1, 1962,unless prior to the expiration of such period the secretary of health, education and welfare makes an assessment of the amount due from the state, or any political subdivision.

§ 4. **Amendment.)** Section 52-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-10-07. Referenda and Certification.) a. With respect to employees of the state and political subdivisions who are under the provisions of chapter 52-09 entitled Old Age and Survivor Insurance or who may by election come under the provisions of such chapter the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision who are under a locally administered retirement system he shall authorize a referendum upon request of the governing body of such subdivision; and with respect to employees covered by any other retirement system, he may authorize a referendum; and in either case the refer-

endum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218 (d) (3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. The notice of referendum required by section 218 (d) (3) (C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

b. Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in section 218 (d) (3) of the Social Security Act have been met, the governor, or an official designated by the governor to act in his behalf in respect to this subsection, shall so certify to the secretary of health, education, and welfare.

Approved March 4, 1961.

SPORTS AND AMUSEMENTS

CHAPTER 317

H. B. No. 540

(Haugland, Karabensh, Sorlie, Stallman, Trom)
(From LRC Study)

LICENSING, GAMES, AMUSEMENTS, TAXICABS

AN ACT

To amend and reenact sections 53-06-01, 53-06-08, 57-36-02, 57-36-03, 57-36-04, and 57-36-05 of the North Dakota Century Code, relating to the licensing of taxicabs and establishments selling soft drinks, cigarettes, and snuff.

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

§ 1. **Amendment.**) Section 53-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06-01. License Required — Limitation as to Theater License.) No pool hall, billiard room, bowling alley, dance hall, theater, moving picture show, nor any hall owned privately and used for public purposes, shall be opened, maintained, operated, or conducted within this state unless the owner, proprietor, or managing agent thereof first shall secure a license so to do in the manner in this chapter prescribed. No new license shall be issued for the operation of a moving picture show in any city or village of this state where one or more moving picture shows now are being operated under license from the state unless it is established to the satisfaction of the licensing authority that the public needs will be more adequately served by the issuance of such additional license, or unless the applicant for such license purchases or leases one of the moving picture shows then in operation.

§ 2. **Amendment.**) Section 53-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-06-08. License Fees.) The annual license fees for the places and businesses required to be licensed under this chapter shall be as follows:

1. A pool or billiard room, five dollars per table per year;
2. Bowling alleys, five dollars per alley per year;
3. Dance hall, fifteen dollars per year;

4. Theater or moving picture show, five dollars per year where there are not more than fifty seats, ten dollars per year where there are not more than seventy-five seats, fifteen dollars per year where there are not more than one hundred seats, and four dollars per year for each one hundred seats thereafter, or for a fraction thereof;
5. Privately owned hall used for public purposes, five dollars where there are not more than seventy-five seats, ten dollars where there are not more than one hundred fifty seats, and fifteen dollars where there are more than one hundred fifty seats per year.

Where a dance hall, theater, and moving picture show are operated in one building under the same management, one license shall be sufficient, but in such case the larger in amount of the three licenses shall be paid.

§ 3. **Amendment.)** Section 57-36-02 of 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, or snuff 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.

§ 4. **Amendment.)** Section 57-36-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-03. License.) Each license issued under the provisions of this chapter shall be valid until the first day of July subsequent to the date of issuance unless sooner revoked by the attorney general or unless the business with respect to which such license was issued shall be transferred, in either of which cases the holder of the license shall return it immediately to the attorney general. The license issued is annual and runs from July first of each year to June thirtieth of the following year.

§ 5. **Amendment.)** Section 57-36-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-04. Revocation of License.) The attorney general may revoke the license of any dealer or distributor for failure to comply with any of the provisions of this chapter, or any of the rules or regulations prescribed by the tax commissioner or the attorney general. When a license has been legally revoked, no license shall be issued again to the licensee for a period of one year thereafter. Any person who shall sell any cigarettes, cigarette papers, snuff, cigars, or tobacco after his license has been revoked as provided in this chapter, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor 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 not for a period exceeding six months, and all cigarettes, cigarette papers, snuff, cigars, or tobacco in his possession shall be seized and forfeited to the state.

§ 6. **Amendment.)** Section 57-36-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-05. Unlawful to Sell Without License.) No dealer or distributor shall sell cigarettes, cigarette papers, snuff, cigars, or tobacco in this state at wholesale or at retail unless a license shall have been issued to him as prescribed by this chapter, and no person shall sell, offer for sale, or possess with the intent to sell, any cigarettes, cigarette papers, snuff, cigars, or tobacco without such license.

Approved February 2, 1961.

STATE GOVERNMENT

CHAPTER 318

H. B. No. 587

(Aamoth, Boe, Fitch, Stockman, Baldwin)

CESSION OF PROPERTY BY MINNESOTA

AN ACT

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

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

§ 1.) Whereas, due to flood control work upon the Red River of the North, an avulsion has occurred leaving two parcels of land described as:

Those portions of government lot two in the northeast quarter, section twenty-nine, township one hundred forty north, range forty-eight west and the northeast quarter, section seven, township one hundred thirty-nine north, range forty-eight west of the fifth principal meridian, county of Clay, state of Minnesota, bounded by the thread of the Red River of the North as it existed prior to January 1, 1959, and the new thread of the Red River of the North as established by the United States Army Corps of Engineers under Project CIVENG-21-018-59-22, containing respectively 9.78 and 12.76 acres more or less,

detached from the state of Minnesota and attached to the state of North Dakota. The state of North Dakota, upon passage by the legislature of the state of Minnesota of the necessary enabling legislation, does hereby accept jurisdiction over the above-described property, which property shall thereafter be a part of the state of North Dakota and title thereof shall be vested in the city of Fargo, North Dakota.

§ 2.) Nothing contained in the provisions of this Act shall be construed in such manner as to prejudice the title, right, or claim of any person to any of the lands herein involved. The register of deeds of Cass County, North Dakota shall accept and record, without charge therefor, patents, deeds, or other evidences of ownership or interest in any lands recorded in Clay County, Minnesota, which were previously a part of the state of Minnesota but are now within the boundaries of

the state of North Dakota. Recordings made under the provisions of this section shall have retroactive effect to the date of their original recording in the state of Minnesota.

§ 3.) The Act of the legislature of the state of Minnesota referred to in section 1 of this Act, together with this Act, shall constitute the agreement between the states of Minnesota and North Dakota. The Congress of the United States, upon passage of such Acts by the respective legislatures of the states of Minnesota and North Dakota, is petitioned, pursuant to article I, section 10, clause 3 of the United States Constitution, to give its consent to this agreement and to amend the Enabling Acts of such states accordingly. The secretary of state of North Dakota shall transmit duly certified copies of this Act to the presiding officers of the Senate and House of Representatives of the United States and to the several senators and representatives of the states of Minnesota and North Dakota in the Congress of the United States, who are petitioned to take such action as they deem proper to procure the consent of the Congress of the United States to this agreement between the states of Minnesota and North Dakota. This agreement shall become effective when it has been ratified and approved by the legislatures of the states of Minnesota and North Dakota and approved by the Congress of the United States.

§ 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 4, 1961.

CHAPTER 319

H. B. No. 548

(Bye, Knudsen of LaMoure, Solberg)

(From LRC Study)

CONTINUITY OF GOVERNMENT, EXECUTIVE AND JUDICIAL

AN ACT

To provide, in the event of attack upon the United States, for the continuity of the executive and judicial functions of the government of the state and the governments of the political subdivisions of the state by providing for additional officers who can act as governor; by providing for emergency interim succession to other executive offices of the state and its political subdivisions; by providing for special emergency judges; by authorizing political subdivisions to enact resolutions and ordinances relating to the subject; by providing for alternate emergency locations at which state and local governmental business may be transacted, and declaring an emergency.

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

§ 1. Declaration of Policy.) Because of the existing possibility of attack upon the United States and the state of North Dakota of unprecedented size and destructiveness, and in order, in the event of such an attack, to assure continuity of government through legally constituted leadership, authority and responsibility in offices of the government of the state and its political subdivisions; to provide for the effective operation of governments during an emergency; and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary to provide for emergency interim succession to governmental offices of this state, and its political subdivisions, in the event the incumbents thereof are unavailable to perform the duties and functions of such offices; and to provide for special emergency judges who can exercise the powers and discharge the duties of judicial offices in the event regular judges are unavailable.

§ 2. Definitions.) Unless otherwise clearly required by the context, as used in this Act:

1. "Unavailable" means that during or following an enemy attack either a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of an office because of a vacancy, and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

2. "Emergency interim successor" means a person designated pursuant to this Act, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the usual constitutional or statutory provisions and ordinances or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.
3. "Office" includes all state and local offices, the powers and duties of which are defined by the Constitution, statutes, and ordinances, except the office of governor, and except those in the legislative assembly and the judicial branch of the government.
4. "Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in this state in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or processes.
5. "Political subdivision" includes counties, cities, and villages.

§ 3. Additional Successors to Office of Governor.) In the event that the governor, for any of the reasons specified in the Constitution, is not able to exercise the powers and discharge the duties of his office, or is unavailable, the persons specified in section 44-02-03 shall exercise the powers and discharge the duties of the office of governor until a new governor is elected and qualified, or until a preceding named officer becomes available; provided, however, that no person temporarily serving as lieutenant governor, secretary of state, speaker of the house, president pro tem of the senate, or attorney general by virtue of an appointment as an emergency interim successor may serve as governor. In the event that all of the persons specified in section 44-02-03 are unavailable, the powers and duties of the office of governor shall devolve upon former governors of the state except those serving in the national congress, with the most recent ex-governor being first in line of succession.

§ 4. Emergency Interim Successors for State Officers.) All state officers, subject to such regulations as the governor may issue, shall, upon approval of the Act, in addition to any deputy authorized pursuant to law to exercise all of the powers and discharge the duties of the office, designate emergency interim successors by title or position and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this Act to insure their current

status. The officer will designate a sufficient number of such emergency interim successors so that there will be not less than three, nor more than seven, such deputies or emergency interim successors or any combination thereof, at any time. In the event that any state officer is unavailable following an attack, and in the event his deputy, if any, is also unavailable, the powers of his office shall be exercised and the duties of his office shall be discharged by his designated emergency interim successors in the order specified. Such emergency interim successors shall exercise such powers and discharge such duties only until the governor under the Constitution or authority other than this Act may, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed or elected and qualified as provided by law; or an officer or his deputy or a preceding named emergency interim successor becomes available to exercise, or resume the exercise of, the powers and discharge the duties of his office.

§ 5. Enabling Authority for Emergency Interim Successors for Local Offices.) The legislative bodies of cities, villages, and counties are authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist shall be filled in accordance with the Constitution or statutes or until the officer, or his deputy or a preceding emergency interim successor, again becomes available to exercise the powers and discharge the duties of his office.

§ 6. Special Emergency Judges.) In the event that any judge of any court is unavailable to exercise the powers and discharge the duties of his office, and if no other judge authorized to act in the event of absence, disability or vacancy is available to exercise the powers and discharge the duties of such office, the duties of the office shall be discharged and the powers exercised by a special emergency judge provided as follows:

1. The governor, upon approval of this Act, shall designate for each member of the supreme court and for each other court of record, special emergency judges in the number of not less than three nor more than seven and shall specify their order of succession.
2. The senior judge of each judicial district in the state, in consultation with the other judges of the district, upon approval of this Act, shall designate not less than three special emergency judges for each county within the district for courts not of record within that county and shall specify their order of succession.

Such special emergency judges shall, in the order specified, exercise the powers and discharge the duties of the designated court in case of the unavailability of the regular judge or judges or persons immediately preceding them in the designation. The designating authority shall review and revise, as necessary, designations made pursuant to this Act to insure their current status.

The emergency special judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the Constitution and statutes or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

§ 7. Formalities of Taking Office.) At the time of their designation, emergency interim successors and special emergency judges shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

§ 8. Period in Which Termination Authority May Be Exercised.) The legislative assembly, by concurrent resolution, may at any time terminate the authority of the emergency interim successors and special emergency judges to exercise the powers and discharge their duties of office.

§ 9. Removal of Designees.) Until such time as the persons designated as emergency interim successors or special emergency judges actually assume the powers and duties of an office in accordance with this Act, such persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by the designating authority at any time, with or without cause.

§ 10. Disputes.) Any dispute concerning a question of fact arising under this Act with respect to an office in the executive branch of the state government, except a dispute of fact relative to the office of governor, shall be adjudicated by the governor or other official authorized under the Constitution or this Act to exercise the powers and discharge the duties of the office of governor, and his decision shall be final.

§ 11. Emergency Location of State Government.) Whenever, due to an emergency attack, or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexped-

ient or impossible to conduct the affairs of state government at the normal location of the seat of government in the city of Bismarck, the governor shall, as often as the exigencies of the situation require, by proclamation, designate alternate locations at which official governmental business may be transacted, within or without this state, and shall take such action and issue such orders as may be necessary for an orderly transition of the affairs of state government to such alternate location or locations.

§ 12. Emergency Location of Governments of Political Subdivisions.) Whenever, due to an emergency resulting from the effects of enemy attack, or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexpedient or impossible to conduct the affairs of local government at the regular or usual place or places thereof, the governing body of each political subdivision of this state may meet at any place within or without the territorial limits of such political subdivision on the call of the presiding officer or any two members of such governing body, and shall proceed to establish and designate by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary location, or locations, of government where all, or any part, of the public business may be transacted and conducted during the emergency situation. Such sites or places may be within or without the territorial limits of the political subdivision and may be within or without this state.

§ 13. Acts of Relocated Political Subdivisions Are Valid.) During the period when the public business is being conducted at the emergency temporary location, or locations, the governing body and other officers of a political subdivision of this state shall have and possess and shall exercise, at such location or locations, all of the executive, legislative, and judicial powers and functions conferred upon such body and officers by or under the laws of this state. Such powers and functions may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with other or normal procedures and formalities prescribed by law or ordinance and pertaining thereto, and all acts of such body and officers shall be as valid and binding as if performed within the territorial limits of their political subdivision.

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

Approved January 31, 1961.

CHAPTER 320

H. B. No. 549

(Bye, Knudsen of LaMoure, Solberg)
(From LRC Study)

CONTINUITY OF GOVERNMENT, LEGISLATIVE ASSEMBLY

AN ACT

To provide for continuity of membership in the legislative assembly in the event of an attack by an enemy of the United States.

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

§ 1. Declaration of Policy.) It is hereby declared that recent technological developments make possible an attack of unprecedented destructiveness, which may result in the death or disability to act of a large proportion of the membership of the legislative assembly; that to conform in time of attack to existing legal requirements pertaining to the legislative assembly would be impracticable, would admit of undue delay, and would jeopardize continuity of operation of a legally constituted legislative assembly; and that it is therefore necessary to adopt special provisions as hereinafter set out for the effective operation of the legislative assembly. It is therefore the intent of the legislative assembly that the provisions of this Act shall supersede other provisions of law relating to vacancies in office when such vacancies are caused by enemy attack.

§ 2. Definitions.) As used in this Act:

1. "Attack" means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or methods; and
2. "Unavailable" means absent from the place of session of the legislative assembly for reasons other than official business of the legislative assembly, or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a legislator, whether or not such absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

§ 3. Designation of Emergency Interim Successors to Legislators.) Each member of the legislative assembly shall designate not fewer than three or more than seven emergency interim successors to his powers and duties and specify their

order of succession. Each legislator shall review and, as necessary, promptly revise the designations of emergency interim successors to his powers and duties to insure that at all times there are at least three such qualified emergency interim successors.

§ 4. Status, Qualifications and Term of Emergency Interim Successors.) An emergency interim successor is one who is designated for possible temporary succession to the powers and duties, but not the office, of a member of the legislative assembly. No person shall be designated or serve as an emergency interim successor unless he is eligible under the Constitution and statutes to hold the office of the legislator to whose powers and duties he is designated to succeed, but no statutory provision prohibiting a legislator from holding another office or prohibiting the holder of another office from being a legislator, or prohibiting any person other than a qualified elector of a district from representing the district, shall be applicable to an emergency interim successor. An emergency interim successor shall serve at the pleasure of the legislator designating him or of any subsequent incumbent of the legislative office.

§ 5. Contingent Method of Designating Successors.) Prior to an attack, if a legislator fails to designate the required minimum number of emergency interim successors within thirty days following the effective date of this Act or, after such period, if for any reason the number of emergency interim successors for any legislator falls below the required minimum and remains below such minimum for a period of thirty days, then the floor leader of the same political party in the same house as such legislator shall promptly designate as many emergency interim successors as are required to achieve such minimum number, but such floor leader shall not assign to any of his designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a legislator for succession to his own powers and duties. Each emergency interim successor designated by a floor leader shall serve at the pleasure of the person designating him, but the legislator for whom the emergency interim successor is designated or any subsequent incumbent of his office may change the rank in order of succession or replace at his pleasure any emergency interim successor so designated.

§ 6. Recording and Publication.) Each designation of an emergency interim successor shall become effective when the legislator or floor leader making the designation files with the secretary of state the successor's name, address and rank in order of succession. The removal of an emergency interim

successor or change in order of succession shall become effective when the legislator or floor leader so acting files this information with the secretary of state. All such data shall be open to public inspection. The secretary of state shall inform the governor, the state office of civil defense, the chief clerk or secretary of the house concerned and all emergency interim successors, of all such designations, removals and changes in order of succession. The chief clerk or secretary of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after their occurrence.

§ 7. Oath of Emergency Interim Successors.) An oath shall be required of an emergency interim successor at the time of the convening of the legislative session in which he is to serve.

§ 8. Place of Legislative Session.) Whenever in the event of an attack, or upon finding that an attack may be imminent, the governor deems the place of session then prescribed to be unsafe, he may change the place of session.

§ 9. Convening of Legislature in Event of Attack.) In the event of an attack, the governor shall call the legislative assembly into session at a safe location as soon as practicable, and in any case within ninety days following the inception of the attack. If the governor fails to issue such call, the legislative assembly shall, on the ninetieth day from the date of inception of the attack, automatically convene at the alternate location at which the governor has established his office. Each emergency interim successor shall proceed to the place of session as expeditiously as practicable, unless he is certain that the legislator to whose powers and duties he is designated to succeed or any emergency interim successor higher in order of succession will be in attendance at the place of session. At such session or at any session in operation at the inception of the attack, and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended, as well as any limitations upon the time during which bills of any nature may be introduced.

§ 10. Assumption of Powers and Duties by Emergency Interim Successor.) If in the event of an attack a legislator is unavailable, his emergency interim successor highest in order of succession who is available shall, except for the power and duty to appoint emergency interim successors, exercise the powers and assume the duties of such legislator until the incumbent legislator, an emergency interim successor higher in order of succession, or a legislator appointed or elected and legally qualified can act. Each house of the legislative assembly

shall, in accordance with its own rules, determine who is entitled under the provisions of this Act to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a member of the legislative assembly.

§ 11. Privileges, Immunities and Compensation of Emergency Interim Successors.) When an emergency interim successor exercises the powers and assumes the duties of a legislator, he shall be accorded the privileges and immunities, compensation, allowances and other perquisites of office to which a legislator is entitled. In the event of an attack, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a legislator, shall be accorded the privileges and immunities of a legislator while traveling to and from a place of session and shall be compensated for his travel in the same manner and amount as a legislator. This section shall not in any way affect the privileges, immunities, compensation, allowances or other perquisites of office of an incumbent legislator.

§ 12. Quorum and Vote Requirements.) In the event of an attack, quorum requirements for the legislative assembly shall be suspended, and where the affirmative vote of a specified proportion of members for approval of a bill, resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient.

§ 13. Termination of Operation of Provisions of This Act.) The authority of the emergency interim successors to succeed to the powers and duties of legislators, and the operation of the provisions of this Act relating to a quorum, the number of affirmative votes required for legislative action, and limitations on the length of sessions and the subjects which may be acted upon, shall expire two years following the inception of an attack, but nothing herein shall prevent the resumption before such time of the filling of legislative vacancies and the calling of elections for the legislative assembly in accordance with applicable constitutional and statutory provisions. The governor, acting by proclamation, or the legislative assembly, acting by concurrent resolution, may from time to time extend or restore such authority or the operation of any of such provisions upon a finding that events render the extension or restoration necessary, but no extension or restoration shall be for a period of more than one year.

§ 14. 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 primary election in 1962 as designated in House Concurrent Resolution A* of the Thirty-seventh Legislative Assembly.

Approved February 2, 1961.

*Note: House Concurrent Resolution "A" appears as chapter 409 of the 1961 S.L.

CHAPTER 321

H. B. No. 669

(Leet, Kelly, Overbo)

CONVEYANCE OF PROPERTY TO DEVILS LAKE

AN ACT

Authorizing the board of administration to sell and convey to the board of education of the city of Devils Lake a tract of land located in section 27 in township 154 north of range 64, west of the fifth principal meridian.

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 to sell and convey to the board of education of the city of Devils Lake, the following described real estate situated in section twenty-seven in township one hundred fifty-four, north of range sixty-four, west of the fifth principal meridian, and constituting part of the farm operated in connection with the school for the deaf, described as follows, to wit:

Commencing at a point on the west line of the right-of-way of Highway No. 20 approximately 1400 feet north of the section line between sections twenty-seven and thirty-four, thence due west to the west line of said quarter section; thence north along said west line to the north line of said quarter section; thence east along the said north line to the right-of-way of said Highway No. 20; thence south along the west line of Highway 20 to point of beginning,

for the consideration of one hundred dollars per acre provided, however, that the said board of education will make available to the board of armory supervisors or a political subdivision designated by said board, ten acres in the southeast corner of said tract for armory purposes. The deed of conveyance shall be signed by the governor and attested by the secretary of state. Provided, that if at any time after the conveyance of the above-described real estate it ceases to be used for public purposes such real estate shall revert to the state of North Dakota.

Approved February 28, 1961.

CHAPTER 322

S. B. No. 288

(Erickstad, Garaas, Longmire, Harris,
(Fiedler and Wartner)

EASEMENT TO DEVILS LAKE

AN ACT

Authorizing an easement over certain property now opened by the state of North Dakota to the city of Devils Lake, for the construction, installation, operation, and maintenance of a water main or mains and the reversion thereof in case of nonuse, and declaring an emergency.

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

§ 1.) Authorization is hereby granted for the conveyance to the city of Devils Lake of a right-of-way over certain property of the state of North Dakota, for the construction, installation, operation, and maintenance of a water main or mains to conduct a public water supply to said city over and through said property, subject to the right of reversion in the grantor in case the easement granted is not used for said purpose or is abandoned.

§ 2.) Said property includes the following:

1. All that tract of land granted to the state of North Dakota by the terms of the Act of Congress of the United States approved July 6, 1894, 28 Stat. 100, to be used as a park for the use of the militia of said state, and for other public purposes not inconsistent with such use, being described in said Act as follows:
"That portion of the tract known as Rock Island, bounded on the north by an east and west line, two miles back or north of the southeasternmost point of said island or peninsula, said tract being the southernmost point of the peninsula on the north side of Devils Lake in North Dakota, known as Rock Island."
2. All of the area designated as Camp Gilbert C. Grafton, Ramsey County, North Dakota, in section 37-03-13 of the North Dakota Century Code.
3. All lands owned by the state of North Dakota traversed by the right-of-way of the Great Northern Railway Company between the village of Warwick and the city of Devils Lake, in Benson and Ramsey Counties, North Dakota.

§ 3.) It is hereby found and determined that such easement is required for a public purpose and is not inconsistent with the use of any such property by the militia of the state. The easement for said property shall be executed in the name of the state of North Dakota and signed by the governor and attested by the secretary of state.

§ 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 25, 1961.

CHAPTER 323

S. B. No. 144

(Foss)

LAND CONVEYANCE TO STATE WATER CONSERVATION COMMISSION, BUILDING

AN ACT

Authorizing the state board of administration to transfer and convey to the state water conservation commission a tract of land to enable the commission to construct thereon a building for use in storing, servicing, repairing and maintaining machinery, motor vehicles, equipment and materials, and making an appropriation to cover the cost of constructing such building, and declaring an emergency.

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

§ 1. **Board of Administration to Convey Tract of Land to State Water Conservation Commission.**) The state board of administration is hereby authorized to transfer and convey to the state water conservation commission a tract of land containing two and forty-one hundredths acres, more or less, located in the northwest quarter of the northwest quarter of section two, township one hundred thirty-eight north, range eighty west, of the fifth principal meridian, Burleigh County, North Dakota, more particularly described as follows: beginning at the northwest corner of section two, township one hundred thirty-eight north, range eighty west, of the fifth principal meridian, thence traveling due south along the west boundary of said section two a distance of nine hundred sixty-six and sixty-eight hundredths feet, thence traveling due east a distance of forty-seven feet to a point which shall be called the point of beginning, thence starting at the beginning and traveling due east a distance of three hundred fifty feet, thence traveling due south a distance of three hundred feet, thence traveling

due west a distance of three hundred fifty feet, thence traveling due north a distance of three hundred feet to the point of beginning.

§ 2. Appropriation.) There is hereby appropriated to the state water conservation commission out of any moneys in the state treasury, not otherwise appropriated, the sum of thirty thousand dollars, or so much thereof as is necessary, for the construction, during the period beginning with the effective date of this Act and ending June 30, 1963, of a building or shop on the premises described in section 1 hereof, for its use in storing, servicing, repairing and maintaining machinery, motor vehicles, equipment and material used by the commission in connection with activities authorized by law.

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

Approved March 16, 1961.

CHAPTER 324

S. B. No. 223
(Foss)

LEASE OF CERTAIN BLIND SCHOOL LAND

AN ACT

To authorize the board of administration to execute leases on properties owned by the state at Bathgate, North Dakota and formerly utilized by the school for the blind.

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

§ 1.) The board of administration is hereby authorized, upon conferring with the Pembina board of county commissioners, to privately negotiate and to execute a lease for a period not exceeding twenty-five years on the buildings and grounds formerly utilized as the school for the blind at Bathgate, provided that the lessee shall agree to maintain such premises and provide such improvements as shall be agreed upon by the board and pay such rate of cash rental, if any, as may to the board appear just and reasonable and, in the event such lessee is a nonprofit corporation, such cash rental payment may be at the rate of one dollar per year.

§ 2.) The board of administration is hereby authorized to lease agricultural lands formerly utilized in connection with the operation of the school for the blind at Bathgate, for terms not exceeding five years, to the highest bidder after advertising notice thereof in the official newspaper of Pembina County for two successive weeks.

Approved March 16, 1961.

CHAPTER 325

H. B. No. 593
(Rolfstrud)

LEASE OF STATE TRAINING SCHOOL LAND

AN ACT

Authorizing the board of administration to lease certain real property owned by the state of North Dakota for the use and benefit of the state training school.

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

§ 1.) The state board of administration is hereby authorized to lease certain land owned by the state of North Dakota for the use and benefit of the state training school, which land is more specifically described as follows:

A tract of land in the northeast quarter of section thirty-two, township one hundred thirty-nine, range eighty-one west, in Morton County, North Dakota, to be known as Auditor's Lot A, more fully described as: Beginning at the northeast corner of said section, thence south along the east line of said section a distance of four hundred eighty-five feet, thence westerly on a line parallel to the north line of said section a distance of nine hundred feet, thence northerly on a line parallel to the east line of said section a distance of four hundred eighty-five (485) feet to a point on the north line of said section; thence east along the north line of said section a distance of nine hundred feet to the point of beginning, said tract containing ten and two-hundredths acres more or less.

Provided that such land shall be leased for the purpose of mining and excavating clay therefrom and provided further that such lease shall provide that all such clay removed from such land shall be sold for not less than one cent per cubic yard payable on or before the first day of January of each year. The term of such lease shall be for not more than twenty-three years from the date of execution and shall provide that all topsoil removed from the above-described land shall be stockpiled and prior to the termination of the lease the land shall be leveled and such topsoil shall be restored to such land. The lease shall be executed by the governor and attested by the secretary of state.

Approved February 25, 1961.

CHAPTER 326

S. B. No. 255

(Johnson,)

(Becker, Thompson, Lips, Solberg,)

(Trenbeath, Baeverstad, Mutch)

NATURAL RESOURCES COUNCIL

AN ACT

Creating a conservation council which shall be a factfinding body comprised of the chiefs of state agencies dealing with the management of the state's natural resources for the purpose of coordinat- ing the activities of such agencies in managing such resources.

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

§ 1. **Short Title.)** This Act may be known as the Natural Resources Council Law.

§ 2. **Declaration of Policy.)** The purpose of this Act shall be the establishment of a natural resources council whose purpose is to promote the welfare of the state by providing a method of collecting, analyzing and interpreting information and of making recommendations to the several state agencies responsible for some phase of resource management, on matters relating to the soils, waters, forests, fish and wildlife and other natural resources of the state, and to provide a means whereby such agencies may better coordinate their efforts and activities in managing and regulating such resources and the protection, development and use thereof.

§ 3. **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 conservation 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, or the duly assigned staff representative of any herein named.

§ 4. **Procedure.)** The governor shall call the first meeting of the council within sixty days after the effective date of this Act at the state capitol, at which meeting the council shall elect from within its own body a "working chairman" and a secretary. Following organization, meetings may be called

by the working chairman or, at the request of any six members, may be held as often as necessary but not less than two times each year, which meetings shall be given publicity through the usual news channels. A majority of members shall constitute a quorum.

§ 5. Funds.) No funds shall be appropriated for the functioning of the council. 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.

§ 6. Secretary.) The secretary of the council shall be responsible for notifying members of meetings of the council and for preparation of the agenda thereof. He shall prepare and edit the minutes and reports of the council. Any member of the council shall provide stenographic and clerical services for the preparation of minutes or reports of the council upon request of the secretary.

§ 7. Surveys.) The council shall have power to appoint subcommittees consisting of members or employees designated by members of the council and to authorize investigations and surveys necessary for the council to carry out the purposes for which the council is established.

§ 8. Reports.) The council shall make a report, to the state legislature of its findings and recommendations at each regular session of that body and such additional reports as may be required of it by the legislature or the legislative research committee. The council shall also report upon its findings and recommendations to council members as it is deemed advisable.

§ 9. Availability of Information.) Council members shall cooperate by furnishing such information and data relating to their agency projects and programs affecting the natural resources of the state as the council may require in order to perform its duties, and members of the council shall have the privilege to call in consultants who may have additional information to contribute.

Approved March 11, 1961.

CHAPTER 327

H. B. No. 654

(Lindberg)

RETIREMENT PROGRAM FOR CERTAIN STATE EMPLOYEES

AN ACT

Authorizing a retirement program for employees of the unemployment compensation division, state employment service, and the national guard.

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

§ 1.) The unemployment compensation division and the state employment service performing the services provided in title 52, and the North Dakota national guard are authorized either jointly or severally to establish employee retirement programs by contract with an insurance company, state or national bank and trust company, or an investment company, authorized under the law to do business in this state. Such state agencies shall prepare specifications of the terms of such retirement programs which shall be submitted to not less than three such companies with a request for bids upon such retirement program contracts. After the submission of at least three bids, the director of the unemployment compensation division, director of the state employment service, and the adjutant general shall jointly or separately compare such bids, and with the approval of the governor, shall execute joint or separate contracts for such retirement programs with the company submitting the lowest and best bid.

The employing agency shall be authorized to withhold the employee's share of the contributions required under such retirement program from the salary paid each employee of such agency, which contribution shall not exceed three percent of the first four hundred dollars of monthly wages due, except that for any employee receiving wages in excess of four hundred dollars per month such contribution shall not exceed six percent. The employing agency shall be authorized to pay a sum as prescribed in the program contract toward the cost of such retirement program, which sum shall not be in excess of the amount approved by the appropriate federal agency supervising the payment or reimbursement of salary and retirement program costs. The amount withheld from the wages due an employee and the amount to be paid by the employing agency shall be paid to the company holding such retirement program contract in accordance with the terms of such contract.

The employing agency's share of the costs of such retirement program shall be paid from any funds made available to it for this purpose by the United States Government, and in the case of employees of such agencies for whom the state does not receive federal payments for salary costs, such employer's share may be made from any appropriations made available for the purpose of paying such salaries. Payments may be made for prior service of employees in accordance with the terms of the retirement program contract, and in accordance with the availability of funds. The contract shall specify the terms and conditions under which employee contributions may be withdrawn from the program and for the crediting of the employer's contributions to future payments due from the employing agency. Provision may be made in the contract for optional payment of benefits to survivors of covered employees. Each agency participating in the retirement program shall be authorized to do all things necessary for the proper administration of the program, but no benefits payable under the terms of the retirement program contract shall ever become an obligation of the state.

Approved March 17, 1961.

CHAPTER 328

H. B. No. 717

(Scott, Christensen of Ward, Reimers)

SALE OF STATE LAND IN STUTSMAN COUNTY

AN ACT

Authorizing the board of administration to sell certain described lands belonging to the state of North Dakota.

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

§ 1.) It is hereby determined that certain land owned by the state of North Dakota and under the control of the board of administration is no longer needed by the state and can be advantageously disposed of by selling the same, for a consideration of five hundred dollars, to the Stutsman County soil conservation district.

§ 2.) The board of administration is hereby authorized to sell to the Stutsman County soil conservation district that tract of land containing approximately seven acres described as follows:

That land lying in section six, township one hundred thirty-nine north, range sixty-three west, beginning at a point 1706.21 feet north eighty-nine degrees fifty-six minutes west and 33.0 feet south of the northeast corner of said section six, thence running north eighty-nine degrees fifty-six minutes west 612.3 feet, thence south sixty-three degrees forty-three minutes east 450.0 feet, thence south twenty-six degrees forty-nine minutes west 764.7 feet, thence south seventy-three degrees fifty minutes west 2278.0 feet, thence north sixteen degrees ten minutes west 125.0 feet, thence south seventy-three degrees fifty minutes west 634.7 feet to a point on the west line of said section six, thence south along the section line 598.7 feet, thence north seventy-three degrees fifty minutes east 801.4 feet, thence north sixteen degrees ten minutes west 150.0 feet, thence north seventy-three degrees fifty minutes east 2063.22 feet, thence south eighty-three degrees thirty-five minutes east 475.0 feet, thence south fifty-eight degrees thirty-seven minutes east 600.0 feet to a point, thence due east to a point on the westerly right-of-way line of the Midland Continental Railway, thence northwesterly along said right-of-way line to the point of beginning.

The board of administration may cause the above-described tract of land to be sold in the manner prescribed in sections 54-01-05.1 and 54-01-05.2. The proceeds of such sale shall be credited to the general fund of the state. In the event the Stutsman County soil conservation district shall cease to exist, the above described land shall revert to the state of North Dakota.

Approved March 7, 1961.

CHAPTER 329

H. B. No. 563
(Solberg, Wilkie)

SALE OF CERTAIN TB SANATORIUM PROPERTY

AN ACT

Authorizing the board of administration to sell certain farm buildings belonging to the state tuberculosis sanatorium.

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

§ 1.) It is hereby determined that certain farm buildings heretofore operated in connection with the state tuberculosis sanatorium at Dunseith are no longer required for the use of the state and that it will be advantageous to dispose of such surplus buildings. The board of administration is hereby authorized to sell such farm buildings at public or private sale. The proceeds of such sale or sales shall be credited to the general fund of the state.

Approved February 25, 1961.

CHAPTER 330

S. B. No. 243

(Longmire, Redlin)

STATE DEPARTMENT PAYROLLS

AN ACT

Authorizing the preparation and certification of payrolls by state departments and the execution of certificates upon payroll warrants.

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

§ 1. Departmental Payrolls.) The director of accounts and purchases is authorized to issue regulations governing methods whereby the regular payrolls for each department, agency or institution of this state may be prepared and certified by the agency concerned without individually executed or signed certificates of claim by the employees as provided in section 54-14-04. In all such cases, the warrants issued to cover such payroll items shall have the required certificate printed on the back of the warrant in such manner that the endorsement of the warrant will constitute an execution of the certificate provided in section 54-14-04.

Approved February 28, 1961.

CHAPTER 331

H. B. No. 737

(Baldwin)

STATUARY HALL COMMISSION

AN ACT

Providing for the continuation of the North Dakota National Statuary Hall Commission and for an appropriation for the procurement of a statue of the Honorable John Burke for placement in National Statuary Hall and to pay the expenses of the commission.

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

§ 1. North Dakota National Statuary Hall Commission Continued.) The North Dakota National Statuary Hall Commission as created in accordance with chapter 366 of the 1959 Session Laws shall be continued during the biennium beginning July 1, 1961 through June 30, 1963, and the appointments of all present members thereof shall remain in force during such period. Any vacancies occurring thereon shall be filled by the governor by appointment. The members of the commission shall receive no compensation for their services as members of such commission but shall receive mileage, travel and other actual expenses incurred in the course of their duties in the same manner and amounts as other state officials.

It shall be the duty of the commission to select a sculptor and execute such contract as may be necessary for him to furnish a statue of a type approved by the commission of the Honorable John Burke for placement in National Statuary Hall, and to make all necessary arrangements for its temporary display in the state capitol building, its transportation to and erection in National Statuary Hall, and for suitable ceremonies accompanying its placement.

The state historical society shall give such reasonable aid and assistance to the commission as it may request.

§ 2. Appropriation.) There is hereby appropriated to the North Dakota National Statuary Hall Commission out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$30,000.00, or so much thereof as may be necessary, to carry out the provisions of section 1 of this Act.

Approved February 25, 1961.

CHAPTER 332

H. B. No. 552

(Haugland, Karabensh, Sorlie, Stallman, Trom)
(From LRC Study)GOVERNOR AND SUPERINTENDENT OF
PUBLIC INSTRUCTION

AN ACT

To amend and reenact sections 4-02-20, 4-02-21, 4-22-03, 12-57-01, 16-13-33, 16-13-36, 16-13-39, 16-13-47, 23-01-02, 23-13-09, 26-20-04, 26-20-05, 26-20-06, 26-20-07, 26-20-08, 34-10-02, 34-10-03, 34-10-06, 46-04-01, 46-04-10, 54-04-01, 54-04-03, 54-04-04, 54-36-01, 55-01-01, and 61-02-04 of the North Dakota Century Code, relating to the membership and duties of various boards and commissions upon which the governor or the superintendent of public instruction serve; and to repeal sections 4-02-13, 4-02-14, 16-13-34, and 16-13-37 of the North Dakota Century Code, relating to the boards of directors of the state fair associations, and the state board of canvassers for general and special elections.

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

§ 1. **Amendment.)** Section 4-02-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-20. Board of Directors of Minot Fair.) The northwest agricultural livestock and fair association shall have an ir-repealable bylaw providing that its board of directors shall consist of eleven persons.

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

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

§ 3. **Amendment.)** Section 12-57-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-57-01. Board for Relief for Wrongful Imprisonment.) The members of the board of administration shall constitute

the board for relief for wrongful imprisonment. The secretary of the board of administration shall be the secretary of this board.

§ 4. **Amendment.)** Section 16-13-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-33. State Board of Canvassers—Membership—Oath—Quorum.) The clerk of the supreme court, secretary of state, state treasurer, and the chairman of the state central committee of the two political parties which cast the highest vote for governor at the last general election shall constitute the state board of canvassers. After taking the oath required of civil officers, the board shall proceed to canvass publicly the election returns made by the county auditors. Three members of the board shall constitute a quorum and may make the canvass provided for in this chapter and certify to the result thereof. If less than a quorum attend on the day appointed for a meeting of the board, the members attending may summon other state officers until there is a sufficient number to constitute a quorum. Any other state officer, upon being notified by the members of such board, shall attend without delay and act as a member of such board.

§ 5. **Amendment.)** Section 16-13-36 of 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 twenty 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.

§ 6. **Amendment.)** Section 16-13-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-39. Statement Prepared by State Board of Canvassers—Contents—Signing—Candidate Notified of Nomination.) The state board of canvassers shall prepare the statement required by section 16-13-19, subsections 1, 2, and 3, for primary elections. Such certificate shall be signed by the members of the board and filed in the office of the secretary of state. Upon the completion of the canvass, the secretary of state shall mail to each candidate nominated a notice of his nomination, stating that his name will be placed upon the official ballot to be voted for at the ensuing general election. The secretary of state shall

file a copy of the findings of the board in his office and shall publish such findings in a newspaper printed at the seat of government.

§ 7. **Amendment.)** Section 16-13-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-47. Certificate of Result of Election by State Board of Canvassers—Secretary of State to Receive.) The statements provided for in section 16-13-42 shall be certified to by the members of the state board of canvassers, who shall subscribe their names to such statements. The board then shall determine what persons have been duly elected to such offices and shall make out and subscribe on each statement a certificate of such determination and shall deliver the same to the secretary of state.

§ 8. **Amendment.)** Section 23-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-01-02. Health Council — Members, Terms of Office, Vacancies, Compensation, Officers, Meetings.) The health council shall consist of nine members appointed by the governor in the following manner: Two persons shall be appointed from a list of four submitted by the state hospital association, two persons shall be appointed from a list of four submitted by the state medical association, one shall be appointed from a list of two submitted by the state dental association, one shall be appointed from a list of two submitted by the state nurses association, one shall be appointed from a list of two submitted by the state pharmaceutical association and there shall be appointed two lay persons with broad civic interests representing varied segments of the population. The members of the first health council shall be appointed within thirty days after this chapter becomes effective to serve for the following terms: three members for one year, three members for two years, and three members for three years, from the date of their appointment or until their successors are duly appointed. On the expiration of the term of any member, the governor, in the manner hereinbefore provided, shall appoint for a term of three years, persons to take the place of members whose terms on said council are about to expire. The officers of said council shall be elected annually. The following persons shall serve in an advisory capacity to the health council: the state health officer, the attorney general, the chairman of the board of administration, the state fire marshal, the executive secretary of the state board of nurse examiners, the executive director of the state board of public welfare and such other persons as the governor may designate. The council shall meet

in January and June of each year and at such other times as the council or its chairman may direct. The council shall have as standing committees, a health committee and a hospital committee and such other committees as said council may find necessary. The health committee shall consist of one of the representatives of the state medical association, one of the representatives of the state hospital association, the representative of the state dental association, the representative of the state nurses association and two of the representatives of civic interests. The hospital committee shall consist of two representatives of the hospital association, one of the representatives of the state medical association, the representative of the state nurses association and one of the representatives of civic interests. The members of these committees shall be selected by the chairman of the health council from its own membership. The chairman shall have the responsibility of assigning to the special committees, problems relating to the respective fields. The members of the council shall receive fifteen dollars per day, not to exceed thirty days in any one year, and their necessary travel and subsistence expenses while attending council meetings, or in the performance of such special duties as the council may direct. Such per diem and expenses shall be audited and paid in the manner in which the expenses of state officers are audited and paid. The compensation provided for in this section shall not be paid to any member of the council who received salary or other compensation as a regular employee of the state, or any of its political subdivisions, or any institution or industry operated by the state.

§ 9. Amendment.) Section 23-13-09 of 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 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.

§ 10. Amendment.) Section 26-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-04. Commissioner to Hear Petition for Consolidation or Reinsurance—General Duties.) The commissioner of insurance shall hear a petition for consolidation or reinsurance and determine whether or not the same shall be allowed. At the time and place fixed in the notice, or at such other time and place as shall be fixed by adjournment, the commissioner shall proceed with the hearing and may make or order such examination into the affairs and condition of the petitioning company as he may deem proper. Such consolidation or reinsurance shall be permitted only upon approval by the commissioner. The commissioner shall safeguard the interests of the policyholders of the company or companies proposing to consolidate or reinsure, and if he is satisfied that the interests of the policyholders of such company or companies are protected properly and that no reasonable objection exists to the consolidation or reinsurance, he may approve and authorize the proposed consolidation or reinsurance or may modify or change the terms and conditions thereof in such manner as he may deem for the best interests of the policyholders, and may make such order with reference to the distribution and disposition of the surplus assets of the company thereafter remaining as shall be just and equitable to the policyholders.

§ 11. Amendment.) Section 26-20-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-05. Commissioner of Insurance May Compel Attendance of Witnesses—Policyholders and Stockholders May Appear.) The commissioner of insurance may summon and compel the attendance and testimony of witnesses and the production of books and papers. Any policyholder or stockholder of the company or companies petitioning for consolidation or for the right to reinsure may appear before the commissioner and be heard with reference thereto.

§ 12. Amendment.) Section 26-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-06. Expenses of Proceedings Paid by Company Bringing Petition.) All actual expenses and costs incident to proceedings under the provisions of this chapter shall be paid by the company or companies filing the petition, and an itemized statement of the expenses and costs shall be filed with the commissioner of insurance with a certified copy of the decision of the commissioner.

§ 13. Amendment.) Section 26-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-07. Profit by Company Officer or State Officer or Employee by Reason of Consolidation or Reinsurance Prohibited.) No officer of a company petitioning for the right to consolidate or to reinsure, and no officer or employee of the state, shall receive any compensation or gratuity, either directly or indirectly, for aiding, promoting, or in any manner assisting in the consolidation or reinsurance.

§ 14. **Amendment.)** Section 26-20-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-20-08. Penalty.) Any officer, director, or stockholder of any company mentioned in this chapter, or any officer or employee of the state, who shall violate, or consent to the violation of, any provision of this chapter shall be punished by a fine of not less than five thousand dollars or by imprisonment in the county jail for not less than one year, or by both such fine and imprisonment.

§ 15. **Amendment.)** Section 34-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-10-02. Labor Dispute—Investigation—Report to Commissioner—Application for Labor Dispute Board.) When any labor dispute causes or is likely to cause a strike or lockout or interferes or is likely to interfere with the due and ordinary course of business or menaces the public peace or jeopardizes the welfare of the community and the parties thereto are unable to adjust the same, the head of the labor division of the department of agriculture and labor, after investigation, may report such dispute to the commissioner of agriculture and labor with the results of his investigation and make application to the commissioner for the establishment of a labor dispute board.

§ 16. **Amendment.)** Section 34-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-10-03. Establishment of Labor Dispute Board—Members—Jurisdiction.) Upon the receipt of such report and application, or on his own initiative, and upon being satisfied that the dispute comes within the provisions of section 34-10-02, the commissioner of agriculture and labor may establish a labor dispute board which shall have jurisdiction of such dispute as herein provided. The commissioner shall act as chairman of such board or shall designate a personal representative to serve in his place and stead but in the event that a representative of the commissioner is so designated, the commissioner nevertheless may act and serve in person at

such times as he may see fit in place of such personal representative. Two additional members of the board shall be appointed by the commissioner. One such appointive member shall be identified with or representative of business, industry, commerce, management, or employers by background, experience, affiliation, or vocation and one shall similarly be identified with or representative of labor. Neither appointive member, however, shall be directly connected with either faction or party to the dispute. The board so established shall have continuing jurisdiction of such dispute until discharged by the commissioner.

§ 17. **Amendment.**) Section 34-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-10-06. Expenses of Labor Dispute Board—Appointment of Agents—Attorney General to Represent Board.) Expenditures of labor dispute boards established under the provisions of this chapter, upon approval of the emergency commission, may be paid out of the state contingency fund. The members of such boards may be reimbursed for necessary and actual expenses as are other state officers and compensation not in excess of fifteen dollars per diem may be allowed to the appointive members or to any personal representative of the commissioner of agriculture and labor serving on any such board for time actually devoted to duties on such board. With the consent of the commissioner of agriculture and labor, such boards may appoint or employ agents to supervise elections under the provisions of section 34-10-05* or to conduct investigations and may employ necessary clerical assistance. Such boards shall be represented in all legal proceedings by the attorney general who shall serve as legal advisor to any such board or designate an assistant for that purpose.

§ 18. **Amendment.**) Section 46-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-01. Official Distribution of State Laws—Secretary of State to Control.) Each member of the legislative assembly for himself and each constitutional officer of the state and each judge of the supreme and district courts for the use of their respective offices and departments shall be entitled to receive from the state a copy of any publication of the laws of the state and of any compilation or codification thereof published under authority of the state. The secretary of state shall designate other offices and agencies of the state that

***Note:** Section 34-10-05 was repealed by section 15 of chapter 236 of the 1961 S.L.

shall be entitled to receive copies of any such publication of the laws for the use of such state offices and agencies and also shall determine the number of copies of any publication to be received by any recipient in a distribution under the provisions of this section, if more than one copy shall be needed by such recipient for official use.

§ 19. **Amendment.)** Section 46-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-10. Duties of Secretary of State—Exchange of Laws with Other States.) The secretary of state may distribute copies of all laws passed by each legislative assembly and all compilations or codifications of the same, whenever it shall seem desirable:

1. In exchange for like publications of other states;
2. To replace copies lost or damaged in official use;
3. To provide copies as needed to state officers, boards, commissions, institutions, or agencies of the state; and
4. To provide copies as needed to the national conference of commissioners on uniform state laws.

§ 20. **Amendment.)** Section 54-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-04-01. Bids for Enrolling or Engrossing Bills—Notice.) The department of accounts and purchases, not less than sixty nor more than seventy-five days before the meeting of the legislative assembly in regular session, shall give notice by advertising for three successive weeks, in a newspaper at the seat of government, that sealed bids will be received for the engrossing and enrolling of all bills passed by each house of the legislative assembly.

§ 21. **Amendment.)** Section 54-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-04-03. Bid Accompanied by Certified Check—Bidder Must Be Resident.) No bid for the engrossing and enrolling of bills passed by either house of the legislative assembly shall be considered if from a person not a bona fide resident of the state, nor unless accompanied by a certified check in a sum to be named by the department of accounts and purchases. Such check shall be security that the successful bidder shall enter into a contract and give a bond with sureties to be approved by the department.

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

54-04-04. Opening of Bids—Awarding Contract.) Upon the day set in the advertisement for the opening of bids, which shall not be less than thirty days before the meeting of the legislative assembly, the bids shall be opened by the department of accounts and purchases. The department shall award the contract to the lowest responsible bidder and shall enter into a contract with him for the performance of the work, subject to the conditions set forth in this chapter. Nothing in this chapter shall prevent the awarding of separate contracts for the engrossing and enrolling, if deemed advantageous to the state.

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

54-36-01. Commission — Members — Officers — Expenses of Certain Members.) The North Dakota Indian affairs commission shall consist of the governor, commissioner of agriculture and labor, executive director of the public welfare board of North Dakota, state health officer, director of the North Dakota state employment service, and the chairmen of the boards of county commissioners of Sioux, Mercer, McLean, McKenzie, Dunn, Rolette, Benson, Mountrail and Eddy counties, and the tribal chairmen of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian reservations. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The commission may call upon the superintendent of public instruction for consultation upon educational matters involved in the operation of the commission. The governor or his authorized representative shall act as chairman of the commission and the commission shall select one of its members as secretary. The chairmen of the boards of county commissioners who are members of the commission and the Indian members of the commission shall receive the mileage and expenses allowed state officers which shall be paid from the appropriation made to such commission.

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

55-01-01. State Historical Society — Board of Directors.) There shall be maintained the state historical society of North Dakota. The governor, auditor, secretary of state, commissioner of agriculture and labor, and state game and fish commissioner, shall be ex officio members of the board of directors of the state historical society and shall take care that the interests

of the state are protected. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend.

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

61-02-04. State Water Conservation Commission—Members—Terms—Qualifications.) The state water conservation commission shall consist of the governor, commissioner of agriculture and labor, and five other members to be appointed by the governor. The governor may appoint a representative to serve in his stead at such meetings as he may be unable to attend. The five appointive members of the commission shall be appointed for a term of six years each with their terms of office so arranged that one term and not more than two terms shall expire on the first day of July of each odd numbered year. Each appointive member shall be a qualified elector of the state and shall be subject to removal by judicial procedure. In case of a vacancy, the vacancy shall be filled by appointment by the governor. Before entering upon the discharge of his official duties, each appointive member shall take, subscribe, and file with the secretary of state the oath prescribed for civil officers.

§ 26. Repeal.) Sections 4-02-13, 4-02-14, 16-13-34, and 16-13-37 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1961.

CHAPTER 333

S. B. No. 262

(Longmire)

RECORDS MANAGEMENT

AN ACT

To provide for continuing programs for the efficient and economical management of state records, and to amend and reenact section 46-04-20 of the North Dakota Century Code, relating to destruction of public records.

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

§ 1. Short Title.) This Act shall be known as the "Records Management Act".

§ 2. Declaration of Policy.) The legislative assembly declares that programs for the efficient and economical management of state records will promote economy and efficiency in the day-to-day record-keeping activities of state government and will facilitate and expedite government operations.

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

1. "Record" means document, book, paper, photograph, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in this Act.
2. "State record" means:
 - a. A record of a department, office, commission, board or other agency, however designated, of the state government;
 - b. A record of the state legislature;
 - c. A record of any court of record, whether of statewide or local jurisdiction;
 - d. Any other record designated or treated as a state record under state law.

3. "Agency" means any department, office, commission, board or other unit, however designated, of the executive branch of state government.

§ 4. **State Records Administrator.**) The secretary of state is hereby designated the "State Records Administrator", hereinafter called the "Administrator". The administrator shall establish and administer in the executive branch of state government a records management program, which will apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of state records.

§ 5. **Duties of Administrator.**) The administrator shall, with due regard for the functions of the agencies concerned:

1. Establish standards, procedures, and techniques for effective management of records.
2. Make continuing surveys of paper work operations and recommend improvements in current records management practices including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing records.
3. Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping.
4. Obtain reports from agencies as are required for the administration of the program.

§ 6. **Duties of Agency or Department Heads.**) The head of each agency or department shall:

1. Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.
2. Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.
3. Submit to the administrator, in accordance with the standards established by him, schedules proposing the length of time each state record series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency. The head of each agency also shall submit lists of state records in his

custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal or fiscal value to warrant their further keeping for disposal in conformity with the requirements of section 10 of this Act.

4. Cooperate with the administrator in the conduct of surveys made by him pursuant to the provisions of this Act.
5. Comply with the rules, regulations, standards and procedures issued by the administrator.

§ 7. Assistance to Legislative and Judicial Branches.) Upon request, the administrator shall assist and advise in the establishment of records management programs in the legislative and judicial branches of state government and shall, as required by them, provide program services similar to those available to the executive branch of state government pursuant to the provisions of this Act.

§ 8. Records Not To Be Damaged or Destroyed.) All records made or received by or under the authority of or coming into the custody, control or possession of public officials of this state in the course of their public duties are the property of the state and shall not be mutilated, destroyed, transferred, removed or otherwise damaged or disposed of, in whole or in part, except as provided by law.

§ 9. Disposal of Records.) No type or class of record shall be destroyed or otherwise disposed of by any agency of the state, unless it is determined by the administrator, after consultation with the official or department head concerned, that the type or class of record has no further administrative, legal, fiscal, research or historical value.

§ 10. Destruction of Non-Record Materials.) Non-record materials or materials not included within the definition of records as contained in this Act may, if not otherwise prohibited by law, be destroyed at any time by the agency in possession of such materials without the prior approval of the administrator. The administrator may formulate procedures and interpretation to guide in the disposition of non-record materials.

§ 11. Rules and Regulations.) The administrator shall promulgate such rules and regulations as are necessary or proper to effectuate the purposes of this Act.

§ 12. Annual Report.) The administrator shall make an annual written report to the governor for transmission to the legislature. The report shall describe the status and progress of programs established pursuant to this Act and shall include

the recommendations of the administrator for improvements in the management of records in the state government.

§ 13. **Amendment.)** Section 46-04-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-20. Destruction of Public Records.) Whenever authorized by the secretary of state in his capacity as state records administrator, any state department, agency, board, bureau, or commission may destroy all unnecessary records, documents, and correspondence, excepting such documents which might be or become valuable as historical records or documents; provided that no document, record or correspondence shall be destroyed which might be evidence in any civil or criminal action or proceedings until the statute of limitations applicable thereto shall bar such action or proceeding in which such document or record might be evidence. For the purposes of this section, the period of the statute of limitations shall be deemed to commence upon the date of preparation, execution, or filing of any record, whichever date is the latest.

Approved February 28, 1961.

CHAPTER 334

S. B. No. 77
(Garaas, Kee)

RIGHT-OF-WAY OVER STATE LANDS

AN ACT

To amend and reenact section 54-01-17 of the North Dakota Century Code, relating to right-of-way over state lands.

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

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

54-01-17. Right-of-Way Over State Lands.) There is granted, over all the lands belonging to the state, except that land owned or acquired for highway right-of-way purposes, a right-of-way for ditches or canals and for tunnels, tramways, and telephone and electrical transmission lines, constructed by authority of the United States. All conveyances of state lands shall contain a reservation of such right-of-way, but shall specifically state that lands owned or acquired by the state for highway purposes shall be excluded from this provision.

Approved March 11, 1961.

CHAPTER 335

S. B. No. 310

(Erickson)

(Committee on Delayed Bills)

LEGISLATIVE DISTRICTS, GRAND FORKS COUNTY

AN ACT

To amend and reenact subsections 6 and 7 of section 54-03-01 of the North Dakota Century Code, relating to legislative districts.

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

§ 1. Amendment.) Subsections 6 and 7 of section 54-03-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

6. The sixth legislative district shall consist of the fourth, fifth, and sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Turtle River, Ferry, Rye, Blooming, Mekinock, Lakeville, and Levant, in the county of Grand Forks, and shall be entitled to one senator and one representative;
7. The seventh legislative district shall consist of the first, second, third, and seventh wards of the city of Grand Forks as now constituted and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union, Washington, and the first and second wards of the city of Reynolds, in the county of Grand Forks, and shall be entitled to one senator and one representative;

Approved March 15, 1961.

CHAPTER 336

H. B. No. 569

(Baldwin, Lindberg, Lowe, Mueller, Vinje, Tough, Johnston)

ALTERNATE MEMBERS OF BUDGET BOARD

AN ACT

To amend and reenact sections 54-15-01 and 54-15-03 of the North Dakota Century Code, relating to the appointment of alternate members of the state budget board.

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

§ 1. **Amendment.)** Section 54-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-15-01. State Budget Board—Members—Vacancies—How Filled.) There shall be a state budget board which shall consist of the governor, the chairman of the appropriations committees of the senate and the house of representatives of the preceding legislative assembly, the state auditor, and the attorney general. In addition, each appropriations committee shall choose one of its members to serve as a member of the board. In case of inability on the part of either member of such appropriations committees to serve on the board, the vacancy shall be filled by the governor by appointment from the membership of the appropriations committee of that branch of the preceding legislative assembly in which such vacancy occurs.

§ 2. **Amendment.)** Section 54-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-15-03. Compensation and Mileage of Members of Budget Board.) The members of the state budget board shall receive the travel expenses provided by law for state officials and in addition thereto the members of the appropriations committees of the senate and house of representatives, or such other member as may be appointed by the governor to fill a vacancy, each shall receive ten dollars per day for each day of actual service. A member of the state budget board who is not a member of the succeeding legislative assembly shall receive for his services during the legislative session the same compensation as that paid to the members of the legislative assembly.

Approved February 27, 1961.

CHAPTER 337

H. B. No. 928

(Poling)

CERTAIN DUTIES OF BOARD OF ADMINISTRATION,
REPEAL

AN ACT

Repealing subsections 2, 7, 8, 9, 10, 11, 12, 13, 15, 17, and 19 of section 54-21-13 and section 54-21-14 of the North Dakota Century Code, relating to the powers and duties of the board of administration in child welfare matters.

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

§ 1. Repeal.) Subsections 2, 7, 8, 9, 10, 11, 12, 13, 15, 17, and 19 of section 54-21-13 and section 54-21-14 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1961.

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 338

H. B. No. 768
(Poling)

EXCHANGE OF LAND, FORT UNION

AN ACT

Authorizing the state historical society to exchange certain lands owned by the state of North Dakota in connection with the Fort Union historic site.

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

§ 1.) For the purpose of providing a more accessible and attractive entrance to the Fort Union historic site, the state historical society may transfer and convey certain lands held by the state of North Dakota for the use and benefit of said society described as:

Beginning at the southwest corner of lot two, section seven, township one hundred and fifty-two north, range one hundred and four west, thence north along section line a distance of 960.4 feet, thence east along county road and Great Northern Railway a distance of sixty-six feet, thence south to the quarter line, thence west sixty-six feet to the point of beginning; containing an area of $\frac{1}{4}$ acres more or less and all lying in lot two of said section seven, and;

Beginning at the southwest corner of lot two, section seven, township one hundred and fifty-two north, range one hundred and four west, thence east along the quarter line 529.58 feet, thence south sixty-six feet, thence west 529.58 feet, thence north sixty-six feet to the point of beginning; containing an area of .8 of an acre more or less and all lying in lot three of said section seven, township one hundred and fifty-two north, range one hundred and four west,

to the adjoining landowner. In exchange for such conveyance, said adjoining landowner shall convey to the state of North Dakota for the use and benefit of the state historical society that tract of land described as:

All that portion of lot two, section seven, township one hundred and fifty-two north, range one hundred and four west, of the fifth principal meridian lying within a strip of land sixty-six feet wide and lying thirty-three feet on

each side of the following described centerline: Beginning at a point on the south property line of the said lot two, said point of beginning being eight hundred and eighty feet east of the southwest corner of the said lot two, thence north ten degrees, nine minutes, twenty seconds, east a distance of 693.6 feet to the south right-of-way line of the county highway designated Federal Aid Route S-93. Tract contains an area of 1.05 acres, more or less.

Deeds shall be executed and attested to in the manner prescribed by section 54-01-05.1.

Approved March 16, 1961.

CHAPTER 339

H. B. No. 770
(Christopher, Halcrow, Einarson)

EXCHANGE OF LAND, WALHALLA

AN ACT

Authorizing the state historical society to exchange certain lands owned by the state of North Dakota in connection with the Walhalla historic site.

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

§ 1.) For the purpose of providing a more accessible and attractive entrance to the Walhalla historic site, the state historical society may transfer and convey certain lands held by the state of North Dakota for the use and benefit of said society described as:

Part of the northwest quarter of the northwest quarter of section twenty-nine, township one hundred and sixty-three, range fifty-six consisting of that tract of land described as follows, to wit: That parcel of land beginning at a point six hundred and eighty feet westerly from the intersection of the southerly side of Central Avenue and Fifth Street, thence at a left angle seven hundred and twenty-seven feet more or less, southerly and parallel with Fifth Street intersecting the northerly line of the State Park; thence westerly thirty-three feet more or less, following the north line of said park; thence northerly seven hundred and twenty-seven feet more or less, thence at right angles thirty-three feet to the point of beginning,

to the adjoining landowner. In exchange for such conveyance, said adjoining landowner shall convey to the state of North

Dakota for the use and benefit of the state historical society that tract of land described as:

The east thirty feet of the northwest quarter of the northwest quarter of section twenty-nine, township one hundred and sixty-three, range fifty-six, as follows: Beginning at a point where the east line of the said northwest quarter of the northwest quarter of section twenty-nine, township one hundred and sixty-three, range fifty-six, intersects the southeasterly line of Central Avenue, (if said Central Avenue were extended southwesterly) of the city of Walhalla, North Dakota, thence due south along said east line of the northwest quarter of the northwest quarter of section twenty-nine, township one hundred and sixty-three, range fifty-six, a distance of about nine hundred and fifty-four feet to the site of the Walhalla state historical park; thence westerly a distance of thirty feet; thence due north a distance of about nine hundred and fifty-four feet to the said southeasterly line of Central Avenue (if extended); thence northeasterly along the said line to the point of beginning.

Deeds shall be executed and attested to in the manner prescribed by section 54-01-05.1.

Approved March 2, 1961.

SUCCESSION AND WILLS

CHAPTER 340

H. B. No. 915

(Burk, Boe)

UNIFORM TESTAMENTARY ADDITIONS TO TRUSTS ACT

AN ACT

To create and enact chapter 56-07 of the North Dakota Century Code, the Uniform Testamentary Additions to Trusts Act, relating to additions of property by will to existing trusts.

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

§ 1.) Chapter 56-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

56-07-01. Testamentary Additions to Trusts.) A devise or bequest, the validity of which is determinable by the law of this state, may be made by a will to the trustee or trustees of a trust established or to be established by the testator or by the testator and some other person or persons or by some other person or persons, including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts, if the trust is identified in the testator's will and its terms are set forth in a written instrument other than a will, executed before or concurrently with the execution of the testator's will or in the valid last will of a person who has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust. The devise or bequest shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will or after the death of the testator. Unless the testator's will provides otherwise, the property so devised or bequeathed shall not be deemed to be held under a testamentary trust of the testator but shall become a part of the trust to which it is given, and shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust, including any amendments thereto made before the death of the testator, regardless of whether made before or after the execution of the testator's will, and, if the testator's will so provides, including any amendments to the trust made after the death of the testator. A revocation or termination of the trust before the death of the testator shall cause the devise or bequest to lapse.

56-07-02. Effect on Prior Wills.) This chapter shall have no effect upon any devise or bequest made by a will executed prior to the effective date of this chapter.

56-07-03. Uniformity of Interpretation.) This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

56-07-04. Short Title.) This chapter may be cited as the "Uniform Testamentary Additions to Trusts Act".

Approved March 11, 1961.

TAXATION

CHAPTER 341

S. B. No. 225
(Luick, Ringsak)

FOREIGN TAX STATUTES

AN ACT

To provide that the courts of North Dakota shall recognize and enforce taxation statutes of other states which extend like comity to North Dakota.

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

§ 1. Reciprocal Enforcement of Tax Statutes.) The courts of this state shall recognize and enforce statutes concerning taxation constitutionally imposed by other states that extend like comity.

Approved March 15, 1961.

CHAPTER 342

S. B. No. 53
(Luick, Holand, Baeverstad, Gefreh,
Johnson, Kee, Thompson, Yunker)
(From LRC Study)

STATE SUPERVISOR OF ASSESSMENTS

AN ACT

Creating the office of state supervisor of assessments in the state tax commissioner's office and providing for his appointment and duties.

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

§ 1. State Supervisor of Assessments.) The state tax commissioner shall appoint from a list of qualified applicants forwarded to him by the North Dakota merit system council a supervisor of assessments who shall be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. If the tax commissioner does not desire to appoint a supervisor of assessments from the list of candidates forwarded to him by the

merit system council he may request additional lists of qualified applicants from the council. The supervisor of assessments shall serve at the pleasure of the state tax commissioner and office space shall be furnished him by the commissioner.

The supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. He shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real and personal property in this state will be attained.
2. He shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. He shall have the authority to require the attendance of groups of assessors at meetings called by him for the purpose of giving them further assistance and instruction as to their duties.
4. He shall make sales ratio and other studies of property assessments in the various counties, cities, and villages of this state for the purpose of properly advising the various assessors in the state and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04.
5. He shall cooperate with the North Dakota state university of agriculture and applied science in the development of a soil mapping program, a land classification system, valuation studies and other matters relating to the assessment of property, and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. He shall have general supervision of assessors and county supervisors of assessment pertaining to methods and procedures of assessment of all property and shall have authority to require all county supervisors of assessment to do any act necessary to obtain uniform methods and procedures of assessment.
7. He shall perform such other duties relating to assessment and taxation of property as the tax commissioner shall direct.

Approved March 11, 1961.

CHAPTER 343

H. B. No. 797

(Aamoth, Saugstad, Boe, Stockman)

FRATERNAL ORGANIZATIONS

AN ACT

To amend and reenact subsection 11 of section 57-02-08 of the North Dakota Century Code, relating to exclusions and exemptions from taxation of non-profit fraternal organizations and associations, and providing for taxation of that portion not used exclusively for places of meeting and conduct of fraternal business, providing for taxation of that portion of such premises where food or alcoholic beverages are consumed or sold at a profit.

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

§ 1. **Amendment.**) Subsection 11 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. Real and personal property owned by lodges, chapters, commanderies, consistories, farmers' clubs, commercial clubs, and like organizations, and associations, grand or subordinate, not organized for profit, and used by them for places of meeting and for conducting their business and ceremonies, and all real and personal property owned by any fraternity, sorority, or organization of college students if such property shall be used exclusively for such purposes; provided further that any portion of such premises not exclusively used for places of meeting and conducting the business and ceremonies of such organization shall be subject to taxation.

Provided further that where any such organization as contemplated by this subsection shall be licensed for the sale of alcoholic beverages as defined by the statutes of the state of North Dakota, such portion of such premises where such alcoholic beverages are consumed or sold shall be deemed not to be so used exclusively for conduct of its business and meeting if such beverages are sold at a profit.

Provided further that if food other than that served at lodge functions and banquets and food sold or consumed in any fraternity or sorority house, is sold at a profit on the premises, that portion of the premises where such food is sold at a profit shall be deemed not to be used exclusively for places of meeting or conducting the business and ceremonies of such organization.

Approved March 3, 1961.

CHAPTER 344

H. B. No. 826
(Stockman, Schuler)

DISABLED VETERANS

AN ACT

To amend and reenact subsection 20 of section 57-02-08 of the North Dakota Century Code, providing for an exemption of net assessed valuation of property of disabled veterans.

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

§ 1. Amendment.) Subsection 20 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

Subsection 20, section 57-02-08.) Fixtures, buildings and improvements upon lots in any city or village up to a net assessed valuation of ten thousand dollars used and owned as a homestead, as defined in section 47-18-01, by a disabled veteran who was discharged under honorable conditions with a service connected disability, and who shall have a certificate from the United States veterans administration, or its successors, certifying that the veteran is receiving or has received pecuniary assistance due to disability for specially adapted housing under the provision of Public Law 702 of the 80th Congress and amendments thereto. To obtain said exemption, an affidavit accompanied by said 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 filed in the office of the county auditor and shall be opened to 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 2, 1961.

CHAPTER 345

H. B. No. 787

(Stockman)

BLIND AND PERMANENTLY AND TOTALLY DISABLED
PERSONS

AN ACT

To amend and reenact subsection 21 of section 57-02-08 of the North Dakota Century Code, relating to property exempt from taxation for blind persons or permanently and totally disabled persons.

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

§ 1. **Amendment.**) Subsection 21 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. All clothing, musical instruments, and household goods owned and personally used by blind persons or permanently and totally disabled persons. For purposes of this subsection blind persons shall mean all persons who have no vision or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential, and permanently and totally disabled persons shall mean all persons who are permanently and totally disabled who have income of less than \$100 per month or who lack sufficient income or other resources to provide himself a reasonable subsistence compatible with decency and health, as evidenced by physician's certificate filed with the assessor;

Approved March 2, 1961.

CHAPTER 346

H. B. No. 866

(Poling)

COUNTY TAX LEVY LIMITATIONS

AN ACT

To amend and reenact section 57-15-06 of the North Dakota Century Code, relating to tax levy limitations on counties.

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

§ 1. Amendment.) Section 57-15-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06. Limitations on County Tax Levies.) County tax levies shall be limited as follows:

1. The board of county commissioners shall not levy any taxes for general or special county purposes except as hereinafter provided which will exceed the amount produced by a levy of sixteen mills on the dollar of the net taxable valuation of the county;
2. The board of county commissioners annually shall levy taxes sufficient to meet the obligations of the county for the maintenance of its patients in the charitable institutions of the state, but such taxes shall not exceed the amount produced by a levy rate of one and one-quarter mills on the dollar of net taxable valuation. Such levy shall be within the amount produced by the sixteen mill rate, and shall be a paramount charge, to the exclusion of all other budget items, upon the necessary part of the total tax levies; provided that any funds now on hand or hereinafter levied for the purpose of this subsection shall not, in the discretion of the board of county commissioners, be included in the budget of the county;
3. The sixteen mill limitation shall apply to all tax levies which the county is authorized to levy for general and special county purposes, including taxes levied for road and bridge purposes. Any unexpended balance in the county road fund at the end of the fiscal year may be transferred to a special road fund, except that such special fund shall never exceed the amount a ten mill levy on the assessed valuation of the county would yield, and the balance in said fund shall not be consider-

ed in determining the budget or the amount that may be levied. Such mill limitation shall not apply:

- a. To tax levies made for the purpose of paying the principal and interest on any obligations of the county evidenced by the issuance of bonds;
- b. To tax levies made to pay the county tuition provided for by section 57-15-24;
- c. To taxes levied for the purpose of combating the grasshopper pest, pursuant to section 4-15-01;
- d. To taxes levied for the purpose of combating gophers pursuant to section 4-16-02;
- e. To taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein shall not be subject to the sixteen mill limitations for general and special county purposes;
- f. To the tax levied pursuant to the provisions of chapter 15-42 of the title Education, for support and maintenance of county agricultural and training schools, up to a maximum of two and one-half mills on the assessed value in the county for such purpose. Nothing herein contained shall be construed to prevent the appropriation of money from the county general fund for the support and maintenance of county agricultural and training schools;
- g. To taxes levied for the purpose of establishing and maintaining a library fund for public library services; or
- h. To taxes levied for the county poor relief fund in accordance with chapter 50-03.

Approved March 15, 1961.

CHAPTER 347

H. B. No. 894

(Anderson of McHenry, Poling)

TAX LIMITATIONS AND TRANSFER OF FUNDS
IN UNORGANIZED TOWNSHIPS

AN ACT

To amend and reenact sections 57-15-22 and 57-15-22.1 of the North Dakota Century Code, relating to tax levy limitations in unorganized townships; to provide for transfer of funds for special roads and bridges; and to repeal section 57-15-19.1 of the North Dakota Century Code, relating to levies for surfacing highways in unorganized townships.

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

§ 1. **Amendment.)** Section 57-15-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-22. Tax Levy Limitations in Unorganized Townships.) Tax levies in unorganized townships shall be limited as follows:

The total tax levied by the board of county commissioners in any unorganized township for the construction, maintenance and improvement of any roads and bridges shall not exceed fourteen mills on the dollar of the net taxable assessed valuation of the township, but this shall not prohibit the levy of general county road and bridge taxes in such unorganized township.

§ 2. **Amendment.)** Section 57-15-22.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-22.1. Board of County Commissioners May Transfer Unexpended Balance in Road and Bridge Fund in Unorganized Townships—Limitations.) The board of county commissioners, by resolution, may transfer any unexpended balance of the revenues produced under section 57-15-22 in any unorganized township to a special road and bridge fund to the credit of such unorganized township. Such special road and bridge fund shall not exceed a sum which would be produced by a levy of six mills on the net taxable valuation of any unorganized township. Such special road and bridge fund shall not be taken into consideration in determining the budget for the amount to be levied for road and bridge purposes in an unorganized township for the current fiscal year.

§ 3. **Repeal.**) Section 57-15-19.1 of the North Dakota Century Code is hereby repealed.

Approved March 11, 1961.

CHAPTER 348

S. B. No. 74

(Becker, Kisse, Miller, Kee,)
(Lips, Lautenschlager)

NOTICE TO DELINQUENT PERSONAL PROPERTY TAXPAYERS

AN ACT

To amend and reenact section 57-22-02 of the North Dakota Century Code, relating to the county treasurer making out a list of delinquent personal property taxpayers, and the giving of notice by mail thereof to such delinquent taxpayers.

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

§ 1. **Amendment.**) Section 57-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-02. Treasurer to Make List of Delinquent Taxes—Notice by Mail.) On or before the first day of September in each year, the county treasurer shall make out a list of the unpaid delinquent personal property taxes, in the order in which they appear on the tax list, and, on or before the fifteenth day of September thereafter, shall notify each of the delinquents by mail that unless such taxes are paid on or before the fifteenth day of October of that year the taxes will be placed in the hands of the sheriff for collection.

Approved February 25, 1961.

CHAPTER 349

S. B. No. 152

(Wartner, Garaas, Gefreh)

PERSONAL PROPERTY TAXES LIEN ON REAL ESTATE

AN ACT

To amend and reenact subsection 2 of section 57-22-21 of the North Dakota Century Code, relating to collection of personal property taxes made liens on real estate.

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

§ 1. Amendment.) Subsection 2 of section 57-22-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The county auditor shall extend to and enter upon the tax list of real estate then in the hands of the county treasurer, for the year immediately preceding, opposite the descriptions of real estate designated by the board of county commissioners which belong to the personal property tax debtor, the year for which the personal property taxes are uncollected and the amount thereof. Such entry shall be made without regard to any prior payment of real estate taxes on said descriptions, and the treasurer shall be without authority thereafter to issue to the personal property tax debtor any receipt in full for said real estate taxes without making collection at the same time of the personal property taxes so extended; a taxpayer holding a specific superior lien on said descriptions ahead of personal property taxes charged thereon shall be entitled to tax receipts without regard to non-payment of such inferior personal taxes; and

Approved February 24, 1961.

CHAPTER 350

H. B. No. 769
(Poling)

ABATEMENT, REFUND, AND COMPROMISE OF TAXES

AN ACT

To amend and reenact section 57-23-05, relating to applications for abatement or refund of property taxes, and section 57-23-07, relating to abatement and compromise of property taxes of the North Dakota Century Code.

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

§ 1. **Amendment.)** Section 57-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-05. Application for Abatement or Refund—Who May Make.) An application for an abatement or refund shall be in writing and shall be filed in duplicate with the county auditor. It shall state the grounds relied upon for such abatement or refund, give the postoffice address of the applicant, and shall be verified. The county auditor shall note the date of filing and shall file the same. He shall present the application to the board of county commissioners at its next regular meeting.

Any person having any estate, right, title or interest in or lien upon any real or personal property who claims that the assessment made or the tax levied against the same is excessive or illegal, in whole or in part, shall be entitled to make an application for abatement, refund, or compromise, as the case may be, and have such application granted if the facts upon which the application is based bring it within the provisions of this chapter for abatement, refund or compromise.

§ 2. **Amendment.)** Section 57-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-07. County Commissioners May Compromise Tax.) Whenever taxes on any real estate remain unpaid and such property has not been sold to any purchaser other than the county, or when any personal property taxes remain unpaid, the board of county commissioners, subject to the approval of the state tax commissioner, by reason of depreciation in the value of such property or for other valid cause, may compromise with the owner of such property by abating a portion of such delinquent taxes, together with any penalty and interest on such portion, on payment of the remainder.

Approved March 7, 1961.

CHAPTER 351

S. B. No. 218

(Gefreh, Reichert, Miller, Murphy)

TAX DEED PROCEEDINGS

AN ACT

To amend and reenact sections 57-27-05, 57-28-05, 57-28-07, 57-28-08, 57-28-09, and 57-28-10 of the North Dakota Century Code, relating to tax deed proceedings.

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

§ 1. **Amendment.)** Section 57-27-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-27-05. Tax Deed To Be Issued.) At the expiration of the period of redemption, and after the filing of the proof of service of the notice of expiration of such period, the county auditor, if no redemption has been made, on surrender of the certificate of tax sale to him, shall execute to the owner of the certificate, his heirs and assigns, in the name of the state, a deed of the land remaining unredeemed, which shall vest in the said certificate owner, his heirs and assigns, an absolute estate in fee simple in such lands, subject to the claims of the state or other taxing districts on account of taxes or other liens or encumbrances, including installments of special assessments certified or to be certified to the county auditor or which may become due subsequent to the time of the service of the notice of expiration of the period of redemption. Such deed shall be executed by the county auditor under his hand and seal. Such deed shall be prima facie evidence of the truth of all facts therein recited and of the regularity of all the proceedings from the assessment and valuation of the land by the assessor up to the execution of the deed.

§ 2. **Amendment.)** Section 57-28-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-05. Form of Notice for Service by Registered or Certified Mail.) The notice of the expiration of the period of redemption which the county auditor is required to serve by registered or certified mail shall be substantially in the following form:

Notice of Expiration of Period of Redemption

To, the owner of the record title of the real estate hereinafter described, and to all mortgagees, lien holders, and other persons interested in said real estate:

I,, county auditor of county, North Dakota, hereby give notice that the real estate hereinafter described, at the annual tax sale held in the county on the of December, 19....., was offered for sale of delinquent taxes against it for the year and was sold to the county, that subsequent tax sale certificates have been issued to the county for the years hereinafter set forth, that more than three years have expired since the date of each of said tax sale certificates, that no redemption has been made therefrom, and that the same still are the property of such county, and unless redemption is made from each of said tax sale certificates on or before October first, after the date of this notice, tax deeds will be issued to the county, granting to and vesting in it, the absolute title in fee to said real property, subject, however, to the lien for installments of special assessments certified or to be certified to the county auditor or which may become due subsequent to the time of service of this notice, and foreclosing all rights of redemption, and all other rights of the owner, mortgagees and lien holders and other persons interested therein, as may appear from the records of the register of deeds and the clerk of the district court of said county. There is given herewith the description of such parcels of real estate, and set opposite each description is the amount which will be required upon the date of the expiration of the period of redemption to redeem such real estate from such original and each subsequent tax sale certificate issued to the county, exclusive of the cost of service of this notice.

Said property is described as follows, with the amount required to redeem set out opposite each description, to wit:

.....
Given pursuant to authority of law this day of, 19.....

County Auditor of county, North Dakota.

§ 3. **Amendment.**) Section 57-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-07. Form of Notice for Publication.) The notice of the expiration of the period of redemption to be served by publication shall be substantially in the following form:

I,, county auditor, of county, North Dakota, hereby do give notice that the real estate hereinafter described was sold to the county at the annual tax sale on December, 19....., for delinquent taxes, that subsequent tax sale certificates have been issued to the county, that more than three years have expired since the date of each of said tax sale certificates, that no redemption has been made therefrom, that the same still are the property of this county, and that unless redemption shall be made from such tax sale, on or before October first after the date of this notice, the same will become the absolute property in fee of this county, subject, however, to the lien for installments of special assessments certified or to be certified to the county auditor or which may become due subsequent to the time of service of this notice, and the former owner thereof, mortgagees, lien holders, and other persons interested therein will be forever foreclosed and barred from asserting any further rights to such real estate whatsoever. The following is a list of the real estate sold at such tax sale on which the period of redemption will expire on October first. Opposite each description of such real estate appears the name of the owner of the record title thereof, and the amount which must be paid to redeem from such tax sale before the period of redemption expires. Said sum includes the amount for which said land was sold, together with subsequent delinquent taxes for and prior years, and interest, penalties, and cost of service (List descriptions, names of owners and amount necessary to redeem.)

Given pursuant to authority of law this day of, 19.....

§ 4. **Amendment.**) Section 57-28-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-08. Effect of Failure to Redeem.) The failure of the owner or any mortgagee, or other lien holder, to redeem such lands before the period of redemption expires, shall operate:

1. To pass all of the right, title, and interest of the owner, mortgagee, or lien holder in and to said premises, to the county by operation of law subject only to the lien for installments of special assessments certified or to be certified to the county auditor or which may become due subsequent to the time of the service of the notice of expiration of the period of redemption;
2. To foreclose all rights and equities of redemption; and
3. To waive all errors, irregularities, or omissions which do not affect the substantial rights of the parties, in tax deed proceedings, except jurisdictional defects.

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

57-28-09. Tax Deed To Be Issued.) After the expiration of the period of redemption, the county auditor shall issue a tax deed to the county, in the usual form, for all real estate which was not redeemed within the period of redemption. Such tax deed shall pass the absolute property in fee to the county, free from all encumbrances whatsoever, except installments of special assessments certified or to be certified to the county auditor or what may become due subsequent to the time of the service of the notice of expiration of the period of redemption; provided that so long as the county holds title under a tax deed to such property, it shall not be liable for the payment of any such installments which may become due unless the board of county commissioners has leased or contracted to sell such property. Such deeds shall be prima facie evidence of the truth of all the facts therein recited and of the regularity of all the proceedings from the assessment and valuation of the land by the assessor up to the execution of the deed.

§ 6. **Amendment.)** Section 57-28-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-10. Appraisal for Annual Sale.) All real estate acquired by tax deed shall be appraised by the board of county commissioners at least thirty days prior to the annual sale provided by this chapter. The appraised price shall be sufficient to cover all general taxes, installments of special assessments, hail indemnity taxes, penalties, interest, and costs, which were extended and due against the property at the time of the service of the notice of expiration of the period of redemption. If the fair market value of such property is less than such total amount, the board shall fix a fair and just minimum sale price for such property.

Approved March 14, 1961.

CHAPTER 352

S. B. No. 183

(Foss)

ALLOCATION OF TAXES ON CAR LINE AND
AIR TRANSPORTATION COMPANIES

AN ACT

To amend and reenact section 57-32-04 of the North Dakota Century Code, relating to the allocation of taxes on car line companies and air transportation companies.

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

§ 1. **Amendment.)** Section 57-32-04 of 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 in the general fund of this state, 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 28, 1961.

CHAPTER 353

S. B. No. 201
(Hystad, Ringsak)

ALLOCATION OF COOPERATIVE TAXES

AN ACT

To amend and reenact sections 57-33-05, 57-33-06, and 57-33-07 of the North Dakota Century Code, relating to apportionment and allocation of taxes received from certain cooperatives.

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

§ 1. Amendment.) Section 57-33-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-33-05. Apportionment of Tax.) The tax commissioner shall apportion the taxes due from each cooperative to each county in which its lines are located in the ratio which the number of miles of its lines in each county bears to the total number of miles of lines of such cooperative, and shall certify to the county auditor of each county the amount of taxes so apportioned, provided that the tax commissioner shall apportion the taxes due from any generating cooperative with less than 200 miles of transmission lines, as follows: eighty-five percent thereof to the county in which such cooperative's generating equipment and plant is located and fifteen percent thereof to the counties in which its transmission lines are located in the ratio in which the number of miles of lines in each county bears to the total number of miles of lines of such cooperative.

§ 2. Amendment.) Section 57-33-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-33-06. Duty of County Auditor.) It shall be the duty of the county auditor to allocate the amount of the taxes due from each cooperative as certified by the tax commissioner to each taxing district in which the lines are located in the ratio which the total number of miles of all kinds of lines in each such district bears to the total number of miles in the county, except that such taxes due from any generating cooperative with less than 200 miles of transmission lines shall be allocated as follows: eighty-five percent to the taxing district in which the generating equipment and plant is situated and fifteen percent to the taxing districts in which its trans-

mission lines are situated in the aforesaid ratio. The county auditor shall certify such taxes to the county treasurer for collection at the time and in the manner in which real and personal property taxes are required to be certified.

§ 3. **Amendment.)** Section 57-33-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-33-07. Allocation of Proceeds of Tax—Duty of County Treasurer.) Upon receipt by the county treasurer of the amount of tax payable under this chapter, the county treasurer shall apportion and distribute to the state, the county and local taxing districts of the county in which the lines and generating equipment and plant of such cooperative are located, the amount of such tax payment so received by him on the basis on which the general property tax levy is apportioned and distributed.

Approved March 4, 1961.

CHAPTER 354

S. B. No. 296

(Longmire)

DECEDENT'S GROSS ESTATE

AN ACT

To amend and reenact section 57-37-06 of the North Dakota Century Code, relating to inclusion of various joint interests in a decedent's gross estate for estate tax purposes.

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

§ 1. **Amendment.)** Section 57-37-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-06. Joint Interest.) The value of the gross estate shall include the value of all property to the extent of the interest therein held as joint tenants or otherwise with right of survivorship by the decedent and any other person, or deposited in banks or other institutions in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth: Provided, that where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: Provided further, that where any property has been acquired by gift, bequest, devise, or inheritance by the decedent and any other person as joint tenants and their interest are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants. Provided further that when any of the foregoing described interests are in the names of a husband and his wife, it shall be presumed that each contributed equally to the acquisition of such property until the contrary is shown.

Approved March 11, 1961.

CHAPTER 355

S. B. No. 209

(Reichert)

POWER OF APPOINTMENT FOR ESTATE TAX PURPOSES

AN ACT

To amend and reenact section 57-37-07, relating to treatment of powers of appointment for estate tax purposes, and subdivision f of subsection 2 of section 57-37-11, relating to life estates with power of appointment in the surviving spouse and qualification of such life estates for the marital deduction exemption for estate tax purposes, of the North Dakota Century Code.

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

§ 1. **Amendment.)** Section 57-37-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-07. Powers of Appointment.) 1. The gross estate of a decedent shall include the value of all property with respect to which the decedent has at the time of his death a general power of appointment or with respect to which the decedent has at any time exercised or released such a power, provided that the conditions under which and the extent to which such property shall be included in the decedent's gross estate shall be determined in accordance with the provisions of section 2041 of the United States Internal Revenue Code of 1954, as amended, except that if the donor of such a power died before the effective date of this Act, the property shall be excluded from the gross estate of the donee if it was included in the gross estate of the donor.

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, 1960.

§ 2. **Amendment.)** Subdivision f of subsection 2 of section 57-37-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- f. In the case of an interest in property passing from the decedent, if his surviving spouse is entitled for life to all the income from the entire interest, or all the income from a specific portion thereof, payable annually or at more frequent intervals, with power in the surviving spouse to appoint the entire interest, or such specific portion (exercisable in favor of such surviving spouse, or of the estate of such surviving spouse, or in

favor of either, whether or not in each case the power is exercisable in favor of others), and with no power in any other person to appoint any part of the interest, or such specific portion, to any person other than the surviving spouse—

- (1) the interest or such portion thereof so passing shall, for purposes of subdivision a of this subsection, be considered as passing to the surviving spouse, and
- (2) no part of the interest so passing shall, for purposes of subdivision b(1) of this subsection, be considered as passing to any person other than the surviving spouse.

This subdivision shall apply only if such power in the surviving spouse to appoint the entire interest, or such specific portion thereof, whether exercisable by will or during life, is exercisable by such spouse alone and in all events.

Approved March 4, 1961.

CHAPTER 356

S. B. No. 73
(Gefreh, Holand)

ESTATE TAXES

AN ACT

To amend and reenact section 57-37-24 of the North Dakota Century Code, relating to the collection and distribution of estate taxes.

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

§ 1. Amendment.) Section 57-37-24 of 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 shall 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 in accordance with the valuation of the property located in each county. Each county's share of the tax thus distributed shall be deposit-

ed to the credit of the general fund of the county. 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, each of whom shall deposit the sum so received by him to the general fund of his county. 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 and a refund has been made, the county treasurer making the refund shall file with the treasurer of the county 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 county.

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 and the county treasurer shall remit to the state treasurer the county's proportionate liability of such refund.

Approved February 28, 1961.

CHAPTER 357

H. B. No. 842
(Wheeler, Lynch)

BUILDING AND LOAN ASSOCIATIONS

AN ACT

Relating to taxation of building and loan associations, repealing subsection 6 of section 57-38-09 and amending subsection 12 of section 57-02-08 of the North Dakota Century Code, and providing penalties.

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 requires:

1. "Building and loan association" or "association" means any building and loan association or savings and loan association organized under the laws of the United States or the state of North Dakota, located in and having its principal place of business in this state.
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 paid or accrued within the taxable year; and
 - d. Losses incurred during the taxable year not compensated for by insurance or other reimbursement.

§ 2. Imposition and Basis of Tax.) An annual tax is hereby imposed upon each building and loan association, for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year, commencing January 1, 1961. This tax is in lieu of all other taxes or impositions, state, county, and local, except taxes upon the real property of any association, and shall be based upon and measured by the net income of each association for the preceding calendar year. The amount of the tax shall be computed by the tax commissioner at the rate of four percent of such net income. Regardless of such computation, the minimum tax assessable hereunder to any association shall be fifty dollars.

§ 3. Report of Income.) On or before the first 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. Computation and Certification of Tax.) On or before the first day of April in each year, the state tax commissioner shall compute the total tax to be assessed under this Act, 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. Tax Payment—Delinquency Penalty.) The taxes levied and assessed under this Act shall be payable on the fifteenth day of April following the report to the state tax commissioner under section three herein, and shall become delinquent if not paid on or before the fifteenth day of May 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. Allocation of Tax.) Upon receipt by the county treasurer of the tax payable under this Act, he shall apportion and distribute to the state, county, and to the political subdivisions in which the taxpaying association is located, the amount of the tax payment so received by him, on the basis on which the general real estate tax levy is apportioned and distributed.

§ 7. Reassessment—Access to Records.) If at any time the tax commissioner has reason to question the correctness of return made to him under this Act, he may investigate the books and records of the association in question. If any additional tax is due and unpaid, it shall be paid by the association to the county treasurer within thirty days after it receives notice thereof from the tax commissioner. If such association is found to have overpaid its tax and to be entitled to a refund, it may deduct the amount of such overpayment from the tax payable by it for the next succeeding taxable year. In enforcing this Act the state tax commissioner shall have access, upon demand, to all books and records of any association subject to this Act, and shall also have access to all records, reports, and information in the office of the state examiner concerning any association. Information obtained from such sources shall not be disclosed by the commissioner or any of his employees or agents, except as may be necessary in the enforcement of the law.

§ 8. **Lien.**) The amount of tax due, from the date of its certification by the tax commissioner to the county auditor, shall constitute a prior lien upon the assets of the association, and no dividend shall be declared or distributed while any tax assessed under this Act remains delinquent and unpaid.

§ 9. **Penalties.**) If any association which has failed to file a report or which has filed an incorrect or insufficient report, and which has been notified by the tax commissioner of its delinquency, refuses or neglects within thirty days after the mailing of such notice to file a proper report, or if it files a fraudulent return, the commissioner shall determine the tax of such association according to his best information and belief, and shall assess the same at not more than double the amount so determined. The commissioner may allow further time for the filing of a report in such case.

Any association which, or any officer thereof who, with intent to violate the provisions of this Act, shall make, render, sign, or verify any false or fraudulent return, report, or statement required under this Act, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars, or by imprisonment for not to exceed one year, or by both such fine and imprisonment.

§ 10. **Amendment.**) Subsection 12 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. All personal property of any insurance company, bank or banking association, building and loan association, savings and loan association, or rural electric cooperative, which is subject to a lieu tax upon gross premiums, gross earnings, or net income;

§ 11. **Repeal.**) Subsection 6 of section 57-38-09 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1961.

CHAPTER 358

H. B. No. 888
(Annear)

DIVIDENDS

AN ACT

To amend section 57-38-21 of the North Dakota Century Code by creating and adding thereto subsection 8, relating to subtraction of certain dividends in computing net income of individuals, estates and trusts; to amend section 57-38-22.1 of the North Dakota Century Code by creating and adding thereto a new subsection relating to deduction of federal income taxes by certain persons who as stockholders in certain corporations have earnings or liquidation dividends of such corporations taxed directly to them for federal income tax purposes; to repeal subdivision c of subsection 2 of section 57-38-22.1 of the North Dakota Century Code; to provide for an effective date; and declaring an emergency.

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

§ 1. Amendment.) Section 57-38-21 of the North Dakota Century Code is hereby amended by creating and adding thereto subsection 8 to read as follows:

8. Subtract any dividends or income received from stock or interest in any corporation and included in the adjusted gross income as computed for federal income tax purposes where the income of such corporation has been assessed and tax paid by the corporation under this chapter and such dividends or income was received by the taxpayer as income during the income year if such corporation has reported the name and address of each North Dakota resident owning stock and the amount of dividends or income paid each such person during the year, provided, that when only part of the income of any corporation shall have been assessed and corporation income tax paid thereon under this chapter, only a corresponding part of the dividends or income received therefrom and included in federal adjusted gross income shall be subtracted.

§ 2. Amendment.) Section *57-38-22.1 of the North Dakota Century Code is hereby amended by creating and adding thereto a new subsection to read as follows:

In any case where the taxpayer has paid federal income taxes upon income which is not included in his net income for North Dakota income tax purposes in the year in which such taxes were paid because of—

***Note:** Section 57-38-22.1 was also amended by section 3 of chapter 360 of the 1961 S. L.

- a. an election allowed and made under the provisions of sections 1371 through 1377 of the Internal Revenue Code of 1954, as amended, to have such income taxed to the individual shareholder rather than to the corporation, or
- b. an election allowed and made under the provisions of sections 331 through 342 of the Internal Revenue Code of 1954, as amended, to have the gain in certain corporate liquidations taxed to the individual shareholder rather than to the corporation,

such shareholder as the taxpayer under this chapter shall be allowed to deduct from his net income, in the year in which such federal income taxes were paid or accrued, the amount of federal income tax on such income or gain of the corporation, except that any federal income tax paid by the shareholder on gain or income of the corporation shall not be deducted under this subsection if it was paid with respect to a dividend that is subtracted under the provisions of subsection 8 of section 57-38-21 as an adjustment in computing the taxpayer's net income.

§ 3. Repeal.) Subdivision c of subsection 2 of section 57-38-22.1 of the North Dakota Century Code is hereby repealed.

§ 4. Effective Date.) The provisions of this Act shall be effective as to income years beginning after December 31, 1959.

§ 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 3, 1961.

CHAPTER 359

H. B. No. 908
(Lynch, Annear)

INCOME TAXES

AN ACT

To amend and reenact subsection 7 of section 57-38-01 to provide for a definition of "taxable year"; subsection 21 of section 57-38-01 and subdivision c of subsection 8 of section 57-38-18 relating to the definition of "Internal Revenue Code of 1954, as amended"; subsection 2 of section 57-38-31 to provide for the filing of separate returns at any time within three years after the due date of the return by a married couple who have previously filed a joint return; section 57-38-29 relating to rates of tax on income of individuals; section 57-38-36 to provide for the acceleration of the payment of quarterly installments where the taxpayer has failed to pay an installment in full on or before the date fixed for its payment; section 57-38-40 to provide for an extension of the period of time within which a taxpayer may apply for a revision of the tax assessed, where the revision has been occasioned by the three-year carry-back of a net operating loss; and to repeal section 57-38-23 and subsection 11 of section 57-38-01; all of the North Dakota Century Code.

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

§ 1. Amendment.) Subsection 7 of section 57-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. "Income year" and "taxable year" mean the calendar year or the fiscal year ending during such calendar year upon the basis of which the taxable income is computed under this chapter. If no fiscal year has been established, it means the calendar year;

§ 2. Amendment.) Subsection 21 of section 57-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. "Internal Revenue Code of 1954, as amended", means Internal Revenue Code of 1954, as amended to and including December 31, 1960.

§ 3. Amendment.) Subdivision c of subsection 8 of section 57-38-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. For the purposes of this subsection the words "Federal Internal Revenue Code of 1954, as amended" shall mean the Federal Internal Revenue Code of 1954, as amended to December 31, 1960.

§ 4. **Amendment.)** Subsection 2 of section 57-38-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If a husband and wife living together have an aggregate net income of fifteen hundred dollars or over, each shall make such a return, unless the income of each is included in a single joint return. If a husband and wife have filed a joint return for a taxable year for which separate returns could have been filed by them under this subsection, and the time prescribed by law for filing returns for such taxable year has expired, such husband and wife may nevertheless, elect to file separate returns for such taxable year, provided that the election to file such returns may not be made after the expiration of three years from the last date prescribed by law for filing returns for such taxable year, such taxable year to be determined without regard to any extension of time granted for filing the joint return;

§ 5. **Amendment.)** Section 57-38-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-29. Rate of Tax on Individuals.) A tax is hereby imposed upon every individual, to be levied, collected, and paid annually with respect to the taxable income of such individual as defined in this chapter, computed at the following rates:

1. On taxable income not in excess of three thousand dollars, a tax of one percent;
2. On taxable income in excess of three thousand dollars and not in excess of four thousand dollars, a tax of two percent;
3. On taxable income in excess of four thousand dollars and not in excess of five thousand dollars, a tax of three percent;
4. On taxable income in excess of five thousand dollars and not in excess of six thousand dollars, a tax of five percent;
5. On taxable income in excess of six thousand dollars and not in excess of eight thousand dollars, a tax of seven and one-half percent;
6. On taxable income in excess of eight thousand dollars and not in excess of fifteen thousand dollars, a tax of ten percent;
7. On taxable income in excess of fifteen thousand dollars, a tax of eleven percent.

§ 6. Amendment.) Section 57-38-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-36. When Payment of Tax May Be Made in Quarterly Installments.) If the total tax exceeds one hundred dollars it may be paid in quarterly installments, and if paid in such installments, the first installment shall be paid at the time fixed by this chapter for filing the return, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month after the time fixed by law for filing the return. If a taxpayer elects under the provisions of this section to pay the tax in installments, any installment may be paid prior to the date prescribed for its payment. If an installment is not paid in full on or before the date fixed for its payment the whole amount of the unpaid tax shall be paid upon notice and demand from the tax commissioner, and penalty and interest, as provided in sections 57-38-43 and 57-38-45, shall attach, from and after the time of the failure to make such timely payment, to the whole amount of the unpaid tax.

§ 7. Amendment.) Section 57-38-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-40. Revision.) 1. Except as provided in subsection 2 of this section, a taxpayer may apply to the tax commissioner for revision of the tax assessed at any time within three years after the due date of the return, within three years after the return was filed, or within three years after the date of the notice of the assessment of any additional tax as provided in section 57-38-38, whichever period expires latest. The tax commissioner shall grant a hearing thereon, and if upon such hearing he shall determine that the tax is excessive or incorrect, he shall resettle the same according to the law and the facts and shall adjust the computation of the tax accordingly. The tax commissioner shall notify the taxpayer of his determination and shall cause to be refunded to the taxpayer the amount, if any, paid in excess of the tax found by him to be due. If the taxpayer has failed, without good cause, to file a return within the time prescribed by law, or has filed a fraudulent return within the time prescribed by law, or has failed, after notice, to file a proper return, the tax commissioner shall not reduce the tax below double the amount for which the taxpayer is found to be properly assessed. Refund claims properly verified and approved by the tax commissioner shall be audited and paid as are other claims against the state.

2. If the claim for refund relates to an overpayment attributable to a net operating loss carry-back, in lieu of the three year period within which a taxpayer may apply to the tax commissioner for revision of the tax assessed as prescribed in this section, the period shall be that period which ends with the expiration of the fifteenth day of the fortieth month following the end of the taxable year of the net operating loss which results in such carry-back.

§ 8. Repeal.) Section 57-38-23 and subsection 11 of section 57-38-01 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1961.

CHAPTER 360

H. B. No. 904

(Lynch, Annear)

TAX CREDITS AND DEDUCTIONS

AN ACT

To amend and reenact subsections 2 and 6 of section 57-38-04 of the North Dakota Century Code, relating to the credit against tax allowed in the case of taxes paid to another state or foreign country, and to amend and reenact section 57-38-22.1, relating to deductions of individuals in computing taxable income and to provide for deduction of income taxes paid to foreign countries.

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

§ 1. Amendment.) Subsection 2 of section 57-38-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Income received from personal or professional services performed by residents of this state, regardless of where such services are performed, and income received by residents of this state from intangible personal property shall be assigned to this state. If a tax is paid to another state or territory of the United States or to the District of Columbia on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this credit for such tax shall not exceed the difference between (a) the amount of tax that would be due under this chapter if all of the

taxpayer's income had been derived from sources within North Dakota, and (b) the amount of tax that would be due under this chapter if the income from personal or professional services performed outside of North Dakota, together with any federal income taxes paid thereon, were excluded from the computation of the North Dakota income tax;

§ 2. Amendment.) Subsection 6 of section 57-38-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. a. Income and gains received by a resident of this state from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if such business consists principally of the holding of such property and the collection of income and gains therefrom, shall be assigned to this state without regard to the situs of such property.
- b. Income derived from carrying on a trade or business by residents of this state shall be assigned to this state without regard to where such trade or business is conducted. If a tax is paid to another state or territory of the United States or to the District of Columbia on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this credit for such tax shall not exceed the difference between (a) the amount of tax that would be due under this chapter if all of the taxpayer's income had been derived from sources within North Dakota, and (b) the amount of tax that would be due under this chapter if the gains, profits or income from property, trade or business outside of North Dakota, together with any expenses, losses or taxes (including federal income taxes) related thereto were excluded from the computation of the North Dakota income tax;

§ 3. Amendment.) Section 57-38-22.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***57-38-22.1. Deductions—Individuals.)** In computing taxable income of individuals, there shall be deducted from net income the amount of federal income taxes, but not social security and self employment taxes, plus income taxes of

***Note:** Section 57-38-22.1 was also amended by section 2 of chapter 358 of the 1961 S. L. by the creation of a new subsection 5.

foreign countries, paid or accrued as the case may be, during the applicable tax year, adjusted by any federal or foreign tax refunds, to the extent that they were paid or accrued upon income which becomes a part of the North Dakota taxable income against which the North Dakota income tax rates are applied; plus (except as otherwise required by subsection 3 of this section) the larger of the amounts defined in subsections 1 and 2 of this section as follows:

1. A standard deduction of five percentum of the net income after the deduction of federal income taxes and income taxes of foreign countries, not to exceed five hundred dollars, or
2. The total of (1) contributions, interest, taxes, child care expense, losses and miscellaneous expenses deductible for federal income tax purposes under the United States Internal Revenue Code of 1954, as amended, and (2) all expenses paid during the income year, not compensated for by insurance or otherwise, for medical care, as defined for federal income tax purposes under the United States Internal Revenue Code of 1954, as amended, of the taxpayer, his spouse, or a dependent, with the following adjustment:
 - a. Subtract from said total the deduction for North Dakota income taxes.
3. Where married persons filed a joint federal income tax return but separate North Dakota income tax returns, the total of the deductions under subsection 2 of this section shall be divided between them according to law; and where a taxpayer has used an optional standard deduction on his federal return, he shall use the standard deduction provided in this section on his North Dakota return. Where married persons file separate North Dakota income tax returns, both must use the standard deduction if either elects to use it.
4. A taxpayer affected by income allocation provisions of this chapter applicable to persons other than corporations shall, if the standard deduction is not used, be permitted to deduct only such portion of the deductions referred to in this section as is fairly and equitably allocable to North Dakota under rules and regulations prescribed by the state tax commissioner.

Approved March 8, 1961.

CHAPTER 361

S. B. No. 54

(Luick, Baeverstad, Gefreh, Johnson,)
(Kee, Thompson, and Yunker)
(From LRC Study)

TAX RECEIPTS

AN ACT

To amend and reenact section 57-38-37 of the North Dakota Century Code, relating to the issuance of a receipt for the payment of income tax.

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

§ 1. **Amendment.**) Section 57-38-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-37. Receipt.) The tax commissioner, as soon as possible after the receipt of the return and remittance, if paid by cash or currency, shall issue a receipt to the taxpayer for the amount of his remittance. Such receipt shall not be a receipt in full for the amount of the tax due, but only for the remittance made by the taxpayer.

Approved February 25, 1961.

CHAPTER 362

H. B. No. 890

(Annear)

AUDIT OF RETURNS AND ASSESSMENT OF TAX

AN ACT

To amend and reenact section 57-38-38 and section 57-38-44 of the North Dakota Century Code, relating to the period of time within which the tax commissioner may assess income tax, and providing for a longer period of time within which the tax commissioner may assess the tax where a taxpayer has failed to report on his tax return a substantial portion of his income.

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

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

57-38-38. Tax Commissioner to Audit Returns and Assess Tax.) 1. Except as provided in subsections 2, 3 and 4 of this section, the tax commissioner shall proceed to audit the returns of taxpayers and, not later than three years after the due date of the return, or three years after the return was filed, whichever period expires later, assess the tax and, if any additional tax is found due, shall notify the taxpayer in detail as to the reason for the increase;

2. If a taxpayer, other than a corporation, omits from net income an amount properly includible therein which is in excess of 25 percent of the amount of net income stated in the return, or if a corporate taxpayer omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without such assessment, at any time within six years after the due date of the return, or six years after the return was filed, whichever period expires later;

3. If the taxpayer has failed to file a return of income as required by this chapter, the tax may be assessed, or a proceeding in court for the collection of the tax due may be begun without such assessment, at any time within ten years after the due date of the return; provided that no limitation of time shall apply if at the effective date of this amendment a lien has been filed and recorded pursuant to section 57-38-49;

4. Where false or fraudulent information is given in the return, or where the failure to file a return is due to the fraudulent intent or the willful attempt of the taxpayer in any manner to evade the tax, the time limitations in this section shall not apply, and the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without such assessment, at any time.

§ 2. Amendment.) Section 57-38-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-44. Tax A Personal Debt.) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt from the person or corporation liable to pay the same to this state.

Approved March 2, 1961.

CHAPTER 363

S. B. No. 108

(Andre, Baeverstad)

(By request of the Tax Commissioner)

SALES AND USE TAX ON SUBSCRIPTIONS
TO MAGAZINES

AN ACT

To amend and reenact subsections 2 and 6 of section 57-39-01, section 57-39-02, and subsections 6 and 10 of section 57-40-01 of the North Dakota Century Code, relating to retail sales taxes and use taxes on subscriptions to magazines and other periodicals.

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

§ 1. Amendment.) Subsections 2 and 6 of section 57-39-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, and includes 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;
6. "Gross receipts" means the total amount of the sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this chapter, as has actually been received in cash by the

retailer during each quarterly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription;

§ 2. Amendment.) Section 57-39-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-02. Tax Imposed.) There is hereby imposed, beginning the first day of July, 1961, and ending the first day of July, 1963, a tax of two percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this chapter, sold at retail in the state of North Dakota to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of steam, gas, electricity, water and communication service, including the gross receipts from such sales by any municipal corporation furnishing steam, gas, electricity, water and communication service to the public in its proprietary capacity, except as otherwise provided in this chapter, when sold at retail in the state of North Dakota to consumers or users; a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement and athletic events and the playing of a record on a vending machine, in response to a coin placed in a slot, except as otherwise provided in this chapter; and a like rate of tax upon the gross receipts from all sales of subscriptions to magazines and other periodicals. The tax herein levied shall be computed and collected as hereinafter provided.

§ 3. Amendment.) Subsections 6 and 10 of section 57-40-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

6. "Tangible personal property" means:
 - a. tangible goods, wares, and merchandise, and gas, electricity, and water, when furnished or delivered to consumers or users within this state;

- b. 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;
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 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.

Approved March 15, 1961.

CHAPTER 364

S. B. No. 109

(Andre, Baeverstad)

(By request of the Tax Commissioner)

EXCLUSIONS AND EXEMPTIONS FROM RETAIL SALES
AND USE TAXES

AN ACT

To amend and reenact subsection 3 of section 57-39-01 and subsection 3 of section 57-40-01 and to repeal subsections 6 and 7 of section 57-40-03 of the North Dakota Century Code, relating to exclusions and exemptions from retail sales taxes and use taxes.

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

§ 1. Amendment.) Subsection 3 of section 57-39-01 of 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 and the sale of steam, gas, electricity, water, and communication service to retail consumers or users, and includes the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to other real or personal property otherwise exempt from the sales tax shall be considered as a sale of tangible personal property for a purpose other than for processing;

§ 2. Amendment.) Subsection 3 of section 57-40-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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;

§ 3. Repeal.) Subsections 6 and 7 of section 57-40-03 of the North Dakota Century Code are hereby repealed.

Approved February 28, 1961.

CHAPTER 365

S. B. No. 125

(Wartner and Gefreh)

SALES TAX PAYMENTS, LIENS

AN ACT

To amend and reenact subsection 1 of section 57-39-10 of the North Dakota Century Code, relating to the time retail sales taxes become due and payable, and to amend and reenact section 57-39-11 of the North Dakota Century Code, relating to liens for retail sales taxes.

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

§ 1. Amendment.) Subsection 1 of section 57-39-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The tax levied under the provisions of this chapter shall be due and payable in quarterly installments on or before the last day of the month next succeeding each calendar quarterly period, except that when there is a sale of any business by any retailer or when any business is discontinued by a retailer, the tax shall become due immediately prior to the sale or discontinuance of such business and if not paid within fifteen days thereafter it shall become delinquent and subject to the penalties provided in section 57-39-16;

§ 2. Amendment.) Section 57-39-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39-11. Lien of Tax—Collection—Action Authorized.)

1. Whenever any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the same, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal,

belonging to said taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of his death, the lien shall continue as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein, which interest shall be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein;

2. The lien aforesaid shall attach at the time the tax becomes due and payable and shall continue until the liability for such amount is satisfied; for the purposes of this provision the words "due" and "due and payable" shall mean the first instant at which the tax becomes due;

3. In order to preserve the aforesaid lien against subsequent mortgages, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien;

4. The register of deeds of each county shall prepare and keep in his office a book known as "Index of Tax Liens," so ruled as to show in appropriate columns the following data, under the names of taxpayers, arranged alphabetically:

- a. The name of the taxpayer;
- b. The name "State of North Dakota" as claimant;
- c. Time notice of lien was received;
- d. Date of notice;
- e. Amount of lien then due; and
- f. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour and minute when received and preserve the same, and forthwith shall index said notice in said index book and forthwith shall record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof;

5. The tax commissioner shall pay a recording fee as provided by law for the recording of such lien, or for the satisfaction thereof; provided that the register of deeds shall accept any such lien for filing and recording when it is received whether or not the filing and recording fees are paid at that time;

6. Upon the payment of a tax as to which the tax commissioner has filed notice with the register of deeds, the tax commissioner forthwith shall file with said register of deeds a

satisfaction of said tax and the register of deeds shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid;

7. The attorney general, upon the request of the tax commissioner, shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property, and in such action he shall have the assistance of the state's attorney of the county in which the action is pending;

8. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the tax commissioner or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law;

9. The technical, legal requirements outlined in this section relating to tax liens on all real and personal property of the taxpayer to insure payment of the taxes, including penalties, interest and other costs, are self-explanatory;

10. Remittances on account of tax due under this chapter shall not be deemed or considered payment thereof unless or until the commissioner shall have collected or received the amount due for such tax in cash or equivalent credit.

Approved February 23, 1961.

CHAPTER 366

H. B. No. 749

(Hauf)

CONTRACTOR'S PERFORMANCE BONDS, USE TAX

AN ACT

To amend and reenact section 57-40-17 of the North Dakota Century Code, relating to contractor's performance bonds for payment of use tax, in order to clarify said section.

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

§ 1. **Amendment.)** Section 57-40-17 of 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 com-

pany authorized to do business in the state of North Dakota; "surety company" means any person, firm, or corporation executing such surety; "contractor" includes any individual, firm, copartnership, association, corporation, or other group or combination thereof acting as a unit, and the plural as well as the singular number; and "subcontractor" includes any individual, firm, copartnership, association, corporation, or other group or combination thereof acting as a unit, and the plural as well as the singular number, who undertakes to perform all or any part of work covered by the original contract entered into by the contractor, including the furnishing of any supplies, materials, equipment, or any other tangible personal property.

Whenever any contractor or subcontractor enters into any contract for the erection of buildings or the alteration, improvement or repair of real property in this state and the contractor or subcontractor furnishes surety for the faithful performance of such contract, there is hereby imposed the additional obligation upon the surety company to the state of North Dakota that said contractor or subcontractor shall promptly pay all use taxes which may accrue to the state of North Dakota under the provisions of 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 two percent of the amount of the contract price.

The surety company within sixty days after executing such surety shall send written notice of the same to the state tax commissioner, which notice shall give the names and addresses of the parties contracting with respect to the real property and the place where the contract is to be performed. After the completion of the contract and the acceptance of the improvement by the owner of the real property improved, the surety company shall give written notice of such completion and acceptance to the state tax commissioner.

Six months after the completion of the contract and the acceptance of the improvement by the owner thereof, the additional obligation imposed upon said surety company shall cease unless written notice, within such period of time, of unpaid use taxes, is given to the surety company by the state tax commissioner.

This section shall not be construed to modify or repeal in any way any of the provisions of sections 48-01-05 and 48-01-06.

Approved March 8, 1961.

CHAPTER 367

S. B. No. 215

(Nesvig, Hernetz)

(By request of State Tax Commissioner)

USE TAX, PENALTY, LIEN

AN ACT

To amend chapter 57-40 of the North Dakota Century Code by creating and adding thereto two new sections providing for penalties for failure to pay the tax imposed by section 57-40-02 and for failure to comply with other provisions of chapter 57-40, and providing for a lien for such tax and penalties thereon.

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

§ 1. **Amendment.**) Chapter 57-40 of the North Dakota Century Code is hereby amended by creating and adding thereto the following section:

Penalties—Offenses.) 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, 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 such penalty. 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;

2. Any person required to make, render, sign or verify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the assess-

ment required by law to be made, shall be guilty of a misdemeanor and, for each such offense, shall be fined not to exceed five hundred dollars or shall be imprisoned in the county jail not exceeding one year, or shall be subject to both a fine and imprisonment, in the discretion of the court;

3. The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this chapter, shall be prima facie evidence thereof;

4. Except as provided in section 57-40-12, any person failing to comply with any of the provisions of this chapter, or failing to remit within the time herein provided to the state the tax due on any sale or purchase of tangible personal property subject to the tax imposed under the provisions of section 57-40-02, shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months or by a fine of not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. This criminal liability shall be cumulative and in addition to the civil liability for penalties hereinbefore provided.

§ 2. Amendment.) Chapter 57-40 of the North Dakota Century Code is hereby amended by creating and adding thereto the following section:

Lien of Tax—Collection—Action Authorized.) 1. Whenever any person liable for payment to the tax commissioner of the tax imposed by section 57-40-02 or for any penalties in respect thereto refuses or neglects to pay the same the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state of North Dakota upon all property and rights to property, whether real or personal, belonging to said taxpayer, and in the case of property in which a deceased taxpayer held an interest as joint tenant or otherwise with right of survivorship at the time of his death, the lien shall continue as a lien against the property in the hands of the survivor or survivors to the extent of the deceased taxpayer's interest therein, which interest shall be determined by dividing the value of the entire property at the time of the taxpayer's death by the number of joint tenants or persons interested therein;

2. The lien aforesaid shall attach at the time the tax first becomes payable, as provided by section 57-40-06, and shall continue until the liability for such amount is satisfied;

3. In order to preserve the aforesaid lien against subsequent mortgages, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a

county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien;

4. The register of deeds of each county shall prepare and keep in his office a book known as "Index of Tax Liens", so ruled as to show in appropriate columns the following data, under the names of taxpayers, arranged alphabetically;

- a. The name of the taxpayer;
- b. The name "State of North Dakota" as claimant;
- c. Time notice of lien was received;
- d. Date of notice;
- e. Amount of lien then due; and
- f. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour and minute when received and preserve the same, and forthwith shall index said notice in said index book and forthwith shall record said lien in the manner provided for recording real estate mortgages, and the said lien shall be effective from the time of the indexing thereof;

5. The tax commissioner shall pay a recording fee as provided by law for the recording of such lien, or for the satisfaction thereof; provided that the register of deeds shall accept any such lien for filing and recording when it is received whether or not the filing and recording fees are paid at that time;

6. Upon the payment of a tax as to which the tax commissioner has filed notice with the register of deeds, the tax commissioner forthwith shall file with said register of deeds a satisfaction of said tax and the register of deeds shall enter said satisfaction on the notice on file in his office and indicate said fact on the index aforesaid;

7. The attorney general, upon the request of the tax commissioner, shall bring an action at law or in equity, as the facts may justify, without bond to enforce payment of any taxes and any penalties, or to foreclose the lien therefor in the manner provided for mortgages on real or personal property, and in such action he shall have the assistance of the state's attorney of the county in which the action is pending;

8. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the tax commissioner or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law;

9. The technical, legal requirements outlined in this section relating to tax liens on all real and personal property of the taxpayer to insure payment of the taxes, including penalties, interest and other costs, are self-explanatory;

10. Remittances on account of tax due under this chapter shall not be deemed or considered payment thereof unless or until the commissioner shall have collected or received the amount due for such tax in cash or equivalent credit.

Approved March 1, 1961.

CHAPTER 368

S. B. No. 93
(Trenbeath, Mutch, Miller, Johnson)

MOTOR VEHICLE FUEL TAX REFUNDS

AN ACT

To amend and reenact sections 57-50-03 and 57-50-05 of the North Dakota Century Code, relating to motor vehicle fuel tax refunds.

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

§ 1. **Amendment.)** Section 57-50-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-03. Claim for Refund—Limitation on Filing.) Such claim for refund must be filed for all purchases during a calendar year of such motor vehicle fuel on or before March 31 of the year next following, or the claim for refund shall be barred.

§ 2. **Amendment.)** Section 57-50-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-05. Refund to State or Political Subdivision.) When any construction, reconstruction or maintenance of a public road, highway, street or airport is undertaken by the state or any county, city, village, township, park district or other municipality in the state and where public funds of the state, county, city, village, township, park district or other municipality are directly used for the purchasing of motor vehicle fuel to be used in publicly owned vehicles for such construction, reconstruction or maintenance, such motor vehicle fuel shall be subject to a refund of the tax paid thereon as provided for in this chapter and under the same terms and conditions.

No tax refund shall be paid to any person, firm or private corporation on any motor vehicle fuel used, except that liquefied petroleum gas used for heating purposes, which is paid for from public funds.

Approved March 15, 1961.

CHAPTER 369

H. B. No. 597

(Johnson of Barnes, Bier, Winge, Loder)

SPECIAL FUELS TAX

AN ACT

To create and to enact subsection 8 of section 57-52-03 and to amend and reenact section 57-52-10 of the North Dakota Century Code, relating to the special fuels tax.

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

§ 1.) Subsection 8 of section 57-52-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

8. "Highway purposes" means any use of special fuels in any motor vehicle or in any phase of construction, reconstruction, repair or maintenance of highways as defined in subsection 2, and shall include that special fuel used for heating of oils, gravel, bituminous mixture, or in any equipment used in the preparation of any materials to be used on any type of road or highway surfacing, except that special fuel known as liquefied petroleum gas used for heating purposes.

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

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

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

Approved March 8, 1961.

CHAPTER 370

H. B. No. 700

(Trom, Christopher, Boe)

DISTRIBUTION OF SPECIAL FUELS TAXES

AN ACT

To amend and reenact section 57-52-11 of the North Dakota Century Code, relating to the distribution of money collected under the provisions of chapter 57-52 of the North Dakota Century Code.

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

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

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

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

1. An amount equal to the sum credited and transferred to the county highway aid fund from the imposition and collection of such tax for the fiscal year which ended June 30, 1960, shall be credited by the state treasurer to the county highway aid fund and be distributed to the counties on or before the first day of August each year in the manner, and for the purpose provided for in section 57-54-15 of the North Dakota Century Code; provided, however, that in no event, shall any county receive, under the provisions of this subsection, an amount in excess of the sum dispersed to it during the fiscal year ending June 30, 1960; and,
2. All money in excess of the amount referred to in subsection 1 of this Act shall be distributed as follows:
 - a. Fifty percent of such excess shall be credited by the state treasurer to the county highway aid fund and distributed to the counties on or before the first day of August of each year in the manner set forth in subsection 1 of this Act; and
 - b. The balance of such excess is hereby appropriated and shall be distributed by the state treasurer on or before the first day of August of each year on a per capita basis to the incorporated cities and villages of this state, to be used by such incorporated cities and villages solely for construction, reconstruction, repair and maintenance of public streets and highways, the allocation to be based upon the population of each incorporated city and village according to the last official regular or special federal or state census, or the census taken in accordance with the provisions of chapter 40-02 of the North Dakota Century Code in case of a city or village incorporated subsequent to the last such federal or state census, and warrants shall be drawn payable to the treasurers of such cities and villages.

Approved March 7, 1961.

CHAPTER 371

S. B. No. 91

(Trenbeath, Mutch, Miller, Johnson)

LIQUEFIED PETROLEUM GAS DEALERS

AN ACT

To create and enact subsection 7 of section 57-53-01 of the North Dakota Century Code, and to create and enact section 57-53-10 of the North Dakota Century Code, relating to the special fuel tax on special fuel sold for heating, agricultural or railroad purposes and providing for the licensing of special fuel wholesale dealers in liquefied petroleum gas, and the issuance of permits to retail dealers in liquefied petroleum gas, and providing for the administration thereof.

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

§ 1.) Subsection 7 of section 57-53-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

7. "Wholesale dealer of liquefied petroleum gas" means any person who delivers or sells that fuel known as liquefied petroleum gas, commonly called "propane" or "butane", to any retail dealer, or user of liquefied petroleum gas.

§ 2.) Section 57-53-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-53-10. License—Fee—Permits and Bond.) It shall be unlawful for any person to act as a wholesale dealer in special fuel known as liquefied petroleum gas in this state unless such person is a holder of an uncanceled special liquefied petroleum gas dealer's license issued to him by the state auditor, in addition to complying with all other provisions of this chapter. Application for such license shall be made to the state auditor and a separate license shall be required for each separate place of business or location where such liquefied petroleum gas is regularly sold, delivered or placed into tanks of bulk supply vehicles for delivery into supply tanks of retail liquefied petroleum gas dealers or users. The cost of this license shall be ten dollars, which amount shall accompany each application, upon a form prepared and furnished by the state auditor, containing such information as the state auditor in his discretion shall deem necessary, together with a surety bond in such form and amount as the state auditor shall require, but not less than the amount of five hundred dollars.

Whenever any person deals only in the retail selling of liquefied petroleum gas, the provisions of sections 57-53-04 and

57-53-05 shall not apply, but in lieu thereof each liquefied petroleum gas retail dealer shall be required to make application to the state auditor for a liquefied petroleum gas retail dealer's permit. The cost of such permit issued by the state auditor shall be one dollar and shall expire June 30 of every odd numbered year. Each liquefied petroleum gas retail dealer shall be required to make collections of the special fuels excise tax levied under the provisions of section 57-53-02, and shall transmit all taxes collected by him to the state auditor quarterly. The state auditor shall furnish report forms requiring such information as he deems necessary for the efficient administration of this section, such report to accompany the transmittal of all taxes collected by liquefied petroleum gas retail dealers.

Approved February 28, 1961.

CHAPTER 372

S. B. No. 92

(Mutch, Miller, Trenbeath, Johnson)

CONSOLIDATION OF CERTAIN MOTOR VEHICLE FUELS TAX LAWS

AN ACT

To create and enact chapter 57-54 of the North Dakota Century Code, imposing a tax on motor vehicle fuels, providing for the administration and enforcement thereof, providing a penalty, and repealing chapters 57-41, 57-43 and 57-48 of the North Dakota Century Code.

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

§ 1.) Chapter 57-54 of the North Dakota Century Code is hereby created and enacted to read as follows:

Chapter 57-54 **Motor Vehicle Fuel Tax**

57-54-01. Title.) This Act may be cited as the "Motor Vehicle Fuel Tax Act".

57-54-02. Statement of Purpose.) The purpose of this Act is to consolidate the motor vehicle fuel tax as found in chapters 57-41, 57-43 and 57-48 of the North Dakota Century Code.

57-54-03. Definitions.) As used in this Act, unless the context otherwise requires:

1. "Motor vehicles" means all vehicles, engines, or machines, movable or immovable, which are operated in whole or in part by internal combustion of one or more of the motor vehicle fuels defined in this chapter;
2. "Motor vehicle fuels" includes all products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses, and any liquid which, when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (American society for testing materials designation D-86), shows not less than ten percent distilled (recovered) below three hundred forty-seven degrees Fahrenheit (one hundred seventy-five degrees Centigrade) and not less than ninety-five percent distilled (recovered) below four hundred sixty-four degrees Fahrenheit (two hundred forty degrees Centigrade);
3. "Dealer" means any person, firm, association, or corporation importing or causing to be imported from any other state or country any motor vehicle fuel for operating or propelling motor vehicles for use, distribution or sale, in and after the same reaches the state of North Dakota, and any person, firm, association, or corporation producing, refining, manufacturing, or compounding any motor vehicle fuel in this state for use, distribution or sale therein;
4. "Original package" means any tank car, barrel, or other package which is in the form and condition in which the same was imported into the state;
5. "Person" shall include every individual, partnership, society, incorporated association, joint stock company, corporation, trustee, executor, administrator, or guardian;
6. "Auditor" shall mean the state auditor of this state; and
7. "Wholesale dealer" means the same as is stated in subsection 3, with the added qualification in that it shall mean those selling or delivering motor vehicle fuel to retail dealers.

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

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

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

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

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

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

57-54-07. Report by Dealer to State Auditor.) Each dealer in motor vehicle fuel who shall engage, in his own name, or in the name of any other person, in this state, in the sale or use of motor vehicle fuel, not later than the twenty-fifth day of each calendar month, shall render to the state auditor, on the form prescribed, prepared, and furnished by the state auditor a statement witnessed by two witnesses, of the number of gallons of motor vehicle fuel sold, used, received and delivered by him during the preceding calendar month. If the dealer is a domestic corporation, the statement shall be signed by the

president or secretary, and if a foreign corporation, by the resident general agent, attorney-in-fact, or by a chief accountant or officer. If the dealer is a firm, or an association of individuals, the statement shall be made by the managing agent or owner. Such report shall contain a statement of the quantities of motor vehicle fuel sold, used, received and delivered within this state from the dealer's place of business, and if any such motor vehicle fuel has been sold and delivered by the dealer to customers in the original package, whether in tank car, barrel, or other package, and in the form and condition in which the same was imported, the statement shall show the amount of motor vehicle fuel so sold and delivered, and the names and addresses of the persons to whom the same was sold and delivered.

57-54-08. Tax Imposed on Motor Vehicle Fuels.) There is hereby imposed a tax of six cents per gallon on all motor vehicle fuel sold or used in this state. The tax imposed by this section shall be collected by the dealer from the consumer on all sales. Sales of fuel in the original package may be made to a licensed dealer and he shall have the option of collecting the tax of six cents per gallon imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer shall be liable for the tax thereon.

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

57-54-10. Tax Chargeable to Consumer.) Every dealer who is required to collect the motor vehicle fuel tax imposed by this chapter shall charge and collect the tax of six cents per gallon on all motor vehicle fuel sold by him, except as provided in section 57-54-09, as a part of the selling price thereof.

57-54-11. Failure to File Report — Revocation of License — Excuse for Delay.) If the holder of a license to sell motor fuel at any time shall refuse or neglect to file the monthly report required to be filed, and to pay the full amount of the tax as required by this chapter, the state auditor forthwith shall revoke such license and shall notify the holder thereof promptly by a notice sent by registered or certified mail to the post-office address of such holder as the same appears in the state

auditor's records. However, if such report is filed and the tax paid within ten days after the date it becomes due and if it is established under oath that the delay was due to accident or justifiable oversight, then the state auditor may continue such license in full force and effect.

57-54-12. Conditions Precedent to Reinstatement of License.)

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

57-54-13. Payment of Tax.) The tax collected upon motor vehicle fuel in any calendar month shall be remitted by the dealer when the statement required in section 57-54-07 is rendered only on that fuel sold or used during such calendar month. The state auditor shall receipt to the dealer therefor, and forthwith shall pay over all of the money thus received to the state treasurer.

57-54-14. Allocation of Five-Sixths of Fuel Tax.) The state treasurer shall credit to the state highway department promptly, five-sixths of the motor fuel tax collected under the provisions of this chapter. The money so credited is hereby appropriated to be used by such highway department for the construction, reconstruction, maintenance, or repair of highways or roads under the jurisdiction of the state highway department.

57-54-15. Allocation of One-Sixth of Motor Fuel Tax for County Highways—Disbursement.) One-sixth of the motor fuel tax received by the state treasurer shall be credited to a

“county highway aid fund”. During the months of January, April, July and October of each year, the state treasurer upon warrant of the state auditor shall apportion and disburse all of the moneys of such county highway aid fund not previously disbursed, including interest received thereon, to the various counties of the state in the proportion which the number of motor vehicles registered in each county shall bear to the total number of motor vehicles registered in all of the counties of the state during the entire preceding calendar year as shown by the certificate of the registrar of motor vehicles. The moneys so received by each county shall be set aside in a separate fund under the jurisdiction and control of the board of county commissioners and shall be appropriated and applied solely by such counties in the construction, reconstruction, maintenance, and repair of the county highways, bridges, and culverts thereon, and city streets leading up to and connecting with federal aid and state aid highways.

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

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

57-54-18. Sale to Consumer in Original Package — Invoice Required.) No person shall purchase, receive or accept any motor vehicle fuel from any dealer in the original package as the same was imported into the state under the provisions of section 57-54-07, unless the invoice therefor prescribed in section 57-54-09 is delivered to the purchaser by the dealer at the time of the purchase or receipt of such motor vehicle fuel.

57-54-19. Motor Fuel and Other Motor Vehicle Taxes To Be Used for Highway Purposes.) After deducting from state motor vehicle registration fees, license fees, motor fuel taxes, and other special taxes imposed on motor vehicle owners and operators, other than drivers' license fees, the cost of administration and collection authorized by legislative appropriation only, the proceeds remaining shall be used for the construction, improvement, and maintenance of highways and the expenses of administration in connection therewith and for no other purpose, except the proceeds remaining as revenue from aviation gasoline taxes and unclaimed aviation motor fuel

refunds and other aviation motor fuel excise and license taxation used by aircraft.

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

57-54-21. Losses — Deductions Allowed to Dealer — Remedies.) Each dealer of motor vehicle fuel shall be allowed to deduct the actual shrinkage of the total gallonage of motor fuel received by him during each calendar month from the statement submitted by him required in section 57-54-07, but such allowance shall not exceed one percent of the total received by him during such month. For the purpose of this Act, it shall be presumed that all motor vehicle fuel received by each dealer over and above the one percent allowance herein provided, not otherwise accounted for, but not that gallonage shown as inventory at the end of every calendar month, and other allowances provided in this chapter, has been sold, delivered or used and the dealer shall be liable for the amount of the motor vehicle fuel tax on each gallon of motor vehicle fuel not accounted for. For purposes of this Act, motor fuel refined at a refinery in this state and placed in storage thereat, and motor fuel brought into the state by pipeline and placed in storage at a pipeline terminal, shall not be deemed received until it is withdrawn from the refinery or terminal storage for sale or use in this state, or for shipment or delivery to destinations in this state.

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

57-54-23. Penalty.) Any dealer, purchaser, or other person who makes any false statement or report, or who collects or causes to be repaid to him or to any other person, any tax to which he is not entitled, or who violates any other provision

of this chapter, 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 ninety days, or by both such fine and imprisonment.

2. Repeal.) Chapters 57-41, 57-43, and 57-48 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1961.

TOWNSHIPS

CHAPTER 373

H. B. No. 840
(Stockman, Wheeler)

ZONING DISTRICTS AND COMMISSIONS

AN ACT

To amend and reenact sections 58-03-11 and 58-03-13 of the North Dakota Century Code, relating to zoning districts and township zoning commissions.

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

§ 1. **Amendment.)** Section 58-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-03-11. Establishment of Zoning Districts—Limitation—Scope of Zoning Regulations and Restrictions.) For the purpose of promoting the health, safety, morals or the general welfare, or to secure the orderly development of approaches to municipalities, the board of township supervisors may establish one or more zoning districts and within such districts may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings and structures, the height, number of stories, and size of buildings and structures, the percentage of lot that may be occupied, the size of courts, yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes. All such regulations and restrictions shall be uniform throughout each district, but the regulations and restrictions in one district may differ from those in other districts. No regulation or restriction, however, shall apply to or prevent the use of land or buildings for farming or any of the normal incidents of farming. The provisions of sections 58-03-11 through 58-03-15, shall not be construed to include any power relating to the establishment, repair and maintenance of highways or roads.

§ 2. **Amendment.)** Section 58-03-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-03-13. Township Zoning Commissions — Membership — Reports and Recommendations — District Boundaries — Hearings—Notice.) The board of township supervisors of a town-

ship desiring to avail itself of the powers conferred by sections 58-03-11 through 58-03-15, shall establish, by resolution, a township zoning commission to recommend the boundaries of the various township zoning districts and appropriate regulations and restrictions to be established therein. Membership of such commission shall consist of three township supervisors and two members appointed from the municipalities concerned in relation to which such zoning is contemplated. Where the area to be regulated and restricted is situated in two or more townships, a joint zoning commission may be established. Membership of a joint zoning commission shall consist of two township supervisors from each township and two members from the municipality in relation to which such zoning is contemplated. Each such commission shall make a preliminary report and hold public hearings thereon before submitting its final report and recommendations to the board or boards of township supervisors. The board or boards of township supervisors may thereupon establish, and from time to time change, the boundaries of township zoning districts and establish, amend, supplement, and enforce regulations and restrictions in such districts. No regulation, restriction, or boundary shall become effective until after a public hearing thereon at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in the official newspaper of the county and also in the official newspaper of the municipality in relation to which such zoning action is taken, if in such municipality an official newspaper other than the official newspaper of the county is published. The description of any land within any zoning district established by a zoning commission together with any regulations and restrictions established therein shall be filed with the governing bodies of the township and municipalities concerned, and in the event amendments are made to the boundaries of the zoning district or the regulations or restrictions established therein, such amendments shall be filed in the same manner.

Approved March 8, 1961.

WAREHOUSING AND DEPOSITS

CHAPTER 374

H. B. No. 905

(Miller of Golden Valley, Hagen, Miller of Walsh)

CONTRACTS FOR STORAGE OF GRAIN

AN ACT

To amend and reenact section 60-02-17 of the North Dakota Century Code, relating to warehouse and storage contracts for the storage of grain.

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

§ 1. **Amendment.**) Section 60-02-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-02-17. Warehouse and Storage Contract—Storage Rates—Terminal Delivery.) A warehouse receipt shall contain, either on its face or reverse side, the following warehouse and storage contract:

“This grain is received, insured, and stored subject to the following charges: one twenty-fifth of one cent net bushel per day, provided, however, that no storage shall be charged for grain so stored for fifteen days from date of delivery if such grain is sold within such fifteen-day period; however, if such grain is not sold within the fifteen days, storage charges shall commence from the date a warehouse receipt was issued. Upon surrender of this receipt and payment or tender of a delivery charge per gross bushel of four cents on flax, three and one-half cents on wheat or rye, and two cents on other grains and all other stated lawful charges accrued up to the time of said surrender of this receipt, the above amount, kind, and grade of grain will be delivered to the person named above or his order as rapidly as due diligence, care, and prudence will permit. At the option of the holder of this receipt, the amount, kind, and grade of grain for which this receipt is issued, on his demand, shall be delivered back to him at any terminal point customarily shipped to, or at the place where received, upon the payment of the above charges for receiving, handling, storage, and insurance and in case of terminal delivery, the payment in addition to the above of the regular freight charges on the gross amount called for by this ticket or in lieu

thereof, a receipt issued by a bonded warehouse or elevator company doing business at such terminal point. Nothing in this receipt shall be construed to require the delivery of the identical grain specified herein, but an equal amount of grain of the same kind and grade shall be delivered to him."

Approved March 15, 1961.

WATERS

CHAPTER 375

S. B. No. 302

(Morgan, Bopp, Fiedler, Gronvold)

DIRECTORS OF GARRISON DIVERSION CONSERVANCY DISTRICT

AN ACT

Relating to election and filling vacancies of directors for Garrison Diversion Conservancy District.

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

§ 1. Filling Vacancy on General Election Ballot.) Whenever a vacancy exists on a general election no-party ballot for any directorship of the Garrison Diversion Conservancy District, such vacancy may be filled by filing with the county auditor at least thirty days prior to the general election a petition substantially in the form provided in section 61-24-03 of the North Dakota Century Code, stating that the petitioner desires to become a candidate for election to the office of director. This petition must contain the signatures of not less than fifty qualified electors of the county, unless there were at least fifty write-in or sticker votes for the petitioner cast in the no-party primary election for such office.

A vacancy in the no-party ballot shall be deemed to exist when no candidate is nominated at the primary election or when a candidate nominated at the primary shall die, resign, or otherwise become disqualified to have his name printed on the ballot at the general election.

Approved March 4, 1961.

CHAPTER 376

H. B. No. 582

(Haugland, Anderson of McHenry, Alme, Backes, Berg, Hauf,)
(Christensen of Ward, Fossum, Balerud, Kelly, Link, Loftesnes,)
(Maragos, Ostrem, Saugstad, Solberg, Vinje, Wolf)

MOUSE RIVER

AN ACT

To establish the name "Mouse" as the official name for the river herein described.

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

§ 1. Declaration of Legislative Intent.) Whereas, throughout the past years and continuing to this day there exists a great amount of conflict and confusion, both within this state and without, as to the true name of that body of water described in section two of this Act and whereas numerous residents of communities located upon said body of water have expressed the desire that such conflict be resolved, it is the will of the legislative assembly that an official name be designated.

§ 2. "Mouse" Official Name of River.) That body of water which enters the state in or adjacent to that township described as township one hundred sixty-four, north, range eighty-seven, west, in the county of Renville, and proceeds in a generally southerly course through the city of Minot, thence in a generally easterly and northerly course through the cities of Velva and Towner to a point in or adjacent to that township described as township one hundred sixty-four, north, range seventy-nine, west, in the county of Bottineau, at which point it leaves the state of North Dakota, shall be known as the "Mouse" river. Nothing herein shall be considered as invalidating any national or international agreements designating the river as the Souris.

Approved March 15, 1961.

CHAPTER 377

S. B. No. 130

(Trenbeath)

WATER SURVEYS OR PROJECTS

AN ACT

Relating to moneys paid to the state water conservation commission by a municipality or political subdivision of the state to cover its part of the cost of a water survey or water project shared with the commission on a matching basis.

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

§ 1. Moneys Paid to the State Water Conservation Commission To Be Deposited with the State Treasurer.) Moneys paid to the state water conservation commission by a municipal corporation or by a political subdivision of the state to meet its part of the cost of a water survey or water project, shared with the commission on a matching basis, shall be deposited with the state treasurer and shall be credited to the fund out of which the cost of such water survey or water project is paid.

Approved February 25, 1961.

CHAPTER 378

S. B. No. 151

(Morgan, Gronvold, Garaas,
(Bopp, Trenbeath)

APPROPRIATION FOR BENEFICIAL USE

AN ACT

To amend and reenact sections 61-04-02, 61-04-04, 61-04-06, 61-04-09, 61-04-11, and 61-04-14 of the North Dakota Century Code, relating to acquisition of right to appropriate water for beneficial use.

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

§ 1. **Amendment.**) Section 61-04-02 of 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 permit to appropriate. The state engineer and state water conservation commission may, in order to permit rotation of crops, upon a request by the applicant and if found feasible, grant a permit or license which will be applicable to a gross area containing more than the acreage which can be irrigated in one year with the quantity of water authorized to be beneficially used under such permit or license.

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

61-04-04. Filing and Correction of Application.) The date of the receipt of the application provided for in section 61-04-02 in the state engineer's office shall be endorsed thereon and noted in his records. If the application is defective as to form, or unsatisfactory as to feasibility or safety of plan, or as to the showing of the ability of the applicant to carry the construction to completion, it shall be returned with a statement of the corrections, amendments, or changes required, within thirty days after its receipt, and sixty days shall be allowed for the refileing thereof. If the application is corrected as required and is refiled within such time, it, upon being accepted, shall take priority as of the date of its original filing, subject to com-

pliance with the further provisions of the law and the regulations thereunder. Any corrected application filed after the time allowed shall be treated in all respects as an original application received on the date of its refiling, except that the plans of the construction may be amended, with the approval of the state engineer, at any time, but no such change shall authorize any extension of time for construction except as provided in section 61-04-14. A change in the proposed point of diversion of water from a stream shall be subject to the approval of the state engineer, and shall not be allowed to the detriment of the rights of others having valid claims to the use of water from said stream.

§ 3. Amendment.) Section 61-04-06 of 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 permit to appropriate water, and shall state in such approval the time within which the construction shall be completed.

§ 4. Amendment.) Section 61-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-09. Completion of Work — Inspection — Certificate of Completion—Inspection by Others Than State Engineer.) On the date set for the completion of the work, or prior thereto, upon notice from the owner that the work has been completed, the state engineer shall cause the work to be inspected, after due notice to the owner of the 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 certificate of completion until such changes are made. Failure to make such changes shall cause the postponement of the priority under the 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 shall have the benefit of such postponement of priority. 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.

§ 5. **Amendment.)** Section 61-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-11. Inspection of Works.) If the state engineer, in the course of his duties, shall find that any works used for the storage, diversion, or carriage of water are unsafe and a menace to life or property, he at once shall notify the owner or his agent, specifying the changes necessary and allowing a reasonable time for putting the works in safe condition. Upon the request of any party, accompanied by the estimated cost of inspection, the state engineer shall cause any alleged unsafe works to be inspected. If they shall be found unsafe by the state engineer, the money deposited by such party shall be refunded, and the fees for inspection shall be paid by the owner of such works. If such fees are not paid by the owner of such works within thirty days after the decision of the state engineer, they shall be a lien against any property of such owner, and shall be recovered by a suit instituted by the state's attorney of the county at the request of the state engineer. The state engineer, when in his opinion necessary, may inspect any works under construction for the storage, diversion, or carriage of water, and may require any changes necessary to secure their safety. The fees for such inspection shall be a lien on any property of the owner and shall be subject to collection as provided in this chapter but neither the United States nor the state of North Dakota nor any agency thereof shall be required to pay such fees.

§ 6. **Amendment.)** Section 61-04-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-14. Extending Time for Completion of Construction or Application to Beneficial Use.) The state engineer may extend the time for the completion of construction, or for 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 if application for renewal and extension is made prior to January 1, 1962.

Approved March 16, 1961.

CHAPTER 379

H. B. No. 596

(Christensen of Ward, Hofstrand,)

(Johnson, Loder)

WATER RIGHTS

AN ACT

To amend and reenact section 61-04-05 of the North Dakota Century Code, relating to publication of notice of application to appropriate water rights.

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

§ 1. **Amendment.**) Section 61-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-05. Publication of Notice of Application—Contents—Proof—Failure to File Satisfactory Proof.) Upon the filing of an application which complies with the provisions of this chapter and the rules and regulations established thereunder, the state engineer shall instruct the applicant to publish notice thereof, in a form prescribed by him, in some newspaper of general circulation in the stream system, once a week for two consecutive weeks. Such notice shall give all essential facts as to the proposed appropriation, among them the places of appropriation and of use, amount of water, the purpose for which it is to be used, the name and address of the applicant, and the time when the application will be taken up by the state engineer for consideration. Proof of publication, as required, shall be filed with the state engineer within sixty days from the date of his instructions to make publication. In case of failure within the time required to file satisfactory proof of publication in accordance with the rules and regulations applicable thereto, the application thereafter shall be treated as an original application filed on the date of receipt of proof of publication in proper form.

Approved February 28, 1961.

CHAPTER 380

H. B. No. 667

(Anderson of McHenry, Saugstad, Vinje)

WATER PURCHASE AND ASSESSMENTS
IN IRRIGATION DISTRICTS

AN ACT

To amend and reenact section 61-12-30 of the North Dakota Century Code, authorizing a board of flood irrigation to purchase water and relating to assessments in flood irrigation districts.

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

§ 1. Amendment.) That section 61-12-30 of the North Dakota Century Code be and is hereby amended and reenacted to read as follows:

61-12-30. Board of Flood Irrigation May Contract for Purchase of Water—Assessment for Maintenance.) The board of flood irrigation shall have the exclusive care, management, and control of a flood irrigation project, but for such purpose may enter into a contract with responsible parties for the operation thereof, and may also, when necessary, enter into a contract with the United States, or with a district or political subdivision of the state, for purchase of water, or for furnishing water for flood irrigation. For the purpose of defraying the expense of the care, operation, maintenance, and repair of such project, including fees of the members of the board, said board annually shall certify to the county auditor the amount that will be required for such purposes during the following year. Thereupon the county auditor shall apportion to the several parcels or tracts of land within such project the amount which each parcel or tract of land shall be assessable, such apportionment to be made on the basis on which the original benefits were assessed under the provisions of section 61-12-22, and shall extend such amount upon the tax lists as a special tax. The taxes so collected shall be credited to the proper fund.

Approved March 11, 1961.

CHAPTER 381

H. B. No. 677

(Christopher, Breum, Wastvedt)

DAMS

AN ACT

To repeal chapter 61-18, embodying sections 61-18-01 to 61-18-20, both inclusive, of the North Dakota Century Code, relating to erection and maintenance of dams.

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

§ 1. Repeal.) That chapter 61-18, embodying sections 61-18-01 to 61-18-20, both inclusive, of the North Dakota Century Code be and is hereby repealed.

Approved February 28, 1961.

CHAPTER 382

S. B. No. 131

(Trenbeath, Ringsak, Johnson,
(Luick, Yunker, Nesvig, Wadeson)

DRAINAGE PROJECTS

AN ACT

To amend and reenact sections 61-21-13, 61-21-14 and 61-21-15 of the North Dakota Century Code, relating to the establishment of drainage projects.

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

§ 1. Amendment.) That section 61-21-13 of the North Dakota Century Code be and is hereby amended and reenacted to read as follows:

61-21-13. Hearing on Petition to Establish Drain and Surveyor's Report—Notice—Contents of.) 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. 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 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 may appear before the board, fully express their opinions, and offer evidence upon the matters pertaining thereto.

§ 2. **Amendment.**) That section 61-21-14 of the North Dakota Century Code be and 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, 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. 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.

§ 3. **Amendment.**) That section 61-21-15 of the North Dakota Century Code be and is hereby amended and reenacted to read as follows:

61-21-15. Denying or Making Order Establishing Drain — Costs When Petition Denied.) If, upon the examination by the board before the survey has been made, or, if upon the hearing upon the petition or upon the trial in the district court, it shall appear that there was not sufficient cause for making such petition, or that the proposed drain would cost more than the amount of the benefits to be derived therefrom or that fifty percent or more of the votes of affected landowners as determined by section 61-21-16, which were filed with the board, are opposed to such drain, the board shall deny the petition. An objection in writing filed with the board shall, as provided in section 61-21-13, be considered the same as a vote by ballot. The petitioners shall be liable jointly and severally to the board for all costs and expenses incurred in the proceedings, to be recovered by the board by action against the petitioners or upon their bond. If it shall appear, after due hearing as provided in sections 61-21-13 and 61-21-14, that the proposed drain will not cost more than the amount of the benefits to be derived therefrom and is approved by more than fifty percent of the votes of the affected landowners filed with the board as determined by section 61-21-16, the board shall make an order establishing the drain, accurately describing it, and giving the same a name under which it shall be recorded and indexed.

Approved March 16, 1961.

CHAPTER 383

H. B. No. 828

(Otos)

VOTING RIGHT OR POWER OF LANDOWNERS

AN ACT

To amend and reenact section 61-21-16 of the North Dakota Century Code, relating to the voting right or power of landowners.

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

§ 1. Amendment.) That section 61-21-16 of the North Dakota Century Code be and 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:

1. 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 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.

Approved March 11, 1961.

CHAPTER 384

H. B. No. 829

(Otos)

DRAINAGE DISTRICT FUND

AN ACT

To amend and reenact section 61-21-46 of the North Dakota Century Code, relating to the maximum levy and accumulation of drainage district fund.

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

§ 1. Amendment.) That section 61-21-46 of the North Dakota Century Code be and is hereby amended and reenacted to read as follows:

61-21-46. Maximum Levy — Accumulation of Fund.) The levy in any year for cleaning out and repairing a drain shall not exceed fifty cents per acre on any agricultural lands in the drainage district. Agricultural lands which carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of fifty cents per acre. The assessment of other agricultural lands in the district shall be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the benefits of the agricultural land assessed the full fifty cents per acre. Nonagricultural property shall be assessed such sum in any one year as the ratio of the benefits under the original assessment or any reassessment bears to the assessment of agricultural lands bearing the highest assessment. In case the maximum levy of fifty cents per acre for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing such drain, the board may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for two years.

Approved March 16, 1961.

CHAPTER 385

S. B. No. 301

(Morgan, Bopp, Fiedler, Gronvold)

GARRISON DIVERSION CONSERVANCY DISTRICT FUNDS

AN ACT

To amend and reenact subsection 9 of section 61-24-08 of the North Dakota Century Code, relating to funds of the Garrison Conservancy District.

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

§ 1. Amendment.) Subsection 9 of section 61-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. In 1961 and each year thereafter to levy a tax of not to exceed one mill annually on each dollar of taxable valuation in the district for the payment of the expenses of the district, including, but not limited to, per diem, mileage and other expenses of directors, technical, administrative, clerical, operating and other expenses of the district office, and for the cumulation of a continuing fund through such levy for the performance of obligations entered into with the United States of America in connection with the construction, operation and maintenance of works of the said Garrison Diversion Unit of the Missouri River Basin Project. All moneys collected pursuant to such levy shall be deposited in the Bank of North Dakota to the credit of the district and shall be disbursed only as herein provided. The board may invest any funds on hand, not needed for immediate disbursement or which are held in reserve for future payments, in bonds of the United States, bonds and mortgages or other securities the payment of which is guaranteed by the United States or an instrumentality or agency thereof, bonds or certificates of indebtedness of the state of North Dakota or any of its political subdivisions. The amount which may be expended or obligated in any one year for operating the district, exclusive of disbursements in connection with obligations to the federal government, shall not exceed ten percent of the maximum permissible;

Approved March 4, 1961.

WEEDS

CHAPTER 386

H. B. No. 914

(Loewen, Tescher, Einarson)

EMERGENCY AREAS

AN ACT

To amend and reenact section 63-01-17 of the North Dakota Century Code, relating to the establishment of emergency areas for the control of leafy spurge and perennial peppergrass, and declaring an emergency.

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

§ 1. **Amendment.)** Section 63-01-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01-17. Establishment of Leafy Spurge and Perennial Peppergrass Emergency Areas—Control of Leafy Spurge and Perennial Peppergrass—Assessment for Failure.) The county commissioners of any county in this state upon the petition of a majority of all landowners residing in a township which petition determines that any area in the county has a prevalence of leafy spurge and perennial peppergrass shall declare such area to be an emergency leafy spurge and perennial peppergrass area. Upon declaring an emergency area the county commissioners shall give notice to the owner, lessee or occupant of any land, highway right-of-way, public utility right-of-way or game refuge in the emergency area that such land, or a part thereof, has been declared to be within a leafy spurge and perennial peppergrass emergency area and that such owner, lessee or occupant is required to immediately take action to “control” the leafy spurge and perennial peppergrass on such land on or before a date specified in such notice, which shall not be less than five days from the date the notice is received by the owner, lessee or occupant. Such notice shall be given by the county commissioners in the same manner as notice is given in section 63-02-08. If after giving such notice the owner, lessee or occupant of any land, highway right-of-way, public utility right-of-way or game refuge in an emergency area refuses or neglects to “control” the leafy spurge and perennial peppergrass on such land within the date specified in the notice, the board of county commissioners or their employees shall enter upon such land and cause the leafy

spurge and perennial peppergrass to be "controlled", and shall assess to each lot or parcel of land other than land owned by the state or a political subdivision, thirty percent of the cost of controlling such leafy spurge and perennial peppergrass, which shall not exceed three hundred and twenty dollars per quarter section in any three-year period. The owner may elect to pay such assessments in three equal annual installments with interest on the unpaid balance of three percent per year. Not more than three thousand dollars shall be spent for such purposes in any one year.

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

Approved March 17, 1961.

WEIGHTS, MEASURES, AND GRADES

CHAPTER 387

H. B. No. 738

(Wheeler)

COIN-WEIGHING MACHINES, SCALES, GAS PUMPS

AN ACT

To amend and reenact section 64-02-10 of the North Dakota Century Code and to repeal sections 64-02-16, 64-02-17 and section 64-02-18 of the North Dakota Century Code, relating to licensing and inspecting coin-weighing machines, scales and public gasoline pumps.

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

§ 1. **Amendment.)** Section 64-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-10. Fee Schedule for Inspection of Weighing and Measuring Devices.) The chief inspector or other employee of the department of weights and measures shall charge and collect fees in accordance with the following schedule:

For inspecting railroad and track scale of capacity of twenty tons and upwards.....	\$15.00
For inspecting vehicle scales and livestock scales of eight thousand pounds capacity and over.....	8.00
For inspecting dormant scales, less than eight thousand pounds capacity or hopper scales, each	3.00
For inspecting movable platform scales.....	1.25
For inspecting all counter and computing scales....	1.25
For inspecting every patent balance, beam steel yard, or other instrument used for weighing other than the above enumerated, each.....	1.25
For inspecting any two bushel or one bushel measure50
For inspecting any other dry measure, 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 500 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.

Whenever a special inspection of any measuring device is required, in addition to the regularly scheduled annual inspection made by the department, a charge of ten cents per mile will be made in addition to the regular inspection fee to cover the costs of the additional travel by the inspector occasioned by such special inspection.

§ 2. Repeal.) Sections 64-02-16, 64-02-17, and 64-02-18 of the North Dakota Century Code are hereby repealed.

Approved March 7, 1961.

WORKMEN'S COMPENSATION

CHAPTER 388

H. B. No. 561

(Johnston, Wheeler, Lowe, Baldwin, Maragos)

FIREMEN'S COMPENSATION AND DEATH PAYMENTS

AN ACT

To amend and reenact subdivision d of subsection 9 of section 65-01-02 of the North Dakota Century Code, relating to firemen's compensation and death payments under workmen's compensation.

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

§ 1. Amendment.) Subdivision d of subsection 9 of section 65-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. Provided, any condition or impairment of health of a full-time paid fireman caused by tuberculosis, hypertension or heart disease resulting in total or partial disability or death shall be presumed to have been suffered in line of duty and shall not be attributed to any disease existing prior to such total or partial disability or death unless the contrary be shown by competent evidence, provided, further, that such a full-time paid fireman shall have completed two years of continuous service and have successfully passed a physical examination which examination fails to reveal any evidence of such condition;

Approved March 1, 1961.

CHAPTER 389

H. B. No. 874
(Leet, Renfrow)

PREMIUMS

AN ACT

To amend and reenact section 65-04-04 of the North Dakota Century Code, relating to determinations of premiums by the workmen's compensation bureau, and declaring an emergency.

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

§ 1. Amendment.) Each employer subject to the provisions of this title shall pay into the fund annually the amount or premiums determined and fixed by the bureau for the employment or occupation of such employer, which amount shall be determined by the classifications, rules, and rates made and published by the bureau and shall be based on a proportion of the annual expenditure of money by such employer for the service of persons subject to the provisions of this title; provided, however, that the computation of such premiums shall not be based upon any premium wages in excess of the basic hourly rate of pay or any annual remuneration, in whatever form, in excess of the sum of thirty-six hundred dollars paid to any employee by an employer. A receipt or certificate specifying that such payment has been made shall be mailed to such employer by the bureau immediately after such payment is made, and such receipt or certificate, attested by the seal of the bureau, shall be prima facie evidence of the payment of the premium. The bureau shall provide that premiums to be paid by school districts, cities, villages, townships, and all municipal and public corporations or agencies fall due at the end of the fiscal year of such entity and may make provisions so that premiums of other employers fall due on different or specified dates and for the purpose of effectuating such due dates the bureau may carry new or current risks for a period of less than one year and not to exceed fifteen months, either by request of the employer or action of the bureau.

§ 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 16, 1961.

CHAPTER 390

S. B. No. 281

(Garaas, Fiedler)

MAXIMUM AND MINIMUM BENEFITS

AN ACT

To amend and reenact sections 65-05-09 and 65-05-11 of the North Dakota Century Code, relating to maximum and minimum benefits to be paid for total disability and for temporary partial disability under the workmen's compensation act.

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 is hereby amended and reenacted to read as follows:

65-05-09. Total Disability—Weekly and Aggregate Compensation.) If the injury causes temporary or permanent total disability, the fund shall pay to the disabled employee during such disability a weekly compensation equal to eighty percent of his weekly wage, subject to the maximum and minimum limitations contained in section 65-05-11. In case of temporary or permanent total disability, there shall be paid to such disabled employee an additional sum of three dollars per week for each dependent child under the age of eighteen years, and for each child over eighteen years and incapable of self-support due to physical or mental disability and whose maintenance is the responsibility of the claimant. Dependency awards for the children may be made direct to either parent at the discretion of the bureau. In no event shall the total weekly payment to the totally disabled employee exceed the sum of fifty-seven 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 is hereby amended and reenacted to read as follows:

65-05-11. Maximum and Minimum Compensation Allowances—Total and Partial Disability.) The weekly compensation for total disability shall not be more than forty-two dollars, except where an allowance for dependents is made in compliance with section 65-05-09, nor less than fifteen dollars. The weekly compensation for temporary partial disability with partial allowance for dependents shall not be more than forty-

two dollars. If the injured person, at the time of the injury, was a minor or was employed in a learner's capacity, and was not physically or mentally defective, the bureau from time to time shall determine the probable increase in weekly earning capacity of such person if such injury had not occurred, and shall base its award for compensation upon such probable weekly wage-earning capacity.

Approved March 16, 1961.

CHAPTER 391

S. B. No. 212

(Foss)

FEES FOR BOILER INSPECTION

AN ACT

To amend and reenact sections 65-12-06 and 65-12-11 of the North Dakota Century Code, relating to fees charged by workmen's compensation bureau for inspection of boilers.

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

§ 1. **Amendment.**) Section 65-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-06. Certificate of Inspection.) A certificate of inspection for each boiler inspected shall be issued by the bureau upon payment direct to the bureau of a fee of three dollars. Such inspection certificate shall be valid for a period of not more than fourteen months for power boilers and twenty-six months for low pressure heating boilers. No certificate of inspection shall be issued for any boiler not in a safe condition to be operated. The inspection fees for the inspection of non-insured boilers must be paid before a certificate of inspection is issued.

§ 2. **Amendment.**) Section 65-12-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-11. Inspection Fees.) The owner or user of a boiler required by this chapter to be inspected by the boiler inspector, shall pay to the bureau, upon completion of inspection, fees in accordance with the following schedule:

1. Internal inspections of power boilers:
 - a. Not more than one hundred square feet of heating surface five dollars;

- b. Over one hundred and not more than two thousand five hundred square feet of heating surface twelve dollars;
 - c. Over two thousand five hundred square feet of heating surface fifteen dollars.
- 2. Internal inspections of low pressure heating boilers:
 - a. Boilers without a manhole five dollars;
 - b. Boilers with a manhole twelve dollars.
 - 3. External inspections of all boilers five dollars.

Not more than twenty dollars shall be charged or collected for any and all inspections, as above, of any boiler in any one year except for special inspections made upon request as hereafter provided. All other inspections made by the boiler inspector including shop inspections and special inspections when requested by the owner or user of a boiler, shall be charged for on the scale applicable to an internal inspection plus any additional expenses incurred in connection therewith.

Approved March 4, 1961.

VETOED MEASURES

CHAPTER 46

H. B. No. 501

(Committee on Appropriations)

BUDGET

Subdivision 24.

38th Legislative Assembly

Budget Request for 38th.....	\$ 78,000.00
*Per Diem—Employees (Vetoed).....	125,000.00
Printing	86,000.00
Miscellaneous	12,000.00
Expense—Members	194,400.00
Janitor Service and Engineering.....	3,750.00
Total	\$499,150.00

Disapproved March 17, 1961.

Filed March 18, 1961.

Item Veto

March 17, 1961

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota
Dear Mr. Meier:

I transmit to you House Bill No. 501 with my approval except for a veto of one distinct item making an appropriation.

On Page 11 of House Bill No. 501 I vetoed the language and appropriation reading "Per Diem Employees \$125,000.00," to be found on the second line under the section "38th Legislative Assembly."

A review of the number of employees necessary in past legislative sessions reveals that the 1961 Legislative session employed 138 persons which is considerably more than in past sessions. The appropriation by the 1959 Legislature made for the 1961 session was \$60,000.00. The appropriation by the 1961 Legislature made for the coming 1963 session is \$125,000.00.

It is readily apparent that there will be a need at the opening of the 1963 session for a serious review of the number of

***Note:** For remainder of House Bill No. 501 see chapter 46,

APPROPRIATIONS.

legislative employees actually required and the amount of state funds which can logically be committed for such service. In order to facilitate such a review I veto the specific item "Per Diem Employees \$125,000.00."

Sincerely yours,
WILLIAM L. GUY
Governor

CHAPTER 392

S. B. No. 184
(Foss)

REVENUE CERTIFICATES OF STATE SCHOOL
CONSTRUCTION FUND

AN ACT

Authorizing preparation, issuance and sale of revenue anticipation certificates of the state school construction fund by the state board of public school education, the purchase of such certificates by The Bank of North Dakota, and by other state departments, making provision for payment and retirement of such certificates, and making an appropriation.

Veto

March 15, 1961

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 184, "an act authorizing preparation, issuance and sale of revenue anticipation certificates of the state school construction fund by the state board of public school education, the purchase of such certificates by The Bank of North Dakota, and by other state departments, making provision for payment and retirement of such certificates, and making an appropriation", is a stop-gap measure to bolster an inadequate income to the state school equalization fund, by taking money out of one pocket and putting it in another.

The school construction fund of 5 million dollars was established by the 33rd Legislative Session in 1953, out of equalization funds. Loans from the school construction fund are made only to school districts which must build but which are unable under present law to issue bonds sufficient to cover the cost of construction. Since the beginning of the fund,

eighty-two schools have been built using school construction fund loans. Without this loan program these schools could not have been built. Repayments of loaned funds are again available for lending for school construction by the revolving feature of the school construction funds. Today there are ten schools with applications to borrow from this fund.

In an inconsistent action, the 37th Legislative Session recognized both the inadequacy of available loan funds for school construction and the urgency of need by appropriating \$800,000.00 to this same school construction fund in Senate Bill No. 185. However, Senate Bill No. 184 provides for the reduction and destruction of the \$5,000,000.00 school construction fund by as much as \$3,000,000.00. This would appear to leave \$2,000,000.00 plus the funds transferred from the interest accumulated, which now amounts to \$355,000.00. However, since the contracts with the state school construction fund run for twenty (20) years and Senate Bill No. 184 provides that the revenue anticipation certificates must be repaid in ten (10) years, the entire income from the state school construction fund would be obligated to repay the revenue anticipation certificates in that length of time. This would, in effect, cripple and even discontinue the revolving feature of the state school construction fund, thus draining it to as little as \$2,000,000.00. To temporarily finance the school equalization fund in this manner would only delay the coming to grips with a permanent solution, and would at the same time create an insurmountable problem in financing North Dakota school construction.

In view of the past success of the school construction fund, its urgent need in the future, and a complete evasion of a solution for equalization fund financing in this Senate Bill No. 184, I veto it.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. Preparation of State School Construction Fund Revenue (Anticipation Certificates.) From time to time on request of the superintendent of public instruction to meet the needs of the state equalization fund the state board of public school education may prepare revenue anticipation certificates of the state school construction fund. Such certificates shall be signed by the chairman of the state board of public school education,

shall mature in not more than ten years from the date of issue and shall bear interest at a rate to be determined by the state industrial commission. They shall be eligible for purchase by The Bank of North Dakota and by other agencies, departments and trust funds of the state, except school trust funds.

§ 2. Issuance of State School Construction Fund Revenue Anticipation Certificates.) Certificates prepared in accordance with section 1 of this Act may be issued from time to time to meet the needs of the state equalization fund. The proceeds of such certificates shall be paid to the state treasurer for the state equalization fund and shall be by him deposited therein. The purchaser and holder of such certificates shall be entitled to payment thereof with interest, in accordance with their terms out of rents and other revenues accruing to the state school construction fund, and such certificates shall be a paramount charge in the order of issuance against all rentals and revenues collected and received for the state school construction fund. The maximum amount of such certificates outstanding at any one time shall not exceed the sum of three million dollars.

§ 3. Appropriation.) There is hereby appropriated from the state school construction fund to the purchasers of revenue anticipation certificates authorized and issued under this Act, and to the state equalization fund, the sum of three million dollars or such portion thereof as may be needed for the state equalization fund and for the payment of interest on such certificates.

Disapproved March 15, 1961.

Filed March 15, 1961.

CHAPTER 393

H. B. No. 684

(Wheeler, Buechler, Christopher, Einarson, Johnston)

COOPERATIVE EDUCATIONAL FUNDS

AN ACT

To amend and reenact subsection 9 of section 10-15-03 of the North Dakota Century Code, relating to donations by cooperatives for educational scholarships; and to repeal subdivision a of subsection 2 of section 10-15-33 of the North Dakota Century Code, relating to educational funds of cooperatives.

Veto

March 11, 1961

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

House Bill No. 684, "an act to amend and reenact subsection 9 of section 10-15-03 of the North Dakota Century Code relating to donations by cooperatives for educational scholarships; and to repeal subdivision a of subsection 2 of section 10-15-33 of the North Dakota Century Code relating to educational funds of cooperatives", represents the high water mark in a legislative session dedicated by the majority party to political vindictiveness.

This bill was conceived in post election bitterness and carried through passage in both houses in a political passion which blamed a North Dakota farm organization for the loss of the U. S. senatorship and a governorship in the 1960 elections. In the months ahead, the majority party will begin to realize their hasty action in blaming defeat at the polls on one man or one farm organization is underestimating the importance of candidates and a political party's program as major factors in winning an election.

This bill in calm reflection denies the individual member of a cooperative in annual elections the right to determine the use of up to five per cent of net proceeds for educational purposes. The present law which House Bill No. 684 seeks to repeal states that such educational funds shall not be used in any political activity. This bill, while aimed at a specific cooperative organization, is a sweeping denial to all types of cooperatives of the right to make their own determinations by annual elections.

The use of educational funds by REA cooperatives in the promotion and education of electric power uses has resulted in a fantastic increase in farm convenience and efficiency. This electrification of farming is a vital stimulus to the economics of main street business in our towns. At a time when further farm efficiencies are called for, and a transition to high gross income farming is called for, the weakening of our electrical power cooperatives' ability to educate and promote would be disastrous to our entire North Dakota economy. I am aware that the promoters of this bill have said that they are not out after the REA's and that this bill would not affect REA's. However, there is sufficient legal doubt to make it hazardous to create the question.

It is tragic that at a time when the individual farmer could have benefitted greatly by legislation in this session, he is offered this bill as a contribution to the economic growth of this state's basic industry—farming.

The sponsors of this hopefully look upon this bill as a means of embarrassing me. I reject this shortsighted optimism on their part and veto House Bill No. 684.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. **Amendment.**) Subsection 9 of section 10-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. Make donations for charitable, scientific, educational scholarship, or religious purposes;

§ 2. **Repeal.**) Subdivision a of subsection 2 of section 10-15-33 of the North Dakota Century Code is hereby repealed.

Disapproved March 11, 1961.

Filed March 13, 1961.

CHAPTER 394

H. B. No. 742

(Davis of Dunn, Currie, Reimers)

EMINENT DOMAIN, BOARD OF PARK COMMISSIONERS

AN ACT

To repeal subsection 11 of section 11-28-05 of the North Dakota Century Code, relating to the exercise of the power of eminent domain by the board of park commissioners.

Veto

March 10, 1961

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Transmitted herewith without my approval is House Bill No. 742, an act to repeal Subsection 11 of Section 11-28-05 of the North Dakota Century Code, relating to the exercise of the power of eminent domain by the Board of Park Commissioners.

Chapter 11-28-05 of the North Dakota Century Code spells out the powers and duties of the board of county park commissioners. Subsection 11 of Section 11-28-05 is a substantial power necessary in the full performance of those duties of a board of county park commissioners. To repeal the right of eminent domain now vested in a board of county park commissioners would relieve the public of its rights in the courts to expand the recreational facilities of our state in this and coming generations. The rights of the individual are protected by the courts in the exercise of the power of eminent domain. I have confidence in our courts.

The vitality of North Dakota's projected water resource development would be jeopardized with the loss of the power of eminent domain vested in the boards of county park commissioners.

This era in which we live is providing greater free time for adults, and is increasing the need for juvenile recreation. Our needs today call for an expansion rather than a retardation of the establishment of our park systems.

I therefore veto House Bill No. 742.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. **Repeal.**) Subsection 11 of section 11-28-05 of the North Dakota Century Code is hereby repealed.

Disapproved March 10, 1961.

Filed March 10, 1961.

CHAPTER 395

S. B. No. 263

(Longmire, Baker)

REGISTRATION OF ELECTORS

AN ACT

To provide that all electors must be registered in the precinct prior to being authorized to vote in any statewide special, primary, or general election, providing for the method of registration and to amend and reenact section 16-18-06 of the North Dakota Century Code, relating to absent voters' ballots, and providing a penalty.

Veto

March 17, 1961

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 263 is "an act to provide that all electors must be registered in the precinct prior to being authorized to vote in any statewide special, primary, or general election, providing for the method of registration and to amend and reenact section 16-18-06 of the North Dakota Century Code relating to absent voters' ballots, and providing a penalty."

It is far more important to encourage voters to exercise their privilege of voting than to chance discouraging voter participation by a cumbersome law of questionable necessity.

It is difficult for many of our citizens to arrange work hours, work trips and work locations in order to vote. To have to duplicate this effort to register would discourage voter participation in elections. Voter identity is not a problem in the vast majority of North Dakota precincts. It is a problem in only a few of the precincts in our larger cities. The law as found in Chapter 40, Section 21, subsection 10 of the North Dakota

Century Code does now permit the governing body of any city or village to require the registration of voters in any election held or conducted within the municipality at such time and place or places as the governing body may designate.

Because Senate Bill No. 263 would unnecessarily restrict the exercise of an individual's freedom to vote, I veto it.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. Registration of Electors—Duty of Assessor.) All qualified electors in North Dakota shall be registered in their respective precincts before they will be authorized to vote at any statewide special, primary, or general election. The assessor at the time of assessing real and personal property shall require all qualified electors within his assessment district to register by signing their names in a registry presented by the assessor and provided by the county auditor. After each elector has signed the registry the assessor shall enter the address of such elector together with the precinct wherein he resides. The assessor shall attempt to procure the signatures of all of the electors in his assessment district if possible.

§ 2. Duties of Other Officials.) The village clerk in organized villages, the township clerk in organized townships, the city auditor in cities, and the county auditor in unorganized townships shall maintain a registry of electors for the purpose of allowing electors in their respective political subdivisions to register if such elector has not registered with the assessor.

§ 3. Electors Not Registered Not Entitled to Vote—Exception.) Any person who has not registered as provided in this Act prior to twenty-five days before any statewide special, primary, or general election shall not be permitted to vote at such election and shall not be authorized to register until after such election is held. The provisions of this Act regarding registration of voters shall not apply to those electors mentioned in subsections 1 through 4 of section 16-18-01, and such voters shall be authorized to vote without being registered as provided in this Act.

§ 4. Registries To Be Forwarded to County Auditor.) The assessor, village and township clerk, and the city auditor shall forward to the county auditor the signatures of all electors registered by them together with two typed copies of the name,

address, and precinct of each registered elector arranged in alphabetical order by their surnames and first name and middle initial in one column, their address in another column, and their precinct in a third column so that the same will reach the county auditor not later than fifteen days prior to any statewide special, primary, or general election. A copy of the registry sent to the county auditor shall be kept by the assessor, village and township clerk, and the city auditor and filed by him in his office so that the same can be kept current from year to year.

§ 5. Register of Electors To Be Kept Current.) Once an assessor has made the original registry of electors in his assessment district, he shall not require the electors to re-register provided such elector has not moved from one precinct to another. Each year during the time the assessor performs his duties as assessor he shall inquire as to the accuracy of the registry of electors, and if changes are required or additional electors must be registered, the assessor shall insure that the same are made. Thereafter in each year in which a statewide special, primary, or general election is held the assessor shall forward to the county auditor changes in the registry and the signatures of newly registered electors, together with two typed copies of the names, addresses, and precincts in the same manner, form, and within the same time limit as is provided in section 4 of this Act.

§ 6. Duties of County Auditor — Inspector of Elections.) Upon receiving the registry of electors from the assessors, village and township clerks, and the city auditors the county auditor shall compile a complete registry of electors for each precinct in the county arranged alphabetically by surname and first name and middle initial in one column, their address in another column, and the precinct in a third column. Two copies of the registry for each precinct shall be delivered or mailed by the county auditor to each person who will act as inspector of elections in every precinct in the county in time to reach such person prior to the date any statewide special, primary, or general election is held, if possible, and in any event not later than the time the polls open on such election day, and one copy of such registry shall be kept and filed by the county auditor in his office, which shall be kept current and brought up to date prior to any such election. Upon receipt of such registry the inspector of elections shall insure that no elector shall vote at any statewide special, primary, or general election unless such elector's name appears on such registry.

§ 7. Penalty.) Any person violating any of the provisions of this Act or who causes his name to be registered in more than one election precinct, or who causes his name to be

registered knowing that he is not a qualified elector in the precinct where he registers, or who impersonates any registered voter, or who aids or abets any person violating any of the above provisions shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding one thousand dollars, or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

§ 8. 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 county auditor of the county 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 voters ballot to be voted by me at such election. I (am) (am not) (cross out whichever bracketed words are not applicable) a member of the armed forces on active duty or his spouse or dependent, or a member of the merchant marine of the United States or his spouse or dependent, or a civilian employee of the United States serving outside the territorial limits of the United States or his spouse or dependent, or a member of a religious group or welfare agency assisting members of the armed forces who is officially attached to and serving with the armed forces or his spouse or dependent.

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 voters' ballot 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.

Disapproved March 16, 1961.

Filed March 17, 1961.

CHAPTER 396

S. B. No. 294

(Baeverstad)

ABSENT VOTERS' BALLOTS

AN ACT

To amend and reenact section 16-18-16 of the North Dakota Century Code, relating to submitting and delivering absent voters' ballots to inspector of elections, requiring auditor to obtain mail on election day and to deliver such ballots, empowering auditor to command the services of the sheriff or his deputy to deliver absent voters' ballots.

Veto

March 15, 1961

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 294 is "an act to amend and reenact section 16-18-16 of the North Dakota Century Code relating to submitting and delivering absent voters' ballots to inspector of elections, requiring auditor to obtain mail on election day and to deliver such ballots, empowering auditor to command the services of the sheriff or his deputy to deliver absent voters' ballots." The intent of the bill is to assure that absentee voter

ballots which arrive at the county auditor's office during election day, be delivered to and counted in the absent voter's precinct on election day. This intent is very commendable, but the mechanics of actual operation would be cumbersome, costly, and in many counties would involve sending the sheriff and his deputies to precincts as far as 75 miles from the county seat.

The problem of counting absentee ballots arriving at the county auditor's office on election day could be easily resolved without additional expense, if these ballots could be counted by the County Canvassing Boards as are military personnel ballots counted now.

I sympathize with the intent of the bill, but in the interest of economy and efficiency in an already cumbersome and costly election process, I veto Senate Bill No. 294.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. 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—Auditor to Obtain Mail on Election Day—Empowered to Require Sheriff to Deliver Ballots.) If the envelope containing the absent voters' ballot is received by the county auditor 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 county auditor of such absent voters' ballot, then the county auditor forthwith shall mail the same postage prepaid to such inspector of elections or otherwise shall deliver it to such inspector. It shall also be the duty of the auditor to obtain all incoming mail containing absent voters' ballots throughout the day of an election and deliver such ballots to such inspectors if such delivery is possible before the polls close. The auditor shall also be empowered to command the services of the sheriff or

any deputy of that county to effect such delivery who shall forthwith make every effort possible to deliver such ballots to such inspectors before the closing of the polls.

Disapproved March 15, 1961.

Filed March 15, 1961.

CHAPTER 397

H. B. No. 777

(Dahl, Skaar, Dick,)

(Tescher, Goebel)

OIL INSPECTION FEES

AN ACT

To amend and reenact section 19-10-19 of the North Dakota Century Code, relating to oil inspection fees.

Veto

March 13, 1961

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

House Bill No. 777, an act to amend and reenact Section 19-10-19 of the North Dakota Century Code, relating to oil inspection fees, would reduce state government revenues by approximately \$240,000 in the coming biennium.

Because the present inspection fee of 1/20th of a cent per gallon levied against all kerosene, gasoline, tractor fuel, heating or diesel fuel shipped into this state has been double the cost of inspection of these productions over the years, this fee has been a tax rather than a fee to cover specific services. In view of the serious biennial budget imbalance of state government spending in excess of state government revenue, once again adopted by the majority in this session of the Legislature, it is not wise to further aggravate the problem by lowering the State Laboratories' inspection fee to 1/40th of a cent per gallon.

Some of the functions of the State Laboratories Department could and should be eliminated. Such action would justify a reduction in income to the State Laboratories. Since the majority in the 37th Legislative Session did not see fit to

reduce the appropriations to the State Laboratories to offset the loss of state revenue which would result from approval of House Bill No. 777, I therefore veto this bill.

Sincerely yours,
WILLIAM L. GUY
Governor

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

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

19-10-19. Inspection Fees.) Every person shipping or transporting kerosene, gasoline, tractor fuel, heating oil, or diesel fuel into this state for sale or consignment or with intent to sell or consign the same, or holding any such product for sale in this state, shall pay to the department an inspection fee of one-fortieth of a cent per gallon for each and every gallon thereof so shipped or transported into the state, or held for sale within the state. An inspection fee shall not be required for a shipment or consignment of gasoline, kerosene, tractor fuel, heating oil, or diesel fuel when the inspection fee has already been paid by another dealer. The fee shall accompany the monthly report required in the following section and shall be due on the first of each calendar month for the preceding month. Such fee shall become delinquent when ten days past due.

Disapproved March 14, 1961.

Filed March 14, 1961.

CHAPTER 398

H. B. No. 850
(Lowe, Aamoth)

CHILD LABOR

AN ACT

To create and enact sections 34-07-05.1 and 34-07-05.2, and to amend and reenact sections 34-07-01, 34-07-03, 34-07-05, 34-07-13, 34-07-15, 34-07-18, 34-07-19, 34-07-20, and 34-07-21, and to repeal sections 34-07-06, 34-07-07, 34-07-08, 34-07-09, 34-07-10, and 34-07-11, relating to child labor.

Veto

March 17, 1961

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

I transmit to you House Bill 850 without my approval. House Bill 850 is an act to create and enact sections 34-07-05.1 and 34-07-05.2, and to amend and reenact sections 34-07-01, 34-07-03, 34-07-05, 34-07-13, 34-07-15, 34-07-18, 34-07-19, 34-07-20 and 34-07-21, and to repeal sections 34-07-06, 34-07-07, 34-07-08, 34-07-09, 34-07-10, and 34-07-11, relating to child labor.

This bill was written to be administered by a proposed commissioner of labor. Since the 37th Session of the Legislature did not see fit to establish immediately a separate department of labor administered by a commissioner of labor, this bill calls for administration of child labor laws by a non-existent agency. In view of the success of the generally sound child labor laws now in existence in North Dakota and the ambiguity of House Bill 850, I veto it.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. **Amendment.**) Section 34-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-01. Employment of Minor Under Fourteen Years of Age Prohibited.) No minor under fourteen years of age shall be employed or permitted to work in, or in connection with, any factory, workshop, mercantile establishment, store, business office, telegraph office, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages. No person, firm, or corporation shall employ any minor under sixteen years of age in any business or service whatever during any part of the hours conflicting with school classes of such minor when the public schools of the district in which the minor resides are in session.

§ 2. Amendment.) Section 34-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-03. Question of Age of Minor Employee—Who May Raise—Duties of Employer—Evidence Required.) Any person, firm, or corporation employing in any factory, workshop, or mercantile establishment a minor who appears to be under the age of sixteen years and for whom an employment certificate is not filed as required by the provisions of this chapter, either shall furnish satisfactory evidence, by tender of a birth certificate or other proof if a birth certificate is not available, that such minor is over sixteen years of age or shall cease to employ such minor or to permit him to work in such factory, workshop, or mercantile establishment within ten days after a demand is made upon him that he do so by:

1. The county superintendent of schools;
2. The superintendent of schools of the municipality in which the child is employed or of which he is a resident;
3. The clerk of the school board or the secretary of the board of education of the school district of which the child is a resident;
4. The department of labor or its agent or representative;
5. Any member or representative of the county board of child welfare if such a board is maintained in the county in which such child is employed or resides;
6. Any school attendance or truant officer; or
7. Any other officer charged with the enforcement of child labor, compulsory school attendance, or other child welfare laws.

§ 3. Amendment.) Section 34-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-05. When Employment Certificate of Minor Required.)

An employment certificate shall be in writing and shall be issued only after completion of the form prescribed in section 5 of this Act and may be issued by the superintendent of schools of the municipality in which the minor resides, if a superintendent is employed thereby, and if not, by the clerk or secretary of the school board or board of education of the school district in which the minor resides. No employment certificate shall be required for any minor then in, or who is about to enter, his own employment or the employment of a firm or corporation of which he is a member or officer.

§ 4.) Section 34-07-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

34-07-05.1. Application for Certificate of Employment—Form and Contents.) No certificate of employment shall be issued until there has been submitted to the person authorized to issue the certificate a completed application for a certificate of employment in substantially the following form:

Application for Certificate of Employment

1. TO BE FILLED OUT BY MINOR CHILD.

I hereby apply for a certificate of employment. I am years of age. I attend School, which is located at the following address: The name of my parent or guardian is and the address of my parent or guardian is: I intend to work for the following employer:

SIGN HERE:

2. TO BE FILLED OUT BY PARENT OR GUARDIAN.

I am the (father) (mother) (guardian) of the child whose signature appears above. I hereby give my consent to the employment of the child by the employer listed above.

SIGN HERE:

3. TO BE FILLED OUT BY SCHOOL PRINCIPAL.

I certify that the minor child listed above is enrolled in the school I administer, that I have examined the school record of this child, that the school record shows that this child is not unreasonably deficient in attendance, and indicate that this child is at least fourteen years of age.

SIGN HERE:

SCHOOL:

ADDRESS:

DATE:

§ 5.) Section 34-07-05.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

34-07-05.2. Copies of Employment Certificate.) All certificates of employment shall be issued in triplicate. One copy shall be issued to the minor, who shall deliver the certificate to his employer. One copy shall be kept on file in the issuing office. One copy shall be sent to the department of labor.

§ 6. **Amendment.)** Section 34-07-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-13. Certificate Returned to Minor Upon Termination of Employment.) Upon the termination of the employment of any minor, his employer forthwith shall return the employment certificate to the minor. Such certificate shall be presented by the minor to any new employer employing such minor thereafter and shall be sufficient to authorize employment of the minor in any lawful occupation permitted by this chapter.

§ 7. **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.

§ 8. **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.

§ 9. 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.

§ 10. 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.

§ 11. 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 who knowingly makes any false statement in an application for a certificate of em-

ployment shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than fifty dollars.

§ 12. **Repeal.**) Sections 34-07-06, 34-07-07, 34-07-08, 34-07-09, 34-07-10, and 34-07-11 of the North Dakota Century Code are hereby repealed.

Disapproved March 17, 1961.

Filed March 18, 1961.

CHAPTER 399

S. B. No. 232

(Hernett and Baeverstad)

DISQUALIFICATION FOR SOCIAL SECURITY BENEFITS

AN ACT

To amend and reenact section 52-06-02 of the North Dakota Century Code, relating to disqualification for benefits.

Veto

March 17, 1961

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 232 is an act to amend and reenact section 52-06-02 of the North Dakota Century Code relating to disqualification for benefits under unemployment compensation.

Since the close of the Thirty-seventh Legislative Session, there has arisen a serious question of non-conformity with federal unemployment compensation statutes. Since the unemployment compensation program is a joint state-federal effort, it is necessary for the various states to conform to some federal requirements. Legislation which could drastically change the present unemployment compensation program is now before Congress. North Dakota can avoid conformity problems by acting under present statutes. For these reasons I veto Senate Bill No. 232.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. **Amendment.)** Section 52-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-02. Disqualification for Benefits.) An individual shall be disqualified for benefits:

1. From the day on which he left his last employment voluntarily without good cause and until he can establish that he has earned remuneration for personal services in insured work equivalent to at least five times his weekly benefit amount;
2. From the day on which he was discharged for misconduct from his last employment and until he can establish that he has earned remuneration for personal services in insured work equivalent to at least five times his weekly benefit amount;
3. From the day on which he has failed, without good cause, either to apply for suitable work when directed by his employment service office, or the division; or to accept suitable work when offered him, until he can establish that he has earned remuneration for personal services in insured work equivalent to at least five times his weekly benefit amount;
4. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed; provided that this subsection shall not apply if it is shown that:
 - a. He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
 - b. He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided, that if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises; and provided further, that there shall not be deemed to be a stoppage of work in any

- factory, establishment, or other premises unless there shall be a substantial stoppage of work in each of said factory, establishment, or other premises;
5. For any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States, provided, that if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply;
 6. For any week of unemployment if such individual has left his most recent work for the purposes of attending an educational institution; or if the individual is a student registered for full attendance at and is regularly attending an established school, college or university, or is on vacation within the school term;
 7. For any week in which he is partially or totally unemployed by reason of a disciplinary suspension of not more than thirty days by his employer for misconduct connected with his employment, and the bureau so finds;
 8. For one year from the date on which such individual has made a false statement for the purposes of obtaining benefits to which he was not lawfully entitled. Provided, this disqualification shall not apply to cases in which it shall appear to the satisfaction of the bureau that the said false statement was made by reason of a mistake or misunderstanding of law or of facts without fraudulent intent;
 9. For any week for which such individual is receiving or has claimed and will receive retirement payments under a retirement plan to whose financing any employing unit has substantially contributed or under any retirement system supported in whole or in part by public contributions or under both. If the retirement payment referred to is less than the benefits which would otherwise be due, claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such retirement payment raised to the next higher multiple of one dollar.

Disapproved March 17, 1961.

Filed March 18, 1961.

REFERRED MEASURES, APPROVED

CHAPTER 400

H. B. No. 537

SMALL LOANS ACT*

An Act to define, license, and regulate the business of lending in amounts of one thousand dollars or less; to prescribe maximum rates of charge which licensees are permitted to make; to provide for the administration and enforcement of the Act by the state examiner, and to prescribe penalties.

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

§ 1. Definitions.) For purposes of this Act unless the context or subject matter otherwise requires:

1. "Person" means an individual, partnership, association, corporation and any other legal entity;
2. "License" means a permit, issued under the authority of this Act, to make loans in accordance with the provisions of this Act at a single place of business;
3. "Licensee" means a person to whom one or more licenses have been issued.

§ 2. Administration.) The state examiner shall use the facilities of the banking department in administering and enforcing this Act. The state examiner may employ such employees as may be necessary to administer and enforce the provisions of this Act and may delegate his powers and duties under this Act to a deputy state examiner. Such deputy and employees shall not have a financial interest directly or indirectly in any business which is subject to this Act, or in any other business which is supervised by the state examiner, or in any similar business which is conducted under the authority of any law of the United States. All fees received by the state examiner under the provisions of this Act shall be credited to the general fund of this state.

§ 3. Scope.) (a) No person except persons licensed under the provisions of this Act shall engage in the business of lending in amounts of one thousand dollars or less and contract for, exact, or receive, directly or indirectly, on or in connection with any such loan, any charges whether for interest, compensation, consideration, or expense, which in the aggregate are greater than seven percent per annum.

***Note:** This Act was amended by chapter 134 of the 1961 Session Laws.

(b) **Exemptions.)** This Act shall not apply to any person doing business under and as permitted by any law of this state or the United States relating to banking associations, banking institutions, banks, savings banks, trust companies, savings or building and loan associations, mutual investment corporations, mutual savings corporations, or credit unions nor to any person conducting a bona fide pawnbroking business transacted under a pawnbroker's license nor shall such persons be eligible to become a licensee under this Act.

(c) **Evasions.)** The provisions of subsection (a) of this section shall apply to any person who seeks to evade its application by any device, subterfuge, or pretense whatsoever, including, but not limited to: the loan, forbearance, use or sale of credit as guarantor, surety, endorser, co-maker, or otherwise; the use or sale of money, goods, or things in action; the use of collateral or related sales or purchases of goods or services, or agreements to sell or purchase, whether real or pretended; receiving or charging compensation for goods or services, whether or not sold, delivered, or provided; and the real or pretended negotiation, arrangement, or procurement of a loan through any use or activity of a third person, whether real or fictitious.

§ 4. Application and Fees.) Application for a license shall be in writing, under oath, and in the form prescribed by the state examiner. The application shall give the location where the business is to be conducted and shall contain such further information as the state examiner may require, including the names and addresses of the partners, officers, directors, or trustees, and of such of the principal owners or members as will provide the basis for the investigations and findings contemplated by section 5 of this Act. At the time of making such application, the applicant shall pay to the state examiner the sum of three hundred dollars as a fee for investigating the application, and the sum of one hundred dollars for the annual license fee.

§ 5. Investigation of Application; Requirements for Issuance of License; Bond; Denial of License; Public Record.)

(a) Upon the filing of an application and the payment of the fees, therefore, the state examiner shall investigate the facts concerning the application. The state examiner shall notify all licensees having a place of business in a community in which the applicant proposes to do business, of the filing of such application within thirty days after the date of filing such application. If any licensee having a place of business in the same community or other person files an objection within thirty days after the mailing of such notice by the state examiner, or if as the result of a preliminary investigation, the

state examiner has any doubts of the applicant meeting the required standards, the state examiner shall set a date and time for a hearing on such application not less than thirty days nor more than sixty days from the date of mailing the notice of hearing. At such hearing any person may be heard with reference to the facts. The state examiner shall grant or deny each application for a license within thirty days after the hearing unless the period is extended by written agreement between the applicant and the state examiner.

(b) The state examiner may issue a license to operate a small loans business if he shall find:

1. That the financial responsibility, experience, character, and general fitness of the applicant, are such as to warrant the belief that the business will be operated lawfully, and fairly; and
2. That the applicant has net liquid assets of at least ten thousand dollars for the operation of the business; and
3. That the applicant shall have filed with the state examiner a bond to be approved by him in which the applicant shall be the obligor, in the sum of ten thousand dollars, with one or more sureties whose liability as such sureties need not exceed the said sum in the aggregate. This bond shall run to the state examiner for the use of the state and of any person or persons who may have a cause of action against the obligor of said bond under the provisions of this Act. Such bond shall be conditioned that said obligor will faithfully conform to and abide by the provisions of this Act and of all the rules and regulations lawfully made by the state examiner hereafter, and will pay to the state and to any such person or persons any and all moneys that may become due or owing to the state or to such person or persons from said obligor under and by virtue of the provisions of this Act.

(c) If the state examiner shall find the applicant is not qualified to be issued a license, he shall enter an order denying the application and forthwith notify the applicant of the denial, returning the license fee and the bond but retaining the investigation fee. Within ten days after the entry of such an order he shall prepare official records of his finding and a summary of the evidence supporting them and shall forthwith deliver a copy thereof to the applicant.

(d) The transcript of the hearing and evidence introduced at all hearings before the state examiner and the findings of fact prepared by the state examiner shall be public records open to inspection at all reasonable times.

§ 6. Posting of License; Continuing License: Annual Fee.)

(a) Each license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a co-partnership or association, the name of the members thereof, and if a corporation, the date and place of incorporation. Each license shall be kept posted in the licensed place of business and shall not be transferable or assignable.

(b) Each license shall remain in full force and effect until surrendered, revoked, or suspended, provided that on or before the tenth day of June of each year the licensee shall pay to the state examiner the sum of one hundred dollars for each license held by him, as a license fee for the succeeding fiscal year, and at the same time he shall file with the state examiner a bond in the same amount and in the same character as is required by subsection b3 of section 5 of this Act.

§ 7. Place of Business; Removal; Residence of Borrower.)

(a) Not more than one place of business for the making and collecting of loans made pursuant to this Act shall be maintained under the same license, but the state examiner may issue additional licenses to the same licensee upon compliance with all the provisions of this Act governing issuance of a single license. Nothing in this Act shall be construed to require a license for any place of business devoted entirely to accounting or other record keeping.

(b) No licensee may move his place of business to a location outside of the original city or town in which he is licensed without the issuance of a new license. When a licensee wishes to change his licensed place of business within the same city or town, he shall give written notice thereof to the state examiner who shall investigate the facts and approve or disapprove the new location for the business.

(c) Nothing in this Act shall be construed to limit the loans of any licensee to residents of the community in which the licensed place of business is situated, nor to prohibit making loans by mail.

§ 8. Revocation of License; Suspension of License; Surrender of License; Pre-existing Contracts: Reinstatement of License.)

(a) The state examiner may, if he has reason to believe that grounds for revocation of a license exists, send by registered or certified mail to the licensee, a notice of hearing stating the contemplated action and in general the grounds thereof and setting the time and place for a hearing thereon. Such hearing shall not be held less than ten nor more than thirty days from the date of mailing such notice. Within ten days after such hearing, the state examiner shall issue a written order

either dismissing the charges or suspending or revoking the license and his grounds therefor. A copy of such written order shall be sent to the licensee. A license may be revoked for one or more of the following reasons:

1. The licensee has failed to pay the annual license fee; or
2. The licensee either knowingly or without the exercise of due care to prevent the same has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of this Act; or
3. Any fact or condition existing at the time of the original application for such license which clearly would have warranted the state examiner in refusing originally to issue such license; or
4. The applicant has failed to open an office for business within one hundred twenty days from the date the license is granted or has failed to keep open a licensed office for a period of one hundred twenty days.

The provisions of chapter 28-32 of the North Dakota Revised Code of 1943, as amended, shall govern all proceedings relating to the suspension or revocation of any license.

(b) If the state examiner finds that probable cause for revocation of any license exists and that enforcement of the Act requires immediate suspension of such license pending investigation he may, upon written notice enter an order suspending such license for a period not exceeding thirty days, pending the holding of a hearing as prescribed in this Act.

(c) Any licensee may surrender his license by delivering it to the state examiner with written notice of its surrender, but such surrender shall not affect his civil or criminal liability for acts committed prior thereto.

(d) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and obligors.

(e) The state examiner may reinstate a suspended license or issue new licenses to a person whose license or licenses have been revoked if in the opinion of the state examiner no fact or condition then exists which clearly would have justified him in refusing originally to issue such license under this Act.

§ 9. Examination of Licensees; Investigations; Access to Records; Witnesses; Cease and Desist Orders; Injunctions; Receivers.)

(a) At least once each year the state examiner or his duly authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, papers, annual reports, and records of such licensee so far as they pertain to the business licensed

under this Act. The actual cost of every examination shall be paid to the state examiner by every licensee so examined. Such sums shall be paid by the state examiner to the state treasurer to be credited to the general fund of this state.

(b) For the purpose of discovering violations of this Act or of securing information lawfully required hereunder, the state examiner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein, of any licensee or any other person whom the state examiner has reasonable cause to believe is violating or is about to violate any provision of this Act. Any person who shall advertise for, solicit or hold himself out as willing to make or procure loans in the amount of or of the value of one thousand dollars or less at rates in excess of seven percent per annum shall be presumed to be engaged in a business governed by this Act.

(c) The state examiner is hereby authorized to make any examination of any licensee or his place of business, including all records of such business, or any other witness, at any time he has reason to believe the same is necessary. All examinations of any licensee, witnesses or records of any small loan business shall be conducted in accordance with chapter 28-32 of the North Dakota Revised Code of 1943, as it may be amended.

(d) Whenever the state examiner has reasonable cause to believe that any person is violating or is threatening to violate any provision of this Act, he may, in addition to all actions provided for in this Act and without prejudice thereto, enter an order requiring such person to desist or to refrain from such violation; and an action may be brought in the district court of the county in which the small loan business is conducted or in the district court of Burleigh County by the attorney general and on behalf of the state examiner to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance thereof. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which such action is brought shall have power and jurisdiction to impound, and to appoint a receiver for the property and business of the defendant, including books, papers, documents, and records pertaining thereto or so much thereof as the court may deem reasonably necessary to prevent violations of this Act or to protect the rights of borrowers. Such receiver, when appointed and qualified, shall have such powers and duties as to custody, collection, administration, winding up, and liquidation of such property and business as shall from time to time be conferred upon him by the court.

§ 10. Books and Records; Annual Reports.)

(a) Each licensee shall keep and use in his business such books and accounting records as are in accord with sound and accepted accounting practices and as may be prescribed by the state examiner. Such licensee shall preserve such books and accounting records for at least two years after making the final entry on any loan recorded therein.

(b) Each licensee shall annually on or before the fifteenth day of September file a report for the preceding fiscal year with the state examiner. Such report shall give information with respect to the financial condition of such licensee and shall include: the name and address of the licensee, balance sheets at the beginning and end of the accounting period; a statement of income and expenses for said period, a reconciliation of surplus or net earnings with the balance sheets; a schedule of assets used and useful in the small loan business; an analysis of charges, size of loans and types of security on loans of one thousand dollars or less; an analysis of delinquent accounts, an analysis of suits, repossessions and sales of chattels and such other relevant information as the state examiner may require concerning the business and operations during the preceding fiscal year. Such report shall be made under oath and shall be in the form prescribed by the state examiner who shall make and publish annually an analysis and recapitulation of such reports.

§ 11. Regulations and Orders; Certified Copies of Official Documents.)

(a) The state examiner shall have power and authority to promulgate in accordance with chapter 28-32 of the North Dakota Revised Code of 1943 as it may be amended, such rules and regulations as may be reasonably necessary to carry out the provisions of this Act.

(b) On application of any person and payment of the costs thereof, the state examiner shall furnish a certified copy of any license, regulation, or order.

§ 12. Advertising.) No licensee or other person subject to this Act shall advertise, display, distribute, broadcast, or tele-
view any false, misleading, or deceptive statement or representation with regard to the rates, terms or conditions for loans, or cause or permit the same to be done.

§ 13. Other Business in the Same Office; Business Confined to Licensed Office.)

(a) No business involving the sale of tangible merchandise shall be conducted by any licensee under this Act or any other person within the same office, room, suite, or place in which a small loan business is carried on. If the state exam-

iner shall find, after a hearing, that the conduct of other business by the licensee or any other person has concealed evasion of the Act or of the rules and regulations made hereunder, he shall order such licensee in writing to desist from such conduct.

(b) No licensee shall make loans provided for by this Act under any name, or at any place of business within this state, other than that stated in the license.

§ 14. Maximum Charges Permitted: Refund; Delinquency Charges; Deferment Charges; Installment Payments: Contract Period; Splitting of Loans; No Further Charges.)

(a) Every licensee may make loans in any amount not exceeding one thousand dollars, and may contract for, receive or collect on such loans, charges not in excess of two and one-half percent per month on that part of the unpaid balance of principal not exceeding two hundred and fifty dollars; two percent per month on that part of the unpaid balance of principal exceeding two hundred and fifty dollars but not exceeding five hundred dollars; one and three-fourths percent per month on that part of the unpaid balance of principal in excess of five hundred dollars but not exceeding seven hundred and fifty dollars; and one and one-half percent per month on that part of the unpaid balance of principal exceeding seven hundred and fifty dollars but not exceeding one thousand dollars. For the purpose of computing charges for a fraction of a month, whether at the maximum rate or less, a day shall be considered one-thirtieth of a month. Amounts to be charged for any small loan by a licensee under this Act may also be calculated and charged on a stated dollar per hundred basis but such charges over the entire term of the loan shall not be in excess of the equivalent percentage charges on the monthly unpaid balances of principal authorized in this section. In the event charges are calculated and charged on a dollar per hundred basis, the loan shall be repayable in substantially equal periodic installments of principal and charges, and the annual percentage simple interest equivalent shall be conspicuously stated in the note or small loan contract executed in connection with the loan.

(b) When any note or loan contract in which charges have been calculated and charged on a dollar per hundred basis is paid in full by cash, a new loan, renewal or otherwise, one month or more before the final installment date, the licensee shall refund or credit to the borrower a portion of the total charges which shall be at least as great as the sum of the full periodic installment balances scheduled to follow the installment date following the date of prepayment in full bears to the sum of all the periodic installment balances of the loan contract, both sums to be determined according

to the payment schedules which had been agreed upon in the loan contract. Charges during the month of payment shall be pro rated in the proportion that the number of days remaining in the installment period bears to the total days of the installment period. No refund of one dollar or less need be made.

(c) On any note or loan contract in which charges have been calculated and charged on a dollar per hundred basis, a licensee may charge, collect and receive on any installment of principal and charges continuing unpaid for five or more days from the date such payment is due a sum which shall not exceed the amount of charges during the final full month of the loan before maturity. Such charge may not be collected more than once for the same default. The charge may be collected at the time of such default or any time thereafter provided, however, that if such charge be taken out of any payment received after a default occurs and if such deduction results in the default of a subsequent installment no charge shall be made for such subsequent default.

(d) On any note or loan contract in which charges have been calculated and charged on a dollar per hundred basis, if the payment date for any scheduled installment is deferred one or more full months and a corresponding deferment is made for all subsequent installments, the licensee may charge and receive a deferment charge which shall not exceed one-twelfth of the charges authorized in subsection (a) of this section applied to the balance of principal and charges due at the date of the deferment multiplied by the number of full months during the deferment in which no payment is made. Thereafter, charges shall be made over the remaining extended life of the loan in the same manner and at the same ratio as though no deferral or extension had been granted. Such charges may be collected at the time of such deferment or any time thereafter. If the loan is prepaid in full during the deferment period the borrower shall receive in addition to the refund required under subsection (b) of this section a refund of that portion of the deferment charge applicable to any unexpired months of deferment period.

(e) No licensee shall enter into any contract of loan under this Act which the borrower agrees to make any scheduled payment of principal and charges more than twenty-four and one-half calendar months from the date of making such contract. Every loan contract shall require payment of principal and charges in installments which shall be payable at approximately equal periodic intervals except that payment dates may be omitted to accommodate borrowers with seasonal incomes. No installment contracted for shall be substantially larger than any preceding installment. When a loan

contract provides for monthly installments, the first installment may be payable at any time within forty-five days after the date of the loan.

(f) No licensee shall induce or permit any person, or husband and wife, jointly or severally, to be obligated, directly or indirectly, under more than one contract of loan at the same time if such multiple loans result in a higher rate of charge than would otherwise be permitted by this Act.

(g) No further amount whatsoever in addition to the charges provided for in this Act shall be directly or indirectly charged, contracted for or received. However, such restrictions shall not apply to court costs, lawful fees for the filing, recording or releasing in any public office of any instrument securing a loan, and the identifiable charge or premium for insurance provided for in section 18 of this Act. If any sum in excess of the amounts authorized by this Act is charged, contracted for or received, the contract of loan shall be void and the licensee or any assignee or other person shall have no right to collect or receive any principal, charges or recompense whatsoever.

§ 15. Requirements for Making and Payments of Loans; Confessions of Judgment; Incomplete Instruments; Validity of Chattel Mortgage.)

(a) Every licensee shall:

1. Deliver to the borrower at the time of making a loan under this Act, a statement showing in clear and distinct terms the amount and date of the loan and the date of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, the agreed schedule of payments on such loan and the annual simple interest percentage that is equivalent to the total of all charges that are made;
2. Give a receipt to the person making a cash payment on account of any loan unless payment is made by check or money order;
3. Permit payment to be made in advance in an amount equal to one or more installments on any contract of loan at any time during regular business hours and allow a pro rata credit or refund to the borrower of the charges accruing during the period covered by the prepayment;
4. Upon repayment of the loan in full, mark plainly every obligation and security signed by any obligor with the word "Paid" or "Canceled", release any mortgage or deed of trust no longer securing any in-

debtedness, restore any pledge and cancel and return any note and any assignment given to the licensee.

(b) No licensee shall:

1. Take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for the borrower in a judicial proceeding; nor
2. Take any note or promise to pay or other instrument of security that does not disclose the amount of the loan; a schedule of payments or a description thereof, and the agreed charges; or in which blanks are left to be filled in after execution, however such details need not appear on a certificate of title to a motor vehicle, a policy or certificate of insurance, a chattel mortgage or deed of trust covering future advance in accordance with the law of the district or state where the property is located, or customary powers in connection with bonds or stocks which may be pledged as collateral; nor
3. Take any instrument in which blanks are left to be filled in after the loan is made.

(c) No licensee shall at the time a loan is made or subsequently thereto take any chattel mortgage or other lien on household furniture then in possession and use of the obligor unless it is in writing and signed by the obligor, and in the case of a married obligor, signed by both husband and wife; provided however, that both husband and wife need not sign when such husband and wife have been legally separated by decree of separation by a court of competent jurisdiction, or in the event such spouse has been declared to be legally incompetent.

§ 16. Indebtedness of More Than One Thousand Dollars.) A licensee may make loans in amount greater than one thousand dollars and as to that portion of said loan which exceeds one thousand dollars, may charge interest only as permitted by the general interest laws of this state. If the borrower or the borrower and his spouse, indirectly or directly, have two or more loans outstanding to the same licensee at the same time with total principal balances aggregating in excess of one thousand dollars then neither loan shall bear the charges authorized by this Act.

If the proceeds of any loan made under this Act are used to discharge a pre-existing debt of the borrower for goods or services owed directly to the person who provided such goods or services and the licensee accepts from such person a guaranty of payment of the principal of such loan with interest

at a rate not in excess of that permitted by the usury law of this state, the acceptance of one or more such guaranties in any aggregate amount shall not affect the right of such licensee to make the charges against the primary borrower authorized by this Act. In the event that a licensee shall make a bona fide purchase of the business and all or substantially all of the loans receivable from another licensee, or other lender not affiliated with the purchaser and such licensee or other lender shall have an existing loan outstanding to one or more of the borrowers whose contracts are purchased, such licensee making such purchase shall be entitled to liquidate and collect the balances due on such contracts, including all lawful charges and interest at the rate or amounts agreed upon in such loan contracts.

§ 17. Future Assignments of Wages, Salaries, and Commissions Prohibited.) It shall be unlawful for any person engaged in the small loans business under this Act to take, as security or otherwise, in consideration of a small loan, any assignment of unearned or future salaries, wages, or commissions.

§ 18. Insurance; Requiring of Insurance; Sale of Insurance by Licensee; Existing Insurance.)

(1) The following types of insurance may be written in connection with loans made by licensees under this Act, provided that they are properly licensed by the state insurance commissioner to write such insurance:

- (a) In the case of motor vehicles, fire, theft, and windstorm; or comprehensive, including fire, theft and windstorm; fifty dollars or more deductible collision; and bodily injury liability and property damage liability;
- (b) Fire and extended coverage insurance upon tangible personal property; and
- (c) Life, health and accident insurance or any of them, may be written, upon or in connection with any loan in an amount not exceeding the total amount to be repaid under the loan contract, and for a term not extending beyond the final maturity date of the loan contract; provided, that in the event of a renewal or prepayment of a contract or loan, this type of insurance shall be canceled and a refund of the unearned premium shall be credited or paid the borrower.

(2) Notwithstanding any other provision of this Act, any gain or advantage in the form of commission or otherwise, to the licensee or to any employee, affiliate, or associate of the licensee from such insurance or its sale shall not be deemed to be an additional or further charge in connection with the

contract of loan. The insurance premium for such insurance may be collected from the borrower or included in the contract of loan at the time the loan is made. No licensee shall collect from the borrower at the time the loan is made any sum in excess of the premium then due, and no premium covering an insurance period of more than one year shall be collected.

(3) Insurance permitted under the provisions of this section shall be obtained through a duly licensed insurance agent, agency, or broker. Premiums shall not exceed those fixed by law or current applicable manual rates and when written by a licensee, employee, affiliate or associate, they shall be approved by the state examiner. Insurance written, as authorized by this section, may contain a mortgage clause or other appropriate provision to protect the insured's interest of the licensee.

(b) The licensee shall at the time the loan is made, give to the borrower, or if more than one, to one of them, a statement concerning any insurance procured by or through the licensee, which shall include the amount of any premium which the borrower has paid or is obligated to pay, the amount, the expiration date of the policy, and a concise description of the risks insured. If a borrower procures insurance by or through a licensee, the licensee shall deliver to the borrower within fifteen days after the making of the loan an executed copy of the insurance policy or certificate of insurance.

(c) The licensee shall not require the purchasing of insurance from the licensee or an employee, affiliate, associate or specific companies or agents as a condition precedent to the making of a loan, and shall not decline existing insurance where such existing insurance is provided by an insurance company duly licensed by this state.

§ 19. Loans Made Elsewhere.) No charge, interest, or consideration for any loan made outside this state shall be recovered in any court in this state, in excess of the charges, interest, or consideration authorized by the statutes of this state on loans made within this state.

§ 20. Judicial Review.) Any licensee or any applicant for a license or other person considering himself aggrieved by any order or act of the state examiner or his refusal to act hereunder, shall have a right to judicial review. Such licensee, applicant for a license, or other person may proceed in accordance with the procedures prescribed in and the provisions of chapter 28-32 of the North Dakota Revised Code of 1943, as it may be amended.

§ 21. Status of Pre-existing Obligations.) Nothing in this Act shall be so construed as to impair or invalidate the obligations of any contract of loan which was lawfully entered into prior to the effective date of this Act.

§ 22. Penalty.) Any person who shall violate any of the provisions of this Act or regulations or orders promulgated thereunder shall be guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars or by imprisonment of not more than one year, or both such fine and imprisonment. Any contract of loan or any act in its making or collection which violates the provisions of this Act shall have the result of voiding the contract of loan and the lender shall have no right to collect, receive, or retain any principal, interest or charges whatsoever.

Approved June 28, 1960.

109,225 to 40,914

Note: This measure was No. 5 on the primary election ballot.

CHAPTER 401

S. B. No. 73

CONGRESSIONAL DISTRICTS

An Act to divide the state of North Dakota into two congressional districts, and defining the boundaries thereof.

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

§ 1. State Divided Into Two Districts.) The state of North Dakota is hereby divided into two congressional districts, each of which is entitled to elect one representative to the Congress of the United States.

§ 2. First District Defined.) The counties of Pembina, Cavalier, Towner, Rolette, Walsh, Ramsey, Benson, Pierce, Grand Forks, Nelson, Eddy, Traill, Steele, Griggs, Foster, Cass, Barnes, Stutsman, Richland, Ransom, LaMoure, Sargent and Dickey shall constitute the first congressional district.

§ 3. Second District Defined.) The counties of Bottineau, Renville, Burke, Divide, McHenry, Ward, Mountrail, Williams, Wells, Sheridan, McLean, Mercer, Dunn, McKenzie, Kidder, Burleigh, Oliver, Billings, Golden Valley, Morton, Stark, Logan, Emmons, Grant, Hettinger, Slope, McIntosh, Sioux, Adams and Bowman shall constitute the second congressional district.

Approved November 8, 1960.

133,523 to 109,377

Note: This measure was No. 1 on the general election ballot.

CHAPTER 402

S. B. No. 94

THIRD BRAKEMAN

An Act to amend and reenact section 49-1309 of the North Dakota Revised Code of 1943, relating to the number of brakemen required on trains.

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

§ 1. **Amendment.)** Section 49-1309 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-1309. Freight Trains of Over Forty Cars: How Manned.) No railroad corporation doing business in this state which operates more than four trains in twenty-four hours shall operate over any of its lines or any part thereof outside of the yard limits any freight or mixed trains consisting of more than forty freight or other cars, exclusive of caboose and engine, with less than a full train crew consisting of five persons:

1. One conductor;
2. One engineer;
3. One fireman;
4. One brakeman; and
5. One flagman, such flagman to have at least one year's experience in train service.

This section does not apply to any branch or part of road which does not operate more than four trains in any twenty-four consecutive hours.

§ 2. **Effect of Act.)** No person employed as a brakeman on any railroad in this state on the effective date of this Act shall be discharged or lose his employment by reason of the provisions of this Act. However, whenever a brakeman retires, terminates or leaves his employment the railroad company need not replace the position so vacated, unless it is to fill a mandatory position under section 1 of this Act.

§ 3. **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.

Approved November 8, 1960.

154,806 to 108,857

Note: This measure was No. 2 on the general election ballot.

CONSTITUTIONAL MEASURES, APPROVED

CHAPTER 403

AUTHORIZING DEPARTMENT OF LABOR

Senate Concurrent Resolution "A", chapter 437, 1959 Session Laws, proposed by the 36th Legislative Assembly of the state of North Dakota to provide for the amendment of sections 82, 83 and 84 of the Constitution of the state of North Dakota, relating to the term of office, powers and duties, and salaries of elected state officers in order to allow the legislative assembly to establish a separate department of labor by inserting as paragraph two of section 82 (article 57) the following words: "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"; by adding to section 83 the following words: "In the event that the legislative assembly shall establish a separate and distinct department of labor, the powers and duties of the officer administering such department of labor shall be prescribed by law."; and by deleting from section 84 the following words: "Until otherwise provided by law, the governor shall receive an annual salary of three thousand dollars; the lieutenant governor shall receive an annual salary of one thousand dollars; the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, commissioners of railroads, and attorney general shall each receive an annual salary of two thousand dollars; the salary of the commissioner of agriculture and labor" and insert in lieu thereof the words: "Salaries of public officers" so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

SECTION 82. 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, three public service commissioners, 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 two years 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; provided, however, the tax commissioner shall hold his office for

the term of four years and until his successor is elected and duly qualified; and provided further, that the public service commissioners shall severally hold their offices for the term of six years and until their successors are elected and duly qualified.

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.

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 first election of a tax commissioner shall not occur until the year 1940.

At the general election in 1940 there shall be chosen two public service commissioners to fill the two terms expiring on the first Monday in January, 1941. The candidate at said election receiving the highest number of votes shall be elected for a term of six years, and the candidate receiving the next highest number of votes shall be elected for a term of four years. Thereafter there shall be chosen one such public service commissioner every two years.

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.

SECTION 83. The powers and duties of the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, commissioners of railroads, attorney general and commissioner of agriculture and labor shall be prescribed by law. In the event that the legislative assembly shall establish a separate and distinct department of labor, the powers and duties of the officer administering such department of labor shall be prescribed by law.

SECTION 84. Salaries of public officers shall be as prescribed by law, but the salaries of any of the said officers shall not be increased or diminished during the period for which they shall have been elected, and all fees and profits arising from any of the said offices shall be covered into the state treasury.

Approved June 28, 1960.

82,114 to 79,112

Note: This measure was No. 1 on the primary election ballot.

CHAPTER 404

SALE OF COAL LANDS AND RESERVATION OF MINERALS

House Concurrent Resolution "J", chapter 436, 1959 Session Laws, proposed by the 36th Legislative Assembly of the state of North Dakota to provide for the amendment of section 155 of the Constitution of the state of North Dakota, relating to sale of original grant school lands and reservation of minerals therein by deleting from section 155 the following words: "The coal lands of the state shall never be sold, but the legislative assembly may by general laws provide for leasing the same. The words coal lands shall include lands bearing lignite coal." and by adding the following words: "In all sales of lands subject to the provisions of this article all minerals therein, 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, or colloidal or other clays, shall be reserved and excepted to the state of North Dakota, except that leases may be executed for the extraction and sale of such materials in such manner and upon such terms as the legislative assembly may provide." so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

SECTION 155. After one year from the assembling of the first legislative assembly the lands granted to the state from the United States for the support of the common schools, may be sold upon the following conditions and no other: No more than one-fourth of all such lands shall be sold within the first five years after the same become salable by virtue of this section. No more than one-half of the remainder within ten years after the same become salable as aforesaid. The residue may be sold at any time after the expiration of said ten years. The legislative assembly shall provide for the sale of all school lands subject to the provisions of this article. In all sales of lands subject to the provisions of this article all minerals therein, 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, or colloidal or other clays, shall be reserved and excepted to the state of North Dakota, except that leases may be executed for the extraction and sale of such materials in such manner and upon such terms as the legislative assembly may provide.

Approved June 28, 1960.

84,348 to 72,088

Note: This measure was No. 2 on the primary election ballot.

CHAPTER 405

LEGISLATIVE DISTRICTS AND REAPPORTIONMENT

Senate Concurrent Resolution "M," chapter 438, 1959 Session Laws, proposed by the 36th Legislative Assembly of the state of North Dakota to provide for the amendment of sections 26, 29 and 35 of the Constitution of the state of North Dakota relating to the establishment of senatorial districts, representation from such senatorial districts in the house of representatives, and the manner of reapportioning members elected to the house of representatives after each federal decennial census by deleting from section 26 the following words: "not less than thirty nor more than fifty members." and inserting in lieu thereof the following words: "forty-nine members.;" by deleting from section 29 the following words: "The legislative assembly shall fix the number of senators, and divide the state into as many senatorial districts as there are senators, which districts, as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no portion of any county shall be attached to any other county, or part thereof, so as to form a district. The districts as thus ascertained and determined shall continue until changed by law," and inserting in lieu thereof the following words: "Each existing senatorial district as provided by law at the effective date of this amendment shall permanently constitute a senatorial district. Each senatorial district shall be represented by one senator and no more.;" and by deleting from section 35 the following words: "The members of the house of representatives shall be apportioned to and elected at large from each senatorial district. The legislative assembly shall, in the year 1895, and every tenth year cause an enumeration to be made of all the inhabitants of this state, and shall at its first regular session after each such enumeration, and also after each federal census, proceed to fix by law the number of senators, which shall constitute the senate of North Dakota, and the number of representatives which shall constitute the house of representatives of North Dakota, within the limits prescribed by this constitution, and at the same session shall proceed to reapportion the state into senatorial districts as prescribed by this constitution, and to fix the number of members of the house of representatives to be elected from the several senatorial districts; provided, that the legislative assembly may, at any regular session, redistrict the state into senatorial districts, and apportion the senators and representatives respectively." and inserting in lieu thereof the following words: "Each senatorial district shall be represented in the House of Representatives by at least one representative except that any senatorial district comprised of more than one county shall be represented in the House of Representatives by at least as many representatives as there are counties in such senatorial district. In addition the Legislative Assembly shall, at the first regular session after each federal decennial census, proceed to apportion the balance of the members of the House of Representatives to be elected from the several senatorial districts, within the limits prescribed by this Constitution, according to the population of the several senatorial districts. If any Legislative Assembly whose duty it is to make an apportionment shall fail to make the same as herein provided it shall be the duty of the Chief Justice of the Supreme Court,

Attorney General, Secretary of State, and the majority and minority leaders of the House of Representatives within ninety days after the adjournment of the legislature to make such apportionment and when so made a proclamation shall be issued by the Chief Justice announcing such apportionment which shall have the same force and effect as though made by the Legislative Assembly." so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

SECTION 26. The senate shall be composed of forty-nine members.

SECTION 29. Each existing senatorial district as provided by law at the effective date of this amendment shall permanently constitute a senatorial district. Each senatorial district shall be represented by one senator and no more.

SECTION 35. Each senatorial district shall be represented in the House of Representatives by at least one representative except that any senatorial district comprised of more than one county shall be represented in the House of Representatives by at least as many representatives as there are counties in such senatorial district. In addition the Legislative Assembly shall, at the first regular session after each federal decennial census, proceed to apportion the balance of the members of the House of Representatives to be elected from the several senatorial districts, within the limits prescribed by this Constitution, according to the population of the several senatorial districts. If any Legislative Assembly whose duty it is to make an apportionment shall fail to make the same as herein provided it shall be the duty of the Chief Justice of the Supreme Court, Attorney General, Secretary of State, and the majority and minority leaders of the House of Representatives within ninety days after the adjournment of the legislature to make such apportionment and when so made a proclamation shall be issued by the Chief Justice announcing such apportionment which shall have the same force and effect as though made by the Legislative Assembly.

Approved June 28, 1960.

84,002 to 66,529

Note: This measure was No. 3 on the primary election ballot.

CHAPTER 406

AVIATION FUEL TAXES

Senate Concurrent Resolution "CC", chapter 439, 1959 Session Laws, proposed by the 36th Legislative Assembly of the state of North Dakota to provide for the amendment of article 56 of the Amendments to the Constitution of the state of North Dakota by inserting after the word "taxes," the following words: "except revenue from aviation gasoline and unclaimed aviation motor fuel refunds and other aviation motor fuel excise and license taxation used by aircraft," so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

Article 56

1. Revenue from gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, except revenue from aviation gasoline and unclaimed aviation motor fuel refunds and other aviation motor fuel excise and license taxation used by aircraft, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

Approved June 28, 1960.

83,604 to 80,352

Note: This measure was No. 4 on the primary election ballot.

CHAPTER 407

NORTH DAKOTA STATE UNIVERSITY OF AGRICULTURE
AND APPLIED SCIENCE

An Initiative Petition to amend and reenact the third paragraph of section 215 of Article XIX of the Constitution of the state of North Dakota to change the name of the Agricultural College to "The North Dakota State University of Agriculture and Applied Science."

Be It Enacted by the People of the State of North Dakota:

Paragraph third of section 215 of Article XIX of the Constitution of the state of North Dakota, as amended, is hereby amended and reenacted to read as follows:

Third: The North Dakota State University of Agriculture and Applied Science at the City of Fargo, in the County of Cass.

Approved November 8, 1960.

174,566 to 86,106

Note: This measure was No. 3 on the general election ballot.

PROPOSED U. S. CONSTITUTIONAL AMENDMENT, RATIFIED

CHAPTER 408

HOUSE CONCURRENT RESOLUTION "V"

(Poling)

RATIFICATION, PROPOSED AMENDMENT TO U. S. CONSTITUTION

Ratification of proposed amendment to the Constitution of the United States, relating to granting of representation in the electoral college to the District of Columbia.

WHEREAS, the Eighty-sixth Congress of the United States of America, at its Second Session, in both houses, by a constitutional majority of two-thirds thereof, has made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

Joint Resolution

Proposing an amendment to the Constitution of the United States relating to the granting of representation in the electoral college to the District of Columbia.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"Article

"SECTION 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

"A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous state; they shall be considered for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

“SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.”

Now, Therefore, be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the said proposed amendment to the Constitution of the United States of America, be and the same is hereby ratified by the Thirty-seventh Legislative Assembly of the state of North Dakota,

And Be It Further Resolved, that certified copies of this resolution shall be forwarded by the Secretary of State (or His Excellency, the Governor) to the Administrator of General Services, Washington, D.C., to the President of the Senate, and to the Speaker of the House of Representatives of the Congress of the United States.

Filed March 8, 1961.

CONSTITUTIONAL AMENDMENTS, PROPOSED

CHAPTER 409

HOUSE CONCURRENT RESOLUTION "A" (Bye, Knudsen of LaMoure, Solberg) (From LRC Study)

CONTINUITY OF GOVERNMENT

A concurrent resolution for an amendment to the Constitution of the state of North Dakota granting power to the legislative assembly to insure continuity of state and local governmental operations in periods of emergency resulting from disaster caused by enemy attack.

Be It 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 North Dakota for approval or rejection at the primary election to be held in 1962, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1.) The legislative assembly, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and immediate duty (1) to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and (2) to adopt such other measures as may be necessary and proper for insuring the continuity of governmental operations including, but not limited to, waiver of constitutional restrictions upon the place of transaction of governmental business, upon the calling of sessions of the legislative assembly, length of sessions, quorum and voting requirements, subjects of legislation and appropriation bill requirements, upon eligibility of legislators to hold other offices, residence requirements for legislators, and upon expenditures, loans or donations of public moneys. In the exercise of the powers hereby conferred the legislative assembly shall in all respects conform to the requirements of this Constitution except to the extent that in the judgment of the legislative assembly so to do would be impracticable or would admit of undue delay.

Filed February 1, 1961.

CHAPTER 410

HOUSE CONCURRENT RESOLUTION "G"

(Davis of Dunn, Hofstrand, Link, Meyer,
Christensen of Ward, Stockman)

BUDGETS AND APPROPRIATIONS OF INSTITUTIONS
OF HIGHER LEARNING

A concurrent resolution for an amendment to subdivision (d) of subsection 6 of article 54 of the Constitution of the state of North Dakota, relating to budgets and appropriations for institutions of higher education.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed amendment to subdivision (d) of subsection 6 of article 54 of the 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 1962, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

§ 1. Amendment.) Subdivision (d) of subsection 6 of article 54 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Article 54

6. (d) It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in section 6 (a)." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the cooperative agriculture extension service of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.

Filed February 8, 1961.

CHAPTER 411

SENATE CONCURRENT RESOLUTION "E"

(Garaas, Holand, Fiedler, Erickstad, Van Horn, Wartner,
(Morgan, Kamrath, Nesvig, Andre, Meidinger, Redlin)

REPEAL OF SECTION 39

A concurrent resolution for the repeal of section 39 of the Constitution of the state of North Dakota prohibiting any member of the legislative assembly from being appointed or elected to civil office during the term for which he shall have been elected or any office for which the compensation was increased during his term.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

The repeal of section 39 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election to be held in June, 1962, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. Repeal.) Section 39 of the Constitution of the state of North Dakota is hereby repealed.

Filed February 22, 1961.

HOUSE RESOLUTIONS

HOUSE RESOLUTION No. 1 (Saugstad, Solberg)

SESSION LAWS AND CODE

A resolution providing copies of the North Dakota Century Code and the 1955, 1957 and 1959 Session Laws for the use of the various committees of the house of representatives.

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, the house of representatives in its deliberations and in its various committee meetings often finds it necessary to refer to the code and for that reason a code should be available for such use;

Now, Therefore, Be It Resolved by the House of Representatives of the Thirty-seventh Legislative Assembly of the State of North Dakota:

That the secretary of the state be authorized and directed to furnish twenty copies of the North Dakota Century Code and twenty copies of the 1955, 1957 and 1959 Session Laws to be distributed in the house chambers and to the various committee rooms of the house of representatives, each volume to be stamped or labeled "Property of the State of North Dakota", and under the custody of the chief clerk of the house of representatives and the various committee chairmen using the same, whose duty it shall be, at the close of the session, to deliver them to the secretary of state to be kept by him for the use of succeeding sessions of the legislature, and that a copy of this resolution duly certified by the chief clerk of the house be delivered to the secretary of state as his authority for furnishing same.

Filed January 6, 1961.

HOUSE RESOLUTION No. 2

(Burvee, Bratcher, Stallman, Haugen, Renfrow, Mueller, Idso,
Frank, Bye, Baldwin, Diehl, Saugstad, Johnson, Breum)

IDENTIFICATION TAGS

A resolution directing the chief clerk of the house of representatives to provide identification tags for all members and employees of the house.

WHEREAS, it is difficult for the members of the house of representatives and the employees thereof to recognize one another; and

WHEREAS, it would be very helpful if identification tags were provided to each member and employee of the house of representatives;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the chief clerk of the house is hereby directed to procure as soon as possible white identification tags for all members and employees of the house of representatives and all employees shall wear such tags during all duty hours.

Filed January 10, 1961.

HOUSE RESOLUTION No. 3
(Link, Wolf, Solberg, Saugstad)

INAUGURATION COMMENDATION

A resolution expressing appreciation to the adjutant general, the national guard, and the governor's reception and ball committee for their activities in making the inauguration activities a success.

WHEREAS, Major General Heber L. Edwards, 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 4, 1961, performed these duties with finesse, dignity, and courtesy toward both the retiring governor, Honorable John E. Davis and his family and the incoming governor, Honorable William L. Guy and his family, as well as the other elected state officials; and

WHEREAS, the governor's reception and ball committee planned and made the governor's reception and ball an outstanding event;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the house of representatives of the Thirty-seventh Legislative Assembly of the state of North Dakota does hereby express its thanks and appreciation to Major General Heber L. Edwards 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 Major General Heber L. Edwards and Mrs. Charles Conrad, chairman of the governor's reception and ball committee.

Filed January 11, 1961.

HOUSE RESOLUTION No. 4

(Scott, Breum, Idso)

PHOTOGRAPHER

A resolution to appoint an official photographer for the house of representatives of the Thirty-seventh 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, Mason Owens Studio of Bismarck, North Dakota, offers to make a large composite group picture of the members of the house of representatives of the Thirty-seventh 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 picture for each member and desk force of the house, and one five by seven inch print of each representative for the state historical society, at a total cost of nine hundred nineteen dollars and fifty cents.

Now, Therefore, Be It Resolved, that Mason Owens Studio of Bismarck, North Dakota, be and is hereby appointed official photographer for the North Dakota house of representatives of the Thirty-seventh Legislative Assembly.

Be It Further Resolved, that Mason Owens Studio of Bismarck, North Dakota, be and is hereby awarded the sole privilege of photographing members of the house of the Thirty-seventh Legislative Assembly at a total cost of nine hundred nineteen dollars and fifty cents, to be taken out of legislative expenses.

Filed January 25, 1961.

HOUSE RESOLUTION No. 5

(Olson, Stallman, Breum)

ELECTION OPINION

A house resolution requesting an opinion from the attorney general in regard to elections held in the Ninth and Tenth Legislative Districts for the election of members of the legislative assembly.

WHEREAS, the exercise of the inherent political power of the people as guaranteed in section 2 of the Constitution of the state of North Dakota is completely dependent upon their rights in exercising their elective franchise as protected under the provisions of sections 20, 121, and article 36 of the Amendments to the Constitution; and

WHEREAS, if at any election, it is impossible for the people to exercise their right to vote for their designated representatives in the legislative assembly because of mistaken designations of legislative districts, legislative candidates, and intermixing of territory of more than one legislative district within the same voting precincts, their constitutional rights and guarantees are frustrated; and

WHEREAS, because of an unfortunate mistake in determining the boundaries of the Ninth and Tenth Legislative Districts, it appears that several thousand electors of the Tenth Legislative District were unable to cast their ballots for their legislative candidates and by error cast their ballots for legislative candidates of the Ninth District; and

WHEREAS, one member of the house of representatives is in the unfortunate and embarrassing position of living within the boundaries of the Tenth District, but is seated as a state representative of the Ninth District; and

WHEREAS, it is the duty of the house of representatives under the requirements of section 47 of the North Dakota Constitution to be the judge of election returns and qualifications of its own members for the purpose of protecting the rights guaranteed under sections 2, 20, 121, and article 36 of the Amendments and other provisions of the Constitution; and

WHEREAS, in the interest of removing any doubt as to whether the elections in question were actually valid elections within the meaning of the Constitution and statutes of this state, it appears desirable to seek an opinion of the attorney general;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

The attorney general is hereby requested to render an opinion to the house of representatives upon the question of whether the election held for the purpose of electing members of the legislative assembly in the Ninth and Tenth Districts was a valid election and whether the members of the legislative assembly from the Ninth and Tenth Districts were actually elected thereby.

Filed February 4, 1961.

HOUSE RESOLUTION No. 7
(Committee on Delayed Bills)

SOUTH DAKOTA

A resolution expressing appreciation to the state of South Dakota for making members of the Thirty-seventh Legislative Assembly of the state of North Dakota honorary citizens of South Dakota and accepting the privileges extended.

WHEREAS, the governor and the centennial commission of the state of South Dakota have declared each member of the North Dakota house of representatives to be an honorary citizen of the state of South Dakota and have invited each member to exercise the rights and privileges of such citizenship through visiting such state and partaking in the beauty and pleasures of the land of infinite variety; and

WHEREAS, the members of the North Dakota house of representatives are most appreciative of this courtesy and of the honor of becoming citizens of the state of South Dakota;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the members of the North Dakota house of representatives hereby accept such honorary citizenship and the invitation contained therein to partake in the beauty and pleasures of the land of infinite variety, and will in the fall of 1961 visit the state of South Dakota and assume their resident privileges as South Dakota citizens;

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the governor of South Dakota and the director of the South Dakota centennial commission.

Filed February 25, 1961.

HOUSE RESOLUTION No. 8
(Committee on Delayed Bills)

FORMER GOVERNOR'S MANSION

A resolution relating to the retention and use of the former governor's mansion of the state of North Dakota.

WHEREAS, in accordance with the directive contained in House Resolution 7 of the Thirty-sixth Legislative Assembly, the state historical society has made a survey of the possible historical value of the former governor's mansion located at 320 Avenue B East in the city of Bismarck; and

WHEREAS, the former governor's mansion is presently being utilized by the children's psychiatric clinic, but no basic changes in the dwelling have been made nor are changes contemplated; and

WHEREAS, the state historical society has reported that such mansion has historical value and should be permanently retained by the state and utilized as a historic house museum at some future date if the psychiatric clinic is assigned new quarters;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That it hereby expresses agreement with the report of the state historical society and urges the board of administration to maintain the former governor's mansion without material alteration in order to preserve its original character, and to transfer to the state historical society such furniture, draperies, lighting fixtures and similar items not needed in present use for safekeeping, and at such time as other quarters for the psychiatric clinic are found, that the board of administration permit the historical society to use such premises for a historical museum.

Filed March 8, 1961.

HOUSE RESOLUTION No. 9

(Committee on Delayed Bills)

REPRESENTATIVE K. A. FITCH

A resolution honoring Representative K. A. Fitch upon the completion of his 15th session as a member of the house of representatives.

WHEREAS, the Honorable K. A. Fitch, state representative from the Ninth Legislative District of Cass County will on the 60th day of the 37th Legislative Session complete his 15th session as a member of the North Dakota Legislative Assembly; and

WHEREAS, his term of service over the past thirty years as a member of the legislative assembly is a record matched only by the late L. L. Twichell, also of Cass County; and

WHEREAS, Representative Fitch has over the years served his state and district with honor and distinction as a member of the assembly, as committee chairman, and as speaker of the house of representatives; and

WHEREAS, the fruits of his labor are to be found almost everywhere in state and local government and in the statute books of the state and will be a lasting memorial of his contribution to the betterment and welfare of the state;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the members extend their personal congratulations and best wishes to Representative K. A. Fitch upon the completion of his 15th legislative session and that this body hereby expresses the appreciation of the state of North Dakota to Representative Fitch for his many years of fruitful service and for his contribution to its progress and welfare; and

Be It Further Resolved, that an enrolled copy of this resolution be presented to Representative Fitch by the speaker of the house of representatives; and

Be It Further Resolved, that the secretary of state is hereby directed to send copies of this resolution to Representative Fitch's daughter, Kay Joan Milner, and to his grandchildren, Sandra Kay Milner and Polly Ann Milner.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTIONS

HOUSE CONCURRENT RESOLUTION "B"
(Solberg, Aamoth, Fossum, Halcrow, Saugstad)
(From LRC Study)

STATE TRAINING SCHOOL

A concurrent resolution relating to the administration and operation of the state training school.

WHEREAS, upon the direction of the Thirty-sixth Legislative Assembly, the legislative research committee during the 1959-1961 interim made a study of juvenile delinquency in North Dakota and the state training school, and in the course of such study secured the professional assistance of representatives of the Child Welfare League of America; and

WHEREAS, although some bills have been introduced to carry out the recommendations of the legislative research committee, the majority of the recommendations relate to administrative practices and policies of operation of the school, and can if sufficient appropriations are made available, be largely accomplished without specific legislation upon the various subjects; and

WHEREAS, although the state board of administration and the state training school have already, on an administrative basis, taken steps to implement some of the recommendations contained in the report of the legislative research committee so far as existing appropriations and facilities permit, it appears desirable that the legislative assembly set forth by concurrent resolution some of the important recommendations in regard to policies and operations it desires to be carried out at the state training school;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That within the limits of appropriations, personnel, and facilities, the state board of administration and the superintendent of the state training school are urged and directed to establish the following policies and take the action as set forth below:

1. That a position of assistant superintendent and director of treatment and a position of director of cottage life be created upon the staff of the state training school;

2. That the board of administration and superintendent of the state training school make every effort to establish a closed treatment-reception unit at the state training school in temporary quarters until the construction of a new and separate building for this purpose;
3. That personnel at the children's psychiatric clinic at Bismarck provide assistance to the state training school in testing and evaluating children admitted to the school through the proposed orientation unit and in treating children in the closed treatment unit;
4. That a well organized staff development program for in-service training of employees of the training school be established or improved in order that all employees working with delinquent children may have a better understanding of the complicated and difficult task of working with delinquent children;
5. That a case conference committee be established at the training school to carefully evaluate the problems and needs of every child admitted to the school and to formulate a treatment program for him; to evaluate periodically the progress and treatment of each child to make recommendations for eventual placement outside the school, and that the service of the children's psychiatric clinic be obtained in making an initial study of each child as well as in re-evaluating the case of any child experiencing unusual problems;
6. That the farming operations at the state training school be reduced if they in any way interfere with the treatment program of the school, and that the board of administration and the superintendent of the state training school make arrangements with the state auditing board and the state auditor to make a cost analysis of the farming operations at the state training school for a one-year period in order to determine the profitability of such farming operations;
7. That the superintendent of the state training school inform the committing juvenile court, the juvenile commissioners, the welfare authorities, and other local personnel in regard to the release or placement of any children committed to the training school.

Filed February 25, 1961.

HOUSE CONCURRENT RESOLUTION "C"

(Kelly, Lindberg)

MINIATURE FLAGS

A concurrent resolution expressing the appreciation of the legislative assembly to the adjutant general for furnishing miniature flags to the legislative assembly.

WHEREAS, the adjutant general in the course of aiding in making arrangements for the Joint Inaugural Session furnished each member of the legislative assembly with one desk size set of miniature flags of the United States and of the coat of arms of the state of North Dakota; and

WHEREAS, the use of such flags upon the desk of each member of the legislative assembly adds to the dignity and decor of the chambers;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the adjutant general is hereby commended for his thoughtfulness in providing these miniature flags and that the legislative assembly does hereby express its appreciation to him.

Be It Further Resolved, that copies of this resolution be forwarded by the chief clerk of the house to the adjutant general of the state of North Dakota.

Filed January 17, 1961.

HOUSE CONCURRENT RESOLUTION "D"

(Johnston, Wheeler)

NORTH AMERICAN ASSOCIATION OF ALCOHOLISM
PROGRAMS, MEETING

A concurrent resolution to extend an invitation to the executive committee of the North American Association of Alcoholism Programs urging them to hold their annual meeting in North Dakota, in 1962.

WHEREAS, the state of North Dakota is a member agency of the North American Association of Alcoholism Programs; and

WHEREAS, the state of North Dakota has many interesting and beautiful areas to see and historical sites to visit; and

WHEREAS, the state of North Dakota is always most anxious to extend an invitation to people in other states and countries to enjoy the hospitality and western atmosphere of North Dakota; and

WHEREAS, the cities of North Dakota have many beautiful hotels, motels, restaurants and other accommodations available for the comfort and pleasure of those attending conventions;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the state of North Dakota hereby extends an invitation to the executive committee of the North American Association of Alcoholism Programs urging them to hold their annual meeting in 1962 in North Dakota; and

Be It Further Resolved, that copies of this resolution be forwarded by the director of the North Dakota Commission on Alcoholism to all state and provincial member agencies of the North American Association of Alcoholism Programs and to all members of the executive committee thereof.

Filed January 17, 1961.

HOUSE CONCURRENT RESOLUTION "E"

(Burvee)

PROVIDING IDENTIFICATION TAGS

A concurrent resolution directing the chief clerk of the house of representatives to provide identification tags for all persons registered as lobbyists.

WHEREAS, it is difficult for members of the house and senate to distinguish and recognize one another from the many lobbyists in the capitol building; and

WHEREAS, it would be very helpful if identification tags were provided all lobbyists so that they could be recognized by members of the legislative assembly;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the chief clerk of the house is hereby directed to procure as soon as possible green identification tags for all registered lobbyists.

Be It Further Resolved, that each registered lobbyist shall wear such identification tag at all times such lobbyist is performing work as a lobbyist in the capitol building.

Filed January 23, 1961.

HOUSE CONCURRENT RESOLUTION "H"

(Christensen of Ward, Breum,
(Hofstrand, Johnson, Loder)

LRC STUDY OF WATER CONSERVATION LAWS

A concurrent resolution authorizing and directing the legislative research committee to study the water conservation laws of the state in order to determine their adequacy in providing for the greatest possible conservation and utilization of the water resources of the state.

WHEREAS, the legislative assembly of the state of North Dakota realizes that the future development of this state is closely related to the availability of an adequate water supply; and

WHEREAS, there appear to be conflicts in the law relating to the use of and the right to both surface and subsurface water which point up the need for improved legislation to solve these problems; and

WHEREAS, a study of our water laws is desirable in order to resolve conflicts in the law and to modernize and bring them up to date, so as to meet situations which they do not presently cover;

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 authorized and directed to study and revise the water laws of the state of North Dakota to remove conflicts and ambiguities and ensure their adequacy for the purposes of conservation and maximum utilization of the water resources of the state in the light of changing conditions of modern times, and to report its appraisals and recommendations to the Thirty-eighth Legislative Assembly, together with any proposed legislation which may be necessary to carry out such recommendations.

Be It Further Resolved, that the legislative research committee shall be authorized to appoint advisory members and to call upon any agency, board, or commission of the state of North Dakota or its political subdivisions for such research, aid, and assistance as may be necessary to carry out the water conservation study and to employ such other technical and clerical personnel as may be necessary; and

Be It Further Resolved, that the respective appropriations committees of the Thirty-seventh Legislative Assembly are

hereby directed to increase the regular appropriation of the legislative research committee in such an amount as may be necessary to carry on the water conservation study provided for in this resolution.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "I"

(Stockman)

LRC STUDY OF PAROLE AND PARDON LAWS

A concurrent resolution authorizing and directing the legislative research committee to study and consider the parole and pardon laws of the state.

WHEREAS, a considerable number of years have elapsed without a study of the laws of the state in regard to parole and pardons and without the enactment of major legislation in these fields; and

WHEREAS, modern methods of rehabilitation and education have taken great strides toward their goal of the rapid return of offenders to their places as useful members of society; and

WHEREAS, the thorough rehabilitation of the offenders against the laws of this state in as rapid a manner as is possible is a highly desirable goal;

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 authorized and directed to study and revise the laws of the state in regard to parole and pardons in the light of recent developments in the field of rehabilitation in order to determine their adequacy for the purpose of making the maximum utilization of such developments in order to best serve the interests of the offender and society as a whole, and to make its report and recommendations to the Thirty-eighth Legislative Assembly together with such bills as may be necessary to carry out such recommendations.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "J"

(Stockman)

LRC STUDY OF SAFETY PROVISIONS OF UNIFORM
VEHICLE CODE

A concurrent resolution directing the legislative research committee to conduct a study of the safety provisions of the uniform vehicle code.

WHEREAS, the number of motor vehicles upon the highways of this state and the nation is increasing rapidly each year; and

WHEREAS, a large proportion of this traffic crosses both city and state lines; and

WHEREAS, uniformity of motor vehicle laws from state to state appears highly desirable in the promotion of highway safety, both from the standpoint of the motorist who is required to obey them and of law enforcement officers charged with enforcement; and

WHEREAS, the prime objective of any motor vehicle law should be to insure that traffic shall move safely, smoothly and expeditiously and that no legitimate users of the highways, whether in a vehicle or on foot, shall be killed, injured or frustrated in such use by the improper behavior of others;

WHEREAS, there are now several state agencies and departments directly concerned with the aforesaid objectives;

WHEREAS, some study has been made previously by the legislative research committee on this subject;

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 motor vehicle safety laws of the state, with particular emphasis upon a comparison of existing laws with the safety provisions of the uniform vehicle code, and including a study of the advisability of the reorganization of any state agencies or departments now affected by said objectives, and to report its findings and make its recommendations to the Thirty-eighth Legislative Assembly together with any legislation that may be necessary to carry out such recommendations, it being the intent that this study shall supplement but not duplicate the study heretofore made by the legislative research committee on this subject.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "K"

(Committee on Employment)

LEGISLATIVE EMPLOYEES, SALARY

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-seventh Legislative Assembly of the State of North Dakota, the Senate Concurring Therein:

That for and during this Thirty-seventh Legislative Assembly the following named persons be employed and appointed as officers and employees of the house and senate and shall be paid the compensation per diem set opposite their respective names:

HOUSE

Gerald L. Stair, chief clerk.....	\$25.00
Martin Adam Schoenwald, assistant chief clerk.....	18.00
Ruth M. Smith, desk reporter.....	25.00
Leo Leidholm, bill clerk.....	17.00
Arthur Laske, sergeant-at-arms.....	12.00
Clarence W. Edwards, assistant sergeant-at-arms.....	10.00
Leo Bergeron, calendar desk.....	15.00
Floyd Edward Ettestad, superintendent of employees.....	18.00
N. F. McLeod, bill room clerk.....	10.00
Ronald Vern Swanson, bill room clerk.....	10.00
Florence Nemer, secretary to speaker.....	15.00
Cora C. Essington, chief steno and payroll clerk.....	20.00
Isabelle June Schlosser, assistant chief steno.....	16.00
Alice M. Bristol, stenographer.....	14.00
Darlene Nelson, stenographer.....	14.00
Myrtle R. Sloan, assistant payroll clerk (half days).....	9.00
ElaNor Marie Weber, appropriation comm. steno.....	15.00
Jean Otteson, chief committee clerk.....	15.00
Joyce Rouse, committee clerk.....	14.00
Harriet McClelland, committee clerk.....	14.00
Patricia C. Zeller, committee clerk.....	14.00
Doris M. Thomas, committee clerk.....	14.00
Marian Elizabeth Ehli, committee clerk.....	14.00
Pearl A. Engen, committee clerk.....	14.00
Florence M. Graham, enroll. and engr. clerk.....	14.00
John H. Formo, assistant enroll. and engr. clerk.....	14.00
Herbert Geving, Jr., chief page.....	11.00
Jackie J. Hieb, page.....	11.00
Janice J. Pieterick, page.....	11.00
Adrene G. Hintz, page.....	11.00

Yvonne D. Wold, page.....	11.00
Enola Eck, proofreader.....	14.00
Maude Louise Grambs, proofreader.....	14.00
Shirley Jane Williams Lee, messenger to governor.....	11.00
George W. Hektner, messenger to senate.....	11.00
Ica M. Saxvik, postmistress.....	12.00
Henry Benson, assistant postmaster.....	10.00
Louisa Bubel, chart room clerk.....	12.00
Marion Arenstein, telephone clerk.....	12.00
Evelyn Simenson, telephone clerk.....	12.00
Darell James Miller, floor clerk.....	11.00
Terrance N. Baltes, floor clerk.....	11.00
Frank Kunnanz, floor clerk.....	11.00
Douglas Rose, floor clerk.....	11.00
Melvin N. Borg, floor clerk.....	11.00
Frank F. Jahner, doorkeeper.....	10.00
Ellery S. Reynolds, doorkeeper.....	10.00
Anton Nelson, doorkeeper.....	10.00
Raymond E. Stabenow, doorkeeper.....	10.00
August William Kollmann, cloak room attendant.....	10.00
Charles W. Weeks, cloak room attendant.....	10.00
A. W. Cook, addressograph machine operator.....	11.00
Loretta Ward Haakenson, mailing room typist.....	10.00
Frank Nilep, parking lot attendant.....	14.00
Fred Fisher, night watchman.....	10.00
Marilyn Rose, information desk.....	12.00
Theodore Henry Blum Jr., mailing room clerk.....	10.00
Emil Steinke, mailing room clerk.....	10.00
Joe J. Braun, mailing room clerk.....	10.00
Robert E. Dahl, mailing room clerk.....	10.00
William Richard Albrecht, mailing room clerk.....	10.00
Fredrik Lundebey, mailing room clerk.....	10.00
Anton Knodel, Jr., mailing room clerk.....	10.00
John F. Kiemele, mailing room clerk.....	10.00
Maurice Davidson, mailing room clerk.....	10.00
L. Leonard Stone, mailing room clerk.....	10.00
Ernest Schramm, mailing room clerk.....	10.00
August Roemmich, mailing room clerk.....	10.00
Frank Wald, mailing room clerk.....	10.00
Thorarin B. Snowfield, mailing room clerk.....	10.00
Andrew Kenneth Noble, mailing room clerk.....	10.00
A. S. Brazda, mailing room clerk.....	10.00
Axel G. Lagerquist, mailing room clerk.....	10.00
Frank J. Rothschiller, mailing room clerk.....	10.00
Dominic Goetz, mailing room clerk.....	10.00

SENATE

Howard F. Doherty, secretary of the senate.....	25.00
Arthur Herk, assistant secretary of the senate.....	18.00

Dagny Olson, desk reporter.....	25.00
Victor L. Gilbreath, sergeant-at-arms.....	12.00
Albert Edward Bradley, assistant sergeant-at-arms.....	10.00
Edward Heer, supervisor of personnel.....	18.00
Sheila B. Limond, calendar clerk.....	15.00
Marjorie E. Daner, bill clerk.....	17.00
Carol Weller, secretary to the president.....	15.00
Rebecca McD. Quanrud, chief steno and payroll clerk.....	20.00
Agnes Ellwein, stenographer.....	14.00
Blanche E. Bailey, stenographer.....	14.00
Joan L. Nelson, stenographer.....	14.00
Iva Slag, stenographer.....	14.00
Lois Jean Scherr, committee clerk.....	14.00
Edna Sand, committee clerk.....	14.00
Anne C. Ranes, committee clerk.....	14.00
J. Vernon Asheim, committee clerk.....	14.00
Eugene Olaf Holen, committee clerk.....	14.00
Myrtle Steen, appropriations committee clerk.....	15.00
Robert G. Ellsworth, messenger to the governor and the house.....	11.00
Ivar Kval, parking lot attendant.....	14.00
Effie Hamry, postmistress.....	12.00
Mrs. L. G. Fowler, telephone attendant.....	12.00
E. Wilson Willoughby, cloakroom attendant.....	10.00
Frank John Seavert, supply room.....	12.00
Mildred L. Moore, enrolling and engrossing clerk.....	14.00
LaVon Irene Mushik, enrolling and engrossing clerk.....	14.00
Mrs. Anna Louise Krenz, public inform. desk attendant.....	12.00
Anna Marie Ray, proofreader.....	14.00
Sonja I. McKinnon, proofreader.....	14.00
Victoria Stucke, bill book attendant.....	11.00
Solomon C. Drath, bill book attendant.....	11.00
G. K. Ness, bill book attendant.....	11.00
Walter Link, bill book attendant.....	11.00
Edwin Fischer, bill book attendant.....	11.00
Helen Eckmann, bill book attendant and assistant telephone attendant.....	11.00
Ed Haag, chief, mail room.....	13.00
Edna Jones, mail room and bill book attendant.....	11.00
Philip Henry, mail room and bill book attendant.....	11.00
Jacob Albrecht, mail room and bill book attendant.....	11.00
Carl Remmich, mail room and bill book attendant.....	11.00
Jacob Hoffart, mail room and bill book attendant.....	11.00
Ed Huenink, mail room and bill book attendant.....	11.00
V. J. Melarvie, mail room and bill book attendant.....	11.00
Martin Kilwein, mail room and bill book attendant.....	11.00
Robert Dahl, mail room.....	10.00
Wilhelm Urlacher, mail room.....	10.00
Edward C. Leonard, mail room.....	10.00

George Anderson, mail room.....	10.00
William A. Campbell, page and bill book clerk.....	11.00
Larry Lee Brenno, page and bill book clerk.....	11.00
Verline D. Jensen, page and bill book clerk.....	11.00
Edna Mae Bohe, page and bill book clerk.....	11.00
Erik L. Christensen, chartroom.....	12.00
Elmer M. Sundlie, chartroom.....	12.00
Albert Strand, bill room clerk.....	10.00
Math J. Kraker, bill room clerk.....	10.00
Miles W. Nelson, bill room clerk and assistant chief, mail room	12.00
Arvik Kjos, main doorkeeper.....	12.00
J. D. Gronna, doorkeeper.....	10.00
Fred Shipman, doorkeeper.....	10.00
Sven K. Haugsjaa, doorkeeper.....	10.00

Filed January 23, 1961.

HOUSE CONCURRENT RESOLUTION "M"

(Education Committee)

LRC STUDY OF SCHOOL DISTRICT REORGANIZATION

A concurrent resolution directing the legislative research committee to study the requirements, standards, laws and procedures for school district reorganization.

WHEREAS, the laws governing the reorganization of school districts were passed in 1947 and have not been the subject of a comprehensive review since that time; and

WHEREAS, frequent criticism is heard of the requirements, standards, procedures and laws governing the reorganization of school districts; and

WHEREAS, a sound school district reorganization law is necessary to insure that all school district reorganization programs that are adopted shall promote a sound and improved educational system in the state and promote and protect the interests of the citizens and students affected;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee shall study the requirements, standards, procedures and laws governing the reorganization of school districts, which study shall specifically include standards or requirements relating to a minimum educational program; minimum assessed valuation, problems

of low populated areas, educational costs and financial ability of districts; requirements for opening or closing rural schools; and the feasibility of a mandatory requirement that all school districts become a part of some high school district meeting minimum standards by 1965; and submit its findings and recommendations to the Thirty-eighth Legislative Assembly, together with such bills as may be necessary to carry out such recommendations; and

Be It Further Resolved, that the legislative research committee shall be authorized to call upon the office of the superintendent of public instruction and any institution of higher learning for such aid and assistance as it may deem desirable.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "N"

(Boe, Fitch, Baldwin, Stockman, Idso, Aamoth, Powers)

MORRILL LAND-GRANT ACT

A concurrent resolution urging observance of the centennial of the Morrill Land-Grant Act.

WHEREAS, July 2, 1962, marks the centennial of legislation providing for the establishment of the national system of land-grant colleges and state universities; and

WHEREAS, the state of North Dakota has been the beneficiary of the extensive services of its land-grant institution, North Dakota state university of agriculture and applied science; and

WHEREAS, provision has been made for national recognition of the celebration of the centennial of this historic Act by the United States Congress;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That during the academic year 1961-62 this state legislature participate in the statewide observance for the one hundredth anniversary of the signing of the Land-Grant Act by President Abraham Lincoln.

Filed February 15, 1961.

HOUSE CONCURRENT RESOLUTION "O"

(Link, Wolf)

PRESIDENT OF THE UNITED STATES

A concurrent resolution expressing the best wishes of the Thirty-seventh Legislative Assembly to John F. Kennedy, President of the United States, on his Inauguration Day.

WHEREAS, in the inauguration of the President of the United States the people of this country confer the highest honor that may be bestowed upon one of its citizens; and

WHEREAS, the office of the President today carries with it the responsibility for the very preservation of the American way of life as well as the safety and freedom of citizens throughout the free world; and

WHEREAS, it is appropriate that all citizens of this country pause and reflect upon the highest ideals and traditions of our democracy that must be exemplified through the actions and decisions of the President of the United States;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Thirty-seventh Legislative Assembly of the state of North Dakota now in session, on behalf of the citizens of North Dakota, does hereby extend to John F. Kennedy, President of the United States, on his inauguration day their best wishes in meeting the challenges of our day with success and in accordance with the highest ideals and traditions of our great democracy; and

Be It Further Resolved, that a copy of this resolution be forwarded by the secretary of state to the Honorable John F. Kennedy, President of the United States.

Filed January 23, 1961.

HOUSE CONCURRENT RESOLUTION "P"

(Tescher, Peterson, Link, Bowman, Wolf, Halverson)

BOWMAN HALEY DAM AND RESERVOIR PROJECT

A concurrent resolution favoring the early construction of the proposed Bowman Haley dam and reservoir project and urging the corps of engineers to expedite the completion of a favorable report thereon.

WHEREAS, the corps of engineers, Omaha District, has determined that the proposed Bowman Haley dam and reservoir project to be a feasible project which will when constructed

1. Eliminate recurring floods on the North Fork of the Grand River in North Dakota, which have caused heavy damage to agricultural lands and improvements thereon, and to livestock during the past 50 years;
2. Store flood waters which are vitally needed for beneficial purposes in the affected area;
3. Enhance the development of the lignite resources including the uraniferous lignite as well as other mineral and agricultural resources of the North Fork, Grand River basin, which in turn will enhance potential population growth in the basin; and

WHEREAS, population studies made by the North Dakota state water conservation commission indicate that with favorable conditions the population of the communities of Bowman, Scranton, Gascoyne and Reeder, North Dakota, could increase from 2,675 persons in 1956 to 15,400 in 2012; and

WHEREAS, this population growth is concurred in locally as being reasonable and conservative in view of the industrial potential of the basin; and

WHEREAS, municipal and industrial water requirements of the communities of Bowman, Scranton, Gascoyne and Reeder are expected to increase progressively from a 1956 usage level of approximately 250 acre-feet annually to 2,600 acre-feet annually by the year 2012 on the basis of population projections and per capita usage of 150 gallons per day; and

WHEREAS, the need for this storage is further exemplified as the ground water resources of the basin are subject to overdraft at present rates of withdrawal and geologic opinion indicates that complete development of the ground water resources will not provide an assured supply of the quantity required for future municipal and industrial growth; and

WHEREAS, the North Dakota state water conservation commission and the Thirty-seventh Legislature of North Dakota recognize the need for the Bowman Haley reservoir and dam

as indicated in the reasons mentioned herein and desire immediate construction; and

WHEREAS, certain assurances have been requested by the corps of engineers, whereby the state of North Dakota would assume the responsibility for the reimbursable payments; and

WHEREAS, the state legislature of North Dakota can not financially obligate future legislatures,

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Thirty-seventh Legislative Assembly of the state of North Dakota favors the early construction of the Bowman Haley dam and reservoir project for flood control, domestic, municipal, industrial and agricultural water supplies, power, recreation, fish and wildlife, and other uses, and urges the corps of engineers to expedite the development and completion of a favorable benefit-cost report thereon to the end that congressional approval thereof may be sought in the next flood control bill; and

Be It Further Resolved, that the North Dakota state water conservation commission, the game and fish department and the health department are directed to cooperate with the corps of engineers in its efforts to make the benefits of this project available to the residents of southwest North Dakota; and

Be It Further Resolved, that copies hereof be mailed by the secretary of state to the President of the United States, the president of the senate, the speaker of the house of representatives, the chairmen of the committees on public works, the chief of engineers, the Omaha district engineer, and to Senators Milton R. Young and Quentin Burdick, and Representatives Don L. Short and Hjalmar Nygaard.

Filed March 6, 1961.

HOUSE CONCURRENT RESOLUTION "Q"

(Belquist, Knudsen of LaMoure, Anderson of McHenry,)

(Nygaard, Stockman, Fossum)

RESERVATION OF MISSOURI RIVER WATER

A concurrent resolution commending the action of the state water conservation commission in withdrawing from appropriation and reserving 2,640,000 acre-feet of water of the Missouri River for use of the Garrison diversion unit of the Missouri River basin project; and recommending that the commission reserve additional quantities of water of the Missouri River for future needs for irrigation and other purposes.

WHEREAS, the commission in June of 1957 withdrew from appropriation, and reserved for use of the Garrison diversion unit of the Missouri River basin project, 2,640,000 acre-feet of water from Garrison reservoir on the Missouri River; and

WHEREAS, there is an increasing demand for water from the Missouri River for irrigation of lands lying adjacent to the Missouri River and Garrison and Oahe reservoirs to support an expanding and diversified farming and livestock industry in these areas and for municipal and industrial purposes;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the action of the state water conservation commission in withdrawing from appropriation and reserving 2,640,000 acre-feet of water of the Missouri River for use of the Garrison diversion unit of the Missouri River basin project be and is hereby commended and approved; and

Be It Further Resolved, that in view of the increasing need for Missouri River water for irrigation, municipal and industrial uses, that the commission is hereby urged to take all necessary action withdrawing from appropriation and reserving for future use such an additional quantity of water from the Missouri River as, in its judgment, may be required for future needs in North Dakota.

Filed March 6, 1961.

HOUSE CONCURRENT RESOLUTION "S"

(Wolf, Link)

COMMEMORATIVE STAMPS

A concurrent resolution urging the postmaster general to issue commemorative stamps in honor of the Dakota Territory Centennial Celebration.

WHEREAS, Dakota Territory, of which North Dakota was a part, was created on March 2, 1861, out of part of the land of the United States known as the Louisiana Purchase, and the year 1961 will be the one hundredth anniversary thereof; and

WHEREAS, North Dakota is making elaborate plans to commemorate the creation of the Dakota Territory this year; and

WHEREAS, in addition to the many events and activities the people of the state will observe regarding this historic event they would certainly appreciate commemorative stamps being issued by the postmaster general honoring the Dakota Centennial Celebration in 1961;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring therein:

That the postmaster general is requested and urged to issue commemorative stamps which will honor the one hundredth anniversary of Dakota Territory and help the people of North Dakota celebrate this historic event; and

Be It Further Resolved, that the secretary of state is hereby directed to send a copy of this resolution to the President of the United States, the postmaster general, and all members of the North Dakota congressional delegation.

Filed February 3, 1961.

HOUSE CONCURRENT RESOLUTION "U"

(Reimers, Hofstrand, Stallman, Fossum, Christensen of Ward,
Hagen, Scott, Davis of Dunn, Miller of Walsh)

LIVESTOCK FEEDLOTS

A concurrent resolution requesting the Congress of the United States to enact legislation permitting depreciation, over a five-year period, of buildings and facilities used in the operation of livestock feedlots.

WHEREAS, the North Dakota agricultural economy has traditionally been based upon the production of grain; and

WHEREAS, the consumer demands of today trend toward the direction of meat and meat products; and

WHEREAS, North Dakota has a tremendous potential for the expansion of livestock feeding; and

WHEREAS, the Congress of the United States has, on past occasions granted favorable tax considerations for the purpose of encouraging particular phases of economic activity;

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 is hereby respectfully requested to enact such amendments to the Internal Revenue Code as may be required to permit depreciation, over a five-year period, of buildings and facilities used by farmers in connection with the operation of livestock feedlots, thereby assisting farmers in the conversion of their operations from cash grain to livestock; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the United States Secretary of the Treasury, the chairmen of the appropriate committees of the United States Senate and House of Representatives, and to each member of the North Dakota congressional delegation.

Filed February 28, 1961.

HOUSE CONCURRENT RESOLUTION "Z"

(Loewen, Bye)

PATRIOTISM AND GOOD CITIZENSHIP

A concurrent resolution urging that more time be devoted and more emphasis be placed on the teaching of patriotism, good citizenship, and respect for law and order in all elementary and secondary schools and in institutions of higher learning in this state.

WHEREAS, there has been indication of a lack of emphasis being placed on the teaching of patriotism, good citizenship, and respect for law and order in all of the schools in this state; and

WHEREAS, because of this lack of emphasis many of our young people have an improper understanding and disrespect for many of our laws; and

WHEREAS, the teaching of patriotism, good citizenship, and respect for all of the laws in all schools of this state will do much to bring to the attention of students the many advantages and opportunities which we enjoy in this country and this state and will teach them to be good citizens and to obey and respect the laws;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring therein:

That the superintendent of public instruction, the state board of higher education, and the members of all school boards are hereby urged to ensure that all schools devote more time and place more emphasis on the teaching of good citizenship, patriotism, and respect and understanding of the laws of this state and of the United States so that our students will have a better understanding of our American way of life and the standards by which we live;

Be It Further Resolved, that the secretary of state send copies of this resolution to the superintendent of public instruction and the commissioner of higher education, and that the superintendent of public instruction send copies of this resolution to all school boards, and that the commissioner of higher education send copies of this resolution to all members of the board of higher education and to the presidents of institutions of higher learning in this state.

Filed March 6, 1961.

HOUSE CONCURRENT RESOLUTION "A-1"

(Berg, Vinje, Buechler, Fossum, Saugstad,)

(Davis of Dickey, Stockman)

GRAIN STORAGE

A concurrent resolution requesting the Congress of the United States, acting through the United States Department of Agriculture and the Commodity Credit Corporation, to modify certain provisions of the uniform grain storage agreement now utilized by the Commodity Credit Corporation.

WHEREAS, large amounts of grain are stored in North Dakota elevators under uniform grain storage agreements with the Commodity Credit Corporation; and

WHEREAS, due to shortages of storage space in North Dakota elevators, it is not possible to provide separate storage for different grades of grain and thus commingling of grain is required; and

WHEREAS, due to such commingling, it is often impossible for elevator operators to ship the quality of grain called for in Commodity Credit Corporation shipping orders thus resulting in either underdelivery or overdelivery in quality; and

WHEREAS, elevator operators who are required to underdeliver in quality are required by terms of the uniform grain storage agreement to immediately pay the Commodity Credit Corporation the cash value of such underdelivery but there is no like obligation upon the Commodity Credit Corporation in cases of overdelivery, with only credits being given the elevators which credits can only be utilized by offsetting them with subsequent underdeliveries, and must be used within three years or lost; and

WHEREAS, such policy is resulting in annual losses of nearly one million dollars to the elevator operators, and ultimately the farmers, of the state of North Dakota due to the loss of such credits;

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, acting through the Department of Agriculture and the Commodity Credit Corporation, is hereby respectfully requested to amend the law or policy as expressed in section 13(c) (ii) of the uniform grain storage agreement, so as to require cash payments by the Commodity Credit Corporation in cases of overdelivery in quality, in the same manner as cash payments are required of the elevator operators in cases of underdelivery in quality; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the United States Secretary of Agriculture, the executive in charge of the Commodity Credit Corporation, the chairmen of the agriculture committees of the United States Senate and House of Representatives, and to each member of the North Dakota congressional delegation.

Filed March 6, 1961.

HOUSE CONCURRENT RESOLUTION "B-1"
(Haugen, Fraase, Hofstrand, Lindberg, Stallman)

FARM HOUSING CONSTRUCTION

A concurrent resolution requesting the Congress of the United States to enact legislation to establish a program for the encouragement of farm housing construction.

WHEREAS, the federal housing administration program of guaranteeing loans on urban residential housing has been of great benefit to urban residents in enabling them to acquire homes and to modernize homes which they now own; and

WHEREAS, the average rural home is thirty to forty years old and lacking in many of the conveniences of a comparable urban home; and

WHEREAS, in order for the rural society of the United States to survive and prosper, it is essential that rural living be made attractive for the purpose of retaining rural families and attracting young couples to rural living; and

WHEREAS, a federal program of guaranteeing long term, low-interest secured loans upon rural housing and improvements would open up a large market for residential construction and improvements;

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 is respectfully requested to enact legislation similar to the federal housing administration program that would extend federal loan guarantees to farm housing construction, acquisition and improvements; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the chairmen of the appropriate committees of the United States Senate and House of Representatives and to each member of the North Dakota congressional delegation.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "E-1"

(Wolf, Lindberg, Mueller)

STATE HIGHWAY DEPARTMENT

A concurrent resolution acknowledging the progress of the state in the modernization of its highway systems and the results of a comparative study on construction costs, maintenance and life expectancy of surface types and commending the North Dakota state highway department for its accomplishments.

WHEREAS, the North Dakota state highway department has continued a road modernization program that has brought national recognition; and

WHEREAS, results of a comparative study directed by the 1959 legislative assembly (Concurrent Resolution "M-M") on costs of construction, maintenance and life expectancy of driving lanes on the interstate represents a thorough analysis; and

WHEREAS, the low maintenance of driving lanes must be of major concern in planning of additional mileages of highways so as to obviate future high costs; and

WHEREAS, the continued development of the interstate and other systems in the state is of major consequence to the continued progress 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 state highway department receive acknowledgment of its thorough study on surface types and is hereby directed to submit the report to the commissioner of the bureau of public roads requesting his views and comments relative to its use as a guide for continued highway planning and construction.

Filed March 1, 1961.

HOUSE CONCURRENT RESOLUTION "I-1"

(Kelly, Johnston, Wheeler, Brown)

JOHNNY KEMP

A concurrent resolution expressing congratulations and best wishes to Johnny Kemp of Bismarck, North Dakota.

WHEREAS, the National Society for Crippled Children and Adults has conferred upon Johnny Kemp of Bismarck, North Dakota the honor of serving as 1960 Easter Seal Boy; and

WHEREAS, Johnny Kemp has served well in such position and has stood, and stands today, as a symbol of inspiration and hope to the handicapped and to all people throughout the world;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring therein:

That the most sincere congratulations and best wishes of the Thirty-seventh Legislative Assembly of the state of North Dakota are hereby extended to Johnny Kemp of Bismarck, North Dakota, upon the completion of a very successful and inspirational reign as 1960 Easter Seal Boy;

Be It Further Resolved, that the secretary of state forward a copy of this resolution to Johnny Kemp of Bismarck, North Dakota.

Filed February 7, 1961.

HOUSE CONCURRENT RESOLUTION "J-1"

(Giffey)

DELINQUENT PERSONAL PROPERTY TAXES

A concurrent resolution urging appropriate county officials to make the maximum possible utilization of existing legal procedures for the collection of delinquent personal property taxes.

WHEREAS, there is a constantly increasing need for funds at local levels of government to enable governmental units to fulfill their obligations to their citizens; and

WHEREAS, personal property tax receipts represent one of the principal sources of revenue for local levels of government; and

WHEREAS, personal property taxes have long been noted for the relatively low percentage of such taxes actually collected, which results in a complete loss of equity in this type of taxation and increases the tax load of those remaining taxpayers who do pay their taxes; and

WHEREAS, the failure or inability to collect delinquent personal property taxes has become a source of concern to members of the legislative assembly and to the citizens and taxpayers of the state in general;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring therein:

That appropriate county officials of each county within the state are hereby urged to make the maximum possible utilization of existing legal procedures for the collection of delinquent personal property taxes; and

Be It Further Resolved, that the secretary of state is hereby directed to send a copy of this resolution to the sheriff and to the board of county commissioners of each county within the state.

Filed March 1, 1961.

HOUSE CONCURRENT RESOLUTION "M-1"

(Anderson, Christensen of Ward, Alme)

LEASE MONEYS OF FISH AND WILDLIFE SERVICE

A concurrent resolution urging the Secretary of the Interior, to take such action as may be necessary to establish a more equitable distribution of the revenue derived from the leasing activities of the bureau of sport fisheries and wildlife service in North Dakota.

WHEREAS, the political subdivisions wherein federally owned lands presently operated for wildlife purposes are deprived of an adequate tax base which is not offset by the present payments returned to the political subdivisions in lieu of taxes; and

WHEREAS, the bureau of sport fisheries and wildlife at present return to the local political subdivisions only one-fourth of the revenue received from the leasing of their lands; and

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring therein:

That the bureau of sport fisheries and wildlife, in all fairness to the areas in which they operate, shall return to the local political subdivisions two-thirds of the local revenue receipts; and

Be It Further Resolved, that the secretary of state forward copies hereof to the Secretary of the Interior and to each of the members of Congress from the state of North Dakota.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "R-1"
(Committee on Delayed Bills)

LRC STUDY OF INCOME TAX AND PERSONAL PROPERTY

A concurrent resolution directing the legislative research committee to study the feasibility of imposing an additional tax on income and exempting from the tax rolls certain classes of personal property.

WHEREAS, it is a well-known fact that a large proportion of the personal property is inequitably assessed; and

WHEREAS, under the present system of assessment it is nearly impossible to properly assess personal property; and

WHEREAS, it would be more equitable to shift the burden of taxation from some classes of personal property to a tax on income;

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 feasibility of exempting from taxation certain classes of personal property and shifting the tax burden thereon to a tax on income in a similar manner to that proposed in House Bill No. 713, which was introduced during this session. Such study shall include methods of returning to the political subdivisions the money received from the imposition of an additional tax on income in lieu of the tax money lost to such political subdivisions from the exemption of certain classes of personal property. The legislative research committee shall report its findings and recommendations to the Thirty-eighth Legislative Assembly together with any legislation necessary to carry out such recommendations.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "S-1"
(Committee on Delayed Bills)

URGING CONGRESS TO FAVORABLY CONSIDER H. R. 2477

A concurrent resolution requesting that the Congress of the United States grant favorable consideration to H. R. 2477.

WHEREAS, large portions of property in North Dakota cities are owned by organizations that are exempt from federal, state and local taxation; and

WHEREAS, this tax-exempt property nevertheless requires most of the services of taxable property; and

WHEREAS, this situation is placing a serious drain upon municipal finances;

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 is hereby requested to grant favorable consideration to legislation now pending in the form of H. R. 2477 which would authorize payments by the federal government to aid in offsetting the loss of revenue to cities and municipalities;

Be It Further Resolved, that the secretary of state is hereby directed to forward copies of this resolution to the chairmen of the appropriate committees of the United States Senate and House of Representatives and to each member of the North Dakota congressional delegation.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "T-1"
(Committee on Delayed Bills)

LRC STUDY RELATING TO INDIANS, LAW ENFORCEMENT

A concurrent resolution directing the legislative research committee, and other officials to conduct studies and conferences in regard to the possibilities and practicalities of extending services of the state law enforcement officials and agencies, courts and penal institutions toward the improvement of law enforcement in regard to Indian offenders and offenses throughout the state and toward the improvement of law enforcement in the so-called Indian country, directing cooperation with the activities commenced pursuant to Senate Concurrent Resolution "R-R" and requesting cooperation from state and non-state agencies and officials functioning in this field.

WHEREAS, law enforcement, education, health, and welfare services upon Indian reservations, historically and under law, is a recognized federal responsibility; and

WHEREAS, there has been a great deal of reliance upon tribal law and tribal organization in this field, together with supplementary activity by the federal government; and

WHEREAS, it is recognized by this assembly that the progress of Indian citizens into a full assimilation and acceptance of benefits of the present civilization and technology is dependent upon adequate law enforcement applicable to Indians and in the so-called Indian country on the same basis as it is applicable to other citizens of the state of North Dakota; and

WHEREAS, as a result of such technological progress, the present methods of dealing with such problems as Indian offenders and offenses and criminal law enforcement in the so-called Indian country within this state have rapidly become outdated and inadequate both from the standpoint of the Indian citizen and other citizens of the state, with the result that the Indian country in the state of North Dakota is presently faced with an almost lawless situation, resulting in moral degeneration and retrogression in the Indian way of life; and

WHEREAS, the government of the United States has recognized the necessity of modernization of law enforcement activity in the Indian country and in regard to Indian offenses and offenders and has therefore authorized and encouraged states in a situation like North Dakota to amend their constitutions, so as to assume jurisdiction over Indian country, Indian offenses and Indian offenders, to enable such matters to be handled on a substantially equal basis between Indian citizens and other citizens of such states; and

WHEREAS, the legislative assembly and the people of the state of North Dakota have in compliance therewith, recognizing the need for further state activity in this field, amended their constitution to provide that the legislative assembly of the state of North Dakota may, upon such terms and conditions as it shall adopt, provide for the acceptance of such jurisdiction as may be delegated to the state by Act of Congress; and

WHEREAS, the state and its political subdivisions cannot, because of lack of financial resources, afford to assume the responsibility of the federal government in this field without reimbursement from the federal government until such time as Indian people do not constitute a governmental cost to the state and its political subdivisions greater than the costs to the state and its political subdivisions for their citizens in general;

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 all aspects of legislation necessary to assist in a practical adjustment of the present system of law enforcement with regard to Indian offenders and offenses, throughout the state; and

Be It Further Resolved, that the legislative research committee is authorized to confer with and cooperate with executive and legislative branches of the federal and state government in arriving at a practicable and effective solution to the problem that is thus presented, and to make its report to the Thirty-eighth Legislative Assembly together with such legislation as may be necessary to carry out its recommendations; and

Be It Further Resolved, that the legislative research committee is directed to give special emphasis to the purposes of this resolution in the overall study directed in Senate Concurrent Resolution "R-R" for extending services of the state in the fields of law enforcement, education, health and welfare to Indian citizens not presently receiving same.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "U-1"
(Committee on Delayed Bills)

COMPLETION OF HOUSE AND SENATE JOURNALS

A concurrent resolution providing for the completion of the legislative journals of the house and senate.

WHEREAS, after termination of the Thirty-seventh 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 V. L. Gilbreath, sergeant-at-arms of the senate, and Gerald L. Stair, chief clerk of the house, are hereby authorized, empowered and employed to compare and index the journals of the Thirty-seventh Legislative Assembly, and the said V. L. Gilbreath, sergeant-at-arms of the senate, and Gerald L. Stair, chief clerk of the house, are hereby directed and required at their own cost and expense to arrange for and procure sufficient assistance to insure that the said work shall be completed within twenty days after the adjournment of the session.

Be It Further Resolved, that for the services of the said V. L. Gilbreath and Gerald L. Stair, as above set forth, they shall be paid the sum of seven hundred dollars each, which shall include compensation for an assistant to be selected by each, all to be paid as other legislative expense, and paid when the respective claims are verified by the affidavits of the said V. L. Gilbreath and Gerald L. Stair, showing completion of such work.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "V-1"
(Committee on Delayed Bills)

COMPLETION OF LEGISLATIVE WORK

A concurrent resolution providing for the retaining of certain employees of the house of representatives and senate after the legislative session for the purpose of completing legislative work.

WHEREAS, after termination of the Thirty-seventh 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-seventh Legislative Assembly be retained after the close of session to complete legislative work:

Gerald L. Stair, chief clerk, be retained six days; Martin Schoenwald, assistant chief clerk, two days; Cora C. Essington, chief stenographer and payroll clerk, three days; Shirley Lee, messenger to governor, three days; Enola Eck, proofreader, four days; Herbert Geving, chief page, three days; Yvonne D. Wold, page, three days; Jean Otteson, chief committee clerk, three days; Ica Saxvik, postmistress, two days; Florence Graham, enrolling and engrossing clerk, three days; John H. Formo, assistant enrolling and engrossing clerk, three days; Ruth Smith, desk reporter, three days; Loretta Haakenson, mailing room typist, five days; Emil Steinke, mailing room clerk, five days; and

That the following employees from the senate of the Thirty-seventh Legislative Assembly be retained after the close of session to complete legislative work:

Howard F. Doherty, secretary of the senate, be retained six days; Arthur A. Herk, assistant secretary of the senate, two days; Rebecca Quanrud, chief stenographer and payroll clerk, three days; Ed Haag, chief mailing room clerk, five days; Wilhelm Urlacher, mailing room clerk, five days; Anna Marie Ray, proofreader, four days; Effie Hamry, postmistress, two days; Vonny Mushik, enrolling and engrossing clerk, three days; Mildred Moore, enrolling and engrossing clerk, three days; Robert Ellsworth, messenger, three days.

Be It Further Resolved that the above named employees be paid their regular rate of pay as specified as follows: Gerald L. Stair, chief clerk, six days @ twenty-five dollars per day; Martin Schoenwald, assistant chief clerk, two days @ eighteen dollars per day; Cora C. Essington, chief stenographer and payroll clerk, three days @ twenty dollars per day; Shirley Lee, messenger to governor, three days @ eleven dollars per day; Enola Eck, proofreader, four days @ fourteen dollars per day; Herbert Geving, chief page, three days @ eleven dollars per day; Yvonne D. Wold, page, three days @ eleven dollars per day; Jean Otteson, chief committee clerk, three days @ fifteen dollars per day; Ica Saxvik, postmistress, two days @ twelve dollars per day; Florence Graham, enrolling and engrossing clerk, three days @ fourteen dollars per day; John H. Formo, assistant enrolling and engrossing clerk, three days @ fourteen dollars per day; Ruth Smith, desk reporter, three days @

twenty-five dollars per day; Loretta Haakenson, mailing room typist, five days @ ten dollars per day; Emil Steinke, mailing room clerk, five days @ ten dollars per day; Howard F. Doherty, secretary of the senate, six days @ twenty-five dollars per day; Arthur A. Herk, assistant secretary of the senate, two days @ eighteen dollars per day; Rebecca Quanrud, chief stenographer and payroll clerk, three days @ twenty dollars per day; Ed Haag, chief mailing room clerk, five days @ thirteen dollars per day; Wilhelm Urlacher, mailing room clerk, five days @ ten dollars per day; Anna Marie Ray, proofreader, four days @ fourteen dollars per day; Effie Hamry, post-mistress, two days @ twelve dollars per day; Vonny Mushik, enrolling and engrossing clerk, three days @ fourteen dollars per day; Mildred Moore, enrolling and engrossing clerk, three days @ fourteen dollars per day; Robert Ellsworth, messenger, three days @ eleven dollars per day; and all of the above expenses are to be paid out of the per diem employees fund of the Thirty-seventh 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 8, 1961.

HOUSE CONCURRENT RESOLUTION "W-1"
(Committee on Delayed Bills)

COMPILATION OF BILLS INTRODUCED

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 V. L. Gilbreath, sergeant-at-arms 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 home address thereof:

Be It Further Resolved, that the said Ruth Smith and V. L. Gilbreath be and are hereby respectfully retained on this work to be completed as speedily as possible for the sum of two hundred dollars, and that the mailing of same be charged and paid as legislative expense.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "X-1"
(Committee on Delayed Bills)

WORLD WAR I VETERANS

A concurrent resolution calling the attention of the Congress to conditions affecting veterans of World War I.

WHEREAS, the great majority of the people of this Nation, including all social agencies, are now and for several years last past have been deeply concerned about the problems of the 16,000,000 men and women over the age of sixty-five, who reside in the United States; and

WHEREAS, of this number there are approximately 2,600,000 veterans who were members of our armed forces in World War I, whose present financial condition generally is below that of the average over-65-years-of-age resident of our Nation, as the direct result of their having served this Nation in such armed forces during World War I; and

WHEREAS, their present financial condition is unquestionably due to the fact that this group of veterans did not have the rights, benefits, and advantages accorded to those veterans of previous and subsequent wars, such as homestead land grants, homesteading privileges, direct pensions, guaranteed job rights, college education and vocational training, guaranteed loans for purchasing of farms, businesses and homes, unemployment insurance and social security; and

WHEREAS, organizations of veterans in this Nation have continuously since 1941 petitioned the Congress and the President to consider the financial plight of these forgotten men of 1917-1918, and recognize the service they rendered at a period of our Nation's gravest peril; and

WHEREAS, we believe that the time is now opportune for their recognition by the Congress of the service they so valiantly rendered over forty-two years ago; and

WHEREAS, due to the above facts your attention is respectively drawn to the financial problems of World War I veterans of the United States of America; and

WHEREAS, there are presently 7,000 World War I veterans making their homes in the state of North Dakota, and some of this number do not have sufficient income to meet higher costs of living, and health expenses, and because of age have difficulty in competing in the labor market;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Congress take cognizance of the facts contained in this resolution and that copies be forwarded by the secretary of state to the North Dakota congressional delegation.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "Y-1"
(Committee on Delayed Bills)

DISPOSITION OF FARM SURPLUS

A concurrent resolution requesting the Congress of the United States to give serious consideration to a plan to aid in disposition of farm surplus and to supply food to hungry people throughout the world.

WHEREAS, an unusual and tragic situation exists in the world today, in that the citizens of the United States are faced with a surplus of many types of foods while substantially over one-half of the world population are inadequately fed; and

WHEREAS, the threat of world communism and the fact that communism breeds on hunger are well recognized today; and

WHEREAS, military preparedness is costing the United States many billions of dollars each year, as the price of watchfulness against the communist menace; and

WHEREAS, the possibility exists that the conversion of a relatively small portion of our military budget from arms to food may well enable us to deal a severe blow to world communism and thus result in a far greater savings in the cost of arms;

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 is hereby earnestly requested to grant serious consideration to a plan similar to that proposed by former United States Congressman Cal D. Johnson, whereby a small portion of our military budget is

set aside and used to purchase commodities that are surplus in the United States to be allocated by the United Nations and distributed by members of the United States armed forces to the underfed peoples of the world;

Be It Further Resolved, that the secretary of state forward copies of this resolution to the President of the United States, the Secretaries of Agriculture and Defense, and to each member of the congressional delegations from the midwestern states.

Filed March 8, 1961.

HOUSE CONCURRENT RESOLUTION "Z-1"
(Committee on Delayed Bills)

DAKOTA TERRITORY CENTENNIAL PUBLICITY

A concurrent resolution urging the citizens of North Dakota to make special efforts to publicize the Dakota Territory Centennial.

WHEREAS, the year 1961 is the one hundredth anniversary of the establishment of the Dakota Territory; and

WHEREAS, North Dakota has planned many celebration activities to commemorate this anniversary; and

WHEREAS, the Dakota Territory Centennial celebration can be successful only if all of the people of North Dakota support this historic occasion, including the news media;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative assembly hereby requests and urges all of the citizens of North Dakota to support the Dakota Territory Centennial Celebration and that the theme thereof be used wherever possible by all news media. It is also urged that the men, women, and children wear clothing indicative of certain periods of this one hundred year history when specific celebrations or activities are planned;

Be It Further Resolved, that all news media in this state are requested to publicize this resolution so that all of the citizens of North Dakota may become informed of some of the plans being made to make the year 1961 a real celebration.

Filed March 8, 1961.

HOUSE MEMORIAL RESOLUTIONS

HOUSE MEMORIAL RESOLUTION No. 1

(Wolf, Link)

TRIBUTE TO FORMER STATE REPRESENTATIVE ASLE BJELLA, AND SYMPATHY TO HIS FAMILY

A memorial resolution for Asle Bjella, a deceased member of the house of representatives of the state of North Dakota.

WHEREAS, God in His wisdom has seen fit to summon to eternal rest His servant Asle Bjella, who represented in this body the 45th legislative district during the 27th, 28th, 1944 Special Session, 29th and 30th sessions; and

WHEREAS, the memory of Asle Bjella will long remain in our hearts and minds as an efficient and able leader in his community and in state government and one who numbered as his friends all who knew him; and

WHEREAS, his many years of service both as a leader in many areas of local and county government as well as a member of the legislative assembly have won for him a place in the hearts of all who knew him that can never be refilled; and

WHEREAS, the passing of Asle Bjella is a great loss, not only to Williams County, but also to the state of North Dakota;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That we express our keen sorrow on his passing and our appreciation, on behalf of the people of North Dakota, for the loyal and devoted service of our former colleague;

Be It Further Resolved, that for the perpetuation of his memory, this token of respect and sympathy to his 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 family of Asle Bjella.

Filed January 9, 1961.

HOUSE MEMORIAL RESOLUTION No. 2
(Sjaastad, Wolf, Link)

CONDOLENCES TO REPRESENTATIVE SKAAR

A memorial resolution extending condolences to Representative Harold Skaar upon the death of his mother.

WHEREAS, God in His wisdom has called from our midst Mrs. Gertrude Skaar of Parshall, North Dakota, the mother of Representative Harold Skaar; and

WHEREAS, Mrs. Skaar was one of North Dakota's pioneers and had made immeasurable contributions to the welfare and development of this state; and

WHEREAS, her passing will be a great personal loss to all who have come in contact with her in her long lifetime;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That we do hereby express and extend to Representative Harold Skaar and his family our deep sympathy and condolence in this hour of sorrow; and

Be It Further Resolved, that the chief clerk of the house be instructed to prepare an enrolled copy of this resolution to be forwarded to Representative Harold Skaar.

Filed January 20, 1961.

HOUSE MEMORIAL RESOLUTION No. 3
(Miller, Walsh, Hagen)

REPRESENTATIVE COLLETTE

A memorial resolution extending best wishes to Representative Wilfred Collette in his time of illness.

WHEREAS, our colleague, Representative Wilfred Collette, is ill and is confined in a hospital; and

WHEREAS, Representative Collette is held in the highest esteem by the members of this body; and

WHEREAS, this body sincerely desires that Representative Collette be able to return to his desk and participate in the deliberations of this body;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That we extend our sincerest sympathies to Representative Collette, and wish him a speedy and complete recovery from his illness;

Be It Further Resolved, that this resolution be printed in the journal of the house and an enrolled copy be presented to our colleague, Representative Collette.

Filed January 23, 1961.

HOUSE MEMORIAL RESOLUTION No. 4
(House Committee on Memorial Resolutions)

DECEASED MEMBERS

A memorial resolution for deceased members of the house of representatives of the state of North Dakota.

WHEREAS, since the adjournment of the Thirty-sixth Legislative Assembly, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

S. J. Acheson, who served in the thirtieth, thirty-first, thirty-second and thirty-third legislative assemblies, from the twenty-eighth district, died October 8, 1960.

O. B. Burtness, who served in the sixteenth legislative assembly, from the sixth district, died January 20, 1960.

Cornelius Bymers, who served in the twenty-seventh, twenty-eighth, twenty-ninth, thirtieth and thirty-first legislative assemblies, from the twenty-fifth district, died April 18, 1960.

Charles Converse, who served in the fourteenth legislative assembly, from the forty-first district, died January 24, 1961.

C. E. Erickson, who served in the seventeenth and nineteenth legislative assemblies, from the fortieth district, died March 20, 1959.

R. W. Frazier, who served in the twenty-fifth legislative assembly, from the fortieth district, died April 13, 1959.

M. O. Grangaard, who served in the seventeenth legislative assembly, from the fifteenth district, died July 9, 1959.

Alfred P. Hanson, who served in the twelfth, thirteenth and fourteenth legislative assemblies, and who served as Speaker of the House of Representatives during the fourteenth legislative assembly, from the fifteenth district, died June 24, 1959.

Elmer Hegge, who served in the twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second and thirty-third legislative assemblies, from the forty-ninth district, died November 14, 1959.

A. J. Huso, who served in the thirteenth legislative assembly, from the sixteenth district, died December 15, 1960.

E. J. Langley, who served in the twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first and thirty-second legislative assemblies, from the twenty-second district, died December 30, 1960.

E. J. Marks, who served in the twenty-fourth and twenty-eighth legislative assemblies, from the fortieth district, died November 22, 1960.

Herman C. Mittag, who served in the twenty-sixth and twenty-eighth legislative assemblies, from the twelfth district, died March 12, 1960.

Albert Moerke, who served in the twenty-ninth, thirtieth and thirty-first legislative assemblies, from the forty-fourth district, died April 2, 1960.

H. J. Morris, who served in the twenty-fourth and twenty-fifth legislative assemblies, from the twenty-third district, died July 23, 1960.

H. F. Niewoehner, who served in the twenty-second, twenty-third, twenty-fourth and twenty-fifth legislative assemblies, from the thirty-fourth district, died August 18, 1960.

L. O. Norheim, who served in the twenty-fourth and twenty-fifth legislative assemblies, from the twenty-second district, died February 11, 1961.

Henry T. Olson, who served in the thirty-second legislative assembly, from the twenty-fourth district, died February 2, 1960.

William Rettke, who served in the twenty-sixth, twenty-seventh and twenty-eighth legislative assemblies, from the forty-eighth district, died November 15, 1959.

Herbert J. Roberts, who served in the nineteenth legislative assembly, from the forty-eighth district, died August 8, 1960.

Constantine Sax, who served in the twenty-first and twenty-second legislative assemblies, from the forty-first district, died January 31, 1960.

Calvin Schimke, who served in the twenty-fifth, twenty-sixth and twenty-ninth legislative assemblies, from the thirty-third district, died February 4, 1961.

Walter E. Sellens, who served in the twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth and thirty-first legislative assemblies, from the twenty-seventh district, died February 27, 1960.

C. O. Svingen, who served in the nineteenth, twentieth, twenty-first, twenty-second and twenty-third legislative assemblies, from the twenty-eighth district, died October 20, 1959.

William H. Tuff, who served in the twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth legislative assemblies, from the forty-second district, died April 20, 1960.

Gottlieb Wendland, who served in the twenty-fourth and twenty-fifth legislative assemblies, from the twenty-fifth district, died March 25, 1960.

Henry Williams, who served in the twenty-sixth, twenty-seventh and twenty-eighth legislative assemblies, from the twenty-third district, died June 30, 1960.

D. C. Wood, who served in the seventeenth legislative assembly, from the twenty-third district, died June 28, 1960.

WHEREAS, today we, as members of the house of representatives of the Thirty-seventh 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-seventh 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 2, 1961.

SENATE RESOLUTIONS

SENATE RESOLUTION No. 1

(Erickstad, Fiedler)

SESSION LAWS AND CODE

A resolution providing copies of the North Dakota Century Code and the 1955, 1957 and 1959 Session Laws for the use of the various committees of the senate.

Be It Resolved by the Senate of the State of North Dakota:

WHEREAS, the senate in its deliberations and in its various committee meetings often finds it necessary to refer to the code and for that reason a code should be available for such use;

Now, Therefore, Be It Resolved by the Senate of the Thirty-seventh Legislative Assembly of the State of North Dakota:

That the secretary of the state be authorized and directed to furnish twenty copies of the North Dakota Century Code and twenty copies of the 1955, 1957 and 1959 Session Laws to be distributed in the senate chambers and to the various committee rooms of the senate, each volume to be stamped or labeled "Property of the State of North Dakota", and under the custody of the secretary of the senate and the various committee chairmen using the same, whose duty it shall be, at the close of the session, to deliver them to the secretary of state to be kept by him for the use of succeeding sessions of the legislature, and that a copy of this resolution duly certified by the secretary of the senate be delivered to the secretary of state as his authority for furnishing same.

Filed January 9, 1961.

SENATE RESOLUTION No. 2

(Luick, Longmire, Mutch, Wadeson, Redlin, Solberg, Berube)

IDENTIFICATION TAGS

A resolution directing the secretary of the senate to provide identification tags for all members and employees of the senate.

WHEREAS, it is difficult for the members of the senate and the employees thereof to recognize one another; and

WHEREAS, it would be very helpful if identification tags were provided each member and employee of the senate for identification purposes;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That the secretary of the senate is hereby directed to procure as soon as possible blue identification tags for all members and employees of the senate and all employees shall wear such tags during all duty hours.

Filed January 10, 1961.

SENATE RESOLUTION No. 3

(Hystad, Gefreh)

CHAPLAINS' INVOCATIONS

A resolution requiring all chaplains' invocations to be printed in the senate journal.

WHEREAS, the senate of the state of North Dakota has many distinguished members of the clergy acting as senate chaplains; and

WHEREAS, it is the desire of the members of the senate to permanently record in the senate journal the invocations given by such chaplains;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That all invocations of the chaplains of the senate of the state of North Dakota shall be printed in the senate journal.

Filed January 11, 1961.

SENATE RESOLUTION No. 4

(Meidinger)

SPITTOONS

A resolution urgently requesting the board of administration to remove from the senate chambers the low cylindrical or round vessels, sometimes known as spittoons, strategically placed in the senate corridor and to replace the same with a more suitable container for ashes.

WHEREAS, the senate chamber has been graced for many years with low cylindrical or round vessels, more often called cuspidors or spittoons; and

WHEREAS, the lower house some years ago reached such a level of culture and refinement that the members had outgrown the need for such receptacles; and

WHEREAS, the upper house now feels that its members may also have reached the point of cultural achievement where they can probably manage without such cuspidors newly lined with fresh brown paper towels every morning;

WHEREAS, because of the fast-burning cigars and cigarettes now on the market, the senate now feels that it would be appropriate to have more suitable receptacles;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:

That the board of administration is hereby urgently requested to remove from the senate chambers all receptacles for sputum and replace the same with something that would not have to be lined with fresh brown paper every day. Please provide some ashtrays.

Filed February 2, 1961.

SENATE RESOLUTION No. 5
(Morgan, Becker, Hystad)

PHOTOGRAPHER

A senate resolution to appoint an official photographer for the senate of the Thirty-seventh 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, Mason Owens Studio of Bismarck, North Dakota offers to make a composite group picture of the members of the 1961 North Dakota senate size 30 x 40 inches, said picture to be framed and ready to hang, and fifty-five fourteen by eleven copies of said picture for each member and desk force of the senate, and one five by seven inch print of each senator and the lieutenant governor for the state historical society, at a cost of five hundred and fifty dollars.

Now, Therefore, Be It Resolved, that Mason Owens Studio, Bismarck, North Dakota, be, and is hereby appointed official photographer for the North Dakota Senate of the Thirty-seventh Legislative Assembly.

Be It Further Resolved, that the Mason Owens Studio of Bismarck, North Dakota, be and is hereby awarded the sole privilege of photographing members of the senate of the Thirty-seventh Legislative Assembly, at a cost price of five hundred fifty dollars, to be taken out of legislative expenses.

Filed February 11, 1961.

SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION "A"

(Trenbeath)

SUGAR

A concurrent resolution requesting the national Congress to give immediate attention to amending the Sugar Act of 1948, and to give the American farmers their right to produce a larger share of the United States sugar market.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, North Dakota farmers are confined to the raising of crops presently in surplus because the climate of this northern area will not permit a shift in the growing of cereal crops; and

WHEREAS, they have increased their sugar beet production the past twenty-five years and have consistently requested Congress to permit the production of sugar beets on additional acres; and

WHEREAS, they can produce sugar beets profitably and assure United States consumers of a steady and stable supply of sugar at reasonable prices; and

WHEREAS, the legislative assembly believes the American farmer has a vested right to all increases in the American sugar market which would not reduce the present quotas of foreign countries;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the United States Congress is urged to amend and re-enact the Sugar Act for a period of five years, revise the growth formula by allowing one hundred percent of the American consumptive increases be allocated to domestic areas, and add to the basic quota of Continental United States an amount equal to what they have recently supplied for deficit areas.

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the United States Secretary of Agriculture, the United States Secretary of State, Chairmen of the United States Senate and House Agriculture Committees at Washington, D. C. and to each member of the North Dakota congressional delegation.

Filed February 16, 1961.

SENATE CONCURRENT RESOLUTION "B"

(Trenbeath)

WHEAT IMPORTATIONS

A concurrent resolution urging the United States Secretary of Agriculture, Secretary of State, and National Congress to curtail seed wheat importations from Canada in excess of the allowable annual wheat import quota of eight hundred thousand (800,000) bushels.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, seed wheat imports are increasing annually with approximately seven million (7,000,000) bushels of seed wheat being imported the past two (2) years in the one customs district consisting of North Dakota and part of Minnesota; and

WHEREAS, such abnormal importations of seed wheat, over and above the established import quotas, is extremely harmful to the economy of North Dakota, Minnesota, South Dakota, hard red spring wheat farmers, and United States wheat farmers generally; and

WHEREAS, this commodity is presently in surplus and is supported in price and storage costs by the United States taxpayers; and

WHEREAS, the present seed wheat is being imported at about one-half the regular duty rate of twenty-one (21) cents per bushel.

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the United States Secretary of Agriculture, Secretary of State, and National Congress are hereby urged to take all possible action in raising the import duty rates in relation to United States market prices on seeds that are in surplus supply in the United States and being subsidized by the United States taxpayer, particularly in the case of seed wheat.

Be It Further Resolved, that copies of this resolution be forwarded to the United States Secretary of Agriculture, Secretary of State, Chairmen of the United States Senate and House Agriculture Committees, and the North Dakota, Minnesota, and South Dakota congressional delegations.

Filed February 16, 1961.

SENATE CONCURRENT RESOLUTION "D"

(Johnson, Trenbeath)

PEMBILIER DAM AND RESERVOIR PROJECT

A concurrent resolution favoring the early construction of the proposed Pembilier dam and reservoir project and urging the corps of engineers to expedite the completion of a favorable report thereon.

WHEREAS, the proposed Pembilier dam and reservoir project on the Pembina River, near Walhalla, North Dakota, has been under restudy, re-examination, and review by the district engineer, St. Paul district, corps of engineers, U. S. Army, for a number of years, with a view of finding a more favorable benefit-to-cost ratio to better justify recommendations for its accomplishment; and

WHEREAS, the resulting reservoir would insure a municipal and industrial water supply adequate to care for present needs and insure a supply for developments in the immediate future; and

WHEREAS, there appears to be potential irrigable areas of up to 25,000 acres, or more, susceptible of development in connection with such project, and there are additional benefits, both direct and indirect, which have not been, but should be, considered in the evaluation thereof, all of which would substantially improve and increase the economic feasibility of the project; and

WHEREAS, the provincial and federal governments of Canada, through the Manitoba Water Control and Conservation Branch and the Canadian section of the international joint commission have taken commendatory action by visiting the Pembina basin and have indicated their interest in establishing flood control and other beneficial water uses through the construction of a reservoir on the Pembina River in Manitoba to implement the operations of the proposed Pembilier dam;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-seventh Legislative Assembly of the state of North Dakota favors expediting the surveys and establishment of favorable reports whereby the early construction of the Pembilier dam and complementary Canadian structures for flood control, domestic, municipal, industrial, and agricultural water supplies, power, recreation, fish and wildlife, and other uses, and urges the corps of engineers, the United States Bureau of Reclamation, the Federal Fish and Wildlife and the

interested Canadian agencies to expedite the development and completion of a favorable benefit-cost report thereon to the end that congressional approval thereof may be sought in the next flood control bill; and

Be It Further Resolved, that copies hereof be mailed by the secretary of state to the President of the Senate, the Speaker of the House of Representatives, the chairmen of the committees on public works, the Chief Engineers, the St. Paul district engineer, and to Senators Milton R. Young and Quentin Burdick, and Representatives Don L. Short and Hjalmar Nygaard, and E. A. Bacon, chairman, American section, and General A. L. G. McNaughton, chairman, Canadian section, international joint commission and the director of the Manitoba water control and conservation board.

Filed February 20, 1961.

SENATE CONCURRENT RESOLUTION "F"

(Lips, Murphy, Baker, Kisse, Becker,)

(Erickstad, Saumur, Fiedler)

EROSION CONTROL AND BANK STABILIZATION

A concurrent resolution urging early completion of studies and commencement of construction for erosion control and Missouri River bank stabilization.

WHEREAS, control of waters, erosion control, and bank stabilization in that reach of the Missouri River between Garrison and Oahe Dams presently constitutes incomplete portions of the authorized Garrison Dam project; and

WHEREAS, since the construction of Garrison Dam, without supplementary erosion control or bank stabilization structures, the clear water being released from the Garrison Reservoir is eroding over 500 acres yearly of valuable bottom land from this stream area, and stepped-up future releases will increase the loss to 1,000 acres annually; and

WHEREAS, Congress has appropriated moneys for the commencement of studies for methods to prevent such happening, but the necessary studies and surveys are not as yet being conducted in a manner to enable early construction; and

WHEREAS, delay in erosion control or bank stabilization construction has resulted in a continuing emergency situation, as forcefully shown in the U. S. Army Corps of Engineers'

hearing on the subject at Bismarck, North Dakota, on February 26, 1960, wherein 67 officials and landowners testified in protest; and

WHEREAS, remedial structures in the form of revetments or a series of low head dams would be a feasible means to provide the urgently needed stabilization; it appearing, however, that low head dams would be considerably less expensive and would also provide multiple benefits of both local and national significance through increased domestic water supply, irrigation, cross-stream communication and transportation, recreation, and navigation;

WHEREAS, since bank stabilization is a requirement resulting from over-all operations of the Missouri basin project, the cost allocation for accomplishing such stabilization as a segment or integral part of the project should therefore be made on a basis proportionate to all resulting benefits thereof such as flood control, power generation, navigation;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the U. S. Congress is urged to direct the U. S. Army Corps of Engineers to proceed forthwith to completion of its studies for Missouri River erosion control and bank stabilization between the Garrison and Oahe Dams, in consultation with the North Dakota State Water Conservation Commission, so that a report thereon will be completed at the earliest possible date and no later than December 31, 1961, with a view to speedy commencement of construction no later than September 1, 1962, and to provide such appropriations therefor as may be necessary; and

Be It Further Resolved, that sufficient copies of this resolution and a report of the hearings and findings thereon by the natural resources committees of the North Dakota senate and house of representatives be forwarded by the secretary of state to each member of the North Dakota congressional delegation for their own use and for appropriate distribution to congressional committees, officials, representatives, and senators.

Filed February 20, 1961.

SENATE CONCURRENT RESOLUTION "T"

(Committee on Education)

(By request of County Superintendents and
Superintendent of Public Instruction)

LRC STUDY OF THE COUNTY SUPERINTENDENCY

A concurrent resolution authorizing and directing the research committee to study the organization, administration, scope and financing of the office of county superintendent.

WHEREAS, the citizens and legislative assembly of the state of North Dakota have considered the county superintendent the chief educational officer of the county and in charge of all schools having no superintendent; and

WHEREAS, the county superintendent's duties and responsibilities are changing as a result of reorganization of school districts; and

WHEREAS, the compensation of the county superintendent is such that it is difficult to obtain and retain qualified persons in the office of county superintendent.

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is authorized and directed to study and consider the organization, administration, duties, responsibilities and financing, as well as requirements, limitations and other matters affecting the county superintendent and county superintendency of the fifty-three counties in North Dakota with a view of improving education in the state through and by means of improving the status of the county superintendent and the scope of the office of county superintendency. It shall specifically consider the feasibility of rearranging or reorganizing the counties or the county superintendent's duties in such a fashion as to make the county superintendency an intermediate district between the state and local school district, an arm of the state for school administration, a local school district, or a combination of any of these, or any other agency, or otherwise as it may deem necessary.

Filed March 8, 1961.

SENATE CONCURRENT RESOLUTION "K"

(Thompson, Becker, Van Horn)

LOCAL GRAIN TESTING PROGRAMS

A concurrent resolution memorializing the secretary of agriculture to reestablish a local testing program for grains that are subject to an application for a federal loan.

WHEREAS, it had been at one time the practice of the Agricultural Stabilization Committee to permit farmers to bring grain samples and bin measurements to local elevator operators; and

WHEREAS, it has long been the policy to authorize local elevator operators to test grain for moisture content and for grading purposes prior to the approval of a loan thereon by the Agricultural Stabilization Committee; and

WHEREAS, such policies have now been changed to require that such testing and grading be carried on at one central station; and

WHEREAS, such central testing practices result in a delay of from three to six weeks in the approval of loans with a resultant inconvenience and often hardship to the owners of the grain who are seeking a loan thereon from the Agricultural Stabilization Committee;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the secretary of agriculture is hereby urged to discontinue the central testing system now in existence, and that the Agricultural Stabilization Committee accept the results of tests carried on by local elevator operators from grain samples and bin measurements brought to them by Agricultural Stabilization Committee for the purpose of approving and processing applications for grain loans from the Agricultural Stabilization Committee; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the secretary of agriculture and to each member of the North Dakota congressional delegation, at Washington, D. C.

Filed March 8, 1961.

SENATE CONCURRENT RESOLUTION "L"

(Foss)

AMERICAN HISTORY MONTH

A concurrent resolution designating the month of February as "American History Month".

WHEREAS, the national society of the Daughters of the American Revolution has urged that the month of February be designated as "American History Month"; and

WHEREAS, the Thirty-seventh Legislative Assembly deems it appropriate to set aside the month of February which has a number of significant historical dates to recall to every one the tremendous heritage we have as Americans;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the month of February in each year is hereby designated as "American History Month" and all patriotic, veterans, service, and educational organizations are urged to devote extraordinary efforts towards programs giving recognition to the heritage of Americans.

Filed March 4, 1961.

SENATE CONCURRENT RESOLUTION "M"

(Gefreh, Holand)

NORTH DAKOTA REVISED CODE OF 1943

A joint resolution authorizing the secretary of state to dispose of volumes of the North Dakota Revised Code of 1943, and supplements thereto.

WHEREAS, the North Dakota Century Code has been enacted by the legislative assembly and signed by the governor, and now represents the latest version of the laws of the state of North Dakota; and

WHEREAS, it is highly desirable that storage space be made available through the disposal of volumes of the North Dakota Revised Code of 1943, and supplements thereto;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Jointly Concurring:

That the secretary of state is hereby authorized and empowered to dispose of all volumes of the North Dakota Revised Code of 1943 and supplements thereto now in his possession, except ten volumes of each which he shall retain for historical purposes and one hundred volumes for sale to lawyers requesting them in the future, by giving the same to high schools and elementary schools within the state upon the request of such schools, to the extent of the number of volumes on hand.

Filed February 22, 1961.

SENATE CONCURRENT RESOLUTION "N"
(Holand, Garaas)

NEWSPAPERMAN'S DAY

A concurrent resolution for the purpose of designating February 10, 1961 as Newspaperman's Day at the state legislative assembly.

WHEREAS, the editors and reporters of North Dakota daily and weekly newspapers are in active partnership with the senators and representatives of this state in the task of keeping the citizens informed about their government;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the senate of the state of North Dakota, and the house of representatives, individually and collectively, invite the newspapermen of their respective districts to spend the day of February 10, 1961 at the state capitol as our guests, to witness at first hand, legislative process.

Be It Further Resolved, that we participate in the meeting sponsored by the North Dakota Sigma Delta Chi chapter of professional journalists in the house chambers at 3 p.m. that day for a discussion of the duties and responsibilities of both the press and public officials under the constitutional guarantee of freedom of the press.

Be It Further Resolved, that the senate of the state of North Dakota, and the house of representatives, join in the invitation to Sidney Goldish, research director of the Minneapolis Star and Tribune, to address the joint meeting of newspapermen and legislators.

Filed January 27, 1961.

SENATE CONCURRENT RESOLUTION "R"

(Roen, Erickson, Kamrath)

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD

A concurrent resolution requesting the Chicago, Milwaukee, St. Paul and Pacific Railroad to continue its passenger service to the southwestern part of this state.

WHEREAS, the Chicago, Milwaukee, St. Paul and Pacific Railroad is considering discontinuation of passenger service to the southwestern portion of the state including, specifically, the cities and villages of Haynes, Hettinger, Bucyrus, Reeder, Gascoyne, Scranton, Bowman, Rhame, and Marmarth, North Dakota; and

WHEREAS, discontinuance of railroad passenger service to this area would mean that no railroad passenger service within one hundred miles would be available to persons in this area; and

WHEREAS, if such railroad passenger service is discontinued it would be a tremendous hardship on the people residing in the southwestern portion of North Dakota, since there would be no east-west common carrier passenger service whatsoever serving such portion of the state;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the board of directors and officers of the Chicago, Milwaukee, St. Paul and Pacific Railroad are hereby urged to continue passenger service to the southwestern part of North Dakota, and that the Interstate Commerce Commission seriously consider the tremendous hardship the people residing in the southwestern part of this state would incur if railroad passenger service were allowed to be discontinued;

Be It Further Resolved, that copies of this resolution be sent by the secretary of state to the board of directors and officers of the Chicago, Milwaukee, St. Paul and Pacific Railroad, to the members of the Interstate Commerce Commission, and to all members of the North Dakota congressional delegation.

Filed February 22, 1961.

SENATE CONCURRENT RESOLUTION "S"

(Redlin, Trenbeath, Erickstad, Thompson, Fiedler, Gronvold,
(Murphy, Nesvig, Holand, Lips, Schrock, Baker)

GARRISON DIVERSION PROJECT

A concurrent resolution memorializing the Congress to authorize the Garrison Diversion Project and to appropriate funds therefor.

WHEREAS, the Garrison Diversion Project has been found to be economically feasible; and

WHEREAS, this project is of utmost importance in stabilizing and improving the economy of the state of North Dakota and its people; and

WHEREAS, the completion of the Garrison Diversion Project will result in many acres of land being switched from the production of surplus crops to nonsurplus crops; and

WHEREAS, the completion of the Garrison Diversion Project will be of great benefit to the nation;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That we do respectfully and earnestly request the Congress of the United States to authorize at this session the construction of the Garrison Diversion Project and the appropriation of funds therefor; and

Be It Further Resolved, that the secretary of the state of North Dakota is hereby directed to forward copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Chairman of the respective Committees on Public Works and to the North Dakota delegation in Congress.

Filed March 1, 1961.

SENATE CONCURRENT RESOLUTION "V"

(Solberg, Wartner, Baeverstad, Schrock, Hystad, Gronvold,
(Witteman, Meidinger)

NATURAL GAS SERVICE

A concurrent resolution urging North Dakota public utilities to extend natural gas service for heating and industrial use to North Dakota communities.

WHEREAS, many communities in the state of North Dakota are without natural gas service for heating and industrial use; and

WHEREAS, the extension of such service to these areas is highly desirable because of the convenience, economy and industrial potential it will bring to such communities; and

WHEREAS, North Dakota does not have sufficient markets for natural gas produced in this state, and in some instances is forced to flare such gas as is produced, which is a wasteful practice and contrary to sound principles of oil and gas conservation;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That all North Dakota public utilities are strongly urged to survey the various areas of the state served by them to determine the feasibility of extending natural gas service to areas not presently served, and to take all necessary action at the earliest possible date to provide such natural gas service from natural gas produced in this state.

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the respective presidents of the Otter Tail Power Company, Northern States Power Company, and Montana-Dakota Utilities Company.

Filed March 3, 1961.

SENATE CONCURRENT RESOLUTION "W"

(Erickson, Roen, Reichert, Garaas)

LITTLE MISSOURI RIVER

A concurrent resolution requesting Congress to extend the time for completing negotiations for a compact apportioning waters of the Little Missouri River and its tributaries among North Dakota, South Dakota, Montana and Wyoming.

WHEREAS, Congress authorized the states of North Dakota, South Dakota, Montana and Wyoming in 1957 to enter into negotiations for a compact for equitable apportionment among those states of water of the Little Missouri River and its tributaries; and

WHEREAS, Milo W. Hoisveen, state engineer of North Dakota; Joe Grimes, chief engineer, South Dakota water resources board; Fred Buck, state engineer, Montana; and Earl Lloyd, state engineer of Wyoming, have been appointed by the governors of their states to represent them on the compact commission; and

WHEREAS, the United States representative, Major General John S. Seybold, retired, has met with the state representatives on several occasions relative to the Little Missouri Compact and other related data; and

WHEREAS, under the provisions of the Act of Congress the time for completing negotiations and agreeing to terms of a compact expire on the 21st day of August, 1961; and

WHEREAS, it has been determined that additional basic flow data on the Little Missouri will be required for properly evaluating such allocations as might be proposed in the compact.

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That Congress be and is hereby requested to extend the time until August 21, 1966 for completing compact negotiations and for reaching an agreement for the equitable apportionment of the waters of the Little Missouri and its tributaries among the several states; and

Be It Further Resolved, that the secretary of state of North Dakota be and is hereby directed to mail copies of this resolution to President Kennedy; to our senators and representatives from North Dakota in Congress; and to the governors of South Dakota, Montana, Wyoming and North Dakota.

Filed February 25, 1961.

SENATE CONCURRENT RESOLUTION "Y"
(Murphy, Thompson, Berube, Andre, Witteman,
Fiedler, Redlin, Lautenschlager, Reichert)

LRC STUDY OF TAX LAWS AND STRUCTURE,
CONTINUANCE

A concurrent resolution directing the legislative research committee with the aid and cooperation of the state tax department to continue the study of the state tax laws and tax structure.

WHEREAS, the study undertaken by the legislative research committee during the past biennium regarding the state tax laws and structure was a tremendous undertaking; and

WHEREAS, the legislative research committee did not have the time available to study all of the areas of North Dakota's tax laws and tax structure; and

WHEREAS, there are still many areas in the state tax laws and structure that need more basic research and clarification, especially in the field of personal assessment, before other recommendations can be made to improve the administration and equitable distribution of the tax load, and to promote the agricultural and industrial development of this state; and

WHEREAS, equitable tax laws and tax structure affect all of the people of North Dakota by apportioning the tax burden in a fair and equitable manner;

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 be authorized and directed to continue on a permanent basis, with the aid and cooperation of the state tax department, the study of the tax laws and tax structure that was undertaken during the 1959-1961 biennium and to report and develop further practical and acceptable recommendations together with any legislation necessary to carry out such recommendations for presentation to the Thirty-eighth Legislative Assembly; and

Be It Further Resolved, that the legislative research committee shall be authorized to call upon the North Dakota state university of agriculture and applied science and the university of North Dakota for such research, aid, and assistance as may be necessary to carry out the tax study and to employ such other technical and clerical personnel as may be necessary.

Filed March 8, 1961.

SENATE CONCURRENT RESOLUTION "C-C"

(Redlin, Trenbeath)

RED RIVER POLLUTION

A concurrent resolution requesting the legislative assembly of the state of Minnesota to direct the appropriate agency of that state to cooperate with the North Dakota state water conservation commission and the North Dakota state health department in matters of pollution control along the Red River of the North.

WHEREAS, increased industrial development and urban expansion in many communities in the Red River of the North drainage basin has resulted in greater demands for water from that river for domestic and industrial use; and

WHEREAS, such growth has materially increased the discharge of industrial waste in rivers of the Red River of the North basin thereby adversely affecting the users of waters of this river; and

WHEREAS, significant and commendable progress has been made by the several cities and communities in both states in providing adequate pollution abatement measures insofar as the disposal of human wastes are concerned; and

WHEREAS, practical procedures and methods of reducing such contamination are urgently needed on the main stem of the Red River and its tributaries in and adjacent to the states of North Dakota and Minnesota; and

WHEREAS, the interests of both states of North Dakota and Minnesota will be best served if this condition be corrected without delay in order to enable the communities of these states the opportunity to fully utilize the waters of the Red River of the North for beneficial use.

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative assembly of the state of Minnesota is respectfully urged and requested to direct the appropriate agency of that state to cooperate with the North Dakota state water conservation commission and the North Dakota state health department in working out a feasible and practical solution to the pollution problem along the Red River of the North.

Be It Further Resolved, that the secretary of state is hereby directed to forward copies of this resolution to the Governor

of the State of Minnesota, the President of the Senate and the Speaker of the House of Representatives of the Minnesota State Legislature as soon as possible.

Filed March 1, 1961.

SENATE CONCURRENT RESOLUTION "F-F"

(Lips, Reichert)

CAPTAIN GRANT MARSH MEMORIAL BRIDGE

A concurrent resolution directing that the new highway bridge across the Missouri River in the Bismarck-Mandan vicinity be named the "Captain Grant Marsh Memorial Bridge".

WHEREAS, Captain Grant Marsh is universally recognized as the most famous and outstanding river boat pilot and captain ever to command a river boat upon the Missouri River; and

WHEREAS, the action by Captain Grant Marsh while in command of the steamer Far West in bringing to Bismarck the survivors of General Custer's command from the Battle of the Little Big Horn, despite the hazards of low water and river obstacles and in a record time never subsequently equaled upon western river waters, was recognized throughout the United States as a feat of courage and river navigation that is unmatched in the annals of river steam boating; and

WHEREAS, Captain Grant Marsh, as a pioneer in the development of river transportation upon the Missouri made substantial contributions to the settlement and development of this state; and

WHEREAS, Captain Grant Marsh, as a citizen of North Dakota, has become one of the most colorful and inspirational figures of our frontier days whose memory should be perpetuated through a suitable memorial;

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 is hereby directed to name the new highway bridge over the Missouri River in the Bismarck-Mandan vicinity the "Captain Grant Marsh Memorial Bridge" in memory of the man whose name has almost become synonymous with the body of water to be spanned by such bridge.

Filed March 4, 1961.

SENATE CONCURRENT RESOLUTION "G-G"

(Meidinger, Hernett, Fiedler, Redlin)

ECONOMIC DEVELOPMENT COMMISSION

A concurrent resolution urging the support of the economic development of the state by all public officials and citizens regardless of political affiliations.

WHEREAS, the promotion of agriculture, mining, manufacturing and other industry and business is of the utmost importance to the state of North Dakota; and

WHEREAS, in recognition of the necessity for further economic development, the state has created the economic development commission for the purpose of promoting the development of the state; and

WHEREAS, to accomplish its purpose, it is necessary that the economic development commission have the assistance and support of all organizations and citizens of the state; and

WHEREAS, in order to obtain such aid and support as well as to attract and retain competent staff members in this highly specialized field, it is essential that the staff refrain from participation in partisan politics, that the commission be appointed on a bipartisan basis, and that the approach of the legislative assembly, the executive branch of government, and the citizens at large to the field of economic development be upon a bipartisan basis if the economic development commission is to accomplish its purpose of promoting the economic development of the state;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the staff of the economic development commission is urged to refrain from active participation in partisan politics; and the bipartisan economic development commission and all members of the bipartisan legislative assembly, the executive branch of the government, and the citizens at large are urged to place the economic development of the state of North Dakota above their loyalty to political parties and to jointly work for the benefit of the state, to the ultimate benefit of all its citizens.

Filed March 4, 1961.

SENATE CONCURRENT RESOLUTION "K-K"

(Yunker, Lautenschlager, Bopp, Nesvig)

CORPORATE FARMING

A concurrent resolution directing the legislative research committee to study the feasibility of authorizing limited farming and ranching by corporations.

WHEREAS, several bills have been introduced during the present and past sessions of the legislative assembly to allow limited farm and ranching operations to be carried on by corporations; and

WHEREAS, such bills have not been passed by the legislative assembly because of the fear of some members that the safeguards contained herein might not be sufficient to prevent large-scale farming and ranching by corporations; and

WHEREAS, if sufficient safeguards can be developed to prevent large-scale farming and ranching by corporations, the use of a corporate type structure can give many benefits to farmers and ranchers of this state that are denied them under present laws which restrict farming and ranching to individual or partnership operations;

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 feasibility of the development and passage of laws authorizing limited farming and ranching operations by corporations, and to make its report and recommendations to the Thirty-eighth Legislative Assembly together with any legislation necessary to carry out such recommendations.

Filed March 8, 1961.

SENATE CONCURRENT RESOLUTION "L-L"

(Roen, Saumur, Ringsak, Erickson,)

(Lips, Meidinger, Mutch)

INVITATION TO LAWRENCE WELK

A concurrent resolution extending an invitation to Lawrence Welk and his band to come to North Dakota during the summer of 1961 to participate in the Dakota Territory Centennial Celebration.

WHEREAS, during the year 1961 North Dakota will celebrate the one hundredth anniversary of the establishment of Dakota Territory; and

WHEREAS, the citizens of the state of North Dakota have planned many activities commemorating this historic event; and

WHEREAS, Lawrence Welk was born in North Dakota and spent many years in this state; and

WHEREAS, Lawrence Welk and his band have made all of the people of North Dakota proud since they have become one of the great musical organizations in the history of the United States; and

WHEREAS, the people of North Dakota have always considered Lawrence Welk to be one of their outstanding citizens;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative assembly and the people of the state of North Dakota extend to Lawrence Welk and his band an invitation to participate with the people of North Dakota in the celebration of the Dakota Territory Centennial during the summer of 1961; and

Be It Further Resolved, that the secretary of state is hereby directed to send a copy of this resolution to Lawrence Welk.

Filed March 4, 1961.

SENATE CONCURRENT RESOLUTION "M-M"

(Hernett)

COMMENDATION TO NORTH DAKOTA FEDERATION
OF WOMEN'S CLUBS

A concurrent resolution commending the many achievements made by the North Dakota Federation of Women's Clubs in North Dakota and to direct that a resolution adopted by such organization be printed in the senate and house journals.

WHEREAS, the North Dakota Federation of Women's Clubs have been active for many years in this state in many areas of state and local government; and

WHEREAS, they have been of great assistance in bringing about community betterment and have contributed in many ways toward the goal of good government; and

WHEREAS, the North Dakota Federation of Women's Clubs passed a resolution at their state convention in Valley City,

North Dakota on May 12, 1960 relating to highway safety and motor vehicle operators' license and examinations;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-seventh Legislative Assembly commends the North Dakota Federation of Women's Clubs for the many contributions they have made in making North Dakota a great state; and

Be It Further Resolved, that the resolution adopted by the Federation of Women's Clubs at Valley City on May 12, 1960 relating to highway safety and motor vehicle operators' licenses and examinations which is attached to this resolution, shall be printed in the house and senate journals; and

Be It Further Resolved, that the secretary of state is hereby directed to forward a copy of this resolution to the President of the North Dakota Federation of Women's Clubs.

Filed March 8, 1961.

SENATE CONCURRENT RESOLUTION "O-O"

(Roen, Reichert)

MEDORA WATER SUPPLY AND SANITATION

A concurrent resolution commending the sponsors of legislation presently in Congress which seeks to remedy the sanitation and water supply facilities of Medora, North Dakota, and also urging the Congress to favorably consider such proposed legislation.

WHEREAS, House Concurrent Resolution "U" adopted by the Thirty-sixth Legislative Assembly provided for the creation of a commission to cooperate with the village board of Medora, North Dakota in the preservation of that community as a typical pioneer "cow town" in an area of state and national importance and interest; and

WHEREAS, it has been proposed to restore Medora to its historic appearance at the time of Theodore Roosevelt, the Marquis de Moers, the Eaton Brothers, and the colorful Texas and Oklahoma drovers whose Longhorn trail herds grazed the Badlands of this state and blazed the routes into western North Dakota, followed by others for more than half a century; and

WHEREAS, the impact of the ever-increasing activities in the adjoining Theodore Roosevelt National Memorial Park upon

Medora has resulted in overtaxing and overloading the sanitation and water supply facilities of the village to the extent that the health and well-being of its inhabitants and visitors are seriously imperiled; and

WHEREAS, United States Representatives Don L. Short and Hjalmar C. Nygaard have introduced House Bills Nos. 2295 and 2270, respectively, and United States Senators Milton R. Young and Quentin N. Burdick have jointly introduced Senate Bill No. 98 in the current session of Congress, authorizing the Secretary of the Interior to provide water and sewage disposal facilities to the Medora area adjoining the park with a view to alleviating and correcting such dangerous situation and greatly enhancing the value of the said park development; and

WHEREAS, the proposed legislation provides that such water and sewage disposal systems would be connected to those of the National Park Service in said park, and that the costs allocated to the village of Medora would be repaid by the non-federal users thereof in such manner and under such conditions as may be determined by the Secretary of the Interior;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the North Dakota delegation in Congress, the sponsors of the aforementioned proposed legislation, be highly commended for seeking to remedy the intolerable situation in Medora, as described herein, through enactment of the legislation proposed in the aforesaid bills; and

Be It Further Resolved, that the Congress is hereby urged to give favorable consideration to the legislation proposed by said bills to the end that the planned water and sewage disposal facilities proposed therein may be authorized and constructed; and

Be It Further Resolved, that the secretary of state is hereby directed to mail copies of this resolution to Senators Young and Burdick, and Representatives Short and Nygaard; to Honorable Clinton P. Anderson, chairman, Senate Committee on Interior and Insular Affairs; to Honorable Wayne N. Aspinall, chairman, House Committee on Interior and Insular Affairs; Honorable Stewart L. Udall, Secretary of the Interior; Honorable Conrad L. Wirth, Director, National Park Service; and to Honorable David E. Bell, Director of the Bureau of the Budget, all in Washington, D. C.

Filed March 4, 1961.

SENATE CONCURRENT RESOLUTION "P-P"

(Lips)

JUNIOR COLLEGE BUILDING

A concurrent resolution approving a lease contract between the state board of administration and Bismarck special school district.

WHEREAS, the state board of administration has passed the following resolution: "That the board proceed to lease the Junior College Building to the board of education of the City of Bismarck for the period of February 1, 1961 to July 1, 1961 at \$1,000.00 per month, subject to the approval of the legislature which convenes in January 1961;" and

WHEREAS, such lease contract has been executed by the board of administration and the board of education of the Bismarck special school district, subject to approval of the Thirty-seventh Legislative Assembly;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That a lease agreement between the state board of administration and the board of education of the Bismarck special district, as executed, providing for occupancy of the junior college building on the capitol grounds until July 1, 1961, by the Bismarck junior college staff and students, at a rental of \$1,000.00 per month, is hereby approved.

Filed March 3, 1961.

SENATE CONCURRENT RESOLUTION "Q-Q"

(Holand, Erickstad)

LRC STUDY OF TAXES RELATING TO SCHOOLS

A concurrent resolution directing the legislative research committee to study methods of equalizing the tax burden; the feasibility of shifting a portion of such tax burden from property to income; methods of equalizing local effort in support of schools as a requirement for participation in the school foundation program; and the portion of school costs that should be borne by the state and the portion that should be borne by local levels of government.

WHEREAS, because of the scope of the tax study assigned by the Thirty-sixth Legislative Assembly, the legislative research committee was unable to complete all aspects of the study during the 1959-1961 biennium; and

WHEREAS, a number of income surtax proposals to shift a portion of the costs of government from taxes on property to taxes on income have been proposed during the present session, but cannot be properly evaluated because of lack of information in regard to the income tax base and the credits that would be allowed under such proposals; and

WHEREAS, the continuous increase of pupils in the elementary and secondary school systems and rising educational costs make it necessary that the legislative assembly determine the portion of such costs which can or should be assumed by the state and the portion that can or should be borne by local levels of government; and

WHEREAS, the foundation program established by the Thirty-sixth Legislative Assembly has now been in operation for two years and should be reviewed in the light of projections of future costs to the state and anticipated revenues available to meet such costs; and

WHEREAS, because of assessment variations those counties having a level of assessment below the state average may not be making the proper contribution to the support of the foundation program at the local level and consequently may be receiving more state equalization funds than they are entitled to receive;

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 possible methods of equalizing the tax burden by shifting a portion of the tax burden from property to income through use of a surtax; to study the portion of present and future costs of the education foundation program that can or should be borne by the state and the portion that can or should be borne by local levels of government; and to study methods of equalizing local contributions to the foundation program to prevent undue and unfair payments to counties from the state equalization program, and to make its report and recommendations to the Thirty-eighth Legislative Assembly together with any legislation necessary to carry out such recommendations; and

Be It Further Resolved, that the legislative research committee shall be authorized to call upon the state tax department, the university of North Dakota and the North Dakota state university of agriculture and applied science for such research, aid and assistance as it may deem necessary and em-

ploy such other technical or clerical personnel as it may deem necessary to carry out the tax and educational cost study provided in this resolution.

Filed March 8, 1961.

SENATE CONCURRENT RESOLUTION "R-R"

(Holand, Erickstad)

LRC STUDY RELATING TO INDIANS

A concurrent resolution directing the legislative research committee to conduct a study of the possibility of extending the services of the state in the fields of law enforcement, education, health, and welfare to certain Indian citizens not presently receiving such services.

WHEREAS, law enforcement, education, health, and welfare services upon Indian reservations historically and under law is a federal responsibility; and

WHEREAS, the federal government has failed to adequately provide the services to Indian people in North Dakota for which it is responsible, especially in the fields of law enforcement, health, and welfare; and

WHEREAS, it is the belief of the legislative assembly that so far as possible the Indian citizens of this state should be treated exactly as other citizens of the state and should have the same governmental services and benefits available to them; and

WHEREAS, if such services were made available to Indian citizens in all areas of the state, there would no longer be the need for Indian people to tie themselves to the reservation where adequate employment is not available in order to obtain such services; and

WHEREAS, the state and its political subdivisions cannot, because of lack of financial resources, afford to assume the responsibility of the federal government in this field without reimbursement from the federal government until such time as Indian people do not constitute a governmental cost to the state and its political subdivisions greater than the costs to the state and its political subdivisions for their citizens in general;

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 financial aspects of a readjustment of the historic responsibility in providing law enforcement, educational,

health, and welfare services to Indian citizens and the possible benefits to Indian people that might result in the event such services should be made fully available by the state and its political subdivisions to Indian people; and

Be It Further Resolved, that the legislative research committee is authorized to confer with the executive and legislative branches of the federal government in arriving at an equitable solution to such problems and the financial aspects of the expansion of state services to Indian people, and to make its report to the Thirty-eighth Legislative Assembly together with such legislation as may be necessary to carry out its recommendations.

Filed March 8, 1961.

SENATE CONCURRENT RESOLUTION "S-S"
(Committee on Delayed Bills)

FEDERAL PAYMENTS FOR CERTAIN ASSESSMENTS

A concurrent resolution urging the Congress to pass legislation pending therein which would authorize local governments to receive payments from the federal government for federal real property located therein in lieu of certain taxes and special assessments.

WHEREAS, present tax immunities of federal property have weakened many local governments; and

WHEREAS, the tax resources available to local governments to maintain and support their operations are limited and because of federal immunity to local taxes many local governments are denied access to many potential forms of revenue; and

WHEREAS, local governments provide services to all property located within their boundaries, which includes federal property; and

WHEREAS, there is pending in the Congress legislation which would permit local governments to receive payments from the federal government in lieu of certain taxes and special assessments for certain federal real property;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-seventh Legislative Assembly hereby urges and requests the Congress of the United States to pass legislation pending therein which would authorize the payment to

local governments of sums in lieu of certain taxes and special assessments for federal real property located within the boundaries of such localities, since such real property receives the benefits of services performed by the local governments even though it is exempt from taxes.

Filed March 8, 1961.

SENATE CONCURRENT RESOLUTION "T-T"
(Committee on Delayed Bills)

PROTECTION OF WILLISTON BASIN OIL

A concurrent resolution memorializing the Honorable Stewart L. Udall, Secretary of the United States Department of the Interior to protect the Williston basin oil production from excessive Canadian oil imports.

WHEREAS, the Williston basin is the largest sedimentary basin in the United States, and is still in its relative infancy with respect to development, and has tremendous potential in oil reserves; and

WHEREAS, the orderly healthy growth of North Dakota's exploration and development of oil and gas production is directly in the national interest and in accord with the declared policy on national security; and

WHEREAS, a policy of excessive foreign oil imports is contrary to the national security; and

WHEREAS, if Canadian imports of oil and gas are increased, the further development of North Dakota oil resources will be seriously impaired and the small independent oil exploration and production companies will be cut off from their present vital Midwest markets; and

WHEREAS, the declared policy of the Canadian Government is to expand exports to the United States, and particularly the midwestern marketing area of Canadian crude oil by many thousands of barrels of oil per day and such would seriously affect the domestic petroleum industry serving these same marketing areas;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-seventh Legislative Assembly of the state of North Dakota urge the Honorable Stewart L. Udall, Secretary of the United States Department of the Interior, in the

furtherance of established policy on national security, follow an import policy to preserve and strengthen the domestic exploration and development of natural resources of oil and gas with the view of sustaining and increasing conditions of growth for the Williston basin.

Filed March 8, 1961.

SENATE MEMORIAL RESOLUTIONS

SENATE MEMORIAL RESOLUTION No. 1,000

(Holand, Garaas, Erickstad, Fiedler)

JOSEPH A. DONAHUE

A memorial resolution in memory of Joseph A. Donahue.

WHEREAS, Almighty God in His infinite wisdom has called from our midst a friend and an outstanding citizen of this state, Joseph A. Donahue of Bismarck; and

WHEREAS, as director of the legislative research committee from 1947 through 1950 he not only performed outstanding service to the legislative assembly and the citizens of the state, but also became the personal friend of the members serving during this period; and

WHEREAS, as the representative of the North Dakota Bar Association on the Subcommittee on Judiciary and Code Revision from 1953 through 1960, without remuneration and at a personal sacrifice, he gave unlimited time and effort toward improving the laws of the state with the result that today the fruits of his work are to be found almost everywhere throughout the North Dakota Century Code;

Now, Therefore, Be It Resolved by the Senate of the Thirty-seventh Legislative Assembly of the State of North Dakota:

That on behalf of the citizens of this state, it expresses its deepest appreciation for the valuable and outstanding contributions to the state of North Dakota that have been made by Joseph A. Donahue, and hereby expresses the heartfelt sympathy of its members to his widow and daughter; and

Be It Further Resolved, that the secretary of state forward a properly enrolled copy of this resolution to his widow Mrs. Joseph A. Donahue and his daughter Mary Donahue.

Filed February 6, 1961.

SENATE MEMORIAL RESOLUTION No. 1001
(Committee on Senate Memorial Resolutions)

DECEASED MEMBERS

A memorial resolution for deceased members of the senate of the state of North Dakota.

WHEREAS, since the adjournment of the Thirty-sixth Legislative Assembly, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

Walter R. Blume, who served in the thirty-first and the thirty-second legislative assemblies from the twenty-ninth legislative district, died March 18, 1960.

J. E. Davis, who served in the eleventh to the fourteenth legislative assemblies, inclusive, from the thirty-fifth legislative district, died June 8, 1959.

G. F. Drew, who served in the twenty-third to the thirtieth legislative assemblies, inclusive, from the twenty-first legislative district, died June 8, 1960.

John H. Dyste, who served in the ninth and the tenth legislative assemblies from the thirteenth legislative district, died May 21, 1960.

C. E. Erickson, who served in the seventeenth and the nineteenth legislative assemblies in the house of representatives and who, subsequently, served as a member of the senate in the twentieth to the twenty-third legislative assemblies, inclusive, from the fortieth legislative district, died March 20, 1959.

Edward Greene, who served in the twenty-third and twenty-fourth legislative assemblies from the twenty-third legislative district, died May 1, 1959.

P. A. Peterson, who served in the twenty-ninth and thirtieth legislative assemblies from the forty-ninth legislative district, died November 14, 1960.

Joseph A. Reinke, who served in the twenty-ninth to the thirty-second legislative assemblies, inclusive, from the thirty-seventh legislative district, died October 6, 1959.

Herman Thorson, who served in the twenty-first to the twenty-sixth legislative assemblies, inclusive, from the forty-ninth legislative district, died December 12, 1960.

William H. Tuff, who served in the twenty-fourth to the twenty-ninth legislative assemblies, inclusive, in the house of representatives and who, subsequently, served as a member of the senate in the thirtieth and thirty-first legislative assemblies from the forty-second legislative district, died April 20, 1960.

WHEREAS, today, we as members of the Senate of the Thirty-seventh 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-seventh Legislative Assembly of the State of North Dakota:

That we express our keen sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of these, our former colleagues.

Be It Further Resolved, that for the perpetuation of their memory, this token of respect and sympathy by their successors in trust be printed in the journal of the senate and that duly enrolled copies of this resolution be presented by the secretary of state to the surviving families of these deceased senators.

Filed February 25, 1961.