APPROPRIATIONS

CHAPTER 1

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

BUDGET

AN ACT

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

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, 1959, and ending June 30, 1961, to-wit:

§ 3. Appropriations.)

Subdivision 1.

Executive Office

Salary—governor	$ 20,000.00
Clerkhire:	
Secretary and other employees	26,880.00
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
Social security	944.00
Old age and survivor insurance	1,050.00
Total	$ 66,174.00

Subdivision 2.

Lieutenant Governor

Salary—lieutenant governor	$ 3,200.00
Social security	80.00
Old age and survivor insurance	112.00
Total	$ 3,392.00

Subdivision 3.

Supreme Court

Salary—5 judges of supreme court	$140,000.00
Clerk of supreme court	10,500.00
Deputy clerk	8,800.00
Judges' stenographers and secretaries	39,000.00
Miscellaneous	2,000.00
Postage, supplies, printing, furniture and fixtures	6,500.00
Travel expense	1,000.00
Social security	2,000.00
Retirement, supreme court judges	16,500.00
Old age and survivor insurance	2,565.00
Total	$228,865.00

Subdivision 4.

Supreme Court Reporter and Law Librarian

Salary	$ 12,000.00
Postage, supplies, printing, furniture and fixtures	1,500.00
Miscellaneous	600.00
Purchase of books, periodicals, etc.	7,500.00
Purchase of out-of-state reports	4,000.00
Old age and survivor insurance	320.00
Travel—out of state	500.00
Total	$ 26,420.00

Subdivision 5.

Judges of District Court

Salary—16 judges	$384,000.00
Expenses	20,000.00
Retirement of district judges	36,000.00
Social security	336.00
Old age and survivor insurance	815.00
Total	$441,151.00

Subdivision 6.

Secretary of State

Salary—secretary of state	$ 12,000.00
Salary—deputy	11,130.00
Clerkhire	43,470.00
Postage, supplies, printing, furniture and fixtures	18,600.00
Legislative assistance	1,000.00
Miscellaneous	1,500.00
Travel expense	1,500.00
Social security	2,000.00
Old age and survivor insurance	1,870.00
Total	$ 93,070.00

Subdivision 6A.

Secretary of State—Public Printing

Legal notices	$ 1,200.00
1959 session laws	17,000.00
Tabulation, abstracts, etc.	1,300.00
Postage, publicity pamphlet	8,000.00
Binding public documents	3,600.00
Publicity pamphlet, printing	22,000.00
Total	$ 53,100.00

Subdivision 7.

State Auditor

Salary—state auditor	$ 12,000.00
Salary—deputy	11,130.00
Clerkhire	63,000.00
Postage, supplies, printing, furniture and fixtures	10,000.00

Travel expense	3,000.00
Miscellaneous	2,300.00
Supplies for departments and counties	1,500.00
Oleomargarine stamps	2,000.00
Social security	1,904.00
Old age and survivor insurance	3,300.00
Total	$110,134.00

Subdivision 8.

State Treasurer

Salary—state treasurer	$ 12,000.00
Salary—deputy	11,130.00
Clerkhire	75,625.00
Postage, supplies, printing, furniture and fixtures	9,320.00
Miscellaneous	3,380.00
Bond premium	2,000.00
Travel expense	2,350.00
Liquor stamps	18,000.00
Social security	2,585.00
Old age and survivor insurance	2,855.00
Total	$139,245.00

Subdivision 9.

Commissioner of Insurance

Salary—commissioner	$ 12,000.00
Salary—deputy	11,130.00
Clerkhire	60,000.00
Postage, supplies, printing, furniture and fixtures	16,000.00
Miscellaneous	2,250.00
Investigation of unauthorized companies	1,500.00
Travel expense	5,000.00
Domestic and convention examiners	42,000.00
IBM expense	500.00
Old age and survivor insurance	4,600.00
Social security	1,440.00
Total	$156,420.00

Subdivision 9A.

State Fire Marshal
(Commissioner of Insurance)

Salary—deputy fire marshals	$ 25,200.00
Clerkhire	8,400.00
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
Social security	880.00
Old age and survivor insurance	1,550.00
Total	$ 56,405.00

Subdivision 10.

Attorney General

Salary—attorney general	$ 17,000.00
Salary—assistant attorneys general	117,600.00
Salary for oil and gas attorney	15,000.00
Clerkhire	36,540.00
Postage, supplies, printing, furniture and fixtures	6,000.00
Miscellaneous	3,200.00
Travel expense	5,000.00
Library	3,200.00
Miscellaneous court cases	7,500.00
Social security	4,000.00
Old age and survivor insurance	6,125.00
Total	$221,165.00

Subdivision 11.

Department of Public Instruction

Salary—superintendent	$ 14,400.00
Clerkhire (including deputy)	151,000.00
Travel expense	12,000.00
Postage, supplies, printing, furniture, fixtures and express	50,000.00
Course of study and bulletin No. 5	20,000.00
Compilation and publication of elementary North Dakota agricultural textbook	5,000.00
High school and 8th grade examinations	15,000.00

Teachers insurance and retirement	2,700.00
Teachers meetings	1,500.00
Miscellaneous	5,000.00
Social security	5,000.00
Old age and survivor insurance	9,350.00
Total	$290,950.00

Subdivision 12.

Department of Agriculture and Labor

Salary—commissioner	$ 12,000.00
Salary—deputy (labor)	11,130.00
Salary—deputy (dairy)	11,130.00
Clerkhire	126,950.00
Postage, supplies, printing, furniture and fixtures	26,900.00
Miscellaneous	4,240.00
Travel expense	44,500.00
Hearings	1,000.00
Auto exchange	1,700.00
Social security	5,500.00
Predatory animal and rodent control	101,500.00
Stem rust control, nursery inspection and quarantine enforcement	14,000.00
Market news service	4,500.00
Old age and survivor insurance	6,335.00
Total	$371,385.00

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	228,000.00
Postage, supplies, printing, furniture and fixtures	14,400.00
Miscellaneous	7,000.00

Travel expense, car exchange	41,000.00
Workmen's compensation	600.00
Handling interstate commerce commission cases, and cases before federal power commission, federal communication commission, and national association of railroad and utilities commissioners	20,000.00
Research data	750.00
Social security	5,355.00
BTU gas analysis as per commissioner's order (Department of Weights and Measures)	300.00
Salary—chief inspector	10,000.00
License plates, seals, etc.	3,500.00
Field testing equipment	5,500.00
Refunds	125.00
Trucks and maintenance	12,000.00
Old age and survivor insurance	8,525.00
Total	$389,055.00

Subdivision 13a.

Public Service Commission
(Utility Valuation)

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

Subdivision 13b.

Public Service Commission
(Auto Transportation)

Clerkhire	$ 46,900.00
Postage, supplies, printing, furniture and fixtures	5,600.00
Miscellaneous	1,500.00
Travel expense	13,800.00
Workmen's compensation	160.00
Refunds	1,000.00
Social security	1,295.00
Old age and survivor insurance	1,730.00
Total	$ 71,985.00

Subdivision 14.

Aeronautics Commission

Salary—director	$ 13,200.00
Commissioners per diem and clerkhire	25,240.00
Travel expense	7,000.00
Supplies, postage and sign fixtures	4,500.00
Fixed charges, maintenance and miscellaneous	8,000.00
Social security	880.00
Old age and survivor insurance	1,170.00
Rent—office quarters	3,000.00
Total	$ 62,990.00

Subdivision 15.

State Land Commissioner

Salary—commissioner	$ 12,600.00
Salary—deputy	11,130.00
Clerkhire	94,500.00
Postage, supplies, printing, furniture and fixtures	8,500.00
Miscellaneous	800.00
Travel expense	15,000.00
Leasing	2,500.00
Premium on bonds	500.00
Surveying	500.00
Fieldmen's salaries	30,240.00
Social security	3,500.00
Contingent	15,000.00
Old age and survivor insurance	6,000.00
Total	$200,770.00

Subdivision 16.

State Tax Commissioner

Salary—tax commissioner	$ 12,000.00
Salary—deputy	11,130.00
Clerkhire (includes office force, deputies and field auditors)	482,600.00
Postage, supplies, printing, furniture and fixtures	140,000.00
Miscellaneous	14,000.00
Travel expense—field auditors	70,000.00
Revenue stamps	27,000.00
Travel expense—department general	2,000.00

Social security	12,900.00
Microfilming records	5,000.00
Old age and survivor insurance	16,625.00
Total	$793,255.00

Subdivision 17.

Board of Administration

Salary—chairman and members	$ 39,600.00
Other employees	350,340.00
Capitol maintenance	190,000.00
Postage, supplies, printing, furniture and fixtures	9,000.00
Travel expense	6,000.00
Radio broadcasting	135,360.00
Old age and survivor insurance	14,430.00
Fill sloughs, parking area extension, blacktop and sidewalk	50,000.00
Elevator	105,000.00
Water piping	50,000.00
Car for governor	4,500.00
Cafeteria	12,000.00
Total	$966,230.00

Subdivision 18.

State Seed Department

Seed analyst	$ 10,900.00
Assistant seed analysts	30,000.00
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	$ 49,850.00

Subdivision 19.

State Industrial Commission

Clerkhire	$ 840.00
Postage, supplies, printing, furniture and fixtures	250.00
Miscellaneous	100.00
Contribution to interstate oil compact commission	1,500.00
Total	$ 2,690.00

Subdivision 20.

State Library Commission

Salary—director	$ 11,000.00
Clerkhire	60,000.00
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
Social security	2,000.00
Old age and survivor insurance	3,730.00
Expense for further extension of rural library services	43,304.00
Total	$153,234.00

Subdivision 21.

State Printer

Salary—state printer	$ 11,000.00
Clerkhire	6,000.00
Postage, supplies, printing, furniture and fixtures	1,500.00
Travel expense	300.00
Miscellaneous	275.00
Social security	400.00
Old age and survivor insurance	630.00
Total	$ 20,105.00

Subdivision 22.

Adjutant General

Salary—adjutant general and assistants	$ 19,600.00
Clerkhire	26,000.00
Postage, supplies, printing, furniture and fixtures	3,000.00
Miscellaneous	800.00
Travel expense	600.00
Old age and survivor insurance	6,000.00
Social security	1,600.00
Total	$ 57,600.00

Subdivision 22a.

National Guard

Maintenance of the national guard	$272,760.00
Total	$272,760.00

Subdivision 23.

Legislative Research Committee

Committee operation and research	$ 60,000.00
Statutory revision	23,000.00
Expenses, additional legislators on subcommittees	12,000.00
Old age and survivor insurance	1,700.00
Preparation and publication of session laws and statutes	5,300.00
Oil and gas study	10,000.00
Tax research study	30,000.00
Total	$142,000.00

Subdivision 24.

37th Legislative Assembly

Mileage and per diem—members	$ 78,000.00
Per diem—employees	60,000.00
Printing	85,000.00
Miscellaneous	12,000.00
Expense—members	194,400.00
Janitor service and engineering	3,750.00
Total	$433,150.00

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.

State Budget Director

Salary—budget director and clerkhire	$ 24,150.00
Travel and maintenance expense	2,400.00
Postage, supplies, printing, furniture and fixtures	3,000.00
Miscellaneous	90.00
Technical assistance	1,100.00
Social security	530.00
Old age and survivor insurance	815.00
Total	$ 32,085.00

Subdivision 28.

Reward for Apprehension of Criminals

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

Subdivision 29.

State Examiner

Salary—state examiner	$ 16,000.00
Clerkhire	250,000.00
Postage, supplies, printing, furniture and fixtures	7,000.00
Miscellaneous	3,000.00
Travel expense	65,000.00
State banking board	700.00
State credit union board	500.00
Social security	5,000.00
Old age and survivor insurance system	8,750.00
Total	$355,950.00

Subdivision 29A.

State Securities Commissioner

Salary—commissioner	$ 20,000.00
Deputy	12,000.00
Clerkhire	9,000.00
Miscellaneous expenses	4,800.00
Oil and gas broker	500.00
Old age and survivor insurance	990.00
Social security	710.00
Total	$ 48,000.00

Subdivision 30.

State Board of Higher Education

Salary—commissioner	$ 27,000.00
Salary—employees	37,900.00
Postage, supplies, printing, furniture and fixtures	3,405.00
Miscellaneous	2,387.00
Travel expense	5,000.00
Members—per diem	7,000.00
Members—travel	7,000.00
Old age and survivor insurance	1,500.00
Total	$ 91,192.00
Grand total	$6,450,127.00

§ 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, 1959.

CHAPTER 2

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

SCHOOL FOR THE BLIND

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, and miscellaneous items of the school for the blind at Bathgate, North Dakota, and making a supplemental appropriation for the construction of the school for the blind provided for in the initiated measure which was approved in June, 1958.

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 Bathgate, North Dakota, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salaries and wages, teachers retirement fund and social security	$129,210.00
Old age and survivor insurance	3,000.00
Operating expense	41,850.00
Improvements and repairs	5,000.00
Equipment	4,000.00
Miscellaneous items	1,800.00
Weekly medical visitation to institution	1,500.00
Total	$186,360.00

§ 2. Supplemental Appropriation for Construction of School for the Blind at Grand Forks.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of one hundred thousand dollars or so much thereof as may be necessary for the purpose of supplementing the appropriation made by the initiated measure which was number three on the ballot and passed at the June 24, 1958 primary election for the construction of a state school for the blind. Such funds shall be expended in accordance with the provisions of such initiated measure.

Approved March 16, 1959.

CHAPTER 3

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

SCHOOL FOR DEAF

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, and equipment of the school for the deaf at Devils Lake, North Dakota.

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 other-

wise 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 biennum beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salaries and wages	$349,187.00
Social security	10,500.00
Teachers retirement	3,300.00
Old age and survivor insurance	6,958.00
Operating expense	118,100.00
Improvements and repairs	17,000.00
Equipment	18,550.00
Total	$523,595.00

Approved March 10, 1959.

CHAPTER 4

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

GRAFTON STATE SCHOOL

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous items, 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. Appropriations 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, and special projects for the Grafton state school at Grafton, North Dakota, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salaries, wages, teachers retirement, old age and survivor insurance and social security	$2,124,110.91
Operating expense	832,000.00
Improvements and repairs	48,700.00

Equipment	55,775.00
Miscellaneous items	15,500.00
Special projects:	
1. New greenhouse	18,000.00
2. New potato house with refrigeration equipment	40,000.00
3. New roof for North A. building	3,000.00
4. Fire escapes for North A. building	12,000.00
Total	$3,149,085.91

Approved March 14, 1959.

CHAPTER 5

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

TUBERCULOSIS SANATORIUM

AN ACT

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

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

§ 1. Appropriation for the State Tuberculosis Sanatorium.) The sums hereafter named, derived from 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, 1959, and ending June 30, 1961, to-wit:

Salaries and wages:	
1. Salary, superintendent	$ 28,000.00
2. Wages and operating expense	1,227,168.51
3. Old age and survivor insurance	41,493.84
4. Social security	26,058.65
Improvements and repairs	25,000.00
Equipment	25,000.00
Total	$1,372,721.00

Approved March 14, 1959.

CHAPTER 6

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

STATE HOSPITAL

AN ACT

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

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

§ 1. Appropriation for the State Hospital.) The sums hereafter named, derived from 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, 1959, and ending June 30, 1961, to-wit:

1. Salaries	$3,258,445.00
2. Social security	87,462.00
3. Old age and survivor insurance	99,957.00
4. Pensions	14,758.00
Operating expense	1,520,975.00
Nursing school:	
1. Salaries	48,696.00
2. Operating expense	5,200.00
Tranquilizing drugs	74,000.00
Special projects:	
1. Improvements and repairs	125,000.00
2. Patients' room furnishings	21,500.00
3. Razing building	2,000.00
4. Motor vehicle equipment	8,000.00
5. Business office equipment	4,560.00
6. Farm equipment	8,000.00
7. Medical equipment	2,065.00
8. Power house and maintenance equipment	8,465.00
9. Kitchen equipment	3,515.00
10. Housekeeping equipment	11,720.00
11. Medical center service elevator	35,000.00

New buildings:

1. All faiths church	175,000.00
2. Farm cottage	14,000.00
3. General warehouse	89,600.00
Total	$5,617,918.00

Approved March 17, 1959.

CHAPTER 7

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

STATE TRAINING SCHOOL

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous, new buildings and special projects for the state training school at Mandan, North Dakota and declaring an emergency in regard to section 2 of the bill.

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, an amount equal to $180,000 from the state equalization fund, 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 buildings and special projects for the state training school at Mandan, North Dakota, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salaries and wages:	
Salary, superintendent, secretary-treasurer, psychologist, other employees, student wages, teachers retirement fund, and social security	$441,656.00
Salary adjustment in lieu of sustenance allowance	41,420.00
Operating expense	307,900.00
Old age and survivor insurance	15,000.00
Improvements and repairs	28,750.00
Equipment	60,100.00
Miscellaneous	9,100.00

New buildings and special projects:

1. Addition to Dakota Hall	50,000.00
2. New tables and chairs—Dakota Hall	3,000.00
3. Laundry drying tumbler	1,745.00
4. Flatwork ironer	8,030.00
Total	$966,701.000

§ 2. Appropriation.) There is hereby appropriated out of any money in the state school construction fund, as created under the provisions of chapter 15-60 of the 1957 Supplement to the North Dakota Revised Code of 1943, the sum of four hundred twenty-five thousand dollars or so much thereof as may be necessary for the construction of an administration and education building at the state training school at Mandan, North Dakota.

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

Approved March 17, 1959.

CHAPTER 8

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

STATE PENITENTIARY

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous, new building 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, new building and special projects, of the state penitentiary, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salaries and wages:	
Salary, warden and other employees, retirement pay, social security, old age and survivor insurance	$ 651,062.00
Operating expense (includes dental and optical work)	340,000.00
Improvements and repairs	45,000.00
Equipment	25,600.00
Miscellaneous (rent of land)	5,000.00
New building and special projects:	
1. New cell house and enclosure	800,000.00
2. New boiler	50,000.00
3. New water line to dairy barn	15,000.00
State Parole Officer:	
1. Salary of parole officer, assistant parole officers and other expense	109,947.00
State Bureau of Criminal Identification	43,968.00
Total	$2,085,577.00

Approved March 17, 1959.

CHAPTER 9

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

NORTH DAKOTA STATE FARM

AN ACT

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

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

§ **1. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of $100,000.00, 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, 1959, and ending June 30, 1961. 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 Revised Cole of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 10, 1959.

CHAPTER 10

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

TAG AND SIGN PLANT

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated the sum of $400,000.00 out of the miscellaneous earnings fund, or so much thereof as may be necessary to pay the general maintenance and operation of the tag and sign plant at the state penitentiary for the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 10, 1959.

CHAPTER 11

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

NORTH DAKOTA TWINE AND CORDAGE PLANT

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury in the twine plant operating fund, the sum of $1,974,737.59, 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, 1959, and ending June 30, 1961, to-wit:

Salaries and wages:

1.	Salaries and wages	$ 164,736.00
2.	Social security	5,276.11

3. Old age and survivor insurance	5,325.48
4. Other expense	35,400.00
Operating expense	1,293,000.00
Improvements and repairs	6,000.00
Equipment	26,000.00
Miscellaneous	439,000.00
Total	$1,974,737.59

Approved March 10, 1959.

CHAPTER 12

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

STATE AUDITOR—GASOLINE TAX DIVISION

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of the motor vehicle fuel taxes collected under section 57-4106 of the 1957 Supplement to the North Dakota Revised Code of 1943, not otherwise appropriated, the sum of $246,000.00, 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, 1959, and ending June 30, 1961, to-wit:

Clerkhire	$131,250.00
Postage, supplies, printing, furniture and fixtures	25,000.00
Miscellaneous	3,500.00
Emergency	20,000.00
Travel expense	18,000.00
Refund enforcement	40,000.00
Social security	3,435.00
Old age and survivor insurance	4,815.00
Total	$246,000.00

Approved March 9, 1959.

CHAPTER 13

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

ATTORNEY GENERAL—LICENSING DEPARTMENT

AN ACT

Making an appropriation for the enforcement and administration of the attorney general licensing department.

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

§ 1. Appropriation.) There is hereby appropriated out of the general fund in the state treasury, the sum of $121,935.00, or so much thereof as may be necessary for salaries and general expenses for the attorney general licensing department as provided for in chapter 53-06 as amended, of the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Clerkhire and inspectors	$ 75,300.00
Postage, supplies, printing, furniture and fixtures	4,500.00
Travel expense	28,000.00
Miscellaneous	2,200.00
Hearing expense	7,500.00
Social security	1,700.00
Refunds	100.00
Old age and survivor insurance	2,635.00
Total	$121,935.00

Approved March 16, 1959.

CHAPTER 14

S. B. No. 14
(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 $300,800.00, 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 15-4003 of the North Dakota Revised Code of 1943, as amended, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Vocational agriculture	$122,500.00
Vocational home economics	130,000.00
Business education	20,000.00
Trade and industrial education	26,000.00
Old age and survivor insurance	2,300.00
Total	$300,800.00

Approved March 10, 1959.

CHAPTER 15

S. B. No. 15
(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, 1959, and ending June 30, 1961, to-wit:

State Equalization Fund—Administration and State Aid

Salary—director and clerkhire	$ 33,025.00
Postage, supplies, printing, furniture and fixtures	5,000.00
Travel expense	2,000.00
Emergency	1,100,000.00
High school tuition	7,450,000.00
Elementary aid	6,075,000.00
Division guidance and testing services	28,000.00
High school aid	3,750,000.00

Teacher Preparation Scholarships

Administration	5,000.00
Scholarships	190,800.00

Agricultural and Training Schools

Benson County—Maddock	17,500.00
Walsh County—Park River	25,000.00
Old age and survivor insurance	1,800.00
Total	$18,683,125.00

Approved March 21, 1959.

CHAPTER 16

S. B. No. 16
(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 $41,550.00, 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 1957 Supplement to the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

State and county committees	$ 15,000.00
Clerkhire	20,400.00
Miscellaneous	1,000.00
Old age and survivor insurance	350.00
Travel expense	4,800.00
Total	$ 41,550.00

Approved March 5, 1959.

CHAPTER 17

S. B. No. 17
(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 $365,000.00 for the special education of exceptional children under the sole supervision of the superintendent of public instruction, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salary—director	$ 14,720.00
Clerkhire and all other operating expense	350,280.00
Total	$365,000.00

Approved March 5, 1959.

CHAPTER 18

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

STATE SCHOOL CONSTRUCTION FUND AND BOARD EXPENSE

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 $25,350.00, 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 1957 Supplement to the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 5, 1959.

CHAPTER 19

S. B. No. 19
(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, 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 public welfare fund in the state treasury, the sum of $327,108.00, 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, 1959, and ending June 30, 1961, to-wit:

Vocational rehabilitation—state matching	$268,778.00
Talking book program for blind	4,900.00
Governor's committee on employment of the physically handicapped	6,400.00
Old age and survivor insurance	2,330.00
Home teacher for blind and home disabled	12,700.00
Screening tests for glaucoma	1,000.00
Emergency (to be made available immediately on passage)	31,000.00
Total	$327,108.00

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

Approved March 5, 1959.

CHAPTER 20

S. B. No. 20
(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 $40,470.00, 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 1957 Supplement to the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salaries and other expenses of the director	$ 40,000.00
Old age and survivor insurance	470.00
Total	$ 40,470.00

Approved March 17, 1959.

CHAPTER 21

S. B. No. 21
(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 $610,360.00, 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 Revised Code of 1943 as amended, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Administration	$ 21,000.00
Deputy commissioners	54,000.00
Clerks, stenographers, etc.	50,000.00
Field supervising inspectors	18,700.00
Inspectors	182,500.00
Postage, supplies, printing, furniture and fixtures	19,500.00
Miscellaneous	15,000.00
Advertising and research	50,000.00
Travel expense	75,000.00
Test plots	15,000.00
Tags and seals	22,000.00
Production and marketing administration	14,000.00
Compiling reports	1,000.00
Automobiles	6,000.00
Rent	5,000.00
Emergency	50,000.00
Old age and survivor insurance	11,660.00
Total	$610,360.00

Approved February 19, 1959.

CHAPTER 22

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

STATE EXAMINER—CLOSED BANK FUND

AN ACT

Making an appropriation to carry out the provisions of chapter 6-07 of the 1957 Supplement to the North Dakota Revised Code of 1943 for the closed bank fund.

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

§ 1. Appropriation.) There is hereby appropriated out of the closed bank fund in the state treasury, the sum of $4,500.00, or so much thereof as may be necessary to carry out the provisions of chapter 6-07 of the 1957 Supplement to the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 14, 1959.

CHAPTER 23

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

NATIONAL CONVENTION DELEGATES

AN ACT

Making an appropriation for the payment of expenses of delegates to national conventions of political parties recognized as such by the laws of the state of North Dakota.

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

§ 1. Appropriation.) There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of $6,000.00 to pay the expenses of delegates to national political conventions in accordance with the provisions of section 16-17181 of the 1957 Supplement to the North Dakota Revised Code of 1943, in the amount audited by the state auditing board.

Approved March 14, 1959.

CHAPTER 24

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

PRESIDENTIAL ELECTORS

AN ACT

Making an appropriation to pay the expenses and per diem of presidential electors.

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 $600.00 for the biennium, or so much thereof as may be necessary to pay the expenses and per diem of presidential electors as provided for in section 16-1605 of the North Dakota Revised Code of 1943.

Approved March 14, 1959.

CHAPTER 25

S. B. No. 25
(Committee on Appropriations)

POULTRY IMPROVEMENT BOARD

AN ACT

Making an appropriation for the operation, maintenance and miscellaneous expenses of the poultry improvement board and providing for a deficiency appropriation 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 in the poultry improvement fund, the sum of $120,700.00, 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, 1959, to June 30, 1961, to-wit:

Salary—executive secretary	$ 10,700.00
Clerkhire	10,000.00
Postage, supplies, printing, furniture and fixtures	4,300.00

Miscellaneous	3,000.00
Travel expense	2,000.00
Compensation and expense—board members	1,200.00
Tags, bands and antigen	3,500.00
Bureau of agriculture economics	1,000.00
Fieldmen	80,000.00
Emergency	1,000.00
Old age and survivor insurance	4,000.00
Total	$120,700.00

§ 2.) There is hereby appropriated out of any moneys in the state treasury in the poultry improvement fund not otherwise appropriated the sum of $27,200.00, or so much thereof as is necessary to take care of the deficiency incurred in the 1957-1959 biennium for the operation, maintenance and miscellaneous expenses of the poultry improvement board.

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

Approved March 9, 1959.

CHAPTER 26

S. B. No. 26
(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 $564,400.00, 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, 1959, and ending June 30, 1961, to-wit:

Salary—manager	$ 11,400.00
Clerkhire	94,500.00
Salary—inspectors and adjusters	42,000.00
Travel—inspectors and adjusters	45,000.00
Travel—office	8,000.00

Postage, supplies, printing, furniture and fixtures	24,000.00
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
Social security	5,000.00
Assistant attorney general salary	2,400.00
Old age and survivor insurance	6,000.00
Total	$564,400.00

Approved March 5, 1959.

CHAPTER 27

S. B. No. 27
(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, 1959, and ending June 30, 1961, to-wit:

Salaries	$ 27,200.00
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
Social security	1,260.00
Examination fee	500.00
Old age and survivor insurance	2,240.00
Total	$109,380.00

Approved March 10, 1959.

CHAPTER 28

S. B. No. 28
(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, 1959, and ending June 30, 1961, to-wit:

Salaries	$ 12,600.00
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
Social security	330.00
Examination fee	500.00
Old age and survivor insurance	528.00
Total	$ 23,638.00

Approved March 10, 1959.

CHAPTER 29

S. B. No. 29
(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 $346,580.00, 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 Revised Code of 1943 as amended, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salaries and miscellaneous expenses	$270,580.00
Remodel Francis Hall	76,000.00
Total	$346,580.00

The appropriation made herein for remodeling Francis Hall shall be expended in accordance with instructions and under the supervision of the state board of higher education.

Approved March 16, 1959.

CHAPTER 30

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

THE BANK OF NORTH DAKOTA

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the Bank of North Dakota.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury in the Bank of North Dakota

Fund created by transfer of profits from said institution, and by transfer of proper portions of collections of fees, interest, rents and royalties in the collection and land department of the bank, the sum of $798,960.00, 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, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Banking Department

Administrative expense	$387,300.00
General expense	114,400.00
Examination and legal expense	24,000.00
Building and maintenance	28,200.00
Emergency	25,000.00
Social security	15,000.00
Old age and survivor insurance	16,000.00
Agricultural and industrial development department	25,000.00
Total	$634,900.00

Collection and Land Department

Administrative expense	$ 85,180.00
General expense	13,800.00
Field supervisors	
1. Fieldmen	3,000.00
2. Travel expense	4,000.00
Examination and legal expense	20,000.00
Social security	2,200.00
Oil leasing, etc.	10,000.00
Old age and survivor insurance	4,000.00
Total	$142,180.00

Judge A. M. Christianson Project

Administrative Expense	$ 12,300.00
General expense	2,800.00
Payment to school districts in lieu of taxes	3,000.00
Emergency	3,000.00
Social security	330.00
Old age and survivor insurance	450.00
Total	$ 21,880.00
Grand total	$798,960.00

Approved March 16, 1959.

CHAPTER 31

S. B. No. 31
(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 $3,037,600.00, 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, 1959, and ending June 30, 1961, to-wit:

Manufacturing expense	$ 980,800.00
Selling and delivery expense	540,900.00
Administration expense	137,050.00
General expense	201,400.00
Elevator department	285,600.00
Feed mill department	558,300.00
State local elevator	159,050.00
Audit fees	15,000.00
Emergency fund	159,500.00
Total	$3,037,600.00

Approved March 17, 1959.

CHAPTER 32

S. B. No. 32
(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 old age and survivor insurance system fund, not otherwise appropriated, the sum of $47,602.16, 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, 1959, and ending June 30, 1961, to-wit:

Personal services	$ 30,778.50
Postage, supplies, printing and binding	5,728.30
Furniture and fixtures	1,542.05
Travel expense	1,500.00
Miscellaneous	2,130.90
Audit	3,000.00
Rent of premises	998.75
Old age and survivor insurance	1,923.66
Total	$ 47,602.16

Approved March 14, 1959.

CHAPTER 33

S. B. No. 33
(Committee on Appropriations)

STATE OFFICERS' EXPENSE PAYMENTS

AN ACT

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

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 one public service commissioner, in order to properly discharge their official duties shall each of them be paid the sum of $1,500.00 for each calendar years of 1959 and 1960 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 two public service commissioners, whose terms have not expired, in order to properly discharge their official duties shall be paid the sum of $2,500.00 each for each of the calendar years 1959 and 1960 for expenses and moneys expended while engaged in the discharge of official duties, 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 $40,000.00, or so much thereof as may be necessary to carry out the provisions of this Act.

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

Approved March 13, 1959.

CHAPTER 34

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

ELECTED STATE OFFICIALS, DEFICIENCY SALARIES

AN ACT

Making an appropriation for the deficiency in salaries of the elected state officials of the state of North Dakota for the last six months of the biennium ending June 30, 1959; and declaring an emergency.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of $5,240.00, or so much thereof as may be necessary, for the payment of the deficiency in salaries of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, commissioner of insurance, attorney general, superintendent of public instruction, commissioner of agriculture and labor, and one public service commissioner, for the last six months of the biennium ending June 30, 1959; said appropriations being in the amounts and for the respective state officials as follows:

Governor	$ 500.00
Lieutenant governor	300.00
Social security for lieutenant governor	40.00
Secretary of state	500.00
State auditor	500.00
State treasurer	500.00
Commissioner of insurance	500.00
Attorney general	500.00
Superintendent of public instruction	900.00
Commissioner of agriculture and labor	500.00
One public service commissioner	500.00
Total	$5,240.00

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

Approved March 13, 1959.

CHAPTER 35

S. B. No. 35
(Committee on Appropriations)

BOUNTY PAYMENTS

AN ACT

Making an appropriation for the purpose of paying the wolf, coyote, fox, bobcat and magpie bounty.

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 bounty fund the sum of $110,000.00, or so much as may be necessary for the purpose of paying the wolf, coyote, fox, bobcat, and magpie bounty for the period beginning July 1, 1959, and ending June 30, 1961. If such appropriation becomes insufficient to pay such bounty claims, there is hereby appropriated an additional $25,000.00 out of any moneys in the state treasury in the general fund, or so much thereof as may be necessary, to pay the balance of such bounty claims.

Approved March 14, 1959.

CHAPTER 36

S. B. No. 36
(Gefreh, Longmire, Luick,)
(Meidinger, Vendsel and Wartner)
(From LRC Study)

GOVERNMENTAL REORGANIZATION, RECORDS MANAGEMENT STUDY, TRANSFER OF FUNDS

AN ACT

Providing for the implementation of the governmental reorganization by authorizing the emergency commission to transfer funds from departments and agencies relinquishing functions to departments assuming these functions, and by making appropriations for the purpose of establishing and operating a department of accounts and purchases, and declaring an emergency.

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

§ 1. Transfer of Funds.) There is hereby appropriated, and the emergency commission is hereby authorized to transfer

on July 1, 1960, funds previously appropriated from the board of auditors, state auditing board, state budget board and the budget director, state auditor, board of administration, state examiner, and the state printer and printing commission to the state department of accounts and purchases, and the state auditor in order to implement the governmental reorganization plan promulgated by the Thirty-sixth Legislative Assembly which considerably varies the functions of the various state departments and agencies.

§ 2. Appropriations.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of fifty thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the governor for the purpose of establishing, equipping, and operating a department of accounts and purchases, and a sum of thirty-five thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the governor for the purpose of studying and establishing procedures, accounting practices, and the implementation of a program for the department of accounts and purchases, and to provide salaries for the person to be later appointed as director of the department of accounts and purchases and for persons who will later be appointed to other selected positions within the department. The moneys appropriated in this section shall became available for expenditure on July 1, 1959.

§ 3. Records Management and Procedure Study; Appropriation.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of seventy-five thousand dollars or so much thereof as may be necessary for the purpose of conducting a records management study of state government including records creation, maintenance and disposal, simplification of office records and procedures and methods of improving the efficiency thereof, the utilization of office and storage space, and such other matters in relation to these subjects as will improve the efficiency of state government. Such study shall be conducted and supervised by a special study committee consisting of the presiding officers of the senate and the house of representatives, the respective majority and minority floor leaders of the senate and the house of representatives, the chairman of the legislative research committee or a member designated by him, and one member of the senate appointed by the president of the senate and one member of the house of representatives appointed by the speaker. The special committee shall select its own chairman.

The special study committee shall be authorized to negotiate a contract with such person, firm or corporation as it may deem necessary to provide professional assistance in carrying

out the provisions of this Act and to call upon any state agency, department or institution for such aid, information or assistance as it may deem necessary. Prior to the execution of any contract with any person, firm or corporation for professional assistance, the special committee shall consult with the governor for the purpose of coordinating the study provided for in this section with the study provided for in section 2 of this Act relating to the department of accounts and purchases.

The special committee shall be authorized in its discretion to call upon the staff of the legislative research committee to act as secretary of the special committee and to keep its records and accounts, and to reimburse the legislative research committee for its costs in such regard. Members of the special committee shall receive per diem and expense allowances from the appropriation provided herein in the same amount and same manner provided by law for members of the legislative research committee.

The special committee shall be empowered to direct the various departments, agencies and institutions of this state to take immediate action to implement recommendations forthcoming from such study in all cases where such recommendations are not contrary to present law, or impossible of execution under existing laws.

The special committee shall complete its study not later than November 1, 1960, and shall make its report to the Thirty-seventh Legislative Asseembly, which report shall be accompanied by suitable legislation to carry out the recommendations made by the special committee which would require special legislation for their implementation.

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

Approved March 14, 1959.

CHAPTER 37

S. B. No. 50
(Gefreh, Brooks, Erickstad and Holand)
(From LRC Study)

CODE REPUBLICATION

AN ACT

Authorizing the republication of the North Dakota Revised Code of 1943 and providing an appropriation therefor to the secretary of state.

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

§ 1. Republication of the North Dakota Revised Code of 1943.) The legislative research committee and the secretary of state are hereby authorized and directed to negotiate a contract with a private publisher for the republication of the North Dakota Revised Code of 1943 and subsequent pocket part supplements therefor. The legislative research committee shall prescribe the form, style, contents, and general specifications for the republication of the Code, and pocket part supplements, and shall have authority to make such substantive changes in the present law in the republication as is necessary to correct minor errors, to correlate and integrate all the laws, and to eliminate or clarify obviously obsolete or ambiguous sections that exist in the law. Upon completion of the republication the secretary of state shall purchase one thousand complete sets of the republished Code for distribution to the state departments, agencies, officials, and political subdivisions. The secretary of state shall determine what price shall be paid for the republished Code by the political subdivisions.

§ 2. Appropriation.) There is hereby appropriated to the secretary of state out of any moneys in the state treasury not otherwise appropriated, the sum of one hundred fifty thousand dollars or so much thereof as may be necessary to permit the secretary of state to purchase one thousand complete sets of the republished Code from the publisher and to pay the expenses incurred by the legislative research committee in the preparation of copy and supervision of the republication.

Approved March 16, 1959.

CHAPTER 38

S. B. No. 89
(Hernett)

HIGHWAY CONSTRUCTION FUND

AN ACT

Transferring certain moneys to the general fund of this state and making an appropriation to the state highway department from the general fund.

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

§ 1. **Appropriation.)** There is hereby appropriated and transferred from the collection and land department of the Bank of North Dakota to the general fund of the state pursuant to the provisions of section 2 of chapter 82 of the 1953 Session Laws of North Dakota the sum of one million three hundred thousand dollars; and $1,000,000 is hereby appropriated from the general fund to the state highway construction fund for the construction and reconstruction of highways, streets and bridges of the state highway system.

§ 2. **Transfer of Attorney General Licensing Fund.)** All unencumbered balances in the attorney general licensing fund on the effective date of this Act are hereby transferred to the general fund of this state.

§ 3. **Appropriation.)** There is hereby appropriated and transferred to the general fund of this state the sum of $250,000 from the accumulated profits and surplus of the Bank of North Dakota. Such funds shall be transferred during the 1959-61 biennium by order of the industrial commission.

§ 4. **Appropriation.)** There is hereby appropriated and transferred to the general fund of the state of North Dakota the sum of $500,000 from the accumulated profits and surplus of the state mill and elevator association. Such funds shall be transferred during the 1959-61 biennium upon order of the industrial commission.

Approved March 16, 1959.

CHAPTER 39

S. B. No. 108
(Murphy, Gefreh, Fiedler, Livingston,)
(Klefstad, Vendsel and Redlin)

CHILDREN'S PSYCHIATRIC CLINIC

AN ACT

To appropriate money for the creation and development of a children's psychiatric outpatient clinic to be administered by the state board of administration.

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 one hundred and fifty thousand dollars to the state board of administration to be used in the creation and development of a children's psychiatric outpatient clinic which shall be administered by the state board of administration as a part of the state hospital, but which shall be located at such city or place as the board of administration in its discretion shall determine is most necessary and convenient to accomplish 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.

Approved March 17, 1959.

CHAPTER 40

S. B. No. 160
(Erickstad)

SPECIAL ASSESSMENT PAYMENTS TO DEVILS LAKE

AN ACT

Making an appropriation for the purpose of paying special assessments levied against property of the state of North Dakota by the city of Devils Lake.

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

§ 1. Appropriation.) There is hereby appropriated out of the highway construction fund in the state treasury the sum

of thirteen thousand three hundred forty-six dollars for the purpose of paying the city of Devils Lake special assessments levied against property owned by the state highway department, namely: blocks seventy-two, seventy-three, seventy-six and seventy-seven of the original townsite of Devils Lake for sewer and water extensions in Sewer and Water Improvement District Number Four.

Approved March 16, 1959.

CHAPTER 41

S. B. No. 165
(Trenbeath, Wenstrom, Johnson, Meidinger,)
(Roen, Luick, Garaas, Morgan,)
(Murphy, Erickstad and Yunker)

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 two hundred thousand dollars 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 Fund; Transfer of Unused Balance of Prior Appropriations 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 hereto-

fore 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 16, 1959.

CHAPTER 42

S. B. No. 178
(Larson and Trenbeath)

LIGHTING OF STATE CAPITOL BUILDING

AN ACT

Making an appropriation to the state board of administration for the purpose of lighting the exterior of the state capitol building and the capitol grounds.

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the capitol building fund in the state treasury the sum of thirty thousand dollars, or so much thereof as may be necessary, to the state board of administration for the purpose of providing electric lighting for the exterior of the state capitol building and the capitol grounds.

Approved March 16, 1959.

CHAPTER 43

S. B. No. 189
(Committee on Appropriations)

COUNTY REORGANIZATION COMMITTEES

AN ACT

Making an appropriation to pay expenses of county reorganization committees, 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 North Dakota Equalization Fund, not otherwise appropriated, the sum of $3,500 to pay expenses of county

committees on school district reorganization incurred in connection with their activities in reorganization prior to December 31, 1958.

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

Approved March 10, 1959.

CHAPTER 44

S. B. No. 191
(Fiedler)

NATIONAL DEFENSE EDUCATION ACT

AN ACT

To permit North Dakota to take advantage of the National Defense Education Act for the purpose of improving instruction in the state in accordance with the Act, making an appropriation 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 equalization fund in the state treasury, not otherwise appropriated, the sum of $99,000, 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, to-wit:

Salaries	$ 25,000.00
Travel	5,000.00
Clerkhire	10,000.00
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
Social security	1,000.00
Teachers insurance and retirement	1,000.00
Miscellaneous	1,000.00
Total	$ 99,000.00

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

Approved March 16, 1959.

CHAPTER 45

S. B. No. 199
(Gefreh, Paulson, Murphy,)
(Holand and Meidinger)

ARMORY CONSTRUCTION

AN ACT

Providing for an appropriation for armory and military construction purposes.

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

§ 1. **Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of one hundred and seventy-six thousand six hundred ninety-five dollars for the construction, reconstruction, or expansion of armories in the state of North Dakota for the use and occupancy of the federally recognized units of the North Dakota national guard. Such funds shall be disbursed by and under the direction of the state board of armory supervisors of North Dakota, in collaboration with federal and local funds as provided in section 37-1003 of the 1957 Supplement to the North Dakota Revised Code of 1943, except that a sum not to exceed seven thousand five hundred in addition to the amounts provided in section 37-1003 may be made available for the construction of single unit armories if any national guard unit, because of its size or strength, is unable to meet federal requirements for the construction of an armory containing a drill floor of at least 7,000 square feet.

§ 2. **Rehabilitation of Fraine Barracks.)** There is hereby appropriated, from the armory construction fund and the adjutant general is authorized to expend a sum, not to exceed thirty thousand dollars to complete the rehabilitation of Fraine Barracks.

Approved March 10, 1959.

CHAPTER 46

S. B. No. 216
(Wenstrom)

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 three hundred and seventy-five thousand dollars, or so much thereof as may be necessary to construct an office building and shop at Williston, North Dakota, an office building at Devils Lake, North Dakota and four small maintenance storage buildings at sites to be selected by the department.

Approved March 16, 1959.

CHAPTER 47

S. B. No. 293
(Committee on Delayed Bills)

LIGHTING OF SENATE CHAMBERS

AN ACT

Providing an appropriation for improvement of the lighting system in the senate chambers.

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 of this state not otherwise appropriated the sum of three thousand dollars or so much thereof as may be necessary to the state board of administration for the improvement of the lighting system in the senate chamber to be accomplished prior to January 1, 1961.

Approved March 17, 1959.

CHAPTER 48

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

STATE INSTITUTIONS OF HIGHER LEARNING

AN ACT

Making an appropriation for the general maintenance, plant improvements, and new buildings of the state institutions of higher learning of the state of North Dakota, 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	$ 514,554.00
Instruction	4,337,109.00
Libraries	228,320.00
Physical plant operation	1,346,279.00
Total	6,426,262.00
Less estimated income	1,337,500.00
Net appropriation	5,088,762.00
Plant improvements:	
1. Purchase of Richard's property adjacent to campus	26,000.00
2. Complete electrical distribution system (service tunnels)	60,000.00
3. Remodel Oxford House	8,000.00
4. Remodel basement of old commons building	50,000.00
5. Equipment for new men's dormitory (Walsh Hall) (To be made available immediately on passage)	50,000.00
6. Pavement south of engineering building	16,000.00
7. Special assessments	20,500.00

8. Paving University Avenue to serve West Green and Yale Drive	55,000.00
9. One tier of ten stacks for law library	14,000.00
New buildings:	
1. Administration building with furnishings and equipment	850,000.00
2. Chemistry building	750,000.00
Total	$6,988,262.00

Agricultural College

Administration	$ 472,566.00
Instruction	3,902,145.00
Library	149,463.00
Physical Plant	1,334,281.96
Total	5,858,455.96
Less estimated income	1,565,342.96
Net appropriation	4,293,113.00
Plant improvements:	
1. Restore Ladd Hall (chemistry)	50,000.00
2. Water line for West Campus	68,000.00
3. Street paving, west and north	85,000.00
4. Complete exterior, agricultural engineering	20,000.00
5. Dormitory furnishings	50,000.00
New building:	
1. Pharmacy building	550,000.00
Total	$5,116,113.00

Agricultural College—Experiment Station

Main station appropriation	$1,276,231.00
1. Fertilizer soil testing	11,751.00
2. Irrigation soil survey	60,000.00
3. Soil survey and interpretation	50,000.00
Plant improvements and new buildings:	
1. Agricultural science building	750,000.00
2. Two greenhouses	100,000.00
Veterinary diagnostic service	30,000.00
Turkey research	27,500.00
Total main station	$2,305,482.00

Branch stations appropriation:

1.	Dickinson agronomy unit	66,364.16
2.	Dickinson agronomy unit seed house	25,000.00
3.	Dickinson livestock unit	64,861.00
4.	Edgeley	42,438.00
5.	Hettinger	31,576.35
6.	Langdon	33,397.25
7.	North central	24,480.87
8.	Williston	49,415.37
9.	New irrigation station	85,000.00
	Total branch stations	$ 422,533.00
	Total main and branch stations, plant improvements and new buildings	$2,728,015.00

Agricultural College—
Extension Division

Administration	$ 87,868.00
County agents	161,301.00
Home demonstrations	43,970.00
4-H Club and rural young people	27,576.00
Information and publications	54,676.00
Field agents in agriculture	188,128.00
Field agents in home economics	27,708.00
Total	$ 591,227.00

State Teachers College, Dickinson

Administration and general expense	95,707.00
Instruction	520,650.00
Library	24,985.00
Physical plant operation	179,646.00
Total	820,988.00
Less estimated income	199,170.00
Net appropriation	621,818.00

Plant improvements:

1.	City assessments	22,723.00
2.	Build three soft ball diamonds, one baseball diamond, four backstops, repair running track	2,000.00
3.	Water system, seeding and rebuilding football field	1,000.00
4.	Gravel parking lot	500.00

New building:	
1. Library-bookstore building and remodeling of present library for classroom use	400,000.00
President's residence	35,000.00
Total	$1,083,041.00

Normal and Industrial College, Ellendale

Administration and general expense	72,000.00
Instruction	288,658.00
Library	18,697.00
Physical plant operation	152,195.00
Total	531,550.00
Less estimated income	115,000.00
Net appropriation	416,550.00
Plant improvements:	
1. Purchase of property adjacent to college, 2 homes plus 3 extra lots	19,230.00
2. Industrial arts equipment	50,000.00
3. Prevention of heat loss:	
a. Repair of eaves, etc.	11,205.00
4. Interior plaster and painting	32,693.00
New building:	
1. Addition to industrial arts building	150,000.00
Equipment for new physical education bldg.	15,000.00
Total	694,678.00

State Teachers College, Mayville

Administration and general expense	$ 98,609.00
Instruction	464,814.00
Library	32,341.00
Physical plant operation	176,472.00
Total	772,236.00
Less estimated income	183,100.00
Net appropriation	589,136.00
Plant improvements:	
1. New boiler—power house	92,000.00
2. New roof and additional dressing room to gymnasium	65,000.00

3. Reshingle east hall, west hall and main building	8,000.00
4. New street north of campus	3,000.00
5. Campus lighting	3,000.00
6. Furniture for new dormitory	25,000.00
New building:	
1. Phyical education classroom	450,000.00
Total	$1,235,136.00

State Teachers College, Minot

Administration	174,493.00
Instruction	1,302,892.00
Library	67,610.00
Physical plant operation	360,203.00
Total	1,905,198.00
Less estimated income	414,000.00
Net appropriation	1,491,198.00
Plant improvements:	
1. Resurface roofs—Pioneer Hall and main building	2,800.00
2. Replace flashing on gym roof	1,800.00
3. Water softening unit and altering power house building	17,000.00
4. Replace river pump system	19,000.00
5. Completion of physical education activity area	25,000.00
6. Replace and repair windows—replace roof of president's residence	3,150.00
7. Boiler alterations	30,000.00
New building:	
1. Classroom—science laboratory building	500,000.00
Total	$2,089,948.00

State Teachers College, Valley City

Administration and general expense	123,965.00
Instruction	675,347.00
Libraries	35,612.00
Physical plant operation	286,254.00
Total	1,121,178.00
Less estimated income	253,500.00
Net appropriation	867,678.00

Plant improvements:	
1. Coal handling equipment	21,500.00
2. Fluorescent lighting—9 rooms	2,170.00
3. Drapes—auditorium	1,952.00
4. Windows and screens—high school bldg.	1,224.00
5. Metal stairway—power house	500.00
6. Ventilating system—gymnasium	3,500.00
7. Sprinkler system for campus	2,800.00
8. Purchase property adjacent to school	25,000.00
New building:	
1. Physical education classroom	450,000.00
Total	$1,376,324.00

State School of Science, Wahpeton

Administration and general expense	113,946.00
Instruction	903,207.00
Library	26,610.00
Physical plant operation	349,677.00
Total	1,393,440.00
Less estimated income	342,500.00
Net appropriation	1,050,940.00
Plant improvements:	
1. Pennington house purchase	11,000.00
2. Pennington house remodeling	2,000.00
3. New electrical service—trades and main building	9,800.00
4. Instrument fusing—electrical shops	6,500.00
5. Sewer line—4th St. to 8th Ave.	1,500.00
6. Replace shop and classroom lights	8,500.00
7. Basement repair—3 school houses	6,000.00
8. Burch hall repairs	10,500.00
9. Entrance remodeling and window repairs—main building	9,100.00
10. Street lighting—5th Street	3,100.00
11. Fire emergency fund (to be made available immediately on passage)	20,000.00
New building:	
1. Trades—Technical Building	450,000.00
Total	$1,588,940.00

State School of Forestry, Bottineau
Junior College Division

Administration and general	30,235.00
Instruction	180,269.00
Library	5,875.00
Physical plant operation	87,535.00
Total	303,914.00
Less estimated income and college reserve	51,900.00
Net junior college	$ 252,014.00
North Dakota forest service:	
Administration	19,057.00
Nurseries	87,700.00
Cooperative forestry	81,651.00
Total	188,408.00
Less estimated income from nurseries	46,000.00
Less federal reimbursement and state forestry fund	59,000.00
Net forest service	83,408.00
Net appropriation (junior college and forest service)	$ 335,422.00
Plant improvements:	
1. Blacktop paving	3,000.00
2. Repair Old Main basement	1,100.00
3. Office—counsel for women	750.00
4. Display cases	1,000.00
5. Watermain	3,000.00
6. Laboratory equipment	2,500.00
7. New boiler	55,000.00
New building:	
1. Men's dormitory dining hall	250,000.00
2. Greenhouse classroom	12,500.00
Total	$ 664,272.00
Grand total all educational institutions	$24,155,956.00

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 54-2710 of the North Dakota Revised Code of 1943 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, 1959, and ending June 30, 1961.

§ 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, and on such other items providing appropriations for all building construction and repair.

Approved March 17, 1959.

CHAPTER 49

H. B. No. 502
(Committee on Appropriations)

SOCIAL SECURITY CONTRIBUTION FUND

AN ACT

Relating to an appropriation for the purpose of administering the provisions of chapter 52-10 of the 1957 Supplement to the North Dakota Revised Code of 1943, 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 old age and survivor trust fund, not otherwise appropriated, the sum of $39,464.02, or so much thereof as may be necessary for the purpose of administering the provisions of chapter 52-10 of the 1957 Supplement to the North Dakota Revised Code of 1943 pertaining to social security coverage of public employees, during the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Administration	$ 39,464.02
Total	$ 39,464.02

Approved March 12, 1959.

CHAPTER 50

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

LIVESTOCK SANITARY BOARD

AN ACT

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

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

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

the sum of $463,600.00, or so much thereof as may be necessary, to pay the operating and maintenance expenses of the livestock sanitary board, and for the expenses and indemnifying owners of animals, to the Bangs disease fund and to the bovine tuberculosis fund, for the biennium beginning July 1, 1959, and ending June 30, 1961, in the sums hereinafter named only, to-wit:

Livestock Sanitary Board

Salary, executive officer and state veterinarian	$ 18,000.00
Clerkhire	32,000.00
Postage, supplies, printing, furniture and fixtures	3,500.00
Miscellaneous	2,000.00
Services and expenses—board agents	30,000.00
Services and expenses—state meat and poultry processing plant inspector	10,000.00
Compensation and expense—board members	2,500.00
Workmen's compensation	1,600.00
Social security	5,500.00
Old age and survivor insurance	8,500.00
Total	$113,600.00

Bangs Disease Fund and Bovine Tuberculosis Fund

Miscellaneous expenses (to be made available immediately on passage)	$350,000.00
Total	$350,000.00
Grand Total	$463,600.00

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

Approved March 12, 1959.

CHAPTER 51

H. B. No. 504
(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 $271,400.00, 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, 1959, and ending June 30, 1961, to-wit:

State Historical Society

Salary—superintendent	$ 12,000.00
Clerkhire	47,000.00
Postage, supplies, printing, furniture and fixtures	10,000.00
Miscellaneous	1,500.00
Travel expense	1,500.00
Museum purchases—preparation of exhibits	3,000.00
Books, periodicals and binding	2,500.00
Social security	2,000.00
Historical and archeological field work	6,000.00
Microfilm	10,000.00
Old age and survivor insurance	2,000.00
Museum cases	1,200.00
Binding	500.00
Total	$ 99,200.00

State Parks Committee

Salary—director	10,000.00
Technical services	10,000.00
Clerical services	6,000.00
Office supplies	500.00
Miscellaneous	800.00
Travel expense	1,800.00

Maintenance and operation—North Dakota parks	60,000.00
International Peace Garden	15,000.00
Development and maintenance—historic sites	8,000.00
Pembina state park	5,000.00
Whitestone Hill state park	2,400.00
Fort Union-Fort Buford historic sites	10,000.00
Purchase of park maintenance equipment	8,500.00
Camp Hancock historic site	3,500.00
Gardener at International Peace Garden	5,000.00
Fort Abercrombie state park	10,000.00
Garrison reservoir parks	10,000.00
Social security	2,700.00
Old age and survivor insurance	3,000.00
Total	$172,200.00
Grand total	$271,400.00

Approved March 16, 1959.

CHAPTER 52

H. B. No. 505
(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 $487,975.00, 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, 1959, and ending June 30, 1961, to-wit:

Salary, state health officer, and other personnel	$278,250.00
Postage, supplies, printing, furniture and fixtures	46,000.00

Travel expense	27,000.00
Merit system	7,000.00
Biologicals	35,000.00
Operation of two units (clinic and case finding)	37,000.00
Oral hygiene (dental health) and virus laboratory	25,000.00
Old age and survivor insurance	32,725.00
Total	$487,975.00

Approved March 16, 1959.

CHAPTER 53

H. B. No. 506
(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 chapter 38-03 and 38-04 of the North Dakota Revised Code of 1943, as amended by sections 38-0304, 38-0314, 38-0404 and 38-0405 of the 1957 Supplement to the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, ending June 30, 1961, 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
Total	$ 26,465.00

Approved March 12, 1959.

CHAPTER 54

H. B. No. 507
(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 sections 54-1601 of the 1957 Supplement to the North Dakota Revised Code of 1943, and 54-1602 to 54-1604, inclusive, and 54-1606, and also section 54-1609 of the North Dakota Revised Code of 1943, 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 section 54-1601 of the 1957 Supplement to the North Dakota Revised Code of 1943 and sections 54-1602 to 54-1604, inclusive, and 54-1606 and also section 54-1609 of the North Dakota Revised Code of 1943, and for civil defense, for the biennium beginning July 1, 1959 and ending June 30, 1961.

Approved March 12, 1959.

CHAPTER 55

H. B. No. 508
(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 Revised Code of 1943, as amended by sections 36-0203 and 36-0205 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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 $725.00, 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 Revised Code of 1943, as amended by sections 36-0203 and 36-0205 of the 1957 Supplement to the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 12, 1959.

CHAPTER 56

H. B. No. 509
(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, 1959 and ending June 30, 1961, or so much thereof as may be necessary for the purpose of making certain refunds out of the

general fund and which is known as the miscellaneous refund account, used for the purpose of refunding money erroneously paid into or credited to the general fund.

Approved March 12, 1959.

CHAPTER 57

H. B. No. 510
(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 $70,140.00, 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 Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salary—commissioner	$ 11,500.00
Salary—assistant commissioners	25,000.00
Clerkhire	13,000.00
Postage, supplies, printing, furniture and fixtures	3,800.00
Light, telephone and telegraph	1,500.00
Miscellaneous	700.00
Travel expense	6,500.00
Rent	4,440.00
Cost of service officers' schools	500.00
Travel—state advisory council	500.00
Old age and survivor insurance	1,500.00
Social security	1,200.00
Total	$ 70,140.00

Approved March 12, 1959.

CHAPTER 58

H. B. No. 511
(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 $16,000.00, or so much thereof as may be necessary for the administrative expenses of the veterans' aid commission for the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 12, 1959.

CHAPTER 59

H. B. No. 512
(Committee on Appropriations)

NORTH DAKOTA SOLDIERS' HOME

AN ACT

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

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

§ 1. Appropriations.) There is hereby appropriated the sum of $125,216.00 out of interest and income and federal aid funds of the Home hereafter named, and the sum of $147,772.00 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, 1959, and ending June 30, 1961, to-wit:

Administration:

Board members—expense and per diem	$ 1,600.00
Salary—commandant	10,000.00

Salaries for staff	28,200.00
Expenses and per diem of auditor	150.00
Civilian employees and home members employed	107,640.00
Maintenance and operation	80,000.00
Insurance	3,500.00
Social security	4,232.00
Old age and survivor insurance	4,875.00
Special Projects:	
1. Ground improvements	2,500.00
2. Water tank repair	1,375.00
3. Trade-in on vehicle	3,200.00
4. Tractor and equipment	3,716.00
5. Construction of hoghouse	1,500.00
6. Painting and repairing barracks building and repair and rehabilitation civilian quarters	17,500.00
7. Dishwashing and sewage disposal room	3,000.00
Total	$272,988.00

Approved March 12, 1959.

CHAPTER 60

H. B. No. 513
(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 sections 29-3013 and 29-3014 of the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 12, 1959.

CHAPTER 61

H. B. No. 514
(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 12, 1959.

CHAPTER 62

H. B. No. 515
(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 insane.

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 insane patients for the biennium beginning July 1, 1959, and ending June 30, 1961 provided that any charges against the above appropriation must have the approval of the state auditor and the state auditing board.

Approved March 12, 1959.

CHAPTER 63

H. B. No. 516
(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 $545,385.00, 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, 1959, and ending June 30, 1961, to-wit:

Salary—director	$ 18,000.00
Clerkhire	363,885.00

Postage, supplies, printing, furniture, fixtures, dray and express	59,000.00
Miscellaneous	11,000.00
Travel expense	52,000.00
Samples	2,000.00
Rent	7,200.00
Telephone and telegraph	2,500.00
Ice, gas and electricity	2,000.00
Library	1,300.00
Workmen's compensation	1,500.00
Cost of auditing	2,500.00
Refunds	500.00
Social security	10,000.00
Old age and survivor insurance	12,000.00
Total	$545,385.00

Approved March 12, 1959.

CHAPTER 64

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

ECONOMIC DEVELOPMENT ACT OF 1957

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 $166,322.00 to be used as prescribed by chapter 54-34 of the 1957 Supplement to the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salaries	$102,700.00
Postage, supplies, printing, furniture and fixtures	13,350.00
Miscellaneous	4,000.00
Travel expense	12,000.00
Commissioners' travel	5,000.00
Books	500.00
Research projects	5,000.00

Promotion:	
Tourist	15,000.00
Industrial development	6,000.00
Old age and survivor insurance	2,772.00
Total	$166,322.00

Approved March 12, 1959.

CHAPTER 65

H. B. No. 518
(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 $65,970.00, 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, 1959, and ending June 30, 1961, to-wit:

Salaries	$ 19,500.00
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	2,500.00
Special projects	6,000.00
Travel expense	27,500.00
Old age and survivor insurance	600.00
Social security	420.00
Total	$ 65,970.00

Approved March 16, 1959.

CHAPTER 66

H. B. No. 519
(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 $482,700.00, 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 State 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, 1959, and ending June 30, 1961, to-wit:

Commissioners, per diem and expenses	$ 6,000.00
Administrative	49,200.00
Maintenance of dams	115,000.00
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 surveys	27,500.00
Engineering and geological surveys and demonstrations	37,500.00
Cooperation with U. S. departments for organizing conservation and irrigation districts	57,000.00

Engineering investigations, planning, surveys and design of water resources projects	138,000.00
Administration of water laws	6,000.00
Old age and survivor insurance	6,500.00
Total	$482,700.00

Approved March 12, 1959.

CHAPTER 67

H. B. No. 520
(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 $387,034.00, 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, 1959, and ending June 30, 1961, to-wit:

Salaries	$245,822.00
Clerkhire	44,712.00
Postage, supplies, printing	40,000.00
Miscellaneous	7,500.00
Travel expense	34,000.00
Replacement cars	7,000.00
Apparatus	6,000.00
Office rent	2,000.00
Total	$387,034.00

Approved March 12, 1959.

CHAPTER 68

H. B. No. 521
(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 $6,000.00, 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 sections 18-0302 to 18-0309, inclusive, of the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 12, 1959.

CHAPTER 69

H. B. No. 522
(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, 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. Appropriations.) There is hereby appropriated out of any moneys in the public welfare fund in the state treasury, not otherwise appropriated, the sum of $13,837,804.00, 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, and for the necessary costs of administration of all of the programs above mentioned, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Assistance Programs:	
1. Old age assistance	$7,800,700.00
2. Aid to dependent children	3,183,070.00
3. Aid to blind	157,600.00
4. Aid to permanently and totally disabled	1,366,500.00
5. General assistance	380,000.00
Service programs:	
1. Child welfare services	134,070.00
2. Crippled children's services	341,500.00
Administration:	
1. Personal services:	
a. State office employees	340,578.00
b. Doctors' fees for eye examination	1,500.00
2. Travel expense	29,500.00
3. Communications (postage, telephone and telegraph)	16,500.00
4. Printing and supplies	14,400.00
5. Equipment:	
a. Rental	14,000.00
b. Repair and maintenance	2,300.00
c. Purchases	5,800.00
6. Other operating expense	4,650.00
7. Board member expense	14,700.00
8. Cost of merit system	12,175.00
9. Old age and survivor insurance, and social security	18,261.00
Total	$13,837,804.00

Approved March 16, 1959.

CHAPTER 70

H. B. No. 523
(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 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ **1. Appropriations.)** 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 1957 Supplement to the North Dakota Revised Code of 1943, for the biennium beginning July 1, 1959, and ending June 30, 1961. Expenditures shall be made upon vouchers signed by the secretary of the commission.

Approved March 12, 1959.

CHAPTER 71

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

STATE BOARD OF AUDITORS

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 collection 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 by the state board of auditors as provided for by chapter 54-13 of the North Dakota Revised Code of 1943 as amended, 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, and the state laboratories, 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 board of auditors and to be deposited by the state treasurer in a special fund to be known at the "state board of auditors fund," fifty percent (50%) of each of the sums appropriated for each annual audit of each of said departments, and the remaining fifty percent (50%) of each of the sums appropriated for each annual audit, or so much thereof as may be necessary, shall be so paid into the state board of auditors fund immediately upon receipt of a statement of the actual expense of auditing such departments or institutions. Provided, however, that the auditing fee for such service in any one year shall not exceed fifty percent (50%) of the sum set forth for the various institutions and departments, 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
Game and fish department	7,000.00
Physical property audit of the state game and fish department	3,000.00
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
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 board of auditors.

Approved March 12, 1959.

CHAPTER 72

H. B. No. 525
(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 $780,500.00, 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, 1959, and ending June 30, 1961, to-wit:

Salary	$ 15,000.00
Clerkhire	190,000.00
Operating IBM machine	180,000.00
Postage, supplies, printing, furniture and fixtures	180,000.00
Miscellaneous	6,000.00
License plates	150,000.00
Travel expense	5,000.00
Refunds	500.00
Board of auditors fund	4,000.00
Emergency	30,000.00
Social security	10,000.00
Old age and survivor insurance	10,000.00
Total	$780,500.00

Approved March 16, 1959.

CHAPTER 73

H. B. No. 526
(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 39-0467 of the North Dakota Revised Code of 1943, as amended, the sum of $200,000.00, or so much thereof as may be necessary for the purpose of defraying the expenses of administration and operation of the 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, 1959, and ending June 30, 1961, to-wit:

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

§ 2. Additional Appropriation for Administration Expenses.) In addition to the amount hereinbefore appropriated, there is hereby appropriated out of the 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 here-

by 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 16, 1959.

CHAPTER 74

H. B. No. 527
(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 $1,441,121.00, 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, 1959, and ending June 30, 1961, to-wit:

Salary—superintendent	$ 15,000.00
Salary—assistant superintendent	12,600.00
Salary for 78 patrolmen	720,641.00
Clerks, bookkeepers and IBM	39,600.00
Postage, supplies, printing, furniture and fixtures	18,500.00
Miscellaneous	24,000.00
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	38,900.00
Old age and survivor insurance	1,400.00
Total	$1,441,121.00

Approved March 16, 1959.

CHAPTER 75

H. B. No. 528
(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 $651,460.00, 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, 1959, and ending June 30, 1961, to-wit:

Salary—commissioners (3)	$ 25,200.00
Business manager	13,000.00
Clerkhire	290,000.00
Postage, supplies, printing, furniture and fixtures	46,000.00
Miscellaneous	10,000.00
Travel expense, automobile, equipment, and maintenance	50,000.00
Safety department and boiler inspection	90,000.00
Legal clerkhire	41,760.00
Legal expense	6,000.00
Actuary	9,000.00
Medical director	30,000.00
Department audit	6,000.00
Emergency	5,000.00
Social security and old age and survivor insurance	29,500.00
Total	$651,460.00

Approved March 12, 1959.

CHAPTER 76

H. B. No. 529
(Committee on Appropriations)

GAME AND FISH DEPARTMENT

AN ACT

Making 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 $1,092,400.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the game and fish department and in carrying out the provisions and purposes of all game laws imposing duties or conferring powers on the game and fish commissioner, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Administration:	
1. Salary—commissioner	$ 16,000.00
2. Salary—deputy commissioner	14,000.00
3. Administrative assistant	9,500.00
4. Clerkhire and administration of bounty funds	22,000.00
5. Travel	10,000.00
6. General and audit	40,000.00
Game management (federal matching)	160,000.00
Fund for House Bill 776	30,000.00
Enforcement:	
1. Salaries	239,000.00
2. Travel	108,000.00
3. General	13,000.00
Fish management:	
1. Salaries	70,000.00
2. Travel	24,000.00
3. General	38,000.00
4. Dingell-Johnson matching	35,000.00
Land management:	
1. Salaries	20,000.00
2. Travel	5,000.00
3. General	6,500.00

Public relations:	
1. Salaries	56,000.00
2. Travel	13,000.00
3. General	43,000.00
Dam construction	50,000.00
Emergency	40,000.00
License refunds	400.00
Old age and survivor insurance	30,000.00
Total	$1,092,400.00

Approved March 16, 1959.

CHAPTER 77

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

TEACHERS' INSURANCE AND RETIREMENT FUND

AN ACT

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

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

§ 1. Appropriation.) There is hereby appropriated out of any moneys in the state treasury in the teachers' insurance and retirement fund, the sum of $70,000.00 for the purpose of operating and maintaining the teachers' insurance and retirement fund, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salary—executive director	$ 10,500.00
Clerkhire	31,500.00
Postage, supplies, printing, furniture and fixtures	8,000.00
Miscellaneous	1,500.00
Travel expense	3,500.00
Audit	2,000.00
Actuary	3,000.00
Rent and maintenance	6,500.00
Social security	1,500.00
Old age and survivor insurance	2,000.00
Total	$ 70,000.00

Approved March 12, 1959.

CHAPTER 78

H. B. No. 531
(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 Revised Code of 1943, as amended.

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 $59,600.00 to carry out the provisions of chapter 37-17 of the North Dakota Revised Code of 1943, as amended, relating to the operation of the civil defense for North Dakota, to-wit:

Salaries	$ 40,000.00
Postage, supplies, printing, furniture and fixtures	5,300.00
Miscellaneous	1,050.00
Travel	3,000.00
Gas and oil	2,000.00
Property (auto)	2,000.00
Communications	2,000.00
Equipment and supplies (under matching funds)	2,000.00
Old age and survivor insurance	1,500.00
Social security	750.00
Total	$ 59,600.00

Approved March 16, 1959.

CHAPTER 79

H. B. No. 532
(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 1957 Supplement to the North Dakota Revised Code of 1943.

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 1957 Supplement to the North Dakota Revised Code of 1943 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, 1959, and ending June 30, 1961.

Approved March 12, 1959.

CHAPTER 80

H. B. No. 533
(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 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ **1. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of $50,252.00, or so much thereof as may be necessary for the purpose of carrying out the provisions of chapter 54-38 of the 1957 Supplement to the North Dakota Revised Code of

1943, for the biennium beginning July 1, 1959, and ending June 30, 1961, to-wit:

Salary—director	$ 14,400.00
Part time assistance and expense	9,400.00
Clerkhire	7,200.00
Social security	750.00
Old age and survivor insurance	1,002.00
Postage, supplies, printing, furniture, fixtures, films, books and telephone	7,000.00
Travel	6,000.00
Summer school on alcohol studies at University of North Dakota	4,000.00
Program planning and miscellaneous	500.00
Total	$ 50,252.00

Approved March 12, 1959.

CHAPTER 81

H. B. No. 534
(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 39-0467 of the 1957 Supplement to the North Dakota Revised Code of 1943, 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, 1959, and ending June 30, 1961.

Approved March 12, 1959.

CHAPTER 82

H. B. No. 535
(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; and declaring an emergency.

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

§ 1. Appropriation.) There is hereby appropriated to the livestock sanitary board out of any moneys in the state treasury in the livestock sales ring fund, the sum of $125,000.00, 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, 1959, and ending June 30, 1961. Provided that $25,000.00 of this appropriation is for the purpose of paying a deficit which has occurred and accumulated during the present 1957-1959 biennium and shall be made available immediately on passage to the livestock sanitary board for the purpose of paying said deficit.

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

Approved March 12, 1959.

CHAPTER 83

H. B. No. 536
(Beede, Brown, Leet, Berntson,)
(Link, Poling, Johnston)
(From LRC Study)

DEFICIENCY APPROPRIATION TO UNIVERSITY

AN ACT

Making a deficiency appropriation to compensate the university of North Dakota for services rendered in an actuarial study of OASIS.

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

§ 1. Appropriation.) There is hereby appropriated out of the general fund in the state treasury to the university of North Dakota, the sum of $2,953.79, for the purpose of compensating the university of North Dakota for the balance due it for services rendered in conducting an actuarial study of the old age survivors insurance system under agreement with the unemployment compensation division and the legislative research committee pursuant to the provisions of chapter 41 of the North Dakota Session Laws of 1955.

Approved March 12, 1959.

CHAPTER 84

H. B. No. 644
(Hilleboe, Thompson of McLean,)
(Berntson, Baldwin)

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 the general fund in the state treasury, not otherwise appropriated, the sum of one thousand dollars, or so much thereof as may be necessary, to the 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, 1959, and ending June 30, 1961.

Approved March 14, 1959.

CHAPTER 85

H. B. No. 713
(Lindberg)

WORLD WAR II AND KOREAN CONFLICT HISTORY

AN ACT

To make an appropriation for the preparation of a record of those who rendered military service during World War II and the Korean hostilities and to provide for distribution thereof.

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

§ 1. Appropriation.) There is hereby appropriated from the general fund in the state treasury, not otherwise appropriated, the sum of forty-six thousand dollars to the adjutant general for the purpose of preparing a history of the record of the residents, men and women, of the state of North Dakota who rendered military service on behalf of the state and assisted in the administration of the selective service act during World War II and during the Korean hostilities.

Approved March 16, 1959.

CHAPTER 86

H. B. No. 862
(Committee on Delayed Bills)

EXTRAORDINARY EXPENSES OF LAW ENFORCEMENT

AN ACT

Reappropriating any unexpended balance remaining in the appropriation made pursuant to chapter 82 of the North Dakota Session Laws of 1957 for extraordinary expenses of law enforcement.

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

§ 1). All unencumbered funds remaining in that certain appropriation contained in chapter 82 of the 1957 Session Laws

which are unexpended upon the effective date of this Act are hereby reappropriated for expenditure in meeting extraordinary expenses of law enforcement in the same manner and for the same purposes provided in said chapter 82 during the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 14, 1959.

CHAPTER 87

H. B. No. 865
(Committee on Delayed Bills)

LEGISLATIVE EXPENSE, DEFICIENCY

AN ACT

To make a deficiency appropriation for the payment of general expenses of the Thirty-sixth 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 general fund, not otherwise appropriated, the sum of forty-six thousand dollars, or so much thereof as may be necessary, for the purpose of payment of salaries of employees and other general expenses of the Thirty-sixth 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 March 6, 1959.

GENERAL PROVISIONS

CHAPTER 88

H. B. No. 621
(Hjelle, Hauf, Poling)

REGISTERED OR CERTIFIED MAIL

AN ACT

Authorizing either registered or certified mail where the term "registered mail" appears in the laws of this state.

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

§ 1. **Registered or Certified Mail.)** Wherever the term "registered mail" appears in the laws of the state of North Dakota it shall mean "registered or certified mail."

Approved March 9, 1959.

CHAPTER 89

S. B. No. 61
(Klefstad and Vendsel)

BANK BUSINESS DAYS

AN ACT

To amend and reenact section 1-0304 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to business days.

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

§ 1. **Amendment.)** Section 1-0304 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1-0304. Business Days.) All days other than those mentioned in sections 1-0301 and 1-0302 are to be deemed business days for all purposes; provided, however, that any bank may remain closed on any one business day of each week, as it may from time to time elect. Any day upon which a bank is so closed shall be, with respect to such bank, a holiday and not a business day. Any act authorized, required or permitted to

be performed at or by or with respect to such bank on such day, may be performed on the next succeeding business day, and no liability or loss of rights shall result from such delay.

Provided, further, that notice of intention on the part of any bank to remain closed on a business day of the week shall be posted in a conspicuous place in the lobby of the bank at least thirty days prior to the establishment of such practice and similar notice shall be given when a bank elects to change the day of the week on which it remains closed.

Any state bank establishing the practice, as hereinbefore provided, of closing one day a week shall give thirty days notice in writing to the state examiner, in addition to posting the notice in the lobby.

Approved March 10, 1959.

AERONAUTICS

CHAPTER 90

S. B. No. 218
(Erickson and Gronvold)

AIRCRAFT LIABILITY; GUEST DEFINED

AN ACT

Relating to the liability of owners, operators, and others of aircraft, and defining a "guest."

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

§ 1. **Aircraft Accidents; Civil Liability; Definitions.)** No person transported by the owner or operator of any aircraft as a guest without payment for such transportation shall have a cause of action for damages against the owner or operator for injury, death or loss in case of accident, unless the accident shall have been caused by the gross negligence, intoxication or willful and wanton misconduct of the owner or operator of the aircraft, and unless the gross negligence, intoxication or willful and wanton misconduct of the owner or operator of the aircraft contributed to the injury, death or loss for which the action is brought. For purposes of this Act, the word "guest" means any person other than an employee of the owner or registrant of any aircraft, or of a person responsible for its operation with the owner's or registrant's express or implied consent, being in or upon, entering or leaving the same, except any passenger for hire and except any passenger while the aircraft is being used in the business of demonstrating or testing. The sharing of expense shall not constitute a carriage for hire within the meaning of this Act.

Approved March 10, 1959.

CHAPTER 91

H. B. No. 800
(Lowe, Christopher, Haugland, Lindberg, Neukircher,)
(Vinje, Hilleboe, Thompson of McLean, Brown and Saugstad)

AIRPORT AUTHORITIES

AN ACT

Authorizing cities, counties, towns, villages, park districts or public bodies or any combination thereof, by resolution of their respective legislative bodies, to create airport authorities; granting to such airport authorities all powers necessary or incidental to the planning, promoting, acquisition, development, construction, improvement, enlargement, operation and maintenance of one or more public airports and defining its powers and duties; providing that counties may levy tax for airport purposes; and provide reciprocity with adjoining states and political subdivisions.

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

§ 1. Definitions.) The following words or terms whenever used or referred to in this Act, shall have the following respective meanings unless different meanings clearly appear from the context:

1. "Municipality" shall mean any county, city, town, village, park district or public body of this state;
2. "Municipal airport authority" or "municipal authority" shall mean a municipal airport authority created pursuant to the provisions of section 2 of this Act;
3. "Regional airport authority" or "regional authority" shall mean a regional airport authority created pursuant to the provisions of section 3 of this Act;
4. "Airport authority" or "authority" shall mean any regional airport authority or municipal airport authority created pursuant to the provisions of this Act;
5. "Governing body" shall mean the official or officials authorized by law to exercise ordinance or other law-making powers of a municipality;
6. "Clerk" shall mean the custodian of the official records of a municipality;
7. "Bonds" shall mean any bonds, notes, interim certificates, debentures, or similar obligations issued by an authority pursuant to this Act;
8. "Airport" shall mean any area of land or water which is used, or intended for use, for the landing and taking-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other

airport facilities or rights-of-way, including approaches and clear zones, together with all airport buildings and facilities located thereon;

9. "Air navigation facility" shall mean any facility—other than one owned and operated by the United States—used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices, used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities;
10. "Airport hazard" shall mean any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to such landing or taking-off of aircraft;
11. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof;
12. "Real property" shall mean lands, structures, and interests in land, including lands under water and riparian rights, and any and all things and rights usually included within the term real property, including not only fee simple absolute but also any and all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property; and
13. "Project" shall mean any airport operated by the authority, including all real and personal property, structures, machinery, equipment, and appurtenances or facilities which are part of such airport or used or useful in connection therewith either as ground facilities for the convenience of handling aviation equipment, passengers, and freight or as part of aviation operation, air navigation, and air safety operation.

§ 2. **Creation of Municipal Airport Authority.)** Any municipality may, by resolution, create a public body corporate and politic to be known as a municipal airport authority, which shall be authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof. Upon the adoption of a resolution creating a municipal airport authority, the governing body of the municipality shall, pursuant to the resolution, appoint five persons as commis-

sioners of the authority. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, but thereafter, each commissioner shall be appointed for a term of five years, except that vacancies occurring otherwise than by expiration of term shall be filled for the unexpired term.

§ 3. Creation of Regional Airport Authority.)

1. Two or more municipalities may, by resolution of each, create a public body, corporate and politic, to be known as a regional airport authority which shall be authorized to exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. The governing body of each municipality shall, pursuant to its resolution, appoint one person as a commissioner of the authority; provided that if the regional airport authority consists of an even number of municipalities, an additional commissioner shall be appointed by the governor of the state of North Dakota.
2. A regional airport authority may be increased from time to time to serve one or more additional municipalities if each additional municipality and each of the municipalities then included in the regional authority and the commissioners of the regional authority, respectively, adopt a resolution consenting thereto; provided, that if a municipal airport authority for any municipality seeking to be included in the regional authority is then in existence, the commissioners of the municipal authority must consent to the inclusion of the municipality in the regional authority, and if the municipal authority has any bonds outstanding, one hundred percentum of the holders of the bonds must consent, in writing, to the inclusion of the municipality in the regional authority. Upon the inclusion of any municipality in the regional authority, all rights, contracts, obligations, and property, real and personal, of the municipal authority shall be in the name of and vest in the regional authority.
3. A regional airport authority may be decreased if each of the municipalities then included in the regional authority and the commissioners of the regional authority consent to the decrease and make provisions for the retention or disposition of its assets and liabilities; provided that, if the regional authority has any bonds outstanding no decrease shall be effected unless one hundred percentum of the holders of the bonds consent thereto in writing.
4. A municipality shall not adopt any resolution authorized by this section without a public hearing thereon. Notice

thereof shall be given at least ten days prior thereto in a newspaper published in the municipality, or if there is no newspaper published therein, then in a newspaper having general circulation in the municipality.

5. All commissioners of a regional airport authority shall be appointed for terms of five years each, except that a vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as the original appointments.

§ 4. Certificate of Incorporation of Regional Airport Authority.)

1. Upon the appointment and qualification of the commissioners first appointed to a regional airport authority, they shall submit to the secretary of state a certified copy of each resolution adopted pursuant to section 3(1) hereof by the municipalities included in the regional authority, and upon receipt thereof the secretary of state shall issue a certificate of incorporation to the regional airport authority.
2. When a regional airport authority is increased or decreased pursuant to section 3, it shall forward to the secretary of state a certified copy of each resolution adopted pursuant thereto and upon receipt thereof, the secretary of state shall issue an amended certificate of incorporation in accordance therewith.

§ 5. Proof of Existence of Authority.)

1. In any suit, action, or proceeding involving the validity or enforcement of, or relating to any contract of a municipal airport authority, created pursuant to section 2 hereof, the municipal authority shall be conclusively deemed to have become established and authorized to transact its business and exercise its powers hereunder upon proof of the adoption by the municipality of the resolution creating the municipal airport authority and of the appointment and qualification of the first commissioners thereof. Duly certified copies of the resolution creating the authority and of the certificates of appointment of the commissioners shall be admissible in evidence in any suit, action, or proceeding.
2. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of a regional airport authority, such regional airport authority shall be conclusively deemed to have become established and authorized to transact its business and exercise its powers hereunder upon proof of the issuance by the secretary of state of a certificate of incorporation of such regional airport authority. A copy of such certificate of

incorporation, duly certified by the secretary of state, shall be admissible in evidence in any suit, action, or proceeding.

§ 6. Commissioners; Compensation; Meetings; Officers.) A commissioner of an authority shall receive no compensation for his services, but shall be entitled to the necessary expense, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. The certificates of the appointment and reappointment of commissioners shall be filed with the authority.

The powers of each authority shall be vested in the commissioners thereof. A majority of the commissioners of an authority shall constitute a quorum for the purpose of conducting business of the authority and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present.

There shall be elected a chairman and vice chairman from among the commissioners. An authority may employ an executive director, secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the municipality or municipalities included in the authority or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

§ 7. General Powers of an Authority.) An authority shall have all the powers necessary or convenient to carry out the purposes of this Act including the power to certify, annually to the governing bodies creating it, the amount of tax to be levied by said governing bodies for airport purposes including, but not limited to, the power:

1. To sue and be sued; to have a seal; and to have perpetual succession;
2. To execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this Act;
3. To plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities. within this state and within any adjoining state, including the acquisition, construction, installation, equipment, maintenance, and operation at such airports or buildings and other facilities for the servicing of aircraft or for com-

fort and accommodation of air travelers, and the purchase and sale of supplies, goods, and commodities as are incident to the operation of its airport properties. For such purposes an authority may by purchase, gift, devise, lease, eminent domain proceedings or otherwise, acquire property, real or personal, or any interest therein, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards or to prevent the establishment of airport hazards.

4. To establish comprehensive airport zoning regulations in accordance with the laws of this state. For the purpose of this Act, a regional airport authority shall have the same powers as all other political subdivisions in the adoption and enforcement of comprehensive airport zoning regulations as provided for by the laws of this state.
5. To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, existing airports and air navigation facilities, provided, however, an authority shall not acquire or take over any airport or air navigation facility owned or controlled by another authority, a municipality, or public agency of this or any other state without the consent of such authority, municipality, or public agency.
6. To establish or acquire and maintain airports in, over, and upon any public waters of this state, any submerged lands under such public waters; and to construct and maintain terminal buildings, landing floats, causeways, roadways, and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof.

§ 8. **Eminent Domain.)** In the acquisition of property by eminent domain proceedings authorized by this Act, an airport authority shall proceed in the manner provided by chapter 32-15 of the laws of this state, and such other laws that may now or hereafter apply to the state or to political subdivisions of this state in exercising the right of eminent domain. The fact that the property to be acquired by eminent domain proceedings was acquired by its owner by eminent domain proceedings shall not prevent its acquisition by such proceedings by the authority. For the purpose of making surveys and examinations relative to eminent domain proceedings, it shall be lawful for the authority to enter upon the land, doing no unnecessary damage. Notwithstanding the provisions of any other statute or other law of this state, an authority may take possession of any property to be acquired by eminent

domain proceedings at any time after the commencement of such proceedings. The authority shall not be precluded from abandoning such proceedings at any time prior to final order and decree of the court having jurisdiction of such proceedings, provided that the authority shall be liable to the owner of the property for any damage done to the property during possession thereof by the authority.

§ 9. Disposal of Airport Property.) Except as may be limited by the terms and conditions of any grant, loan or agreement, authorized by section 13 of this Act, an authority may, by sale, lease, or otherwise, dispose of any airport, air navigation facility or other property, or portion thereof or interest therein, acquired pursuant to this Act. Such disposal by sale, lease, or otherwise, shall be in accordance with the laws of this state governing the disposition of other public property, except that in the case of disposal to another authority, a municipality or an agency of the state or federal government for use and operation as a public airport, the sale, lease, or other disposal may be effected in such manner and upon such terms as the commissioners of the authority may deem in the best interest of civil aviation.

§ 10. Bonds and Other Obligations.) An authority shall have the power to borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at public or private sale at not less than par and shall bear interest at a rate or rates not exceeding six percentum per annum. Any bonds of an authority issued pursuant to this Act which are payable, as to principal and interest, solely from revenues of an airport or air navigation facility, and they shall so state on their face, shall not constitute a debt of any municipality, the state, or any political subdivision thereof other than the authority, and shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Neither the commissioners of an authority nor any person executing such bonds shall be liable personally thereon by reason of the issuance thereof.

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

standing, any bonds issued pursuant to this Act shall be fully negotiable.

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

Bonds issued by an authority pursuant to the provisions of this Act are declared to be issued for an essential public and governmental purpose and, together with interest thereon, and income therefrom, shall be exempt from all taxes.

§ 11. Operation and Use Privileges.)

1. In connection with the operation of an airport or air navigation facility owned or controlled by an authority, the authority may enter into contracts, leases, and other arrangements for terms not to exceed thirty years with any persons
   a. granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof of space therein for commercial purposes;
   b. conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility; and
   c. making available services to be furnished by the authority or its agents at the airport or air navigation facility.

   In each case the authority may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class or privilege or service and shall be established with due regard to the property and improvements used and the expenses of operation to the authority; provided that in no case shall the public be deprived of its rightful, equal, and uniform use of the airport, air navigation facility, or portion of facility thereof.
2. Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by section 13 of this Act, an authority may by contract, lease, or other arrangements, upon a consideration fixed by it, grant to any qualified person for a term not to exceed thirty years the privilege of operating, as agent of the authority or otherwise, any airport owned or controlled by the authority; provided that no person shall be grant-

ed any authority to operate an airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the authority might not have undertaken under subsection 1 of this section.

§ **12. Regulations.)** An authority is authorized to adopt, amend, and repeal such reasonable resolutions, rules, regulations, and orders as it shall deem necessary for the management, government, and use of any airport or air navigation facility owned by it or under its control. No rule, regulation, order, or standard prescribed by the commission shall be inconsistent with, or contrary to, any act of the Congress of the United States or any regulation promulgated or standard established pursuant thereto. The authority shall keep on file at the principal office of the authority for public inspection a copy of all its rules and regulations.

§ **13. Federal and State Aid.)**

1. An authority is authorized to accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this Act. All federal moneys accepted under this section shall be accepted and expended by the authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be accepted and expended by the authority upon such terms and conditions as are prescribed by the state.
2. An authority is authorized to designate the state aeronautics commission as its agent to accept, receive, receipt for, and disburse federal and state moneys, and other moneys, public or private, made available by grant or loan or both, to accomplish in whole or in part, any of the purposes of this Act; and to designate the state aeronautics commission as its agent in contracting for and supervising the planning, acquisition, development, construction, improvement, maintenance, equipment, or operation of any airport or other air navigation facility. An authority may enter into an agreement with the said aeronautics commission prescribing the terms and conditions of the agency in accordance with such terms and conditions as are prescribed by the United States, if federal money is involved, and in accordance with the applicable laws of this state. All federal moneys accepted under this section by the state aeronautics commission shall be accepted and transferred or expended by said

commission upon such terms and conditions as are prescribed by the United States. All moneys received by the state aeronautics commission pursuant to this subsection shall be deposited in the state treasury, and unless otherwise prescribed by the agency from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such porposes.

§ 14. Tax Levy May Be Certified by Airport Authority.) The airport authority may certify annually to the governing bodies, the amount of tax to be levied by each municipality participating in the creation of the airport authority, and the municipality shall levy the amount certified, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes for airport purposes. The levy made shall not exceed the maximum levy permitted by the laws of this state for airport purposes. The municipality shall collect the taxes certified by an airport authority in the same manner as other taxes are levied and collected and make payment to the airport authority. The proceeds of such taxes when and as paid to the airport authority shall be deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this Act.

§ 15. County Tax Levy for Airport Purposes.) In counties supporting airports or airport authorities, a levy in addition to all other levies permitted by law, not to exceed four mills on the net taxable valuation of property in such county, may be made for such purposes, but such levy shall not apply to any city, village or park district that already has an airport levy.

§ 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 Act, 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 Act 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 Act upon an authority.

2. Any two or more public agencies may enter into agreements with each other for joint action pursuant to the provisions of this section. Each agreement shall specify its duration, the proportionate interest which each public agency shall have in the property, facilities, and privileges involved in the joint undertaking, the proportion of costs of operation, etc., to be borne by each public agency, and such other terms as are deemed necessary or required by law. The agreement may also provide for amendments and termination; disposal of all or any of the property, facilities, and privileges jointly owned, prior to, or at such times as said property, facilities, and privileges, or any part thereof, cease to be used for the purposes provided in this Act, or upon termination of the agreement; the distribution of the proceeds received upon any disposal, and of any funds or other property jointly owned and undisposed of; the assumption of payment of any indebtedness arising from the joint undertaking which remains unpaid upon the disposal of all assets or upon a termination of the agreement; and such other provisions as may be necessary or convenient.
3. Public agencies acting jointly pursuant to this section shall create a joint board which shall consist of members appointed by the governing body of each participating public agency. The number to be appointed, their term and compensation, if any, shall be provided for in the joint agreement. Each joint board shall organize, select officers for such terms as are fixed by the agreement, and adopt and amend from time to time rules for its own procedure. The joint board shall have power, as agent of the participating public agencies, to plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police any airport or air navigation facility or airport hazard to be jointly acquired, controlled, and operated, and the board may be authorized by the participating public agencies to exercise on behalf of its constituent public agencies all the powers of each with respect to the airport, air navigation facility or airport hazard, subject to the limitations of subsection 4 of this section.
4. a. The total expenditures to be made by the joint board for any purpose in any calendar year shall be

as determined by a budget approved by the constituent public agencies on or before the preceding December 1, or as otherwise specifically authorized by the constituent public agencies.

b. No airport, air navigation facility, airport hazard, or real or personal property, the cost of which is in excess of sums fixed therefor by the joint agreement or allotted in the annual budget, may be acquired, established, or developed by the joint board without the approval of the governing bodies of its constituent public agencies.

c. Eminent domain proceedings under this section may be instituted by the joint board only by authority of the governing bodies of the constituent public agencies of the joint board. If so authorized, such proceedings shall be instituted in the names of the constituent public agencies jointly, and the property so acquired shall be held by said public agencies as tenants in common.

d. The joint board shall not dispose of any airport, air navigation facility, or real property under its jurisdiction except with the consent of the governing bodies of its constituent public agencies, provided that the joint board may, without such consent, enter into contracts, leases, or other arrangements contemplated by section 11 of this Act.

e. Any resolutions, rules, regulations, or orders of the joint board dealing with subjects authorized by section 11 of this Act shall become effective only upon approval of the governing bodies of the constituent public agencies, provided that upon such approval, the resolutions, rules, regulations, or orders of the joint board shall have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, rules, regulations, or orders of each public agency would have in its own territory or jurisdiction.

5. For the purpose of providing the joint board with moneys for the necessary expenditures in carrying out the provisions of this section, a joint fund shall be created and maintained, into which shall be deposited the share of each of the constituent public agencies as provided by the joint agreement. Any federal, state, or other grants, contributions, or loans, and the revenues obtained from the joint ownership, control, and operation of any airport or air navigation facility under the jurisdiction of the joint board shall be paid into the joint fund. Disbursements from such fund shall be made by order of the

board, subject to the limitations prescribed in subsection 4 of this section.

§ 17. Public Purpose.) The acquisition of any land, or interest therein, pursuant to this Act, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation and protection of airports and air navigation facilities, including the acquisition or elimination of airport hazards, and the exercise of any other powers herein granted to authorities and other public agencies, to be severally or jointly exercised, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of any authority or other public agency in the manner and for the purposes enumerated in this Act shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

§ 18. Airport Property and Income Exempt from Taxation.) Any property in this state acquired by an authority for airport purposes pursuant to the provisions of this Act, and any income derived by the authority from the ownership, operation, or control thereof, shall be exempt from taxation to the same extent as other property used for public purpose.

§ 19. Municipal Cooperation.) For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of airports and air navigation facilities pursuant to the provisions of this Act, any municipality for which an authority has been created may, upon such terms, with or without consideration, as it may determine,

1. Lend or donate money to the authority;
2. Provide that all or a portion of the taxes or funds available or to become available to, or required by law to be used by, the municipality for airport purposes, be transferred or paid directly to the airport authority as such funds become available to the municipality;
3. Cause water, sewer, or drainage facilities, or any other facilities which it is empowered to provide, to be furnished adjacent to or in connection with such airports or air navigation facilities;
4. Dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or any other rights or privileges therein to the authority;
5. Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, and walks from established streets or roads to such airports or air navigation facilities;

6. Do any and all things, whether or not specifically authorized in this section and not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction, or operation of airports and air navigation facilities; and
7. Enter into agreements with the authority respecting action to be taken by the municipality pursuant to the provisions of this section.

§ 20. Out of State Airport Jurisdiction Authorized; Reciprocity with Adjoining States and Governmental Agencies.) For the purpose of this section, "governmental agency" means any municipality, city, town, village, county, public corporation, or other public agency.

This state or any governmental agency of this state having any powers with respect to planning, establishing, acquiring, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, or protecting airports or air navigation facilities within this state, may exercise those powers within any state or jurisdiction adjoining this state, subject to the laws of that state or jurisdiction.

Any state adjoining this state or any governmental agency thereof may plan, establish, acquire, develop, construct, enlarge, improve, maintain, equip, operate, regulate and protect airports and air navigation facilities within this state, subject to the laws of this state applicable to airports and air navigation facilities. The adjoining state or governmental agency shall have the power of eminent domain in this state, which shall be exercised in the manner provided by the laws of this state governing condemnation proceedings, provided that the power of eminent domain shall not be exercised unless the adjoining state authorizes the exercise of that power therein by this state or any governmental agency thereof having any of the powers mentioned in this section.

The powers granted in this section may be exercised jointly by two or more states or governmental agencies, including this state and its governmental agencies, in such combination as may be agreed upon by them.

This section may be cited as the "Extraterritorial Airports Section."

§ 21. Supplemental Authority.) In addition to the general and special powers conferred by this Act, every authority is authorized to exercise such powers as are necessary incidental to the exercise of such general and special powers.

§ 22. Savings Clause; Airport Zoning.) Nothing contained in this Act shall be construed to limit any right, power, or

authority of a municipality to regulate airport hazards by zoning.

§ 23. Severability.) If any provision of this Act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

§ 24. Repeal.) All acts or parts of acts inconsistent with the provisions of this Act are hereby repealed.

§ 25. Short Title.) This Act may be cited as the "Airport Authorities Act."

Approved March 17, 1959.

AGRICULTURE

CHAPTER 92

H. B. No. 843
(Johnston, Brown, Wheeler)

CLEAR ZONE EASEMENT TO CITY OF BISMARCK

AN ACT

Authorizing the board of administration to sell, convey, and transfer to the city of Bismarck, North Dakota, as owner and operator of the Bismarck Municipal Airport, a clear zone easement over lands adjacent thereto owned by the state of North Dakota, as the city of Bismarck needs a clear zone easement for extension of its runways over lands owned by the state of North Dakota adjacent to its municipal airport and by it held in trust for the use and benefit of the soil conservation program and districts of the state, and said clear zone easement will not interfere with the use of said land for agricultural purposes.

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 city of Bismarck, a clear zone easement for the unobstructed flight of aircraft in, through, and across the airspace over and above the following described land:

> Township one hundred thirty-eight north, range eighty west, fifth principal meridian section fifteen: west one-half section sixteen: that portion of the southeast quarter described as follows: beginning at the southeast corner of said section sixteen, thence running north on the east line of said section six hundred sixty feet; thence west parallel with the south line of said section two thousand three hundred ten feet; thence south six hundred sixty feet to a point on the south line of said section two thousand three hundred ten feet west of the southeast corner of said section; thence east along the south line of said section two thousand three hundred ten feet to the place of beginning; containing thirty-five acres, more or less,

at any altitude or height above the surface of said land, reserving to the state of North Dakota the right of use of said land for agricultural purposes. Provided, however, that said conveyance shall provide if the city of Bismarck abandons the adjacent land for airport purposes said easement shall terminate, and provided further, said conveyance shall be

approved by the attorney general, and shall be subject to all prior known easements, exceptions and reservations set forth in chapter 93 of the 1957 Session Laws of North Dakota.

Approved March 14, 1959.

CHAPTER 93

H. B. No. 620
(Scott, Bopp, Smedshammer, Vinje, Knudsen and Haugland)

DAIRY PRODUCTS PROMOTION COMMISSION

AN ACT

Promoting the sale of North Dakota dairy products; creating a North Dakota dairy products promotion commission and providing for its objectives, powers and duties, its collection and disbursement of funds, the assessment of butterfat produced and sold in the state of North Dakota, the administration of this Act, and prescribing penalties.

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

§ **1.)** This Act shall be known as the North Dakota Dairy Products Promotion Act.

§ **2. Purposes.)** The purposes of this Act are:

1. To promote the sale and disposal of North Dakota dairy products through coordinated research, education, public relations, advertising and other means.
2. To help assure the future operation of processing plants located in our cities and towns employing thousands of people.
3. To maintain dairy markets, particularly for the family-type farms, thus enabling more families to live on our farms.
4. To provide that each producer make his own decision as to whether he wishes to support this program.
5. To provide for the keeping of records, inspection thereof, and penalties for violation of this Act.

§ **3. Definitions.)**

1. The term "commission" shall mean the North Dakota dairy products promotion commission.
2. The term "person" shall include individuals, corporations, partnerships, trusts, associations, cooperatives and any and all other business units, devices and arrangements.

3. "Shipment" and "shipped" shall be deemed to have taken place when milk or cream has been delivered or consigned to any person dealing in, processing, distributing or manufacturing dairy products for sale.
4. The terms "handle" or "handler" shall mean or indicate any person who purchases milk or cream for processing, manufacturing, sale or distribution, whether as owner, agent, employee, or otherwise.
5. The term "dealer" shall mean and include any person who handles, ships, buys or sells dairy products, or who acts as sales or purchasing agent, broker or factor of dairy products.
6. The terms "processor" or "processing plant" shall include every person and every place to whom or to which milk or cream is delivered, for the purpose of canning, drying, manufacturing, preparing or packaging for market, or for use in producing or manufacturing a product of milk or cream.
7. The term "producer" shall include every person who produces milk from cows and thereafter sells the milk or some product therefrom.

§ 4. North Dakota Dairy Products Promotion Commission.) There is hereby created a North Dakota dairy products promotion commission consisting of seven members of which the governor shall appoint four members, two of said appointive members shall be producers and two of said appointive members shall be processors. The governor shall appoint the producer members from a list of nominees supplied by the American dairy association of North Dakota and the processor members from a list of nominees supplied by the North Dakota dairy industries association. Each list of nominees shall contain at least twice as many names as the number of appointments to be made therefrom. The term of office of each appointive member of the commission shall be two years, except that the initial appointments of one producer and one processor shall be for only one year, so that thereafter the terms of one producer and one processor will expire each year. Terms of office shall commence on the first day of July. In addition to the four appointive members there shall be three ex officio members of such commission who shall be the commissioner of agriculture and labor, the head of the dairy husbandry department of the North Dakota agricultural college, and a state executive committee member of the American dairy association of North Dakota to be designated by that association. The ex officio members shall meet with the commission and shall have the same rights and duties as the appointive members including the right to vote.

§ 5. Powers and Duties of Commission.)

1. The commission shall administer and enforce the provisions of this Act and shall have and may exercise any and all of the powers conferred upon it herein. A majority of the members of the commission shall constitute a quorum for the transaction of business and the carrying out of the duties of the commission.
2. The commission shall elect a chairman, vice chairman, secretary-treasurer, and such other officers as may be deemed advisable and adopt such rules, regulations, recommendations and orders for the exercise of its powers and performance of its duties as shall be deemed advisable.
3. The appointive members of the commission shall receive a salary of fifteen dollars a day while actually engaged in the official duties of the commission, plus his actual expenses at the same rates as other state officials.
4. The commission shall select a state manager, whose compensation shall be fixed by the commission. The commission is also authorized to employ such additional personnel as shall be necessary, including an attorney, to fix their compensation and terms of employment, and to incur such expenses as the commission may deem necessary and proper to carry out their duties—to be paid from moneys collected as herein provided.
5. The commission shall plan and carry out dairy products research, education, public relations, advertising, sales promotion, and other programs for the purpose of promoting the sale and consumption of dairy products on both a state and national basis and may contract for any service in connection therewith.
6. The commission may accept and disburse voluntary contributions for the use and purposes of the commission.
7. In order to effectuate the declared purposes of this Act, the commission is hereby authorized to collect an assessment of one-quarter cent upon each pound of butterfat produced and sold in the state of North Dakota and to make disbursement from such funds as provided herein.

§ 6. Assessment.)

1. There is hereby levied an assessment of one-quarter cent upon each pound of butterfat produced and sold in the state of North Dakota. When butterfat is sold without a butterfat test being made, its butterfat content shall be computed on the basis of three and one-half percent of weight when milk, and thirty-two percent of weight when cream.
2. All assessments levied under this chapter shall be collected by the first dealer or processor through deduction

of the same from the price paid for butterfat to the producer, with the exception that where the producer sells directly to the consumer, the assessment shall be collected from such producer. All moneys received by the dealers, processors and producers from such assessment shall be remitted to the state treasurer and deposited by him in the North Dakota dairy products promotion commission fund and are hereby appropriated to the commission and shall be disbursed by the commission in accordance with the provisions of this Act. The remittance of such assessments shall be made monthly within fifteen days after the period for which remittance is made.

3. Any producer desiring a refund of such assessment must himself make written application to secretary-treasurer of the North Dakota dairy products promotion commission therefor. Such application may only be made on an annual basis and may only be made within thirty days after January 1st of each year on forms provided by the commission.

§ 7. Dealers' Processors' and Producers' Records.) All dealers, processors and producers charged hereunder with the obligation of collecting and remitting the assessment imposed by this Act, shall keep a complete and accurate record of all butterfat, subject to assessment by this chapter. Such records shall contain such information as the North Dakota dairy products promotion commission may prescribe, shall be preserved for a period of two years, and shall be subject to inspection by authorized agents or employees of the commission.

§ 8. Reports.) All persons charged by this chapter to keep records, shall file with the commission, as the commission by its regulations may require, a return on or before the fifteenth day of each month, on forms to be prescribed and furnished by the commission, stating the amount of butterfat subject to assessment during the preceding month, and such other information as the commission may reasonably require. A copy of such return shall be retained by all dealers and processors for inspection by the producers selling to them.

§ 9. Expenses.) No part of the expense incurred by the commission shall be paid from any other source than the North Dakota dairy products promotion commission fund, and the expenses incurred by the commission shall at no time exceed the amount available in the fund.

§ 10. Security Bonds.) The treasurer of the commission shall file with the commission a fidelity bond, executed by a surety company authorized to do business in this state, in

favor of the commission, conditioned for the faithful performance of his duties and the strict accounting of all funds of the commission in the penal sum of ten thousand dollars, or in such additional amount as the commission may designate. The commission shall cause such other of its officers to be adequately bonded for faithful performance of their duties and strict accounting of the commission funds as in its discretion is deemed advisable.

§ 11. Commission Report to Governor.) The commission shall make a full and complete report to the governor of its activities for the twelve months prior to July first, within forty-five days thereafter. The books, records and accounts shall be audited annually by the state board of auditors, the cost of such audit to be paid from the funds of the North Dakota dairy products promotion commission.

§ 12. Penalty.) Any person who shall violate any of the provisions of this chapter 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 9, 1959.

CHAPTER 94

S. B. No. 266
(Baeverstad)

NORTH DAKOTA SEED POTATO ACT

AN ACT

To create the North Dakota Seed Potato Act, defining terms and providing for the formation, regulations and administration of the Act, and providing a penalty.

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

§ 1. Title.) This chapter shall be known as the Seed Potato Control Act of North Dakota.

§ 2. Definitions.) As used in this Act, unless the context and subject matter otherwise clearly requires:

1. "Committee" means the seed-control committee of a seed potato control area provided for under this Act.
2. "Owner" means any person who is:
   a. Registered as the owner of land in the books of the register of deeds office;

b. A purchaser of land under an agreement for purchase registered in the books of the register of deeds, and who is by the terms of the agreement liable to pay the taxes on the land; or
c. A homesteader, purchaser, or lessee of land.

3. "Seed" means Irish potato-tuber for reproduction purposes.
4. "Seed potato control area" means any seed potato control area established in this Act.

§ 3. Seed Potato Control Area: Formation.) Any five owners of land within an area that propose to have constituted a seed potato control area under this Act may by public notice call a meeting of the owners of lands within that area at a time and place named in the notice. The notice shall contain a description of the area proposed to be constituted a seed potato control area. The notice shall be published in the official newspaper or newspapers of the county or counties in which the proposed seed potato control area is located not less than once each week for two successive weeks prior to the date set for such meeting. Every owner of land within the area may attend and take part in the discussion at the meeting. A majority of the owners present at the meeting may decide to circulate a petition for the formation of a seed potato control area under this Act.

§ 4. Petition for Formation of an Area.) The petition provided for in section 3 of this Act shall be addressed to the seed commissioner, in a form prescribed by the seed commissioner, and shall:

1. Contain a description of the proposed seed potato control area;
2. State the quality of seed which may be planted in that area;
3. Show proof that the members of the proposed potato control area intend to comply with any rules or regulations prescribed by the seed commissioner; and
4. State the names of at least five persons whom the petitioners desire to be appointed as members of the seed potato control committee of the seed control area, and who express in writing their willingness to act.

§ 5. Power of Seed Commissioner in Formation of Area.) On the presentation of the petition, accompanied by proof of compliance with section 3 of this Act, and showing that the petition is signed by not less than eighty percent of the number of the owners of lands in the proposed seed control area, the seed commissioner may by order establish the lands described in the petition as a seed potato control area under such name as may be considered advisable. In establishing the seed

control area the seed commissioner may restrict the boundaries of the seed potato control area to a smaller area than set out in the petition. The seed commissioner may, by the order establishing the seed potato control area or by a subsequent order from time to time, prescribe the quality of seeds that may be planted within the seed potato control area which quality may differ from those stated in the petition.

§ 6. **Formation of a Committee.)** A seed potato control area committee shall consist of three persons who are members of the control area and shall be appointed by the seed commissioner from the list of five names submitted to him under the provisions of section 4 of this Act. The term of office of the members of the committee and the constitution of a quorum shall be governed by bylaws approved by not less than eighty percent of the owners or lessees of land in the seed control area.

§ 7. **Powers and Duties of the Committee.)** The committee shall have the following powers and duties:

1. The employment, direction, and supervision of such employees as may be considered necessary to enable the committee effectively to carry out its work.
2. The keeping of accurate records of the work done and of the cost and expenses incurred by the committee.
3. The submission from time to time of such reports as the seed commissioner may require.
4. The manner of charging and collecting of a sum not exceeding two and one-half cents per hundred weight for potatoes produced in the seed potato control area.
5. The appointment from among their members of a chairman and a secretary-treasurer.
6. The enforcement of this Act and any rules and regulations promulgated under the provisions of this Act.
7. The committee shall not undertake any expenditure or incur any liability in excess of the moneys received under the provisions of this Act.

§ 8. **Regulations.)** For the purpose of carrying into effect the provisions of this Act, the seed commissioner may make such regulations as he considers necessary or advisable. The power of the seed commissioner to make regulations under this section shall extend to:

1. Defining, re-defining, reducing, or extending the limits of a seed potato control area;
2. Prescribing additional powers and duties of committees under this Act;
3. Prescribing of minimum requirements which must be met in the seed selection, seed treatment, field isolation,

cultural practices and in disease removal and insect control;

4. Prescribing the methods of seed potato control work to be followed by the committee in respect to any seed potato control area;
5. The prescribing and authorizing of the quality of seed to be grown within a seed potato control area;
6. The canceling of any or all seed potato control areas;
7. Providing for the inspection, testing, and approval of the seed to be planted and grown in the area; and
8. To prescribe such other regulations as may be expedient or necessary to carry out the purposes and provisions of this Act.

§ 9. Restrictions Pertaining to Quality of Seed Planted or Grown.) No person shall plant or permit to be planted on any lands of which he is the owner or lessee within a seed potato control area, or within any part thereof, any seed of a quality other than that prescribed or authorized under this Act, and only uniform North Dakota certified seed potato tags be used.

§ 10. Sale of Potatoes Produced in Area.) No owner or lessee in a seed potato control area shall ship potatoes out of the area without first obtaining a permit from the committee and paying the fee as fixed by the provisions of this Act.

§ 11. Dissolution of Control Area and of Committee.) Upon cause shown, and upon such conditions and subject to such provisions as may be considered proper, the seed commissioner may by order revoke and cancel any potato seed control area and declare the committee thereof to be dissolved.

§ 12. Penalty.) Any person violating any of the provisions of this Act is guilty of a misdemeanor and shall be punished by a fine not exceding 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 17, 1959.

CHAPTER 95

S. B. No. 166
(Livingston, Becker, Trenbeath, Vendsel,)
(Fiedler, Yunker, Redlin, Kisse,)
(Erickson, Saumur, Roen)

NORTH DAKOTA STATE WHEAT COMMISSION

AN ACT

To promote development, utilization and marketing of wheat grown in North Dakota; declaring public policy and purpose; creating the North Dakota State Wheat Commission and prescribing its powers, authority and duties; providing funds by the levy of an excise tax and appropriation of the proceeds; and declaring an emergency, and providing a penalty.

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

§ 1. Legislative Intent.) The public policy of the state is declared to be that to foster, promote, and protect opportunities for economic security, individual rights and enterprise, the development of the natural resources of the state, and the health, prosperity and general welfare of all of the people of the state, the greater development, more effective utilization and better marketing of wheat produced in the state involves and concerns a public purpose, the accomplishment of which among other things, requires and demands the establishment of a state wheat commission for the purpose and with the objective of stabilizing and improving the agricultural economy of the state.

The provisions of this Act shall not be construed to abrogate or limit in any way the rights, powers, duties and functions of the state department of agriculture or any other agency of the state but shall be supplementary thereto and in aid and cooperation therewith; nor shall such provisions be construed to authorize the state wheat commission to engage in competitive business enterprises, it being the intent and purpose of this Act that the commission shall promote, aid, and develop the orderly marketing and processing of North Dakota wheat.

§ 2.) Definitions:

1. Commission means the North Dakota State Wheat Commission;
2. Producer means any landowner or tenant engaged in growing wheat and receiving, in such capacity, any portion of the crop produced;

3. First purchaser means any person, firm, corporation, association, or partnership buying or otherwise acquiring, after harvest, the property in or to wheat from the grower and shall include a mortgagee, pledgee, lienor, or other claimant having a claim against the producer, where the actual or constructive possession of wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;
4. Commercial channels means the sale of wheat for any use, when sold by the producer to any commercial buyer, dealer, processor, cooperative, or to any person, firm, corporation, association or partnership who resells any wheat or product produced therefrom;
5. Sale shall include any pledge or mortgage of wheat, after harvest, to any person, firm, corporation, association, or partnership; and
6. Wheat shall include all varieties of hard red spring wheat, durum, and winter wheats.

§ 3. Wheat Commission: Members.) There is hereby created the North Dakota State Wheat Commission which shall consist of seven members. One member shall be appointed or elected from each of the districts of the state established by the provisions of this Act and one member shall be appointed or elected from the state at large. Each member, except the member from the state at large, shall be a bona fide resident of and a qualified elector in the district he represents, shall have farming operations in such district, and shall have been actually engaged in the production of wheat and have derived a substantial portion of his income therefrom for at least five years next preceding his appointment or election. The member from the state at large shall have similar qualifications except as limited by district lines.

Within thirty days after the effective date of this Act, a nominating committee consisting of the commissioner of agriculture and labor, the president of the North Dakota Crop Improvement Association, the director of the state experiment station, the director of the state extension service, the president of the North Dakota Farm Bureau, the president of the North Dakota Farmers Union, and the president of the North Dakota Grain Dealers Association, or their duly authorized representatives, shall submit to the governor a list of three names for each position on the commission and within sixty days from the effective date of this Act the governor shall appoint, from the nominees so named, the first members of the commission.

Each member of the commission shall hold office for a term of six years and until his successor has been selected and

has qualified except that the commissioners originally appointed from the first and fourth districts shall hold office for terms ending on the thirtieth day of June 1961; the commissioners originally appointed from the second and fifth districts shall hold office for terms ending on the thirtieth day of June, 1963; and the commissioners originally appointed from the third and sixth districts and from the state at large shall hold office for terms ending on the thirtieth day of June, 1965.

At least sixty days prior to the expiration of the term of office of a commissioner representing any district, a meeting of producers shall be held in each county in the district for the purpose of electing a county representative. The county agent shall call such meeting by publishing notice in the official newspaper of the county for two successive weeks, the last publication to be not less than five nor more than ten days prior to the meeting. The meeting shall be held at the county courthouse at two o'clock p. m. and shall be called to order by the county agent. Each producer whose name appears as a wheat producer on the list of the county agricultural stabilization committee, if present in person, shall be entitled to vote. Votes shall be canvassed by the county agent and certified by him with the name and postoffice address of the elected county representative to the director of the state extension service who shall thereupon, as expeditiously as possible, call a meeting of the county representatives of the district. Notice of such meeting shall be sent to each county representative by registered or certified mail not less than five days prior to the meeting which shall be held at two o'clock p. m. in the courthouse of one of the counties of the district. At such district meeting, the county representatives shall elect one of their number as the district member of the commission. The ballots at such meeting shall be canvassed by the state extension service and the result of election certified to the governor by the director. All expenses of all such meetings and elections shall be paid from commission funds. Any vacancy occurring on the commission other than by expiration of term of office shall be filled by the county representatives who shall elect one of their number as the district member of the commission for the remainder of the unexpired term. If the vacancy is from the state at large, by appointment from three nominations submitted by the nominating committee as in the case of the original appointment. Vacancies occurring by expiration of the term of the member at large shall also be filled by appointment by the governor from three nominations submitted by the nominating committee as in the case of the original appointment.

§ 4. State Wheat Commission Districts.) For the purpose of this Act, the state is hereby divided into the following districts:

1. State wheat commission district number one shall consist of the counties of Golden Valley, Billings, Dunn, Mercer, Oliver, Stark, Morton, Slope, Hettinger, Grant, Sioux, Bowman, and Adams;
2. State wheat commission district number two shall consist of the counties of Divide, Burke, Renville, Williams, Mountrail, Ward and McKenzie;
3. State wheat commission district number three shall consist of the counties of McLean, Sheridan, Wells, Eddy, Burleigh, Kidder, Stutsman, Foster, Emmons, Logan and McIntosh;
4. State wheat commission district number four shall consist of the counties of Bottineau, Rolette, Towner, McHenry, Pierce, Benson and Ramsey;
5. State wheat commission district number five shall consist of the counties of Griggs, Steele, Traill, Barnes, Cass, LaMoure, Dickey, Ransom, Sargent and Richland; and
6. State wheat commission district number six shall consist of the counties of Cavalier, Pembina, Walsh, Nelson and Grand Forks.

§ 5. Wheat Commission; Meeting; Expenses; Legal Advisor.) Upon call of the governor, the commission shall first meet and organize by electing from the membership a chairman and vice chairman, who shall hold office for one year and until their successors are elected and have qualified. Thereafter the commission shall meet at least once every calendar quarter at such times and places as shall be determined by the commission and may meet in special meetings upon such call and notice as may be prescribed by rules adopted by the commission. Members of the commission shall be reimbursed for actual expenses necessarily incurred in attending meetings and performing other official duties on the same basis as other state officers and shall be paid twenty-five dollars for each day actually devoted to official business of the commission. The attorney general shall act as legal advisor to the commission or designate an assistant for that purpose and within the limit of the funds available to the commission it may employ other counsel to advise and represent the commission in its affairs and proceedings.

§ 6. Wheat Commission; Duties and Powers.) In the administration of this Act, the commission shall have the following powers, authority, and duties:

1. To foster and promote programs aimed at increasing the sale, utilization and development of wheat, both at home and abroad;
2. To publish and disseminate reliable information on the value of wheat and wheat products for any purpose for which they are valuable and useful to both processor and consumer;
3. To search for and promote new uses of wheat and wheat products;
4. To contract and cooperate with any person, firm, corporation or association, or with any local, state or federal department or agency for executing or carrying on a program or programs of research, education and publicity;
5. To lease, purchase, own, equip, maintain and operate a commission office;
6. To appoint, employ, bond, discharge, fix the compensation and prescribe the duties of such administrative, clerical, technical and other personnel, employees and agents as it may deem necessary to conduct the business and affairs of the commission;
7. To accept donations of funds, property and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the work and objectives of the commission, depositing all funds so received in the state wheat commission fund in the state treasury;
8. To promote North Dakota opportunities as afforded by the development of the St. Lawrence Seaway;
9. To seek improvement in the export quality of wheat;
10. To exercise all express and implied rights, powers and authority that may be necessary to perform and carry out the expressed purposes of this Act and all of the purposes reasonably implied incidentally thereto or lawfully connected therewith and to adopt, rescind, modify, and amend all necessary and proper orders, resolutions, rules, and regulations for the procedure and exercise of its powers and the performance of its duties; and
11. To prosecute in the name of the state of North Dakota any suit or action to enforce collection or assure payment of the tax or assessment authorized by the provisions of this Act, and to sue and be sued in the name of the commission.

§ 7. Wheat Tax Levy.) There is hereby levied and imposed, effective July 1, 1959, a tax of two mills per bushel by weight upon all wheat grown in this state and sold through commercial channels by a producer to a first purchaser, such tax

to be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or, in the case of a lien, pledge or mortgage, deducted from the proceeds of the loan or claim secured, subject to adjustment at the time of settlement in the event the number of bushels are not accurately determined at the time of the lien, pledge or mortgage. At the time of sale, the purchaser shall issue and deliver to the producer a record of the transaction in such manner as the commission may prescribe.

Any producer subject to the deduction provided in this Act may, within sixty days following such deduction, make application by personal letter to the wheat commission for a refund application blank. Upon the return of said blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer shall be refunded the net amount of the deduction collected. If no request for refund shall have been made within the period prescribed above, then the producer shall be presumed to have agreed to such deduction.

§ 8. **State Wheat Commission Fund; Appropriation.)** Each first purchaser shall make quarterly reports and returns to the commission, on such forms as shall be prescribed by the commission, on or before the twentieth day of the month next succeeding each calendar quarterly period, commencing with the calendar quarter ending September 30, 1959 and with each such report and return shall remit to the commission, in the form of a remittance payable to the state treasurer, the tax due. The commission shall transmit all such payments to the state treasurer to be deposited in the state treasury to the credit of a fund to be known as the "state wheat commission fund." There is hereby appropriated out of any moneys in the state wheat commission fund the sum of four hundred thousand dollars, or so much thereof as may be necessary, to the state wheat commission for the purposes of carrying out the provisions of this Act for the period beginning from and after the effective date of this Act and ending July 1, 1961. The provisions of section 54-2710 of the North Dakota Revised Code of 1943 shall not apply to such appropriation nor shall any part of such fund and appropriation revert at the expiration of any biennium. Expenditures from such fund, not to exceed four hundred thousand dollars for the period beginning from and after the effective date of this Act and ending July 1, 1961, may be made by the commission in carrying out the provisions of this Act upon vouchers signed by the chairman of the commission.

§ 9. **Penalty.)** Any person violating any of the provisions of this Act 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.

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

Approved March 17, 1959.

CHAPTER 96

S. B. No. 213
(Trenbeath, Livingston, Klefstad and Roen)

ONE MILL LEVY FOR COUNTY AGENT

AN ACT

To amend and reenact section 4-0815 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the one mill levy for county agent work, providing that all counties may levy such one mill regardless of taxable valuation.

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

§ 1. Amendment.) Section 4-0815 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0815. One Mill Levy Authorized.) The board of county commissioners of any county of this state in which a levy for county agent work has been voted on and approved by the people as provided for in sections 4-0801 and 4-0803 of the North Dakota Revised Code of 1943, may levy not to exceed an amount necessary for such purpose, as provided in section 4-0809 of the North Dakota Revised Code of 1943, which amount shall not exceed one mill upon the taxable valuation of property in the county, and which levy shall not be restricted by the county tax levy limitation prescribed by law.

Approved March 16, 1959.

CHAPTER 97

H. B. No. 677
(Saugstad, Idso, Schuler and Guy)

SEEDS AND STATE SEED DEPARTMENT

AN ACT

To amend and reenact section 4-0901 of the 1957 Supplement to the North Dakota Revised Code of 1943 by amending subsection 6 and creating and enacting subsection 23, and to amend and reenact sections 4-0908, 4-0910, and 4-0911 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the state seed department.

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

§ 1. Amendment.) Subsection 6 of section 4-0901 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6. "Restricted noxious weed seeds" shall mean the seeds of weeds which are highly objectionable in fields, lawns and gardens, but which can be controlled by good cultural practices or other means. Included herein are the seeds of dodder (cuscuta species except coryli), wild mustard (brassica spp), frenchweed (thlaspi arvense), hedge bindweed (convolvulus sepium), wild oats (avena fatua), and quack grass (agropyron repens 1. beauv.); provided, however, that the commissioner may, through promulgation of regulations, add to or delete from the list of seeds included under either classification in subsections 5 and 6 whenever he finds, after due consideration, that such additions or deletions are within the respective classifications;

§ 2. Amendment.) Section 4-0901 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted by creating and enacting subsection 23 to read as follows:

23. The term "treated" means that the seed has received an application of a substance or process which substance or process is designed to reduce, control or repel certain disease organisms, insects or other pests attacking such seeds or seedlings growing therefrom.

§ 3. Amendment.) Section 4-0908 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0908. Public Laboratory Service; Free Tests; Fees for Additional Tests.) Any resident of this state may send samples of seed to the commissioner for examination, analysis, or test, but not to exceed three samples per year per person shall be examined and reported on free of charge. The commissioner, however, shall through promulgation of regulations prescribe the time of year when seed samples will be accepted for free tests, the fees which will apply to samples submitted by any resident of the state in excess of three and the fees which will be charged for all other laboratory tests and services.

§ 4. Amendment.) Section 4-0910 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0910. Labeling Requirements for Agricultural Seed.) Each container of agricultural seed which is sold, offered for sale, exposed for sale, transported for sale, or held in storage with the intent to sell for sowing purposes within this state shall bear thereon or have attached thereto in a conspicuous place, or there shall be properly delivered with bulk sales or movements of said seed, a plainly written or printed label or tag in the English language giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the container:

1. 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 by 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;
2. Lot number or other lot identification;
3. Origin, state or foreign country where grown. If the origin is unknown, that fact shall be stated;
4. Percentage by weight of all weed seeds;
5. The name and rate of occurrence per pound of each kind of restricted noxious weed seeds present, if the said restricted noxious weed seeds are present singly or collectively in amounts:
   a. In the case of quack grass (agropyron repens 1. beauv.) and dodder (cuscuta species except coryli), in excess of twenty-one seeds per pound; and

b. In case of wild mustard (brassica spp), frenchweed (thlaspi arvense), wild morning-glory (ipomoea spp) and wild oats (avena fatua), in excess of thirty-one seeds per pound, provided, however, that the commissioner may, through promulgation of regulations change the requirements under this subsection;

6. Percentage by weight of agricultural seed which may be designated as crop seed, other than those required to be named on the label;
7. Percentage by weight of inert matter;
8. For each agricultural seed:
   a. Percentage of germination, exclusive of hard seed. Total germination and hard seed may be stated as such, if desired;
   b. Percentage of hard seed, if present. Total germination and hard seed may be stated as such, if desired; and
   c. The calendar month and year the test was completed to determine such percentages;
9. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state;
10. The relative maturity in number of days, in the case of hybrid corn; and
11. For treated seeds as defined in this Act, for which a separate label may be used:
    a. A word or statement indicating that the seed has been treated;
    b. The commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied substance; and
    c. If the substance in the amount present with the seed is harmful to human or other vertebrate animals a caution statement such as "Do not use for food or feed or oil purposes." The caution for mercurials and similar toxic substances shall be a poison statement or symbol.

§ 5. **Amendment.)** Section 4-0911 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0911. Labeling Requirements for Vegetable Seed.) Each container of vegetable seed which is sold, offered for sale, exposed for sale, transported for sale, or held in storage with the intent to sell for sowing purposes within this state shall bear thereon, or have attached thereto, in a conspicuous place a plainly written or printed label or tag in the English language.

For vegetable seeds in containers of one pound or less, such label or tag shall give the following information:

1. The name of kind and variety of seed; and
2. For seeds which germinate less than the standards as set forth in section 201.31 of the rules and regulations under the Federal Seed Act, "Service and Regulatory Announcement No. 156," and subsequent revisions:
   a. Percentage of germination, exclusive of hard seed;
   b. Percentage of hard seed, if present;
   c. The calendar month and year the test was completed;
   d. The words "below standard" in not less than eight point type; and
3. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state; and
4. For treated seed as defined in this Act for which a separate label may be used:
   a. A word or statement indicating that the seed has been treated;
   b. The commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied substance;
   c. If the substance in the amount present with the seed is harmful to human or other vertebrate animals a caution statement such as "Do not use for food or feed or oil purposes." The caution for mercurials and similar toxic substances shall be a poison statement or symbol.

For vegetable seeds in containers of more than one pound, such label or tag shall give the following information:

1. The name of each kind and variety of vegetable seed present in excess of five percent and the percentage by weight of each in order of its predominance;
2. Lot number or other lot identification;
3. Origin, meaning the state or foreign country where grown. If the origin is unknown, that fact shall be stated;
4. The name and rate of occurrence per pound of each kind of restricted noxious weed seeds present;
5. For each named vegetable seed:
   a. Percentage of germination, exclusive of hard seed. Total germination and hard seed may be stated as such, if desired;
   b. Percentage of hard seed, if present. Total germination and hard seed may be stated as such, if desired; and
   c. The calendar month and year the test was completed to determine such percentages; and

6. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state;
7. For treated seed as defined in this Act for which a separate label may be used:
   a. A word or statement indicating that the seed has been treated;
   b. The commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied substance;
   c. If the substance in the amount present with the seed is harmful to human or other vertebrate animals a caution statement such as "Do not use for food or feed or oil purposes." The caution for mercurials and similar toxic substances shall be a poison statement or symbol;
8. The labeling requirements for vegetable seeds in containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

Approved March 4, 1959.

CHAPTER 98

H. B. No. 780
(Berntson, Kadlec, and Collette)

POTATO GRADE INSPECTION

AN ACT

To amend and reenact section 4-1013 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to grade inspection fees and charges.

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

§ 1. Amendment.) Section 4-1013 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-1013. Grade Inspection; Fees and Charges.) The commissioner, by regulation, shall fix the fees for making grade inspections, and said fees shall be uniform throughout the state for such periods of time as shall be specified. The fee for potato grade inspection shall approximate the cost of such service and shall be approved by the directors of the North Dakota

certified potato growers association. The equivalent of twenty-five cents for each carlot inspection for potatoes shall be covered into an advertising fund to be used by the commissioner in consultation with the growers for the purpose of advertising North Dakota seed and table stock potatoes in the wholesale and retail markets of the United States. Any person soliciting an inspection or inspections at points other than those at which inspectors are located, or at which itinerant inspectors may be at the time inspection is requested, may obtain inspection service on payment of the necessary traveling expenses, in addition to the regular inspection fee. The owner and the consignor or shipper of the potatoes shall be held responsible for the payment of the inspection fees when they are not paid otherwise. The commissioner shall collect all fees and charges and shall make detailed annual reports of all receipts and expenditures to the board of administration which shall publish the same for distribution to interested parties. Provided, however, that there shall be no increase in fees except with the approval of a majority of the directors and officers of the North Dakota certified seed potato growers association and the North Dakota members of the board of directors and officers of the Red River Valley potato growers association present at a meeting called by the state seed commissioner, preferably at Grand Forks.

Approved March 4, 1959.

CHAPTER 99

H. B. No. 600
(Scott, Johnson, Saugstad, Bopp, Breum)

DISCONTINUING SOIL CONSERVATION DISTRICTS

AN ACT

To amend and reenact section 4-2242 of the North Dakota Revised Code of 1943 relating to the method of discontinuing soil conservation districts.

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

§ 1. Amendment.) Section 4-2242 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-2242. Discontinuance of Districts: Petition for; Referendum on; Eligible Voters.) After the expiration of five years from the date upon which a district has been organized,

twenty-five percent of the occupiers of land lying within the boundaries thereof may file a petition with the state soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee shall then conduct public meetings and hearings upon such petition in order to determine whether or not there is sufficient basis for a referendum to be held. If the committee determines that there is sufficient basis for a referendum, it shall give due notice of the holding of a referendum and shall issue appropriate regulations governing the conduct thereof within sixty days after it has made its determination. The question to be voted on at the referendum shall be submitted by ballot in substantially the following form:

Should the (insert name of district) .....be terminated.

Yes ☐
No ☐

All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. The committee shall supervise the referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate the referendum or the result thereof if notice thereof shall have been given substantially as herein provided and the referendum shall have been conducted fairly.

Approved March 5, 1959.

ALCOHOLIC BEVERAGES

CHAPTER 100

H. B. No. 640
(Ostrem, Muggli, Knutson of Benson,)
(Hornstein, Scott, Myhre)

ALCOHOLIC BEVERAGES AND MINORS

AN ACT

Relating to the purchase of intoxicating liquor by or for a person under twenty-one years of age, the furnishing of false evidence as to age, and providing a penalty.

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

§ 1.) It shall be unlawful for any person under the age of twenty-one years to purchase or attempt to purchase or have in his or her possession in this state any intoxicating liquor as defined by section 5-0506 of the 1957 Supplement to the North Dakota Revised Code of 1943.

§ 2.) It shall be unlawful for any person to purchase or procure for any person under the age of twenty-one years any intoxicating liquor as herein defined or to furnish or deliver such intoxicating liquor to any such person.

§ 3.) It shall be unlawful for any person under the age of twenty-one years to furnish money to any other person for the purpose of purchasing such intoxicating liquor.

§ 4.) It shall be unlawful for any person under the age of twenty-one years to make any false statement or to furnish, present, or exhibit any false or fictitious registration card or other document or evidence for the purpose of gaining admission to any place where his or her presence is prohibited or for the purpose of procuring the sale to him or her of such intoxicating liquor.

§ 5.) Any person violating any provision of this Act shall be punished by a fine of not exceeding one hundred dollars or by imprisonment in the county jail for not exceeding thirty days or by both such fine and imprisonment.

Approved February 21, 1959.

CHAPTER 101

S. B. No. 271
(Wenstrom)

DAMAGES FOR ILLEGAL SALE OF LIQUOR

AN ACT

To amend and reenact section 5-0121 of the North Dakota Revised Code of 1943 relating to the right of action for damages against persons causing the intoxication of persons causing damage.

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

§ 1. Amendment.) Section 5-0121 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

5-0121. Recovery of Damages for Illegal Sale of Liquor.) Every wife, child, parent, guardian, employer, or other person who shall be injured in person, property, or means of support, by any intoxicated person, or in consequence of intoxication, habitual or otherwise, of any person, shall have a right of action, in his or her own name, against any person who, by selling, bartering, or giving away alcoholic beverages contrary to the provisions of any statute, shall have caused the intoxication of such person, for all damages actually sustained as well as for exemplary damages. All damages recovered by a minor under this section shall be paid either to such minor, or his or her parent, guardian, or next friend, as the court shall direct. All suits for damages under this section shall be by civil action in any of the courts of this state having jurisdiction thereof.

Approved March 10, 1959.

CHAPTER 102

S. B. No. 117
(Trenbeath and Berube)
(By request)

LIQUOR BROUGHT INTO STATE

AN ACT

To amend and reenact section 5-0306 of the North Dakota Revised Code of 1943, relating to stamps representing tax on liquor in this state, and allowing a limited amount of liquor to be brought into this state from foreign countries by tourists or other people.

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

§ **1. Amendment.)** Section 5-0306 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

5-0306. Stamps Representing Tax Must Be Used; Exception.) Stamps representing the excise taxes set forth in section 5-0305 shall be affixed securely to each package or original container, sold by or in the possession of any retail dealer. No person shall possess, within this state, any original package or other container of liquor to which such stamps are not affixed. Any unstamped liquor found in the possession of any person shall be subject to seizure and confiscation by any peace officer unless such liquor at the time was in the possession of or in transit and consigned to a duly licensed wholesale dealer within this state, or is being brought into the state of North Dakota from foreign countries. Such liquor brought into North Dakota from foreign countries by any one person shall not exceed one wine gallon and such liquor shall not be resold. The provisions of this section shall not be construed as authorizing any person under the age of twenty-one years to bring any liquor into this state from any foreign country.

Approved March 3, 1959.

BANKS AND BANKING

CHAPTER 103

S. B. No. 161
(Ringsak, Yunker, Kee, Van Horn, Andre, Wartner and Hernett)

LOAN LIMITATIONS OF STATE BANKING ASSOCIATIONS

AN ACT

To amend and reenact section 6-0305 of the North Dakota Revised Code of 1943, relating to limitation of real estate loans by state banking associations.

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

§ **1. Amendment.)** Section 6-0305 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0305. Loans on Real Estate; Regulation; Limitation; Amortized Loans Provided for.) No association shall own or carry among its assets at any one time loans dependent primarily upon real estate security in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of sixty-six and two thirds percent of the amount of its time and savings deposits, whichever is the greater, and then only upon first mortgages constituting first liens upon such real estate not exceeding fifty percent of the actual cash value of the property mortgaged. Before any such loan is made the board of directors shall appoint from among its members a committee which shall make actual inspection of the security offered and shall appraise both the land and the improvements thereon, if any, and shall report to the board of directors, in writing the results of the appraisal together with any other facts relating to such proposed loan and proposed security as will best enable the board to determine if the loan shall be granted. Such written report shall be made a permanent record in the bank's files and shall be made available to the state examiner. No director shall act as an appraiser of his own property nor of property offered as security for loans the proceeds of which are to be used for his benefit. No such loan shall be made for a longer period than five years. Provided, however, any such loan may be made in an amount not to exceed sixty-six and two thirds percent of the actual cash value of the real estate mortgaged

and for a term not longer than ten years if the loan is secured by an amortized mortgage under the terms of which the installment payments are sufficient to amortize forty percent or more of the principal of the loan within a period of not more than ten years.

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

Approved March 10, 1959.

CHAPTER 104

H. B. No. 728
(Brown, Sjaastad, Strand,)
(Neukircher, Halverson and Witteman)

CREDIT UNION EXAMINATION AND SUPERVISORY COMMITTEE

AN ACT

To amend and reenact sections 6-0608 of the 1957 Supplement to the North Dakota Revised Code of 1943 and 6-0611 of the North Dakota Revised Code of 1943, relating to the examination of credit unions and to the annual election of the supervisory committee.

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

§ 1. Amendment.) Section 6-0608 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0608. State Credit Union Board to Supervise Credit Unions; Reports; Examinations; Fee.) Credit unions and the permanent loan funds thereof, if any, shall be under the supervision of the state credit union board. The credit unions shall report to the state examiner at least once annually, upon call of the state examiner, on blanks supplied by the examiner for the purpose. Additional reports may be required by the board or examiner. Credit unions shall be examined at least once each year by the examiner or with the approval of the state credit union board, credit unions may be examined annually

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

§ 2. **Amendment.)** Section 6-0611 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0611. Annual Meetings; Election of Directors and Committees.) The organization meeting of the members of a credit union shall be the first annual meeting. At its annual meeting, its members shall elect a board of directors of not less than five members, a credit committee of not less than three members, and a supervisory committee of not less than three members, all to hold office for such terms, respectively, as provided by the bylaws of the credit union and until their successors qualify. A record of the names and addresses of the officers and members of the board and committees shall be filed with the state examiner within ten days after their election.

Approved March 12, 1959.

BUILDING AND LOAN ASSOCIATIONS

CHAPTER 105

H. B. No. 574
(Baldwin, Anderson of Richland, Dahlund, Neukircher,)
(Strege, Davis, Streibel, Magnuson and Kelly)

LOANS FOR RESIDENTIAL DEVELOPMENT PURPOSES

AN ACT

To permit building and loan associations to lend funds for residential development purposes.

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

§ 1. Authority for Land Development for Residential Purposes.) Any building and loan association, or two or more associations, shall have authority to lend funds on first mortgage liens on land for residential development. Such development may include the laying out and dedication of streets and alleys and installation of curbing, sidewalks, water, sewer, paving and like improvements.

Approved March 14, 1959.

CHAPTER 106

H. B. No. 839
(Hilleboe, Brown, Idso, Aamoth)

LOAN LIMITATIONS ON BUILDING AND LOAN ASSOCIATIONS

AN ACT

To amend and reenact section 7-0413 of the North Dakota Revised Code of 1943, relating to loans to members of savings and loan associations or building and loan associations, and providing loan limitation equal to federally chartered associations.

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

§ 1. Amendment.) Section 7-0413 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

7-0413. Loans to Members.) Loans may be made to members on notes secured by mortgages which shall be a first lien on improved real property. Such loans shall not exceed seventy-five per cent of the cash value of such property and shall be payable in shares of the association or by periodical installments, provided, however, that, as to percentage of loan to value, such percentage as is permitted for federally chartered associations shall also be legal, for loan purposes, for any federally insured state-chartered association in the territory in which such state association is authorized to operate, any provision herein contained notwithstanding. When an association holds a mortgage on real property which is a first and prior lien thereon, the association may increase its loan thereon and secure the same by a second or subsequent mortgage payable in installments. A prior lien or encumbrance on real property, upon which the association holds a subsequent mortgage or encumbrance, may be sold, transferred, or assigned, but the aggregate amount of such outstanding and unsatisfied prior liens or encumbrances so sold, transferred, or assigned shall not exceed ten percent of the association's assets at any one time and shall not in any event exceed the amount of its reserve fund. The total indebtedness of a member to the association, less the amount of dues paid on the shares pledged for a loan, shall not exceed seventy-five percent of the cash value of the real property securing the loan. An association may permit members to secure the repayment of loans by giving the association a straight note and mortgage on real property for a fixed period, but in such event the amount of the loan shall not exceed fifty percent of the cash value of the property, and the loan must be approved by the board of directors prior to the granting thereof. No association shall make straight loans on real property in excess of ten percent of the assets of the association, and neither fines nor penalties may be collected on a straight note and mortgage. Loans may be made on the mutual plan or on the definite contract plan. Loans made on the mutual plan shall be accompanied by a pledge of shares having a matured or par value equal to the face of the loan, and shall become due and payable upon the date of maturity of the stock of the borrowing member pledged as collateral security to such loan, but the payments made by the borrower upon the shares so pledged shall not be considered as payments upon the principal of the loan. Definite contract loans shall be repayable in a definite number of equal periodical installments to be set out in the note or obligation, each in an amount sufficient so that the aggregate of all will repay the principal of the loan, together with the interest on the unpaid periodical balances, within the time and at the rate agreed upon. Upon the pledge as collateral security of shares of such association, loans may be made to shareholders in an

amount not to exceed ninety percent of the withdrawal value of shares pledged.

Approved March 9, 1959.

CHAPTER 107

H. B. No. 573
(Baldwin, Anderson of Richland, Dahlund, Strege, Kelly,)
(Neukircher, Davis, Streibel, Van Sickle, Magnuson, Johnston)

LOAN LIMITATIONS OF BUILDING AND LOAN ASSOCIATIONS

AN ACT

To amend and reenact section 7-0416 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to loans made by building and loan associations and removing the limitation of one hundred thousand dollars on loans made upon any one piece of property.

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

§ 1. Amendment.) Section 7-0416 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

7-0416. Limitation of Loans.) It shall be unlawful for any association, the assets of which do not exceed fifty thousand dollars, to make loans exceeding five thousand dollars in the aggregate upon any one piece of property. If its assets exceed fifty thousand dollars but do not exceed one hundred thousand dollars, it shall be unlawful for it to make loans exceeding seven thousand five hundred dollars in the aggregate upon any one piece of property. If its assets exceed one hundred thousand dollars but do not exceed two hundred thousand dollars, it shall be unlawful for it to make loans exceeding ten thousand dollars in the aggregate upon any one piece of property. If its assets exceed two hundred thousand dollars but do not exceed five hundred thousand dollars, it shall be unlawful for it to make loans exceeding fifteen thousand dollars in the aggregate upon any one piece of property. If its assets exceed five hundred thousand dollars, it shall be unlawful for it to loan to exceed three percent of its assets upon any one piece of property. Any loan exceeding twenty thousand dollars, before being accepted and passed by any association, shall have the approval of an affirmative vote of two-thirds of the members of the board of directors of such association, and such vote shall be recorded.

Approved March 10, 1959.

CORPORATIONS

CHAPTER 108

S. B. No. 146
(Wartner and Gefreh)

LOST STOCK AND TRANSFER BOOKS

AN ACT

To provide for lost stock and transfer books of corporations by providing a procedure for creating a new stock and transfer book where stock and transfer book lost or incomplete, providing procedure with respect thereto, and providing for effect to be given thereto.

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

§ 1.) Upon an affidavit made by the secretary of the corporation (1) that the stock and transfer book required to be kept by section 10-0314 of the Revised Code of North Dakota for 1943 has been lost and that the names and addresses of the stockholders and the total number of shares issued and outstanding are unknown, in whole or in part, or (2) showing that the records of stock ownership of the corporation are incomplete and that it is impossible or impracticable for the corporation to function without a determination with respect thereto, the secretary of state shall authorize the corporation to publish a notice to stockholders stating that on or before a date specified, which shall not be less than six months from the date of the first publication of said notice, all stockholders of the corporation shall register their shares with the corporation at an address stated in said notice. If the secretary of the corporation is unable to act or if unknown or if the corporation has no secretary, any other officer or director of the corporation, or if there is no officer or director, any stockholder may execute and furnish such affidavit, in which case the affidavit shall state that the secretary of the corporation is unable to act, or that he is unknown, or that the corporation has no secretary.

§ 2.) For the purposes of this Act, a stockholder shall register his shares by presenting to the corporation at the address stated, the stock certificates representing the shares of stock owned by such stockholder, and thereupon the secretary of the corporation, or any other officer or director thereof, shall register the name and address of the stockholder, the number and class of shares held, and the certificate number of the stock certificate upon a stock and transfer list. If the stockholder

in whose name the stock was issued is dead, the fiduciary or other person then entitled to the stock shall present in addition an affidavit stating that the stockholder in whose name the stock was issued is dead and setting forth facts to show that the fiduciary or other person is entitled to the stock. If the certificate is lost or destroyed, the stockholder or other person entitled thereto may, in lieu of the stock certificate, present proof of such loss or destruction and of his rights of ownership.

§ 3.) The notice to stockholders shall be published once a week for four successive weeks in a newspaper of general circulation in the county in which the corporation has its principal office or place of business in the state, as set forth in the charter, and a copy of the notice shall be sent by registered mail to the last known address of all stockholders of record, if any, and all persons known or believed to be stockholders. The notice shall state that, after the time specified for registering shares has expired, the corporation will recognize as shareholders only those persons who have registered their shares in accordance with this section.

§ 4.) At the expiration of the time fixed in said notice, the secretary of the corporation, or any other officer or director authorized to make the affidavit to the secretary of state, shall furnish the stock and transfer list prepared by him to the secretary of state, together with proof of publication and mailing of the notice required by this Act. Upon finding that the corporation has complied with this section, the secretary of state shall certify a copy of the stock and transfer list to the corporation as the true record of stock ownership on that date in all matters pertaining to the corporation. The stock and transfer list so certified shall be deemed to be the true record of all outstanding stock and the ownership thereof on the date of certification. As soon as possible after such certification the secretary of the corporation shall establish a new stock and transfer book containing the names of those persons on the certified stock and transfer list. For all purposes of the corporation the stock outstanding and the ownership thereof shall be deemed to be as stated from time to time in the new stock and transfer book.

§ 5.) Nothing herein contained shall be construed to prevent any stockholder from proving his right to the ownership of shares of stock in an action brought for that purpose in any court of record of this state, but any judgment of any such court shall not affect the validity or propriety of any action theretofore taken in good faith by the corporation on the basis of the new stock and transfer book at the time of such action.

Approved March 14, 1959.

CHAPTER 109

S. B. No. 219
(Gronvold, Wenstrom, Roen,)
(Saumur, Freed, Hernett)

SMALL BUSINESS INVESTMENT CORPORATIONS

AN ACT

Relating to the organization of small business investment corporations.

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

§ 1.)

1. Any ten or more natural persons who are residents of this state may form a small business investment corporation by complying with the conditions prescribed in this Act.
2. They subscribe and acknowledge a certificate specifying:
   a. The name, the general nature of its business and the principal place of transacting its business. The name shall distinguish the corporation from all other corporations authorized to do business in the state, and shall contain the words "small business investment corporation".
   b. The period of its duration, which shall be not more than twenty years.
   c. The name and residence of each incorporator.
   d. The names and addresses of those composing this board until the first election.
   e. The highest amount of indebtedness or liability to which the corporation shall be subject.
3. The certificate may contain any other lawful provision defining and regulating the powers and business of the corporation, its officers, directors, members, and stockholders.

§ 2.) The purpose of the corporation is to assist, encourage and through the cooperative efforts of the institutions and corporations which, from time to time become members thereof, develop and advance the business prosperity and economic welfare of this state; to encourage and assist in the location of new business and industry in this state and to rehabilitate existing business and industry; to stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the eco-

nomic stability of this state, and provide maximum opportunities for employment; to cooperate and act in conjunction with other organizations, public or private, the objects of which are the promotion and advancement of industrial, commercial, agricultural and recreational developments in this state; and to furnish money and credit to approved and deserving applicants, for the promotion, development and conduct of all kinds of business activity in this state, thereby establishing a source of credit not otherwise readily available therefor.

§ 3.) Upon the filing of the articles of incorporation with the secretary of state, he shall issue to the corporation over the great seal of the state of North Dakota a certificate that the articles containing the required state of facts have been filed in his office; and thereupon the persons signing the articles, and their associates and successors shall be a body corporate by the name and for the purposes stated in such articles.

§ 4.) In furtherance of the purposes for which such corporation is organized, and in addition to the powers conferred by the general laws relating to business corporations, any such corporation shall, subject to the restrictions and limitations herein contained, have the following powers:

1. Borrow money and otherwise incur indebtedness for any of the purposes of the corporation; to issue its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured, therefor and to secure the same by mortgage, pledge, deed of trust or other lien on its property, franchises, rights and privileges of every kind and nature or any part thereof.
2. Lend money to, and to guarantee, endorse, or act as surety on the bonds, notes, contracts or other obligations of, or otherwise assist financially, any person, firm, corporation or association, and to establish and regulate the terms and conditions with respect to any such loans or financial assistance and the charges for interest and service connected therewith.
3. Purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, mortgage, lease, pledge, or otherwise dispose of, upon such terms and conditions as the board of directors may deem advisable, real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.

4. Acquire, by purchase or otherwise, the goodwill, business, rights, real and personal property and other assets, or any part thereof, of such persons, firms, corporations, joint stock companies, associations or trusts as may be in furtherance of the corporate purposes provided herein, and to assume, undertake, guarantee or pay the obligations, debts and liabilities of any such person, firm, corporation, joint stock company, association, or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments, and, in furtherance of the corporate purposes provided herein, to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, lease, or otherwise dispose of industrial plants or business establishments.
5. Acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint stock company, association or trust, and, while the owner or holder thereof, to exercise all the rights, powers and privileges of ownership, including the right to vote thereon.
6. Cooperate with and avail itself of the facilities of the economic development commission and any similar governmental agencies; and to cooperate with and assist, and otherwise encourage, local organizations in the various communities of the state the purpose of which shall be the promotion, assistance, and development of the business prosperity and economic welfare of such communities and of this state.

§ 5.) The provisions of chapters 10-19 to 10-23, inclusive, of the 1957 Supplement to the North Dakota Revised Code of 1943 shall apply to corporations incorporated under this law insofar as they may be applicable and not inconsistent with this law.

§ 6.) The capital stock of the corporation shall be six thousand shares of no par value, which shall be issued for fifty dollars per share in cash. At least twenty-five percent of the capital stock shall be paid into the treasury of the corporation in cash before the corporation may transact any business other than such as relates to its organization.

§ 7.)

1. All the corporate powers of the corporation shall be exercised by a board of not less than fifteen elected

directors who shall be residents of North Dakota and, except in the case of the first board, representative of the various sections of the state as determined in the bylaws. The number of directors and their term of office shall be determined in the bylaws. If any vacancy occurs in the board of directors through death, resignation, or otherwise, the remaining directors may elect a person to fill the vacancy until the next annual meeting of the corporation.

2. The first board of directors shall adopt bylaws, which remain effective until amended or repealed by action of a subsequent board.
3. The first annual meeting shall be held at a date to be fixed by the board of directors as soon as reasonably possible after a minimum of twenty-five percent of the capital stock of the corporation shall have been paid into its treasury. The annual meeting shall be called in the manner provided by the bylaws. At the first annual meeting, and at each annual meeting thereafter, a majority of the elected directors shall be elected by a vote of the nonstockholder members of the corporation hereinafter provided for, and the remaining elected directors shall be elected by a vote of the stockholder members. The stockholder members shall have one vote for each share of stock. The nonstockholder members shall each have one vote, and each nonstockholder member having a loan limit as herein defined of more than ten thousand dollars shall have one additional vote in such election.

§ 8.) The nonstockholder members of the corporation shall consist of such national or state banks, savings banks, saving and loan associations, trust companies, stock or mutual insurance companies and other financial institutions as may make application for membership in said corporation, and membership shall become effective upon the acceptance of such application by the board of directors. Each such member of the corporation shall lend money to the corporation as and when called upon by it to do so on such terms and other conditions as shall be approved from time to time by a majority of the directors. The total amount of loans by any member at any one time shall not exceed the following limit, to be determined as of the time such member becomes a member (on the basis of the balance sheet of such member at the close of its preceding fiscal year, certified by its proper officers); two and one-half percent of the capital and surplus of commercial banks and trust companies; two and one-half percent of one-half of the total surplus accounts of savings banks; two and one-half percent of the guaranty funds, surplus and undivided

profits of savings and loan associations and two and one-half percent of the capital and surplus of stock insurance companies; two and one-half percent of the guaranty funds or of the surplus, whichever is applicable, of mutual insurance companies and comparable limits approved by the board of directors of the corporation for other banking, financing, and insurance companies and related corporations, partnerships, foundations, and other institutions. All loan limits shall be established at the thousand dollar amount nearest to the amount computed in accordance with the aforesaid percentages. All calls of funds which nonstockholder members are committed to lend to the corporation shall be prorated by the corporation among the nonstockholder members in the same proportion that the individual lines of credit bear to the aggregate lines of credit. Upon sixty days written notice, a member of the corporation may withdraw from membership in the corporation at the expiration date of such notice, and after said expiration date shall be free of obligations hereunder except those accrued prior to said expiration date.

§ 9.) The corporation shall set apart as an earned surplus all of its net earnings in each and every year until such earned surplus shall equal the total of the paid-in capital. Said earned surplus shall be held in cash or invested in United States Government bonds, and shall be kept and used to meet losses and contingencies of the corporation. Whenever the amount of the earned surplus becomes impaired, it shall be restored to the required amount in the manner provided for its original accumulation.

§ 10.) At no time shall the total obligations of the corporation exceed ten times the amount of the paid-in capital and surplus, not including earned surplus.

§ 11.) The corporation shall not deposit any of its funds in any banking institution unless such institution has been designated as a depository by a vote of a majority of the directors, exclusive of any director who is an officer or director of the depository so designated. The corporation shall not receive money on deposit. No loans shall be made directly or indirectly to any officer of the corporation or to any firm of which such officer is a member, or officer.

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

§ 13.) The holders of capital stock as such shall have no preemptive or preferential right to purchase or subscribe for

any part of the unissued capital stock of the corporation of any class or for any new issue of stock of any class, whether now or hereafter authorized or issued, or to purchase or subscribe for any bonds or other obligations, whether or not convertible into stock of any class of the corporation, now or hereafter authorized or issued.

§ 14.) Notwithstanding any other statute, the notes or other interest bearing obligations of any corporation organized under this Act, issued in accordance with this Act and the articles of incorporation and the bylaws of the corporation shall be legal investments for any banks, savings banks, savings and loan associations, trust companies, stock or mutual insurance companies or other financial institutions which become members of the corporation.

Approved March 17, 1959.

CHAPTER 110

S. B. No. 53
(Erickstad, Hernett, Gefreh, Luick and Johnson)
(From LRC Study)

SECURITIES REGULATION

AN ACT

To amend and reenact subsection 1 of section 10-0403, subsection 3 of section 10-0405, and sections 10-0406, 10-0408, 10-0409, 10-0410, 10-0411, 10-0413, 10-0415 and 10-0418 of the 1957 Supplement to the North Dakota Revised Code of 1943 and to create and enact sections 10-04081, 10-04082, and 10-04121 as a part of chapter 10-04 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the administration of the securities laws; the registration of securities for sale to the public and of dealers, salesmen, and investment counsels; fraudulent practices; and the penalty for violation of the securities laws.

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

§ 1. Amendment.) Subsection 1 of section 10-0403 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. The state examiner shall appoint a special deputy examiner who shall be ex officio commissioner of securities, and it shall be the prime duty of such commissioner to administer the provisions of this Act. 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;

§ 2. **Amendment.)** Subsection 3 of section 10-0405 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

3. Securities issued by a building and loan association subject to supervision by an agency of the state of North Dakota, or policy contracts of an insurance company subject to supervision by an agency of the state of North Dakota;

§ 3. **Amendment.)** Section 10-0406 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-0406. Exempt Transactions.) Except as hereinafter in this section expressly provided, sections 10-0404, 10-0407, 10-0408, and 10-0410 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 securities 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 10-0405;
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 10-0410;

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. 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 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 partici-

pant 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 10-0407; and

e. Such securities are limited to issuers organized under the laws of any state or territory or insular possession of the United States.

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.

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 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 therof. 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.

§ 4. Amendment.) Section 10-0408 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-0408. Registration by Qualification.) Securities required to be registered by qualification under this chapter before they may be sold in this state shall be registered as provided in this section. Application for registration of securities by qualification shall be made by the issuer of the securities or by a registered dealer by filing in the office of the commissioner:

1. An application for registration which shall be made in writing or on forms prescribed by the commissioner and which shall contain the following information and be accompanied by the following documents:
   a. With respect to the applicant or issuer and any significant subsidiary: its name, address, and form of organization; the state of foreign jurisdiction and date of its organization; the general character and location of its business; a general description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;
   b. With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him as of a specified date within thirty days of the filing of the application for registration; the amount of the securities covered by the registration statement to which he has indicated his intention to subscribe; and a description of any material interest in any transaction with the issuer or any subsidiary effected within the past three years or proposed to be effected;
   c. With respect to persons covered by subsection 1 (b) of this section: the remuneration paid during the past twelve months and estimated to be paid during the next twelve months, directly or indirectly, by the issuer to all those persons in the aggregate;
   d. With respect to any person owning of record, or beneficially if known, ten percent or more of the outstanding shares of any class of equity security of

the issuer: the information specified in subsection 1 (b) of this section other than his occupation;

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

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

g. The title, kind, classes, and amount of securities to be offered in this state; the proposed offering price to the public or the method by which it is to be computed; any variation therefrom at which any proportion of the offering is to be made to any person or class of persons other than the underwriters, with a specification of any such person or class; the basis upon which the offering is to be made if otherwise than for cash; the maximum amount of commission or other form of remuneration to be paid in cash or otherwise, directly or indirectly, for or in connection with the sale or offering for sale of such securities; the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering, or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges and a statement as to what person or corporation shall be responsible for payment of the same; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;

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

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

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

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

l. A detailed statement showing the items of cash, property, services, patents, goodwill and any other consideration for which any securities of the issuer have been within two years or are to be issued in payment;

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

n. A specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and

bylaws, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered;

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

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

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

2. Payment of an examination 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.

3. If the applicant is not domiciled in this state and is not a corporation organized or authorized to transact business under the laws of this state, a consent to service of process conforming to the requirements of section 10-0414 of this chapter.

4. The commissioner may by rule or order require as a part of the application for registration under this section that a prospectus containing any designated part of the

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

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

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

§ 5.) Section 10-04081 of chapter 10-04 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

10-04081. Authority of Commissioner as to Registration of Securities.) The right to sell securities in this state shall not

be granted in any case where it appears to the commissioner that the sale of such securities would work a fraud or deception on purchasers or the public, or that the proposed disposal of the securities is on unfair terms, or if the proposed plan of business of the applicant appears to be unfair, unjust, or inequitable. When the commissioner deems it necessary he shall have power, in connection with pending applications and at the expense of the applicant, to require the applicant to furnish additional information, to order appraisals, audits, or other examinations and reports, and, where the applicant is the issuer of the securities, or the proposed sale is to be on behalf of the issuer, to make an investigation of the books, records, property, business, and affairs of such issuer.

Upon compliance with all the provisions of this Act relating to applications for registration by qualification and the requirements of the commissioner, the commissioner shall either register such securities or if he is of the opinion that sale of the securities would be contrary to the provisions of this section, he shall deny the application. If the commissioner fails to either approve or deny the application within sixty days after date of filing of the application, the applicant may request the board of review provided for in section 10-04121 to consider the application, and upon receiving such request the board of review shall consider the application and render a decision as to whether the securities shall be registered or whether the application shall be denied, which decision shall be accompanied by a findings of fact and conclusions of law supporting such decision. However, the commissioner shall have power to place such conditions, limitations and restrictions on any registration as may be necessary to carry out the purposes of this Act. Registration shall be by entry in the register of securities, which entry shall show the securities registered and for whom registered, and the conditions, limitations, and restrictions, if any, or shall make proper reference to a formal order of the commissioner on file showing such conditions, limitations, and restrictions. Included among any other reasonable conditions, limitations, and restrictions which the commissioner may deem necessary, are the following:

1. The commissioner may by rule, order or directive require that any security issued or to be issued to a promoter for a consideration different from the public offering price, or to any person for a consideration other than cash, be deposited in escrow with him or some other depository satisfactory to him under an escrow agreement that the owners of such securities shall not be entitled to sell or transfer such securities or to withdraw such securities from escrow until all other stockholders

who have paid for their stock in cash shall have been paid a dividend or dividends aggregating not less than 6% of the initial offering price shown to the satisfaction of the commissioner to have been actually earned on the investment in any common stock as held. In case of dissolution or insolvency during the time such securities are held in escrow, the owners of such securities shall not participate in the assets until after the owners of all other securities shall have been paid in full;

2. The commissioner may by rule, order or directive require that all the proceeds from the sale of the registered security be impounded until the issuer receives a specified amount of funds, which amount shall be determined by the commissioner;
3. The commissioner may refuse to allow the granting of any stock options to any person, but if such an option is allowed, the commissioner may prescribe that the price at which the option can be exercised shall be increased each year in which it is not exercised in an amount to be determined by the commissioner and that the option shall lapse altogether after a specified period to be set by the commissioner;
4. If any stock is given for past services or consideration, the commissioner may require that the issuer submit to him a strict and comprehensive evaluation of such past services or consideration and may limit the amount of stock so given in order that it is commensurate with the value of the past services and in no case shall the commissioner allow stock to be given for future services;
5. The commissioner may limit the price at which the securities, either of par or no par value, may be sold, and if such securities are quoted by a recognized quotation list such price shall be limited to an amount not unreasonably in excess of the amount quoted;
6. The commissioner may by rule, order or directive limit compensation, and all other expenses paid or incurred, directly or indirectly in connection with the organization, registration or sale of securities to an amount not in excess of compensation paid or expenses incurred in connection with the organization, registration or sale of similar securities;
7. If more than one class of stock is issued and one class of stock is issued for the purpose of giving preference as to dividends, the commissioner may require that a greater consideration, commensurate with the value of the dividend preference, be paid per share for such stock;
8. The commissioner may by rule, order or directive require that any security registered be sold only on a

specified form of subscription or sale contract, and that a signed or conformed copy of each contract be filed with the commissioner or preserved by the corporation for any period up to three years specified in the rule or order;

9. So long as the registration is effective, the commissioner may by rule or order require the person who filed for registration to file reports, not more often than quarterly, to provide reasonably current information upon the matters contained in the registration statement and to disclose the progress of the offering.

§ 6.) Section 10-04082 of chapter 10-04 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

10-04082. Advertising Matter; Regulations.) 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 Act. All such advertising matter shall carry the name and address of the issuer or dealer circulating, publishing or distributing same and shall make no reference to the registration of the securities or the issuance of a license by the commissioner. The provisions of this section shall not apply to securities exempted under section 10-0405 of this chapter, nor to sales of securities made in a manner exempted under section 10-0416 of this chapter.

§ 7. Amendment.) Section 10-0409 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-0409. Suspension or Revocation of Registration of Securities.) The commissioner may revoke the registration of any securities registered under this chapter if, after a hearing or opportunity for hearing as provided in section 10-0412, he finds that any provisions of this chapter or any rule, order, or condition lawfully imposed under this chapter has been violated, or if he finds that:

1. The sale of such securities would work or tend to work a fraud, or deception upon the purchasers thereof or the public, or that the disposal of the securities is on unfair terms, or if the plan of business of the applicant appears to be unfair, unjust, or inequitable; or
2. The issuer of such securities is insolvent, or has violated any of the provisions of this chapter or any order of the commissioner of which such issuer has notice, or does not conduct its business in accord with law; or
3. The issuer of such securities has made any fraudulent representations in any prospectus or in any circular or other literature that has been distributed concerning the issuer or its securities; or
4. The issuer of such securities has refused to permit an examination into its affairs as provided in subsection 5a of this section, or has failed to furnish the commissioner any further information required pursuant to subsection 5a of this section; or
5. Securities registered by description were not entitled to registration by description:
   a. If the commissioner has reasonable grounds to believe that the registration of any securities registered under this chapter should be revoked upon any ground specified in this section, he or his agent may conduct an examination into the affairs of the issuer of such securities; provided, that the commissioner or his agent may conduct such an examination only if the information sought by such examination could not be obtained from other readily available sources. In making any such examination, the commissioner or his agent shall have access to and may compel the production of all the books and papers of an issuer and may administer oaths to and examine the officers and any employees of such issuer as to its business and affairs. They may also require a balance sheet exhibiting the assets and liabilities of any such issuer or his income statement, or both, to be certified to by a certified public accountant. Whenever the commissioner may deem it necessary in connection with any such examination, he may also require such balance sheet or income statement, or both, to be made more specific in such particulars as he shall point out or to be brought down to the latest practicable date. Such examination shall be made at the office of the commissioner, unless the issuer or a registered dealer requests that the examination be made at some other place, in which case the person making such request may be required

by the commissioner to advance sufficient funds to pay the actual expenses of such investigation.

b. If the commissioner has reasonable grounds to believe that the registration of any securities under this chapter should be revoked on any ground specified in this section, he may enter an order suspending the registration of such securities pending an examination into the affairs of the issuer of such securities or pending a hearing or opportunity for hearing as provided in section 10-0412; provided, that no such suspension order shall be effective for more than 30 days and such an order, if not withdrawn by the commissioner within 30 days, shall automatically terminate 30 days after the date of its issuance. Such suspension order shall state specifically the grounds for its issuance. Upon the entry of an order suspending the registration of any securities or of an order withdrawing a suspension order previously issued, the commissioner shall send a copy of such order to the issuer of such securities and to all registered dealers by mail, or by telegraph, or by telephone, confirmed in writing.

c. If the commissioner finds, after a hearing or opportunity for hearing as provided in section 10-0412, that there are grounds for revoking the registration of certain securities, he may enter in the register of securities an order revoking the registration of such securities. Such order shall state specifically the grounds for its issuance. Upon the entry of an order revoking the registration of securities, the commissioner shall send a copy of such order to the issuer of such securities and to all registered dealers by mail, or by telegraph, or by telephone, confirmed in writing. No order revoking the registration of securities shall invalidate any sale of such securities made prior to the entry of such order.

§ 8. **Amendment.)** Section 10-0410 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-0410. 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 10-0406, 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 (10) 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 10-0414 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 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 10-0405 of this chapter or have been registered by description under section 10-0407 or have been registered by qualification under section 10-0408, 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.

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 **10-0414, 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 10-0412, 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 10-0411, 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 31st day of December in each year. Registration of dealers, salesmen, and investment counsels may be renewed each year, at any time not less than fifteen (15) and not more than sixty (60) 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.....$100.00
   d. For each salesman.....$ 5.00
   e. For each investment counsel.....$ 25.00

§ 9. Amendment.) Section 10-0411 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-0411. Suspension or Revocation of Dealers', Salesmen's and Investment Counsels' Registration.) The commissioner may revoke the registration of any dealer, salesman, or investment counsel if, after a hearing or opportunity for hearing as provided in section 10-0412, he finds that such registered dealer, salesman, or investment counsel:

1. Has violated or failed to comply with, any provisions of this chapter or any order or rule of the commissioner under this chapter; or
2. Is, in the case of a dealer, insolvent; or
3. Has been guilty of any fraudulent act or practice in connection with the purchase or sale of any securities; or

4. Conducts business in purchasing or selling securities at such variations from current market prices as, in the light of all the circumstances, are unconscionable or unfair to the purchasing public, or if such variance, including commissions on sales, unreasonably exceeds the price quoted by a recognized national quotation list as prescribed by the commissioner; or
5. Has failed to file with the commissioner any financial statement required pursuant to subsection (A) of this section, or has refused to permit an examination into his affairs as provided by subsection (A) of this section; or
6. Has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact; or
7. Has been convicted of any misdemeanor involving a security or any aspect of the securities business, or any felony; or
8. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business; or
9. Is the subject of an order of the commissioner denying, suspending, or revoking registration as a dealer, salesman, or investment counsel; or
10. Is the subject of an order entered by the securities administrator of any other state or by the securities and exchange commission denying or revoking registration as a dealer, salesman, or investment counsel, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the securities and exchange commission suspending or expelling him from a national securities exchange or national securities association; but the commissioner may not enter an order under this subsection on the basis of an order under another state Act unless that order was based on facts which would currently constitute a ground for an order of revocation or suspension under this section; or
11. Has, in connection with the offer, sale, or purchase of any security, directly or indirectly, effected a series of transactions creating actual or apparent active trading in any security, or to raise or depress the price of a security, for the purpose of inducing the purchase of the security.

It shall be sufficient cause for revocation of registration of a dealer or investment counsel as provided in this section, in case of a partnership or corporation or any unincorporated association, if any member of a partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be sufficient ground for revoking the registration of an individual dealer.

(A) The commissioner may require any registered dealer, salesman, or investment counsel to make and keep such accounts, correspondence, memoranda, papers, books, and other records as he deems necessary to efficiently administer this chapter, and such records shall be preserved for three years unless the commissioner by rule prescribes otherwise for particular types of records. The commissioner may at any time require a registered dealer or investment counsel to file with him a financial statement showing the financial condition of such dealer or investment counsel as of the most recent practicable date, and may require that such financial statement be verified by a certified public accountant; provided, however, that the commissioner shall not require any registered dealer or investment counsel to file such a financial statement more than twice in any one year. If the commissioner has reasonable grounds to believe that the registration of any registered dealer, salesman, or investment counsel should be revoked upon any grounds specified in this section, the commissioner or his agent may conduct an examination into the affairs of any such registered dealer, salesman, or investment counsel. In making any such examination, the commissioner or his agent shall have access to and may compel the production of all the books and papers of a registered dealer, salesman, or investment counsel, and may administer oaths to and examine the officers and employees of such dealer or investment counsel as to his business and affairs.

(B) If the commissioner has reasonable grounds to believe that a registered dealer, salesman, or investment counsel has been guilty of any act or omission which would be sufficient ground for revoking the registration of such dealer, salesman, or investment counsel, he may enter an order suspending the registration of such dealer, salesman, or investment counsel pending an examination into the affairs of such dealer, salesman, or investment counsel or pending a hearing or opportunity for hearing as provided in section 10-0412; provided, that no such order shall be effective for more than 30 days, and such order, if not withdrawn by the commissioner within 30

days, shall automatically terminate 30 days after the date of its issuance. Such suspension order shall state specifically the grounds for its issuance. Upon the entry of such suspension order, or of an order withdrawing a suspension order previously entered, the commissioner shall send a copy of such order by registered mail to the dealer, salesman, or investment counsel whose registration is affected thereby at his business address, and, if such order affects the registration of a salesman, to the registered dealer who employs such salesman.

(C) If the commissioner finds, after affording a registered dealer or a registered salesman, or a registered investment counsel a hearing or opportunity for hearing as provided in section 10-0412 that there are grounds to revoke the registration of such dealer, salesman, or investment counsel he may enter an order in the register of dealers, salesmen, and investment counsels, revoking the registration of such dealer, salesman, or investment counsel. Such order shall state specifically the grounds for its issuance. A copy of such order shall be sent by registered mail to the dealer, salesman, or investment counsel whose registration is revoked thereby at his business address and, if the revocation is of the registration of a salesman, to the registered dealer who employs such salesman. Suspension or revocation of the registration of a dealer shall also suspend or revoke the registration of all of his salesmen; but suspension or revocation of the registration of a salesman solely because he was employed by a dealer whose registration was suspended or revoked shall not prejudice subsequent applications for registration by such salesman.

§ 10. Amendment.) Section 10-0415 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-0415. Fraudulent Practices.) It shall be a fraudulent practice and it shall be unlawful

1. For any person knowingly to subscribe to, or make or cause to be made, any material false statement or representation in any application, financial statement or other document or statement required to be filed under any provision of this chapter, or to omit to state any material statement or fact in any such document or statement which is necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
2. For any person, in connection with the offer, sale, or purchase of any security, directly or indirectly to employ any device, scheme, or artifice to defraud; or

3. For any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
4. For any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, to engage in any act, practice, or course of business which operates or would operate as a fraud or deception upon purchasers or the public; or
5. For any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, to effect a series of transactions creating actual or apparent active trading in any security, or to raise or depress the price of a security, for the purpose of inducing the purchase of the security.

§ 11. Amendment.) Section 10-0418 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-0418. Penalties.) Any person who shall willfully violate any provision of this chapter or who willfully violates any rule or order of the commissioner made pursuant to the provisions of this chapter, or who shall engage in any act, practice or transaction declared by any provision of this chapter to be unlawful shall upon conviction thereof be sentenced to pay a fine of not less than five hundred dollars nor more than five thousand dollars or imprisonment for not less than three months nor more than five years, or both such fine and imprisonment.

§ 12.) Section 10-04121 of chapter 10-04 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and reenacted to read as follows:

10-04121. Board of Review.) There shall be a board of review, consisting of the attorney general, secretary of state and the manager of the Bank of North Dakota, which shall consider appeals made from the final orders entered by the commissioner under section 10-0412. Any person adversely affected by an order of the commissioner entered under section 10-0412 may, within twenty days after the date of the entry of the order of the commissioner, make application to the board of review asking review of such order. The board of review shall act upon such request for review of the order of the commissioner and shall enter a decision thereon in writing within 45 days after receipt of the application which decision shall be accompanied by a findings of fact and conclusions of law supporting such decision. Notice of decisions of such

board shall be remitted to the person applying to the board for review and to the commissioner. Decisions of the board shall be made from the records and transcripts prepared during the hearings provided for in section 10-0412 and any additional evidence that may be submitted in writing by the commissioner or aggrieved person to the board. A majority of the board shall constitute a quorum and shall be sufficient to render a decision upon matters before it. No person may appeal to the district courts under the provisions of section 10-0413 until he has made application to the board of review pursuant to the provisions of this section, and until a decision has been rendered by such board.

§ 13. Amendment.) Section 10-0413 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-0413. Appeals.) An appeal may be taken from any decision of the board of review by any person adversely affected thereby to the district court of Burleigh County, North Dakota, by serving on the commissioner within 20 days after the date of entry of the decision of the board of review a written notice of appeal, signed by the appellant, stating:

a. The order of the board of review from which the appeal is taken; and
b. The grounds upon which a reversal or modification of such order is sought; and
c. A demand for a certified transcript of the record of such order.

1. Upon receipt of such notice of appeal, the commissioner shall, within 10 days thereafter, make, certify and deliver to the appellant a transcript of the record of the order from which the appeal is taken; provided, that the appellant shall pay the reasonable costs of such transcript. The apellant shall, within 5 days after receipt of such transcript, file such transcript and a copy of the notice of appeal with the clerk of the court. Said notice of appeal and transcript of the record shall constitute appellant's complaint. Said action shall thereupon be entered on the trial calendar of the court.
2. If the order of the commissioner shall be reversed, the court shall by order specifically direct the commissioner as to his further action in the matter, including the making and entering of any order or orders in connection therewith, and the conditions, limitations, or restrictions to be therein contained.

Approved March 17, 1959.

CHAPTER 111

S. B. No. 41
(Gefreh, Brooks, Erickstad, Holand)
(From LRC Study)

NONPROFIT CORPORATION ACT

AN ACT

Relating to creation, organization, reorganization, operation, powers, purposes, reports, fees, charges, and dissolution of domestic and foreign nonprofit corporations organized or operating within this state for any lawful purpose, providing certain penalties for violations of this Act, and relating to deferred repeal of chapters 10-08, 10-09, 10-10, and 10-11 of the North Dakota Revised Code of 1943, as amended, and to assign chapters 10-24, 10-25, 10-26, 10-27, and 10-28 of the North Dakota Revised Code of 1943 to this Act.

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

§ 1.) Chapters 10-24, 10-25, 10-26, 10-27, and 10-28 of the North Dakota Revised Code of 1943 are hereby created and enacted to read as follows:

Chapter 10-24

North Dakota Nonprofit Corporation Act

General Provisions

10-2401. Title.) This Act shall be known and may be cited as the "North Dakota Nonprofit Corporation Act."

10-2402. Definitions.) As used in this Act, unless the context otherwise requires, the term:

1. "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this Act, except a foreign corporation.
2. "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.
3. "Not for profit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.
4. "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger.
5. "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.
6. "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

7. "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.
8. "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs.

10-2403. Applicability.) The provisions of this Act relating to domestic corporations shall apply to:

1. All corporations organized hereunder; and
2. All not for profit corporations heretofore organized under any Act hereby repealed, for a purpose or purposes for which a corporation might be organized under this Act.

The provisions of this Act relating to foreign corporations shall apply to all foreign not for profit corporations conducting affairs in this state for a purpose or purposes for which a corporation might be organized under this Act.

10-2404. Purposes.) Corporations may be organized under this Act for any one or more lawful purposes not for pecuniary profit and not incorporable under the Business Corporation Act or the Cooperative Association Act.

10-2405. General Powers.) Each corporation shall have power:

1. To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.
2. To sue and be sued, complain and defend, in its corporate name.
3. To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.
4. To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.
5. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.
6. To lend money to its employees other than its officers and directors.
7. To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or

obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

8. To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.
9. To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.
10. To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this Act in any state, territory, district, or possession of the United States, or in any foreign country.
11. To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.
12. To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.
13. Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.
14. When any claim is asserted, whether by action in court or otherwise, against any person by reason of his being or having been a director, or officer of a corporation, the court in the proceeding in which such claim has been asserted, or any court having the requisite jurisdiction of an action instituted by such director or officer on his claim for indemnity, may assess indemnity against the corporation, its receiver or trustee, for the amount paid by such director or officer in satisfaction of any judgment on or in compromise of any such claim (exclusive in either case of any amount paid to the corporation), and any expenses and costs (including attorneys' fees) actually and necessarily incurred by him in connection therewith to the extent that the court shall deem reasonable and equitable, provided, nevertheless, that indemnity may be assessed under this section only if the court finds that the person indemnified was not guilty of actual negligence or misconduct in the performance of his duties as such director or officer. The

right and remedy provided by this section shall be exclusive when any action brought on such claim has resulted in judgment against the person claiming indemnity, or when the person claiming indemnity has paid or agreed to pay any sum in settlement of any such claim or action, and in such case indemnity shall be awarded only upon order of court pursuant to the provisions of this section. In all other cases the right and remedy provided by this section shall not be exclusive, but each corporation shall have power to indemnify any director or officer or former director or officer of such corporation against expense and costs (including attorneys' fees) actually and necessarily incurred by him in connection with any claim asserted against him, by action in court or otherwise, by reason of his being or having been such director or officer, except in relation to matters as to which he shall have been guilty of actual negligence or misconduct in the performance of his duties as such director or officer.

15. To cease its corporate activities and surrender its corporate franchise.
16. To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

10-2406. Defense of Ultra Vires.) No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

1. In a proceeding by a member or a director against the corporation to enjoin the doing or continuation of unauthorized acts, or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

2. In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the officers or directors of the corporation for exceeding their authority.
3. In a proceeding by the attorney general, as provided in this Act, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from performing unauthorized acts, or in any other proceeding by the attorney general.

10-2407. Corporate Name.) The corporate name:

1. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.
2. Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under any Act of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a corporate name reserved or registered as permitted by the laws of this state.
3. Shall be transliterated into letters of the English alphabet, if it is not in English.

10-2408. Registered Office and Registered Agent.) Each corporation shall have and continuously maintain in this state:

1. A registered office which may be, but need not be, the same as its principal office.
2. A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office.

10-2409. Change of Registered Office or Registered Agent.) A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

1. The name of the corporation.
2. The address of its then registered office.
3. If the address of its registered office be changed, the address to which the registered office is to be changed.
4. The name of its then registered agent.
5. If its registered agent be changed, the name of its successor registered agent.

6. That the address of its registered office and the address of the office of its registered agent, as changed will be identical.
7. That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by its president or a vice president, and verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this Act, he shall file such statement in his office, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the last known address of such officer. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

10-2410. Service of Process on Corporation.) The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one of the copies thereof to be forwarded by registered mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by

law to be served upon a corporation in any other manner now or hereafter permitted by law.

10-2411. Members.) A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or the bylaws. If the corporation has no members, that fact shall be set forth in the articles of incorporation or the bylaws. A corporation may issue certificates evidencing membership therein.

10-2412. Bylaws.) The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation.

10-2413. Meetings of Members.) Meetings of members may be held at such place, either within or without this state, as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this state.

An annual meeting of the members shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such other officers or persons or number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth of the votes entitled to be cast at such meeting.

10-2414. Notice of Members' Meetings.) Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member entitled to vote at such meeting. If mailed,

such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid.

10-2415. Voting.) The right of the members, or any class or classes of members, to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation or the bylaws. Unless so limited, enlarged or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

A member may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Where directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail.

The articles of incorporation or the bylaws may provide that in all elections for directors every member entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates.

10-2416. Quorum.) The bylaws may provide the number or percentage of members entitled to vote represented in person or by proxy, or the number or percentage of votes represented in person or by proxy, which shall constitute a quorum at a meeting of members. In the absence of any such provision, members holding one-tenth of the votes entitled to be cast represented in person or by proxy shall constitute a quorum. The vote of a majority of the votes entitled to be cast by the members present or represented by proxy at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by this Act, the articles of incorporation or the bylaws.

10-2417. Board of Directors.) The affairs of a corporation shall be managed by a board of directors. Directors need not be residents of this state or members of the corporation unless the articles of incorporation or the bylaws so require. The articles of incorporation or the bylaws may prescribe other qualifications for directors.

10-2418. Number and Election of Directors.) The number of directors of a corporation shall be not less than three.

Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number of the first board of directors which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

The directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified.

A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation.

10-2419. Vacancies.) Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provisions shall control. A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office.

10-2420. Quorum of Directors.) A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or by the bylaws; but in no event shall a quorum consist of less than one-third of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present

shall be the act of the board of directors, unless the act of a greater number is required by this Act, the articles of incorporation or by the bylaws.

10-2421. Committees.) If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, in the articles of incorporation or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of the corporation; provided, however, that no such committee shall have the authority of the board of directors in reference to amending, altering or repealing the bylaws; electing, appointing or removing any member of any such committee or any director or officer of the corporation; amending the articles of incorporation; adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the corporation; authorizing the voluntary dissolution of the corporation or revoking the proceedings therefor; adopting a plan for the distribution of the assets of the corporation; or amending, altering or repealing any resolution of the board of directors which by its terms provides that it shall not be amended, altered or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law.

10-2422. Place and Notice of Directors' Meetings.) Meetings of the board of directors, regular or special, may be held either within or without this state, and upon such notice as the bylaws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting.

10-2423. 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.

10-2424. Removal of Officers.) Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer whenever in their judgment the best interests of the corporation will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

10-2425. Books and Records.) Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time.

10-2426. Shares of Stock and Dividends Prohibited.) A corporation shall not have or issue shares of stock. No dividend shall be paid and no part of the income of a corporation shall be distributed to its members, directors or officers. A corporation may pay compensation in a reasonable amount to its members, directors or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its members as permitted by this Act, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

10-2427. Loans to Directors and Officers Prohibited.) No loans shall be made by a corporation to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

10-2428. Incorporators.) One or more persons may incorporate a corporation by signing, verifying and delivering articles of incorporation in duplicate to the secretary of state.

10-2429. Articles of Incorporation.) The articles of incorporation shall set forth:

1. The name of the corporation.
2. The period of duration, which may be perpetual.
3. The purpose or purposes for which the corporation is organized.
4. Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets on dissolution or final liquidation.
5. The address of its initial registered office, and the name of its initial registered agent at such address.
6. The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.
7. The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Act.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

10-2430. Filing of Articles of Incorporation.) Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, he shall, when all fees have been paid as in this Act prescribed:

1. Endorse on each of such duplicate originals the word "filed", and the month, day and year of the filing thereof.
2. File one of such duplicate originals in his office.
3. Issue a certificate of incorporation to which he shall affix the other duplicate original.

The certificate of incorporation, together with the duplicate original of the articles of incorporation affixed thereto by the secretary of state, shall be returned to the incorporators or their representative.

10-2431. Effect of Issuance of Certificate of Incorporation.) Upon the issuance of the certificate of incorporation, the cor-

porate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this Act, except as against the state in a proceeding to cancel or revoke the certificate of incorporation.

10-2432. Organization Meetings.) After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The incorporators calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting.

A first meeting of the members may be held at the call of the directors, or a majority of them, upon at least three days' notice, for such purposes as shall be stated in the notice of the meeting.

10-2433. Right to Amend Articles of Incorporation.) A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this Act.

10-2434. Procedure to Amend Articles of Incorporation.) Amendments to the articles of incorporation shall be made in the following manner:

1. Where there are members having voting rights, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of meetings of members. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.
2. Where there are no members, or no members having voting rights, an amendment shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Any number of amendments may be submitted and voted upon at any one meeting.

10-2435. Articles of Amendment.) The articles of amendment shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

1. The name of the corporation.
2. The amendment so adopted.
3. Where there are members having voting rights,
   a. a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or
   b. a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
4. Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.

10-2436. Filing of Articles of Amendment.) Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this Act prescribed:

1. Endorse on each of such duplicate originals the word "filed", and the month, day and year of the filing thereof.
2. File one of such duplicate originals in his office.
3. Issue a certificate of amendment to which he shall affix the other duplicate original.

The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

10-2437. Effect of Certificate of Amendment.) Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending action

to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason.

Chapter 10-25

North Dakota Nonprofit Corporation Act

Merger, Consolidation, and Sale of Assets

10-2501. Procedure for Merger.) Any two or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this Act.

Each corporation shall adopt a plan of merger setting forth:

1. The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.
2. The terms and conditions of the proposed merger.
3. A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.
4. Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

10-2502. Procedure for Consolidation.) Any two or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this Act.

Each corporation shall adopt a plan of consolidation setting forth:

1. The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.
2. The terms and conditions of the proposed consolidation.
3. With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this Act.
4. Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

10-2503. Approval of Merger or Consolidation.) A plan of merger or consolidation shall be adopted in the following manner:

1. Where the members of any merging or consolidating corporation have voting rights, the board of directors

of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of meetings of members. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members present at each such meeting or represented by proxy are entitled to cast.

2. Where any merging or consolidating corporation has no members, or no members having voting rights, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of a majority of the directors in office.

After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

10-2504. Articles of Merger or Consolidation.) Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers of each corporation signing such articles, and shall set forth:

1. The plan of merger or the plan of consolidation.
2. Where the members of any merging or consolidating corporation have voting rights, then as to each such corporation (a) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
3. Where any merging or consolidating corporation has no members, or no members having voting rights, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this Act prescribed:

a. Endorse on each of such duplicate originals the word "filed", and the month, day and year of the filing thereof.
b. File one of such duplicate originals in his office.
c. Issue a certificate of merger or a certificate of consolidation to which he shall affix the other duplicate original.

The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the secretary of state, shall be returned to the surviving or new corporation, as the case may be, or its representative.

10-2505. Effective Date of Merger or Consolidation.) Upon the issuance of the certificate of merger, or the certificate of consolidation by the secretary of state, the merger or consolidation shall be effected.

10-2506. Effect of Merger or Consolidation.) When such merger or consolidation has been effected:

1. The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.
2. The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.
3. Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under this Act.
4. Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any

interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

5. Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.
6. In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this Act shall be deemed to be the articles of incorporation of the new corporation.

10-2507. Sale, Lease, Exchange, or Mortgage of Assets.) A sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

1. Where there are members having voting rights, the board of directors shall adopt a resolution recommending such sale, lease, exchange, mortgage, pledge or other disposition and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each member entitled to vote at such meeting, within the time and in the manner provided by this Act for the giving of notice of meetings of members. At such meeting the members may authorize such sale, lease, exchange, mortgage, pledge or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms

and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast. After such authorization by a vote of members, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange, mortgage, pledge or other disposition of assets subject to the rights of third parties under any contracts relating thereto, without further action or approval by members.

2. Where there are no members, or no members having voting rights, a sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office.

Chapter 10-26

North Dakota Nonprofit Corporation Act

Dissolution

10-2601. Voluntary Dissolution.) A corporation may dissolve and wind up its affairs in the following manner:

1. Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this Act for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.
2. Where there are no members, or no members having voting rights, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to conduct its affairs except insofar as may be necessary for

the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, and shall proceed to collect its assets and apply and distribute them as provided in this Act.

10-2602. Distribution of Assets.) The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

1. All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provisions shall be made therefor;
2. Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;
3. Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in this Act;
4. Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;
5. Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, as may be specified in a plan of distribution adopted as provided in this Act.

10-2603. Plan of Distribution.) A plan providing for the distribution of assets, not inconsistent with the provisions of this Act, may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this Act requires a plan of distribution, in the following manner:

1. Where there are members having voting rights, the board of directors shall adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a meeting of members having voting rights, which may be either an annual or a special

meeting. Written or printed notice setting forth the proposed plan of distribution or a summary thereof shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this Act for the giving of notice of meetings of members. Such plan of distribution shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

2. Where there are no members, or no members having voting rights, a plan of distribution shall be adopted at a meeting of the board of directors upon receiving a vote of a majority of the directors in office.

10-2604. Revocation of Voluntary Dissolution Proceedings.) A corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke the action theretofore taken to dissolve the corporation, in the following manner:

1. Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this Act for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.
2. Where there are no members, or no members having voting rights, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation may thereupon again conduct its affairs.

10-2605. Articles of Dissolution.) If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid

and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this Act, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice president, and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

1. The name of the corporation.
2. Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
3. Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.
4. That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.
5. That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this Act.
6. That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

10-2606. Filing of Articles of Dissolution.) Duplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he shall, when all fees have been paid as in this Act prescribed:

1. Endorse on each of such duplicate originals the word "filed", and the month, day and year of the filing thereof.
2. File one of such duplicate originals in his office.
3. Issue a certificate of dissolution to which he shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided in this Act.

10-2607. Involuntary Dissolution.) A corporation may be dissolved involuntarily by a decree of the district court in an action filed by the attorney general when it is established that:

1. The corporation procured its articles of incorporation through fraud; or
2. The corporation has continued to exceed or abuse the authority conferred upon it by law; or
3. The corporation has failed for ninety days to appoint and maintain a registered agent in this state; or
4. The corporation has failed for ninety days after change of its registered agent to file in the office of the secretary of state a statement of such change.

10-2608. Notification to Attorney General.) The secretary of state shall certify, from time to time, the names of all corporations which have given causes for dissolution as provided in this Act, together with the facts pertinent thereto. Whenever the secretary of state shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney general shall file an action in the name of the state against such corporation for its dissolution.

10-2609. Venue and Process.) Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general either in the district court of the county in which the registered office of the corporation is situated, or in the district court of Burleigh County. Summons shall issue and be served as in other civil actions. If process is returned not found, the attorney general shall cause publication to be made as in other civil cases in some newspaper published in the county where the registered office of the corporation is situated, containing a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The attorney general may include in one notice the names of any number of corporations against which actions are then pending in the same

court. The attorney general shall cause a copy of such notice to be mailed to the corporation at its registered office within ten days after the first publication thereof. The certificate of the attorney general of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned. Unless a corporation shall have been served with summons, no default shall be taken against it earlier than thirty days after the first publication of such notice.

10-2610. Jurisdiction of Court to Liquidate Assets and Affairs of Corporation.) Courts of equity shall have full power to liquidate the assets and affairs of a corporation:

1. In an action by a member or director when it is made to appear:
   a. That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and either that the members are unable to break the deadlock or there are no members having voting rights; or
   b. That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or
   c. That the corporate assets are being misapplied or wasted; or
   d. That the corporation is unable to carry out its purposes.
2. In an action by a creditor:
   a. When the claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied and it is established that the corporation is insolvent; or
   b. When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.
3. Upon application by a corporation to have its dissolution continued under the supervision of the court.
4. When an action has been filed by the attorney general to dissolve a corporation and it is established that liquidation of its affairs should precede the entry of a decree of dissolution.

Proceedings under subsections 1, 2, or 3 of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make directors or members parties to any such action or proceedings unless relief is sought against them personally.

10-2611. Procedure in Liquidation of Corporation by Court.) In proceedings to liquidate the assets and affairs of a corporation the court shall have the power to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the affairs of the corporation until a full hearing can be had.

After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

The assets of the corporation or the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

1. All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor;
2. Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred or conveyed in accordance with such requirements;
3. Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation as the court may direct;
4. Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or

the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

5. Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in this Act, or where no plan of distribution has been adopted, as the court may direct.

The court shall have power to allow, from time to time, as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.

10-2612. Qualification of Receivers.) A receiver shall in all cases be a citizen of the United States or a corporation for profit authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct with such sureties as the court may require.

10-2613. Filing of Claims in Liquidation Proceedings.) In proceedings to liquidate the assets and affairs of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

10-2614. Discontinuance of Liquidation Proceedings.) The liquidation of the assets and affairs of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer

exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

10-2615. Decree of Involuntary Dissolution.) In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in accordance with the provisions of this Act, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

10-2616. Filing of Decree of Dissolution.) In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the decree to be filed with the secretary of state. No fee shall be charged by the secretary of state for the filing thereof.

10-2617. Deposits with State Treasurer.) Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to any person who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited with the state treasurer and shall be paid over to such person or to his legal representative upon proof satisfactory to the state treasurer of his right thereto.

10-2618. Survival of Remedy After Dissolution.) The dissolution of a corporation either:

1. By the issuance of a certificate of dissolution by the secretary of state, or
2. By a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this Act, or
3. By expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate

or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years so as to extend its period of duration.

Chapter 10-27

North Dakota Nonprofit Corporation Act

Foreign Corporations

10-2701. Admission of Foreign Corporation.) No foreign corporation shall have the right to conduct affairs 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 Act to conduct in this state any affairs which a corporation organized under this Act is not permitted to conduct. 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 this Act contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

Without excluding other activities which may not constitute conducting affairs in this state, a foreign corporation shall not be considered to be conducting affairs in this state, for the purposes of this Act, 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 members or carrying on other activities concerning its internal affairs.
3. Maintaining bank accounts.
4 Creating evidences of debt, mortgages or liens on real or personal property.
5. Securing or collecting debts due to it or enforcing any rights in property securing the same.

10-2702. Powers of Foreign Corporation.) A foreign corporation which shall have received a certificate of authority under this Act shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this Act, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of author-

ization is issued; and, except as in this Act otherwise provided, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.

10-2703. Corporate Name of Foreign Corporation.) No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

1. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.
2. Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under any Act of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a corporate name reserved or registered as permitted by the laws of this state.
3. Shall be transliterated into letters of the English alphabet, if it is not in English.

10-2704. Change of Name by Foreign Corporation.) Whenever a foreign corporation which is authorized to conduct affairs in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter conduct any affairs in this state until it has changed its name to a name which is available to it under the laws of this state.

10-2705. Application for Certificate of Authority.) A foreign corporation, in order to procure a certificate of authority to conduct affairs in this state, shall make application therefor to the secretary of state, which application shall set forth:

1. The name of the corporation and the state or country under the laws of which it is incorporated.
2. The date of incorporation and the period of duration of the corporation.
3. The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.
4. The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.
5. The purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.

6. The names and respective addresses of the directors and officers of the corporation.
7. Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state.

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

10-2706. Filing of Application for Certificate of Authority.) Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state, together with a copy of its articles of incorporation and all amendments thereto, duly authenticated by the proper officer of the state or country under the laws of which it is incorporated.

If the secretary of state finds that such application conforms to law, he shall, when all fees have been paid as in this Act prescribed:

1. Endorse on each of such documents the word "filed", and the month, day and year of the filing thereof.
2. File in his office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.
3. Issue a certificate of authority to conduct affairs in this state to which he shall affix the other duplicate original application.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

10-2707. Effect of Certificate of Authority.) Upon the issuance of a certificate of authority by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application, subject, however, to the right of this state to suspend or to revoke such authority as provided in this Act.

10-2708. Registered Office and Registered Agent of Foreign Corporation.) Each foreign corporation authorized to conduct affairs in this state shall have and continuously maintain in this state:

1. A registered office which may be, but need not be, the same as its principal office.
2. A registered agent, which agent may be either an individual resident in this state whose business office is

identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office.

10-2709. Change of Registered Office or Registered Agent of Foreign Corporation.) A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

1. The name of the corporation.
2. The address of its then registered office.
3. If the address of its registered office be changed, the address to which the registered office is to be changed.
4 The name of its then registered agent.
5. If its registered agent be changed, the name of its successor registered agent.
6. That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.
7. That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by its president or a vice president, and verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this Act, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state who shall forthwith mail a copy thereof to the foreign corporation at its principal office in the state or country under the laws of which it is incorporated. The appointment of such agent shall terminate upon the expiration of 30 days after receipt of such notice by the secretary of state.

10-2710. Service of Process on Foreign Corporation.) The registered agent so appointed by a foreign corporation authorized to conduct affairs in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a regis-

tered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one of such copies thereof to be forwarded by registered mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

10-2711. Amendment to Articles of Incorporation of Foreign Corporation.) Whenever the articles of incorporation of a foreign corporation authorized to conduct affairs in this state are amended, such foreign corporation shall, within thirty days after such amendment becomes effective, file in the office of the secretary of state a copy of such amendment duly authenticated by the proper officer of the state or country under the laws of which it is incorporated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in conducting its affairs in this state, nor authorize such corporation to conduct affairs in this state under any other name than the name set forth in its certificate of authority.

10-2712. Merger of Foreign Corporation Authorized to Conduct Affairs in This State.) Whenever a foreign corporation authorized to conduct affairs in this state shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within thirty days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly authenticated by the proper officer of the state or country

under the laws of which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to conduct affairs in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to pursue in this state.

10-2713. Amended Certificate of Authority.) A foreign corporation authorized to conduct affairs in this state shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

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

10-2714. Withdrawal of Foreign Corporation.) A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

1. The name of the corporation and the state or country, under the laws of which it is incorporated.
2. That the corporation is not conducting affairs in this state.
3. That the corporation surrenders its authority to conduct affairs in this state.
4. That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on such corporation by service thereof on the secretary of state.
5. A postoffice address to which the secretary of state may mail a copy of any process against the corporation that may be served on him.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation by its president or a vice pres-

ident and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

10-2715. Filing of Application for Withdrawal.) Duplicate originals of such application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this Act, he shall, when all fees have been paid as in this Act prescribed:

1. Endorse on each of such duplicate originals the word "filed", and the month, day and year of the filing thereof.
2. File one of such duplicate originals in his office.
3. Issue a certificate of withdrawal to which he shall affix the other duplicate original.

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

10-2716. Revocation of Certificate of Authority.) The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

1. The corporation has failed to pay any fees or penalties prescribed by this Act when they have become due and payable; or
2. The corporation has failed to appoint and maintain a registered agent in this state as required by this Act; or
3. The corporation has failed, after change of its registered agent, to file in the office of the secretary of state a statement of such change as required by this Act; or
4. The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this Act; or
5. The certificate of authority of the corporation was procured through fraud practiced upon the state; or
6. The corporation has continued to exceed or abuse the authority conferred upon it by this Act; or
7. A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this Act.

No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless

a. He shall have given the corporation not less than sixty days' notice thereof by mail addressed to its registered office in this state, and
b. The corporation shall fail prior to revocation to pay such fees or penalties, or file the required statement of change of registered agent, or file such articles of amendment or articles of merger, or correct such misrepresentation.

10-2717. Issuance of Certificate of Revocation.) Upon revoking any such certificate of authority, the secretary of state shall:

1. Issue a certificate of revocation in duplicate.
2. File one of such certificates in his office.
3. Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of such certificates.

Upon the issuance of such certificate of revocation, the authority of the corporation to conduct affairs in this state shall cease.

10-2718. Conducting Affairs Without Certificate of Authority.) No foreign corporation which is conducting affairs in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the conduct of affairs by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets.

The failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state.

Chapter 10-28

North Dakota Nonprofit Corporation Act

Administration, Fees, Effect

10-2801. Fees for Filing Documents and Issuing Certificates.) The secretary of state shall charge and collect for:

1. Filing articles of incorporation and issuing a certificate of incorporation, sixteen dollars.

2. Filing articles of amendment and issuing a certificate of amendment, twelve dollars.
3. Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, fifteen dollars.
4. Filing a statement of change of address of registered office or change of registered agent, or both, five dollars.
5. Filing articles of dissolution, five dollars.
6. Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, eighteen dollars.
7. Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, sixteen dollars.
8. Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, eight dollars.
9. Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, fifteen dollars.
10. Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, ten dollars.
11. Filing any other statement or report, of a domestic or foreign corporation, two dollars.

10-2802. Miscellaneous Charges.) The secretary of state shall charge and collect:

1. For furnishing a certified copy of any document, instrument, or paper relating to a corporation, thirty-five cents per page and one dollar for the certificate and affixing the seal thereto.
2. At the time of any service of process on him as resident agent of a corporation, five dollars, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

10-2803. Penalties Imposed Upon Corporation.) Each corporation, domestic or foreign, that fails or refuses to answer truthfully and fully within the time prescribed by this Act interrogatories propounded by the secretary of state in accordance with the provisions of this Act, shall be deemed to be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding five hundred dollars.

10-2804. Penalties Imposed Upon Directors and Officers.) Each director and officer of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this Act

to answer truthfully and fully interrogatories propounded to him by the secretary of state in accordance with the provisions of this Act, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars.

10-2805. Interrogatories by Secretary of State.) The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this Act, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable him to ascertain whether such corporation has complied with all the provisions of this Act applicable to such corporation. Such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by him, and if directed to a corporation they shall be answered by the president, vice president, secretary or assistant secretary thereof. The secretary of state need not file any document to which such interrogatories relate until such interrogatories be answered as herein provided, and not then if the answers thereto disclose that such document is not in conformity with the provisions of this Act. The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this Act.

10-2806. Information Disclosed by Interrogatories.) Interrogatories propounded by the secretary of state and the answers thereto shall not be open to public inspection nor shall the secretary of state disclose any facts or information obtained therefrom except insofar as his official duty may require the same to be made public or in the event such interrogatories or the answers thereto are required for evidence in any criminal proceedings or in any other action by this state.

10-2807. Powers of Secretary of State.) The secretary of state shall have the power and authority reasonably necessary to enable him to administer this Act efficiently and to perform the duties therein imposed upon him.

10-2808. Appeal from Secretary of State.) If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other

document required by this Act to be approved by the secretary of state before the same shall be filed in his office, he shall, within ten days after the delivery thereof to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the district court of the county in which the registered office of such corporation is, or is proposed to be, situated by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

If the secretary of state shall revoke the certificate of authority to conduct affairs in this state of any foreign corporation, pursuant to the provisions of this Act, such foreign corporation may likewise appeal to the district court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to conduct affairs in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the district court under this section in review of any ruling or decision of the secretary of state may be taken as in other civil actions.

10-2809. Certificates and Certified Copies To Be Received in Evidence.) All certificates issued by the secretary of state in accordance with the provisions of this Act, and all copies of documents filed in his office in accordance with the provisions of this Act when certified by him, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the great seal of this state, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated.

10-2810. Forms To Be Furnished by Secretary of State.) All reports required by this Act to be filed in the office of the

secretary of state shall be made on forms which shall be prescribed and furnished by the secretary of state. Forms for all other documents to be filed in the office of the secretary of state shall be furnished by the secretary of state on request therefor, but the use thereof, unless otherwise specifically prescribed in this Act, shall not be mandatory.

10-2811. Greater Voting Requirements.) Whenever, with respect to any action to be taken by the members or directors of a corporation, the articles of incorporation require the vote or concurrence of a greater proportion of the members or directors, as the case may be, than required by this Act with respect to such action, the provisions of the articles of incorporation shall control.

10-2812. Waiver of Notice.) Whenever any notice is required to be given to any member or director of a corporation under the provisions of this Act or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

10-2813. Action by Members or Directors Without a Meeting.) Any action required by this Act to be taken at a meeting of the members or directors of a corporation, or any action which may be taken at a meeting of the members or directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be.

Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or document filed with the secretary of state under this Act.

10-2814. Unauthorized Assumption of Corporate Powers.) All persons who assume to act as a corporation without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

10-2815. Reservation of Power.) The legislative assembly shall at all times have power to prescribe such regulation, provisions and limitations as it may deem advisable, which regulations, provisions and limitations shall be binding upon any and all corporations subject to the provisions of this Act, and the legislative assembly shall have power to amend, repeal or modify this Act at pleasure.

10-2816. Effect of Repeal of Prior Acts.) The repeal of a prior Act by this Act shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of such Act, prior to the repeal thereof.

10-2817. 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.

10-2818. Application and Construction of Act; Deferred Repeal.)

1. All foreign and domestic nonprofit corporations are governed by the provisions of this Act (chapters 10-24, 10-25, 10-26, 10-27, and 10-28) with the following exceptions:
   a. All domestic nonprofit corporations existing before July 1, 1959, are not subject to this Act (chapters 10-24, 10-25, 10-26, 10-27, and 10-28) until after June 30, 1961, but such nonprofit corporation may elect to become subject to its provisions by adoption of a resolution of its governing body and filing a copy thereof with the secretary of state at any time;
   b. All foreign nonprofit corporations duly authorized to conduct affairs in this state before July 1, 1959, are not subject to this Act (chapters 10-24, 10-25, 10-26, 10-27, and 10-28) until after June 30, 1961, but such nonprofit corporation may elect to become subject to its provisions by adoption of a resolution of its governing body and filing a copy thereof with the secretary of state at any time.
   c. The existing provisions of chapters 10-08, 10-09, 10-10, and 10-11 of the title Corporations remain in effect until July 1, 1961, but are inapplicable to nonprofit corporations which are subject to this Act (chapters 10-24, 10-25, 10-26, 10-27, and 10-28). After June 30, 1961, the existing provisions of chapters 10-08, 10-09, 10-10, and 10-11 of the title Corporations are hereby repealed.
2. This Act (chapters 10-24, 10-25, 10-26, 10-27, and 10-28) shall be construed as being part of Title 10 of the North Dakota Revised Code of 1943 as amended, and after June 30, 1961, as replacing chapters 10-08, 10-09, 10-10, and 10-11 in the Code.

10-2819. Special Provisions Regarding Religious Corporations.) In addition to the provisions of this Act every religious corporation organized or operating under the provisions of this Act shall also be subject to the following provisions:

1. No corporation or association organized for religious or charitable purposes shall require or hold real estate in this state of a greater value than five hundred thousand dollars. This provision shall not apply to the property of corporations or associations actually used for educational, hospital, charitable or religious purposes. All real estate acquired or held contrary to the provisions of this section shall be forfeited and shall escheat to the state.
2. All grants or deeds from private individuals or acts of legislative bodies transferring, conveying, or granting real estate in this state to any bishop, dean, rector, vestryman, deacon, director, minister, or other officer or officers of any church or organized religious society in trust for the use and benefit of the society of which the grantee is an officer, which have been or may be made, done, or executed, shall vest in the grantee's successor or successors in office, or in such other officer as the society at any time may designate, all the legal or other title in or to the real estate described therein as trustee of such trust for the use and benefit of the society to the same extent as such title vested in the grantee named in the grant, deed, or act. Any transfer made by an officer acquiring title by virtue of this section shall have all the validity, force, and effect that it would have had if it had been made by the grantee while holding under and by virtue of such grant, deed, or act of a legislative body.

10-2820. Special Provisions Regarding Orphans' Homes.) In addition to the provisions of this Act every orphans' home organized or operating under the provisions of this Act may:

1. Receive into its hands and under its control, and may become the legal guardian of, any child under eighteen years of age committed as a delinquent, dependent, or neglected child to its guardianship by a court of competent jurisdiction;
2. Consent, through its duly authorized agent, in the courts of this state, to adoption of a child committed to its guardianship, in accordance with the statutes of the state on that subject;
3. Enter into agreements with persons taking children. Such agreements shall conform to the requirements of section 50-1206.

10-2821. Special Provisions Regarding Cemetery Corporations.) In addition to the provisions of this Act every corporation organized or operating under the provisions of this Act,

which owns, holds, controls, or operates any land for cemetery purposes shall be subject to the following provisions:

1. Every cemetery corporation has the power to purchase or take by gift, grant, or devise, and to hold real property, not exceeding one hundred sixty acres, for the sole use and purpose of a burial ground, to lay out the same into blocks and lots with convenient avenues and walks, and to sell the lots for the sole use and purpose of burying the dead. It may hold all such personal property as the legitimate and necessary purposes of the corporation may require.
2. A cemetery corporation shall cause its land, or such portion thereof as from time to time may become necessary for lots, avenues, and walks, to be surveyed and platted, and the plat of ground as surveyed shall be acknowledged and recorded in the office of the register of deeds of the county. Each lot shall be numbered regularly by the surveyor, and such number shall be marked on the plat which is recorded.

10-2822. Special Provisions Regarding Fraternal Corporations.) In addition to the provisions of this Act every fraternal corporation organized or operating under the provisions of this Act 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 nor in any event the sum of one hundred thousand dollars;
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 this Act 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 4, 1959.

CHAPTER 112

S. B. No. 134
(Kisse, Garaas)

NAME CHANGE OF MUTUAL AID COOPERATIVES

AN ACT

To amend and reenact section 10-1202 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to mutual aid cooperatives in order to provide that such an organization which was established prior to the effective date of the present Act governing such cooperatives shall not have to mandatorily change its name.

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

§ 1. Amendment.) Section 10-1202 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-1202. Special Requirements and Powers.) Mutual aid cooperatives are subject to the general law governing cooperatives, but shall also state in their articles the territory to be served by the cooperative, and shall have power to act as the agent or representative of any state, federal, or other agency or corporation giving assistance to rural rehabilitation, subsistence farming, housing, or cooperative endeavors of any nature. Any cooperative that is hereafter organized under this chapter shall be known as a "mutual aid cooperative" and the word cooperative shall form a part of the name of each cooperative so organized. Any cooperative organized prior to the effective date of this Act, and whose name does not include the term "mutual aid cooperative", may at its option elect to change its name to include "mutual aid cooperative".

Approved March 4, 1959.

CHAPTER 113

S. B. No. 192
(Kisse, Garaas, Livingston, Redlin)

SALE, LEASE AND DISSOLUTION OF ELECTRICAL COOPERATIVES

AN ACT

To create and enact section 10-13081 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the sale, lease and dissolution of electrical cooperatives.

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

§ 1.) Section 10-13081 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

10-13081. Electric Cooperatives; Sale of Physical Plant; Approval.) No electric cooperative corporation shall sell, transfer or convey, within the period of any single calendar year, physical plant in excess of five percent in value of such cooperative corporation, based upon the most recent audit of the books of said cooperative corporation, unless consent therefor shall have been obtained by vote of not less than two-thirds of the entire membership of such cooperative corporation cast at any regular or special meeting called for that purpose, after notice in writing to all the membership of such cooperative corporation not less than twenty nor more than thirty days prior to the date of such meeting. Nothing in this Act shall prohibit the sale, transfer, conveyance or exchange of electric cooperative corporation assets to another electric cooperative corporation, an agency of the state of North Dakota or agency of the Government of the United States, nor in exchange for physical plant of equal monetary value to any person, organization, public or private.

Approved March 2, 1959.

CHAPTER 114

S. B. No. 139
(Fiedler)

PROCEEDS OF COOPERATIVE ASSOCIATIONS

AN ACT

To amend and reenact subdivision a of subsection 2 of section 10-1533 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the apportionment and distribution of proceeds of cooperative associations.

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

§ 1. Amendment.) Subdivision a of subsection 2 of section 10-1533 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

a. An amount not to exceed five percent thereof may be set aside as an educational fund to be used in teaching or promoting cooperative organization or principles when approved by a majority of the members voting at any annual meeting. Such funds shall for all purposes except the computation of net proceeds be deemed an expense of operation of the cooperative. Such funds shall not be used in any political activity. Such educational funds shall not be paid to any other cooperative, mutual aid corporation or other general farm organization unless such cooperative, mutual aid corporation or general farm organization receiving such funds provides in its bylaws or articles that officers and directors shall be elected by secret ballot and that only active or retired farmers and ranchers, their wives or husbands as the case may be and their children, are eligible to vote on the affairs of the cooperative, mutual aid corporation or general farm organization.

Approved March 17, 1959.

CHAPTER 115

H. B. No. 772
(Aamoth and Van Sickle)

SERVICE OF PROCESS ON FOREIGN CORPORATIONS

AN ACT

To amend and reenact section 10-2210 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to service of process on foreign corporation.

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

§ 1. Amendment.) Section 10-2210 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-2210. Service of Process on Foreign Corporation.) The registered agent so appointed by a foreign corporation authorized to transact business in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to transact business in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one of such copies thereof to be forwarded by registered or certified mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

Whenever a claim shall arise out of business transacted in this state by a foreign corporation transacting business without a certificate of authority, service of process may be made upon any person who shall be found within this state acting as an agent of, or doing business for, such corporation, or by mailing a copy thereof to the defendant corporation by registered or certified mail at its last known post office address.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Approved March 11, 1959.

CHAPTER 116

S. B. No. 234
(Gefreh and Ringsak)

FILING ANNUAL REPORTS OF CORPORATIONS

AN ACT

To amend and reenact section 10-2302 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the filing of annual reports of domestic and foreign corporations.

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

§ 1. Amendment.) Section 10-2302 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10-2302. Filing of Annual Report of Domestic and Foreign Corporations.) The annual report for the preceding year of a domestic corporation shall be delivered to the secretary of state on or before the first day of August of each year, except that the first annual report of a domestic corporation shall be filed on or before the first day of August of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state. The annual report for the preceding year of a foreign corporation shall be delivered to the secretary of state on or before the first day of April of each year, except that the first annual report of a foreign corporation shall be filed on or before the first day of April of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as

the case may be, was issued by the secretary of state. Proof to the satisfaction of the secretary of state that prior to the first day of August or April, as the case may be, such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the secretary of state finds that such report conforms to the requirements of this Act, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for the failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this Act and returned to the secretary of state on or before thirty days after such corporation received the annual report for corrections. The secretary of state may extend the filing date for the annual report of any corporation whenever in his discretion he considers such an extension of time advisable and proper.

Approved March 2, 1959.

COUNTIES

CHAPTER 117

H. B. No. 822
(Stockman, Hilleboe, Trom and Myhre)

COUNTY ZONING

AN ACT

Relating to county zoning and planning and providing for the submission of plans for the establishment of zoning and planning districts adjacent to cities, and for division of costs, and declaring an emergency.

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

§ 1.) The governing body of any city zoned in accordance with the provisions of chapter 40-47 of the North Dakota Revised Code of 1943, and bordering on territory not zoned in accordance with the provisions of chapter 11-33 of the 1957 Supplement to the North Dakota Revised Code of 1943 may require the city zoning commission and the city planning commission to prepare a tentative plan for a zoning and planning district in such adjacent territory. The plan shall be submitted to the governing bodies of all of the organized townships in which the proposed district is contained in whole or in part and to the governing bodies of all cities having planning commissions with jurisdiction in the area affected, or such plan may be initiated through the cooperation of the governing bodies and the planning and zoning commissions, if any, of any such townships and cities and submitted as the joint plan of the sponsoring agencies to the governing bodies of all other townships and cities affected. The plan may include provisions for supervision and administration of such districts as well as provisions for the sharing and division of costs in the establishment and regulation of such district and shall be in the form of a proposed resolution to be submitted to the board of county commissioners. Upon approval by the governing bodies of all such townships and cities the proposal shall be submitted to the board of county commissioners and filed in the office of the county auditor in the manner prescribed for the submission of a proposal by a county planning commission.

§ 2.) The board of county commissioners upon receipt of such proposal shall refer it to the county planning commission,

if one has been established or is established by the board to consider such proposals, and a hearing shall thereupon be held by the county planning commission or by the board of county commissioners if no planning commission has been established in such county. Notice of such hearing shall be given in accordance with the provisions of section 11-3308 of the 1957 Supplement to the North Dakota Revised Code of 1943 and the board of county commissioners, following such hearing shall adopt the proposed resolution with such changes as it may deem advisable. Such resolution when so adopted shall be published, proof of such publication filed, and shall take effect as provided by section 11-3309 of the 1957 Supplement to the North Dakota Revised Code of 1943 for the adoption of resolutions prepared and proposed by a county planning commission. Upon the adoption, publication and filing of said resolution, the provisions of chapter 11-33 of the 1957 Supplement to the North Dakota Revised Code of 1943 shall be fully applicable to the same extent and effect as if said resolution had been submitted by the county planning commission.

§ 3.) Within the limits of the provisions for sharing and division of costs by cities and townships affected as set out in the approved plan, said cities and townships may budget and expend funds for the purpose of assisting in the payment of expenses incurred in the establishment and regulation of the district.

§ 4.) Any county, city or township proceeding under this chapter may jointly or severally apply for, accept and expend loans, grants, contributions and any other form of financial assistance from the federal government, the state, county or other public body, or from any source, public or private, for the purposes of this chapter, and may enter into and carry out contracts in connection therewith.

§ 5.) 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, 1959.

CHAPTER 118

S. B. No. 212
(Fiedler, Trenbeath and Holand)

PUBLICATION OF COUNTY MEETINGS AND NOTICES

AN ACT

Relating to publication of county official proceedings and notices.

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

§ 1.) In any county in which two or more newspapers having the qualifications prescribed in section 46-0501 of the North Dakota Revised Code of 1943 are published, the board of county commissioners, by resolution, may provide for publication of proceedings of the board of county commissioners and of notices and publications required by law to be published by any county officer in one or more of such newspapers in addition to the official publication in the official newspaper of the county. The provisions of section 46-0503 of the North Dakota Revised Code of 1943, as amended, shall not apply to such additional publications.

Approved March 9, 1959.

CHAPTER 119

S. B. No. 67
(Wenstrom)

TRANSFER OF PROPERTY TO NONPROFIT FAIR CORPORATIONS

AN ACT

Authorizing the board of county commissioners in any county in this state to transfer certain real or personal property or the proceeds therefrom to nonprofit fair corporations.

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

§ 1. **Nonprofit Fair Corporations; Receipt of Real or Personal Property for Fair Purposes.)** The board of county commissioners of any county in this state who have received as a gift real or personal property to be used for fair purposes is hereby authorized to transfer such property, or if the prop-

erty is sold by the board of county commissioners, then to transfer the proceeds therefrom, to any nonprofit corporation in such county organized for the purpose of conducting an annual county fair. The nonprofit fair corporation upon receipt of such real or personal property shall agree to sponsor and conduct in the county an annual county fair for such number of years as may be agreed upon by the corporation and board of county commissioners.

Approved March 4, 1959.

CHAPTER 120

S. B. No. 251
(Erickstad)
(By request)

EMERGENCY RELOCATION OF COUNTY GOVERNMENT

AN ACT

To amend and reenact sections 11-0412 and 11-0413 of the North Dakota Revised Code of 1943 to provide for emergency relocation of county government and its return to its normal site.

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

§ 1. Amendment.) Section 11-0412 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-0412. County Seat Not on Railroad; Election Any Year.) In counties where the county seat is not located on a railroad or interstate river, the question of county seat removal may be voted on at any primary election. The provisions of sections 11-0402 and 11-0403 shall be applicable to proceedings under this section. This statute is not to be in any way construed to bar the temporary emergency relocation of county government, or to affect the legality of lawful operations, acts and functions of county government, while such government is temporarily relocated at a predesignated emergency relocation site or sites under authority of, approved by and as directed by the board of county commissioners, a majority of the members concurring therein as to emergency relocation and the return of county government to the normal seat of county government.

§ 2. Amendment.) Section 11-0413 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-0413. Village or City Recognized as County Seat: Removal and Relocation.) When a city, village, or unincorporated townsite has been recognized as the county seat of a county for more than ten years and when all of the public business required by law to be transacted at the county seat has been transacted at said place during the period of ten years last past, such city, village, or unincorporated townsite shall be deemed to be the county seat of the county and can be removed only in the manner provided in this chapter. This statute is not to be in any way construed to bar the temporary emergency relocation of county government, or to affect the legality of lawful operations, acts and functions of county government, while such government is temporarily relocated at a predesignated emergency relocation site or sites under authority of, approved by and as directed by the board of county commissioners, a majority of the members concurring therein as to emergency relocation and the return of county government to the normal seat of county government.

Approved March 10, 1959.

CHAPTER 121

H. B. No. 632
(Johnson, Baldwin, Tescher, Poling, Anderson of Richland, Winge,)
(Smedshammer, Bloom, Dahl, Stockman and Dick)

SALARIES OF COUNTY OFFICIALS

AN ACT

To amend and reenact subsection 2 of section 11-1010 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to salaries and mileage of county officials.

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

§ 1. Amendment.) Subsection 2 of section 11-1010 of the 1957 Supplement to the North Dakota Revised Code of 1943 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. Three thousand nine hundred dollars in counties having a population not exceeding six thousand;

b. Four thousand dollars in counties having a population exceeding six thousand and not exceeding eight thousand;
c. Four thousand one 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 one hundred dollars;
d. In counties having a population in excess of thirty thousand the sum of five thousand five 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 27-0808 of the North Dakota Revised Code of 1943, as it may be amended. 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 15-2205 of the 1957 Supplement to the North Dakota Revised Code of 1943.

Approved March 17, 1959.

CHAPTER 122

H. B. No. 631
(Johnson, Winge, Muggli,)
(Smedshammer, Stockman, Bloom)

MILEAGE OF COUNTY OFFICIALS

AN ACT

To amend and reenact section 11-1015 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to mileage paid to county officials, and declaring an emergency.

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

§ 1. Amendment.) Section 11-1015 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-1015. Mileage of Officials.) Unless otherwise provided by the laws of this state, every county official whether elective or appointive, and every deputy of a county official, entitled by law to travel or mileage expense, shall be allowed or paid only the following amounts for each mile actually and necessarily traveled in the performance of official duties:

1. Ten cents per mile when such travel is by motor vehicle; and
2. When such travel is by rail or other common carrier, the amount actually and necessarily expended therefor.

§ 2. Emergency.) An emergency is hereby declared to exist and this Act shall be in full force and effect from and after the date of its passage and approval.

Approved March 17, 1959.

CHAPTER 123

S. B. No. 250
(Fiedler)

DESTRUCTION OF COUNTY RECORDS

AN ACT

To amend and reenact section 11-1317 of the North Dakota Revised Code of 1943, relating to destruction of county records.

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

§ 1. Amendment.) Section 11-1317 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-1317. Destruction of County Records.) The county auditor shall destroy by burning any of the following record books, forms, or blanks after the same have become ten years old:

1. Election poll books;
2. Election registration books;
3. Petitions of candidates;
4. All election forms, blanks, books, and records of every kind and description except abstracts of votes;
5. Assessment slips;
6. Crop statistics books;
7. Hail insurance books;
8. Hail insurance applications and withdrawals;
9. Collection sheets for writing up tax collections;
10. Tax certificates which have been paid or redeemed;

11. Tax levy blanks of school districts, townships, villages, and cities;
12. Tax receipts;
13. Township and village board of review records and school district posting books;
14. Claims vouchers which have been audited and paid;
15. Certificates of officials' bonds; and
16. Insurance policies which have become obsolete.

Approved March 10, 1959.

CHAPTER 124

H. B. No. 753
(Johnston)

EMINENT DOMAIN BY COUNTY PARK COMMISSIONERS

AN ACT

To amend section 11-2805 of the 1957 Supplement to the North Dakota Revised Code of 1943 by creating and enacting subsection 11 thereto in order to include among the powers and duties of the board of county park commissioners the right to exercise the power of eminent domain.

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

§ 1. Amendment.) Section 11-2805 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 11 thereto which shall read as follows:

11. To exercise the power of eminent domain in the manner provided by the title Judicial Remedies for the purpose of acquiring and securing any right, title, interest, estate or easement necessary to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the control of the shores of any lake and to protect the right of ingress and egress therefrom and to provide recreational areas or facilities.

Approved March 14, 1959.

CHAPTER 125

S. B. No. 84
(George)

COUNTY MEMORIAL FUNDS

AN ACT

To amend and reenact section 11-3202 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to memorial funds.

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

§ 1. Amendment.) Section 11-3202 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-3202. A Memorial Fund Created: How Expended.) Funds provided to be raised in accordance with section 11-3201 shall be designated as the memorial fund, and shall be kept separate and distinct from other moneys by the county treasurer and shall be expended by and under the direction and control of the board of county commissioners. The board may expend such funds at such times as it may determine and is authorized to make an allocation of any or all funds to be raised by the memorial levy for any purpose authorized by this chapter.

On or after January 1, 1960, the board may transfer all unexpended balances in the memorial fund to the county general fund if there is then no existing memorial levy and if such unexpended balance has not been pledged or appropriated for a memorial.

Approved March 3, 1959.

CRIMES AND PUNISHMENTS

CHAPTER 126

S. B. No. 66
(Wadeson and Ringsak)

BOOK SALVAGE INDUSTRY AT PENITENTIARY

AN ACT

Authorizing the establishment of a book salvage industry at the state penitentiary and making an appropriation therefor.

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

§ 1. Employment of Penitentiary Inmates in Book Salvage; Receipts.) The state board of administration is authorized to employ prisoners of the state penitentiary, not otherwise employed, in a book salvage industry, and to establish such rules and regulations for its operation as is deemed necessary, including schedules of charges to be made for the services performed. The warden of the penitentiary, under the direction of the board of administration, shall be authorized to procure the tools and equipment necessary to carry on and conduct the work of the industry subject to limitations of the legislative appropriation. The warden shall keep a true and accurate account of all receipts of said industry and the same shall be deposited with the state treasurer to the credit of the general fund.

§ 2. Appropriations.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of seventy-five thousand dollars, or so much thereof as may be necessary for the purpose of purchasing the equipment and materials necessary to effectuate the provisions and purposes of this Act.

Approved March 10, 1959.

CHAPTER 127

S. B. No. 116
(Longmire, Luick)

REGULATION OF USE OF CIGARETTES, CIGARS AND TOBACCO

AN ACT

Regulating the use of cigars, cigarettes, pipes, and tobacco so as not to endanger life or property, and providing a penalty.

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

§ 1. Use of Cigarettes, Cigars, Pipes, and Tobacco; Penalty.) It shall be unlawful for any person, who by smoking or attempting to light cigarettes, cigars, pipes or tobacco, or otherwise, to set fire to any fittings, furnishings, or part of any hotel, motel, rooming house, lodging house, or other place of public abode, so as to endanger life or property in any way, or to any extent. Any person violating any of the provisions of this Act 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.

§ 2. Printed Notice To Be Posted.) The state fire marshal shall print and distribute copies of this Act to all hotels, motels, rooming houses, lodging houses, and other places of public abode in this state, and such copies shall be conspicuously displayed in each room of every hotel, motel, rooming house, lodging house, or other place of public abode located in this state.

Approved March 3, 1959.

CHAPTER 128

H. B. No. 594
(Brown, Wheeler, Vinje,)
(Knudsen, Mueller, Goebel)

SHOPLIFTING

AN ACT

To exempt from civil or criminal liability any peace officer, merchant or merchant's employee who takes into custody or detains any person who he has probable cause to believe has committed larceny of goods held for sale.

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

§ 1. Shoplifting; Arresting Person Exempt from Liability.)

1. A peace officer, or a merchant, or a merchant's employee who has probable cause for believing that goods held for sale by the merchant have been unlawfully taken by a person and that he can recover them by taking the person into custody, may, for the purpose of attempting to effect such recovery, take the person into custody and detain him in a reasonable manner for a reasonable length of time. Such taking into custody and detention by a peace officer, merchant, or merchant's employee shall not render such peace officer, merchant, or merchant's employee criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.
2. Any peace officer may arrest without warrant any person he has probable cause for believing has committed larceny in retail or wholesale establishments.
3. A merchant or a merchant's employee who causes such arrest as provided for in subsection 1 of this section of a person for larceny of goods held for sale shall not be criminally or civilly liable for false arrest or false imprisonment where the merchant or merchant's employee has probable cause for believing that the person arrested committed larceny of goods held for sale.

Approved March 14, 1959.

CHAPTER 129

S. B. No. 211
(Murphy)

TRANSFER OF PENITENTIARY INMATES

AN ACT

Authorizing the governor to enter into contracts with the attorney general of the United States in order that inmates of the state penitentiary needing special care not available at the penitentiary may be transferred to a federal institution where such care is available.

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

§ 1. Governor May Contract for Transfer to Federal Institution.) When any person convicted of a criminal offense under the laws of this state and confined in the state penitentiary is found to be in need of special treatment, care, custody or training which cannot be provided for at the state penitentiary, the governor of this state shall be authorized to contract with the attorney general or other proper official of the United States, pursuant to the provisions of any federal law, for transfer of such inmate to a federal institution in order that such inmate may receive the required special treatment, care, custody or training. Such transfer shall be effected only after the warden of the penitentiary has submitted a request for such transfer to the state board of pardons, and the board of pardons has approved the request. Upon approval by the board of pardons the governor shall petition the attorney general or other proper official of the United States asking that the transfer be made. When any such transfer is made, the state of North Dakota shall reimburse the federal government in full for expenses involved in the transfer and care of such person from funds appropriated for the operation and maintenance of the penitentiary.

Approved March 10, 1959.

CHAPTER 130

S. B. No. 75
(Erickstad)

DISPOSITION OF FINES, FORFEITURES AND PENALTIES

AN ACT

To amend and reenact section 12-0113 of the North Dakota Revised Code of 1943 relating to the disposition of moneys resulting from fines, forfeitures, and penalties for violations of state laws and disposition of moneys resulting from forfeiture of bail.

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

§ **1. Amendment.)** Section 12-0113 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-0113. Disposition of Fines, Forfeitures, Pecuniary Penalties and Bail Forfeitures.) All fines, forfeitures, and pecuniary penalties prescribed as a punishment for a violation of state laws, when collected, shall be paid into the treasury of the proper county to be added to the state school fund. When any bail bond or other property or money deposited as bail is forfeited to the state, the proceeds collected therefrom shall be paid over to the treasurer of the county whose officers originally instituted the action and credited to the general fund of the county. In the event that the attorney general of the state of North Dakota originally instituted the action, the bail bond, money or other property forfeited shall be paid over to the proper state official and credited to the state school fund.

Approved March 4, 1959.

CHAPTER 131

H. B. No. 703
(Aamoth, Burk, Muggli, Neukircher, Baldwin, Goebel,)
(Frank, Poling and Fitch)

THEATER OPERATION ON SUNDAY

AN ACT

To amend and reenact section 12-2120 of the North Dakota Revised Code of 1943, relating to Sunday hours of theaters.

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

§ 1. Amendment.) Section 12-2120 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-2120. Operation of Theaters and Movies on Sunday Lawful.) The operation of theaters showing motion pictures and other theatrical performances for profit or otherwise after 1:15 o'clock p.m. on Sunday is lawful.

Approved March 12, 1959.

CHAPTER 132

H. B. No. 575
(Muggli)
(By request)

DEFINITION OF ADULTERY

AN ACT

To amend and reenact section 12-2209 of the North Dakota Revised Code of 1943 relating to the definition of adultery.

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

§ 1. Amendment.) Section 12-2209 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-2209. Adultery Defined.) Adultery is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife. When the intercourse is between a married woman and a man who is unmarried the man also is guilty of adultery.

Approved March 9, 1959.

CHAPTER 133

S. B. No. 202
(Brooks)

GRAND AND PETIT LARCENY

AN ACT

To amend and reenact section 12-4003 of the North Dakota Revised Code of 1943, relating to amount of money which constitutes petit and grand larceny.

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

§ 1. Amendment.) Section 12-4003 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-4003. Grand Larceny and Petit Larceny Defined.) Grand larceny is larceny committed in the following cases:

1. When the property taken is of value exceeding one hundred dollars;
2. When such property, although not of value exceeding one hundred dollars, is taken from the person of another; or
3. When the property taken is any horse, mule, cow, calf, or other neat cattle, or any sheep, swine, or poultry, the property of another.

Larceny in other cases is petit larceny.

Approved March 10, 1959.

CHAPTER 134

H. B. No. 675
(Haugland, Beede, Esterby, Burk)

CHILDREN PAROLED TO FOSTER HOMES

AN ACT

To amend and reenact section 12-5202 of the North Dakota Revised Code of 1943, relating to paroles from the state training school; and providing for the parole of children into licensed foster homes.

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

§ 1. Amendment.) Section 12-5202 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-5202. Parole on Recommendation of Superintendent.) No parole shall be granted to any person committed to the state training school or placed under the guardianship, 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 herein contained shall prevent the parole of any person into his own home, or with the approval of the public welfare board of North Dakota or its duly authorized agent, into a licensed foster home under one of the welfare programs administered by the public welfare board of North Dakota.

Approved March 2, 1959.

CHAPTER 135

H. B. No. 730
(Wheeler)

SENTENCE IMPOSITION, PROBATION

AN ACT

To amend and reenact sections 12-5313, 12-5314 and 12-5315 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the suspension of the imposition of sentence, when authorized, placing the defendant under the control of board of pardons, sponsor of defendant, and when probation may be terminated, and declaring an emergency.

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

§ 1. Amendment.) Section 12-5313 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-5313. Imposition of Sentence Suspended; When Authorized.) When a defendant has been found guilty of a crime, whether or not for the first time, excepting the crimes mentioned in section 12-5302, the court having jurisdiction thereof, including a justice of the peace, upon application or its own motion may, in its discretion, suspend the imposing of the sentence and may direct that such suspension continue for a definite period of time, not exceeding five years, and upon such terms and conditions as it may determine.

§ 2. Amendment.) Section 12-5314 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-5314. Defendant Placed Under Control of Board of Pardons: Sponsor of Defendant.) In the event the court shall suspend the imposition of sentence of a defendant, the court shall place the defendant on probation during the period of suspension. During the period of probation the defendant shall be under the control and management of the board of pardons, subject to the same rules and regulations as apply to persons placed on probation under suspended sentence as provided in chapter 12-53 of this Code. The board of pardons shall assume and undertake the supervision of said probationer, promulgating rules and regulations for the conduct of such person during the period of his probation, except that if the defendant was found guilty of a misdemeanor, the court by order may waive the supervision of the defendant by the board of pardons, and direct that the defendant shall make his monthly reports to the state's attorney of the county in which the action is pending. The court may designate the clerk of district court, the sheriff, the state's attorney, or any other person to act as sponsor for the defendant. It shall be the duty of the sponsor to assist the probationer in making his monthly reports to the board of pardons or to the state's attorney, to report any violations, and to counsel and direct said probationer whenever possible.

§ 3. Amendment.) Section 12-5315 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-5315. When Probation May Be Terminated.) Whenever the board of pardons, the court, or the state's attorney, shall have reason to believe such defendant is violating the terms of his probation, such probationer shall be brought before the court wherein the probation was granted. For this purpose any peace officer or state parole officer may re-arrest the probationer without warrant or other process. The court may thereupon, in its discretion, without notice revoke and terminate such probation, pronounce judgment, and deliver defendant to the sheriff to be transferred to the penitentiary or other state institution in accordance with the sentence imposed.

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

Approved March 11, 1959.

DEBTOR AND CREDITOR RELATIONSHIP

CHAPTER 136

H. B. No. 537
(Brown, Neukircher and Fitch)
(From LRC Study)

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.

(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 (b) 3 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 licensee 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 televise 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 examiner 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 prorated 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 under 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 advances 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 (thereon) as

*__Note:__ This is the language that appears in the enrolled bill as signed by the governor. However, through clerical error the words "as to that portion of said loan which exceeds one thousand dollars, may", which were inserted through Senate amendments appearing on page 856 of the Senate Journal, should be deleted in accordance with the action of the Senate and House Conference Committee which resulted in the Senate receding from its amendments (House Journal, p. 1206; Senate Journal, pp. 959, 960).

**__Note:__ The word "only" appears in the enrolled bill as signed by the governor, through clerical error. The word "only" was inserted in the bill in lieu of the word "thereon" by a Senate amendment appearing on page 856 of the Senate Journal, but because the action of the Senate and House Conference Committee resulted in the Senate receding from its amendments (House Journal, p. 1206; Senate Journal, pp. 959, 960) the word "only" should be deleted and the word "thereon" reinserted in its place.

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* (, but no interest or charges shall be made or received upon the insurance premium when included in the contract of the loan). 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.

*__Note:__ In the enrolled bill as signed by the governor the words ", but no interest or charges shall be made or received upon the insurance premium when included in the contract of the loan" have been deleted from the bill due to the Senate amendment appearing on page 857 of the Senate Journal, through clerical error. However, the action of the Senate and House Conference Committee (House Journal, p. 1206; Senate Journal pp. 959, 960) resulted in the Senate receding from its amendments and the language in parentheses should therefore be reinserted in the bill.

(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 March 17, 1959.

DOMESTIC RELATIONS AND PERSONS

CHAPTER 137

S. B. No. 93
(Hystad, Longmire)

DISPOSITION OF MARRIAGE LICENSES AND CERTIFICATES

AN ACT

To amend and reenact section 14-0319 of the 1957 Supplement to the North Dakota Revised Code of 1943 and sections 14-0320 and 14-0321 of the North Dakota Revised Code of 1943, relating to marriage licenses and certificates of marriage and the manner of their disposition.

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

§ 1. Amendment.) Section 14-0319 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

14-0319. License Issued to All Who Comply With Law.) If a county judge is satisfied that there is no legal impediment to the marriage and that the applicants have complied with the provisions of this chapter, or in the case where both of the contracting parties are residents of another state, if such parties present a valid marriage license regularly issued not more than sixty days prior thereto by the duly authorized officials of their state, then the county judge shall issue and sign a marriage license in duplicate and affix his seal to both the original and the duplicate.

§ 2. Amendment.) Section 14-0320 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

14-0320. License and Certificate.) The marriage license and certificate of the person solemnizing the marriage shall be upon one blank form in duplicate consisting of two pages with a perforated seam to make it readily detachable. The form shall be substantially as follows:

Marriage License

State of North Dakota, }
} ss.
County of .....}

To any person authorized by law to perform the marriage ceremony, greeting:

You are hereby authorized to join in marriage.....
..... of .....,
aged..... who has.....been divorced, and.....
..... of .....,
aged..... who has.....been divorced, and of this license and your certificate you will make due return to my office within five days.

Dated at.....this.....day of
.....19.....

(Seal)

.....
County Judge

Certificate of Marriage

I hereby certify that the persons named in the foregoing license were by me joined in marriage at.....
.....county of.....State of North Dakota, on the.....day of.....19.....

In the presence of

.....} .....
.....} .....
Witnesses

Every certificate of marriage shall be signed by two witnesses to the marriage in addition to the signature of the person who solemnized the marriage. Every license when issued shall have endorsed on it or annexed to it a statement, subscribed by the person issuing the license, stating that the application for the license was accompanied by the physician's certificate and the laboratory statement as required by sections 14-0312 and 14-0314. If such compliance was dispensed with, wholly or partly, by order of the district judge, a statement to that effect must be endorsed on or annexed to the license.

§ 3. Amendment.) Section 14-0321 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

14-0321. License and Certificate Returned to County Judge; Duplicate Delivered to Persons Married.) When a person authorized by law shall solemnize a marriage, he shall fill out and sign the certificate following the license in duplicate, giving his official title, or if a minister of the gospel or priest, the ecclesiastical body with which he is connected. The original copy of the certificate and license shall be returned to the county judge who issued the license within five days after the date of the solemnization of the marriage, and the duplicate copy shall be immediately delivered to the persons married. Any person who willfully neglects to make such return within the time required shall be punished as provided in section 14-0328.

Approved March 4, 1959

EDUCATION

CHAPTER 138

S. B. No. 246
(Longmire and Saumur)

ASSEMBLY HALL ON UNIVERSITY CAMPUS

AN ACT

To provide for the erection on the campus of the university of an assembly hall, the cost to be paid from donated funds net receipts from student activities not otherwise allocated.

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

§ 1.) The state board of higher education is hereby authorized and empowered to provide for the erection upon the campus of the state university of North Dakota a building for use as an assembly hall, for musical, forensic and dramatic productions, as a meeting place, and as a class room for large classes, the cost thereof to be paid solely from donated funds, and net receipts from student activities not otherwise allocated, now or hereafter available, and on hand at the university of North Dakota.

Approved March 10, 1959.

CHAPTER 139

H. B. No. 712
(Committee on Education)

COMPENSATION OF ELECTION OFFICIALS

AN ACT

To permit election officials in a common school district election to be paid, and declaring an emergency.

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

§ 1. Compensation of Election Officials.) Election officials at common school district elections shall receive four dollars per day as compensation.

§ 2. **Emergency.)** This Act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its adoption and approval by the governor.

Approved March 12, 1959.

CHAPTER 140

S. B. No. 98
(Foss and Livingston)

DEAF-BLIND CHILDREN

AN ACT

To provide for the education of deaf-blind children outside the state of North Dakota; providing appropriation for this purpose.

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

§ 1.) The state board of administration, is hereby authorized to pay from funds appropriated to it for the purpose of sending children under the age of twenty-one (21), who are deaf as well as blind, for which there are no facilities for education in this state, to any school or institution, outside the state of North Dakota providing a qualified program of education for such children.

Such funds may be spent for room, board, tuition, transportation, and other items which are necessarily relevant to the education of such children.

In interpreting and carrying out the provisions of this Act, the words "deaf-blind child" wherever used, will be construed to include any child whose combination of handicaps of deafness and blindness will prevent him from profiting satisfactorily from educational programs provided for the blind child or the deaf child.

The board of administration through facilities under its jurisdiction is hereby authorized to determine if such children should be sent to out-of-state places, and the board of administration, is hereby authorized to promulgate such rules and regulations as it deems necessary and proper for carrying out the purposes and intents of this Act.

§ 2.) 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 for the education of children

who are deaf as well as blind under the sole supervision of the board of administration, for the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 16, 1959.

CHAPTER 141

H. B. No. 547
(Link, Esterby, Streibel, Baldwin)
(From LRC Study)

HIGHER EDUCATION RECIPROCAL AGREEMENTS

AN ACT

Authorizing the state board of higher education to enter into reciprocal agreements with other states' institutions of higher learning for higher education of North Dakota students and making an appropriation.

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

§ 1. Agreements With Other States' Institutions of Higher Learning.) The state board of higher education is hereby authorized to enter into agreements with institutions of higher learning in other states, and, subject to the limits of legislative appropriations, to make such expenditures as are necessary for the purpose of utilizing the educational facilities of such institutions for teaching North Dakota students those courses that are not offered by institutions of higher learning in this state. In addition the state board of higher education is authorized to enter into agreements with other state institutions of higher learning for the acceptance of students from other states in North Dakota institutions of higher learning.

§ 2. Appropriation.) There is hereby appropriated out of any moneys in the general fund in the state treasury, the sum of twenty-five thousand dollars, or so much thereof as may be necessary, to the state board of higher education for the purpose of carrying out the provisions of this Act.

Approved March 12, 1959.

CHAPTER 142

H. B. No. 863
(Committee on Delayed Bills)

HIGH SCHOOL CORRESPONDENCE STUDY DIVISION

AN ACT

Providing for a separate special fund to carry on certain functions of the high school correspondence study division, making a standing appropriation of all income and collections of that division, and making an appropriation to such fund.

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

§ 1. Establishment of Special Fund; Standing Appropriation.) There is hereby created in the state treasury a special fund to be known as the high school correspondence study division fund to which shall be credited all income and collections, other than biennial appropriations, of the high school correspondence study division. All balances, income and collections credited to such fund are hereby appropriated on a continuing and permanent basis to the high school correspondence study division to be expended for the following purposes:

1. Payment of fees to course supervisors.
2. Purchase of books for book rental library and library supplies.
3. Purchase of educational films and salaries and other overhead expense of maintaining a film library.
4. Payment for educational entertainment furnished to schools of the state and salaries, commissions, and other expenses of selling such entertainment programs to the schools.
5. Purchase of books for resale to students of the division.
6. Such other purposes in relation to the activities of the high school correspondence division as may be deemed necessary at the discretion of the director of the high school correspondence study division including salaries, administrative expense, equipment and other operational expense of the division.

§ 2. Appropriation.) There is hereby appropriated out of the general fund of this state a sum equal to the balance transferred into the general fund from the high school correspondence division fund under the provisions of section 3 of House Bill No. 543 of the Thirty-sixth Legislative Assembly, but not in excess of fifty thousand dollars, which amount

shall be credited to the high school correspondence study division fund created in section 1 of this Act and to be expended for the purposes and in the manner provided in section 1 of this Act.

Approved March 14, 1959.

CHAPTER 143

H. B. No. 629
(Diehl, Sorlie, Strand)

LEASE OF STATE LAND TO MAYVILLE MUTUAL AID CORPORATION

AN ACT

Authorizing the state board of higher education to negotiate a lease with the Mayville Mutual Aid Corporation, a domestic nonprofit corporation, for certain state land located on the Mayville State Teachers College campus, 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 lease to the Mayville Mutual Aid Corporation, a domestic nonprofit corporation, certain state land under the control of the board of higher education and located on the campus of the Mayville State Teachers College, which land is specifically described as follows:

An irregular tract of land in the southwest quarter of section thirty-two, township one hundred forty-seven north, range fifty-two west of the fifth principal meridian, now a part of the Mayville State Teachers College campus, which tract begins at a point sixty feet east of the west quarter section corner of said section thirty-two, the said point also being on the east right-of-way line of the county highway; thence one hundred thirty-nine feet north, seventy degrees fifty-eight minutes east to Third Avenue northeast; thence three hundred twenty-eight feet south nineteen degrees two minutes east to the spur track of the Great Northern Railroad which services the college powerhouse; thence following the Great Northern spur track in a northwesterly direction to the east right-of-way line of the county highway; thence two hundred forty-seven feet north along the right-of-way line of the county highway to the point of beginning, which entire tract contains one and thirty-nine one hundredths acres more or less.

In consideration of the lease of the above described real property the Mayville Mutual Aid Corporation shall construct on such property not to exceed three fourplex dwelling houses the specifications of which shall be approved by the board of higher education, to be used principally by faculty members of the Mayville State Teachers College. The lease shall run for a period of not more than forty years at which time the above described real property and any improvements thereon shall be returned to the state. Such property and any improvements thereon may be returned to the state at any time prior to the expiration of the lease if mutually agreed upon by the state board of higher education and the Mayville Mutual Aid Corporation.

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

Approved March 11, 1959.

CHAPTER 144

S. B. No. 241
(Foss)

LEASE OF STATE LAND TO VALLEY CITY DEVELOPMENT CORPORATION

AN ACT

Authorizing the state board of higher education to negotiate a lease with the Valley City Development Corporation, a domestic corporation located at 236 Second Avenue Northeast, Valley City, North Dakota, for certain state land located on the State Teachers College campus at Valley City.

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

§ **1.)** The state board of higher education is hereby authorized to lease to the Valley City Development Corporation, a domestic corporation, certain state land under the control of the board of higher education and located on the campus of the State Teachers College at Valley City, which land is specifically described as follows:

All of that part of the northwest quarter of section twenty-eight, in township one hundred forty north, of range fifty-eight west of the fifth principal meridian, Barnes County, North Dakota, described as follows, to-wit: Commencing at a point, said point being the intersection of the west

line of 6th Avenue, Southwest (formerly Pleasant Place) and the south line of 7th Street, Southwest, (formerly Columbia Avenue) in Tracy's Third Addition to the City of Valley City, Barnes County, North Dakota; thence in a westerly direction along the south line of said 7th Street, Southwest, (formerly Columbia Avenue), a distance of 250 lineal feet to a point; thence in a southerly direction parallel with the west line of said 6th Avenue, Southwest (formerly Pleasant Place) a distance of 505 lineal feet more or less to its intersection with the center line of the Sheyenne River as it now runs; thence in a northeasterly direction along the center line of said Sheyenne River to its intersection with the southerly produced west line of 6th Avenue, Southwest (formerly Pleasant Place) in Tracy's Third Addition to the City of Valley City, Barnes County, North Dakota; thence in a northerly direction on said west line of 6th Avenue, Southwest (formerly Pleasant Place) and its extended production thereof before mentioned a distance of 376 lineal feet to the point of beginning, containing in all 2.53 acres, more or less.

In consideration of the lease of the above described real property, the Valley City Development Corporation shall construct on such property not to exceed six two-bedroom apartments, the specifications of which shall be approved by the board of higher education, to be used mainly by faculty members or married students of the State Teachers College at Valley City. The lease shall run for a period of not more than forty years at which time the above described real property and any improvements thereon shall be returned to the state. Such property and any improvements thereon may be returned to the state at any time prior to the expiration of the lease if mutually agreed upon by the state board of higher education and the Valley City Development Corporation.

Approved March 10, 1959.

CHAPTER 145

H. B. No. 550
(Link, Esterby, Streibel)
(From LRC Study)

MINIMUM CURRICULUM AND TEACHER QUALIFICATION REQUIRED FOR ACCREDITATION

AN ACT

Providing for teacher qualification and the minimum curriculum that must be offered by each high school in this state by 1961 to be accredited by the department of public instruction and for waivers of the conditions imposed.

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

§ 1. High Schools; Minimum Curriculum; Accreditation.) Not later than July 1, 1961, the following units of study shall be made available to all students in each high school in this state at least once during each four-year period if such high school is to receive any accreditation by the department of public instruction:

Course Area or Field	**Number of Units**
English	4
Mathematics	3
Physical Science	4
Social Studies	3
Health and Physical Education	1
Music	1

Six units of any combination of the following subjects: Business Education, Foreign Language, Homemaking, Vocational Agriculture, and Industrial Arts.

§ 2. High Schools; Teacher Qualification; Accreditation.) Not later than July 1, 1961, every teacher in any high school in this state teaching any of the course areas or fields mentioned in section 1 of this Act shall have a first grade professional certificate and shall have a major or minor in the course areas or fields that he is teaching if such high school is to receive any accreditation by the department of public instruction.

§ 3. Waiver.) Upon due cause therefor being shown, the superintendent of public instruction is authorized to grant waivers of the conditions for accreditation imposed by this Act for a reasonable length of time.

Approved March 9, 1959.

CHAPTER 146

H. B. No. 608
(Baldwin, Anderson of Richland, Guy)

PURCHASE OF ADDITIONAL LAND FOR AGRICULTURAL COLLEGE

AN ACT

Authorizing the state board of higher education of the state of North Dakota to negotiate for and enter into a contract for the purchase of additional land for the use of the North Dakota agricultural college at Fargo, North Dakota, and declaring an emergency.

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

WHEREAS, the North Dakota agricultural college is in need of additional land for the proper development and promotion of necessary work and activities related to experimentation and research at the college, and

WHEREAS, there is now available a quarter section of land lying adjacent and in close proximity to premises now occupied and used in connection with the operation of said college which quarter section is described as follows: to-wit:

The southeast quarter of section twenty-seven township one hundred forty, range forty-nine, Cass County, North Dakota, containing one hundred sixty acres, more or less according to the United States government survey, and

WHEREAS, said above described premises may be leased for the 1959 farming season with the right to purchase the same at a cost of two hundred fifty dollars per acre, under contract for deed, with deferred payments extending from the 16th day of January, 1960, to and including the 16th day of January, 1965, with interest at five percent per annum on such deferred payments, and

WHEREAS, said college will have on hand funds sufficient to meet the cost of leasing as well as the various payments on said purchase price when they become due, and

WHEREAS, the sale of such land to others might seriously handicap and jeopardize the future operations and development of said college, *Now Therefore,*

§ 1.) If the state board of higher education is able to negotiate and enter into a contract for the leasing and ultimate purchase of said premises above described at the price and terms above indicated, and with the assurance that neither the state board of higher education nor the state of North Dakota

shall be obligated for the payment of the purchase price other than as above set forth, and upon terms providing that the said purchase price shall be paid from funds of the college now on hand or to be received in the future from the income of said college or incident to the operation or ownership of its land then the board of higher education is hereby authorized to enter into a contract for the purchase of said land.

§ 2. **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 4, 1959.

CHAPTER 147

S. B. No. 113
(Larson, Livingston, Longmire, Vendsel)

SALE OF TAX EXEMPT 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 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 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 Agricultural College, Fargo, North Dakota
   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
   c. Faculty apartments 90,000.00
5. State Normal and Industrial College, Ellendale, North Dakota
   a. Faculty homes (3) ..... $ 36,000.00
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 shall be retired solely from revenues from the buildings and facilities constructed under the provisions of this Act, and such bonds 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 16, 1959.

CHAPTER 148

H. B. No. 680
(Skaar and Strand)

TEACHER ABSENCES

AN ACT

Relating to absence of teachers due to sickness.

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

§ 1. Five Days Annual Sick Absence; Cumulative.) The employment contract of any teacher, as defined in section 15-4726 of the 1957 Supplement to the North Dakota Revised Code of 1943, as amended, shall provide for at least five days permissible absence annually due to sickness, without loss in pay for the period; and shall further provide for any unused portion of such annually permissible absence to be cumulative from year to year, with a minimum accumulation of twenty days.

Approved March 13, 1959.

CHAPTER 149

H. B. No. 714
(Link and Rolfsrud)

LEASING OF ORIGINAL GRANT SCHOOL LANDS

AN ACT

To amend and reenact sections 15-0401, 15-0407, 15-0409, 15-0410, 15-0411, and 15-0420 of the North Dakota Revised Code of 1943 and to repeal section 15-0408 of the North Dakota Revised Code of 1943 and to create and enact section 15-0422 of the North Dakota Revised Code of 1943, relating to the leasing of original grant school lands, and providing a penalty.

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

§ 1. Amendment.) Section 15-0401 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-0401. Leasing of School and Other Public Lands; Rent.) All lands granted by the United States to this state for the

establishment and support of common schools and of educational, penal, or charitable institutions may be leased for pasturage and meadow purposes at public auction after notice as provided by this chapter. The lease may be for a period of not more than five years. Grant lands which have never been placed under cultivation by a contract purchaser, in the event such contract is canceled, may be leased for pasturage or meadow purposes for a period of not more than five years. Grant lands which have been placed under cultivation by a contract purchaser, in the event such contract is canceled, may be leased at the discretion and under the control of the board of university and school lands for other than pasturage and meadow purposes until the land is resold. All rents shall be payable annually in advance.

§ 2. Amendment.) Section 15-0407 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-0407. Minimum Rentals.) The board of university and school lands shall set the minimum rental for uncultivated and cultivated lands, which shall be subject to review and change when deemed necessary by said board.

§ 3. Repeal.) Section 15-0408 of the North Dakota Revised Code of 1943 is hereby repealed.

§ 4. Amendment.) Section 15-0409 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-0409. Notice of Leasing; Publication; Posting.) Each year at such time as in its judgment is for the best interests of the state, the board of university and school lands shall advertise and offer for lease the lands to be leased. All lands to be leased or offered for lease within the respective counties shall be advertised for lease by the board by publication once each week for a period of three weeks prior to the day of leasing in a legal newspaper published nearest the land and in the newspaper designated for the publication of the official proceedings and legal policies within the county in which said land is situated. A list of the lands to be offered for leasing shall be filed with the county treasurer of the county wherein such lands are situated at least 10 days prior to the day of leasing. If, in the opinion of the board, the land that will be leased in any county will not be sufficient to warrant the expense of advertisement in a newspaper by description of each tract or parcel, the notice may be given by general advertisement.

§ 5. Amendment.) Section 15-0410 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-0410. Leasing To Be By Auction; Regulations Governing.) The commissioner of university and school lands, or such other person as may be appointed by the board of university and school lands, shall conduct the leasing of the lands. The leasing shall be at public auction, to the highest bidder, and shall be held at the courthouse or the place where terms of the district court are held. The auction shall commence on the day specified in the advertisement for the leasing and shall be held between the hours of ten o'clock a. m. and five o'clock p. m., and shall continue from day to day until all tracts or parcels of land advertised for lease have been leased or offered for lease. Auctions for leasing lands shall not exceed ten days in any county, except that an adjournment may be made over Sunday or any legal holiday. Notice shall be given when the land is offered for lease, that all bids are subject to approval by the board. In counties where a large number of tracts of land are to be leased, the land situated in certain townships may be designated in the advertisement to be leased on certain specified days, and in that case the lands shall be leased or offered for lease on the days specified. If all designated lands are not offered for lease because of lack of time, the leasing of the lands unoffered may be adjourned until the following day or days when they shall be the first lands offered for lease. Lands that have not been subdivided specially shall be offered for lease in tracts of one-quarter section each, and lands specially subdivided may be offered for lease in the smallest subdivision thereof. At the time of offering the lands for lease, the county auditor of the county shall act as clerk. He shall make a report of the leasing stating the terms of leasing in the same manner as is provided in section 15-0612.

§ 6. Amendment.) Section 15-0411 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-0411. Amount of Bid Deposited at Time of Leasing; Minimum Bid.) The highest bidder for any parcel of land shall deposit the amount of his bid for one year's rental on the day of the sale with the county treasurer, who shall act as treasurer at the auction. No bid shall be accepted which is less than the minimum price fixed pursuant to the provisions of section 15-0407.

§ 7. Amendment.) Section 15-0420 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-0420. Permits to Cut Hay and to Remove Timber.) When in its judgment it is for the best interests of the state, the board of university and school lands may sell the right to cut

grass on any of the lands mentioned in this chapter and may sell any down and dead timber on the lands for such price and upon such terms and conditions as it may think proper. No dead timber, if standing, shall be included in the sale unless expressly specified in the permit. All permits shall be for the current season only, which shall be between the fifteenth day of June and the first day of April of the following year. No control or right of occupancy of the land shall be other than that specified in the permit. All permits shall be paid for in advance.

§ 8.) Section 15-0422 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

15-0422. Fraudulent Bidding; Penalty.) Any person, who willfully at any leasing auction held pursuant to section 15-0410 makes a successful bid and then fails or refuses to make the deposit on the day of the sale as required by section 15-0411 is guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

Approved March 14, 1959.

CHAPTER 150

S. B. No. 59
(Gefreh, Erickstad, Larson, Schrock, Baeverstad)
(From LRC Study)

JUNIOR COLLEGE PAYMENTS

AN ACT

Relating to payments to school districts operating junior colleges, creating and enacting sections 15-1807, 15-1808, and 15-1809 of the North Dakota Revised Code of 1943, and providing an appropriation.

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

§ 1.) Section 15-1807 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

15-1807. State Aid for Junior Colleges.) There shall be paid to each school district maintaining a junior college meeting the standards prescribed in section 15-1808, 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 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.

§ 2.) Section 15-1808 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

15-1808. Standards for State Aid.) No school district maintaining a junior college shall be eligible to receive payments as provided in section 15-1807 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 15-1807 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 to determine compliance with prescribed academic standards.

§ 3.) Section 15-1809 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

15-1809. Method of Payment.) On or before July 15 of each year, the dean or chief administrative officer of each junior college or the superintendent of each school district claiming state aid payments under section 15-1807, 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 for 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 Sep-

tember 15 of each year shall forward to the state auditor a certified list of all school districts entitled to payments under section 15-1807, 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.

§ 4. Appropriation.) There is hereby appropriated out of any moneys in the general fund, not otherwise appropriated, the sum of two hundred and thirty thousand dollars, or so much thereof as may be necessary for the purpose of carrying out the provisions of this Act during the biennium beginning July 1, 1959, and ending June 30, 1961.

Approved March 9, 1959.

CHAPTER 151

S. B. No. 184
(Saumur and Longmire)

VOCATIONAL REHABILITATION DEFINITIONS

AN ACT

To amend and reenact section 15-2012 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to vocational rehabilitation.

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

§ 1. Amendment.) Section 15-2012 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-2012. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "State board" shall mean the state board of vocational education which is the state board of public school education;
2. "Division" shall mean the division of vocational rehabilitation established by this Act (chapter);
3. "Director" shall mean the director of the division of vocational rehabilitation;
4. "Executive officer of the board" shall mean superintendent of public instruction;

5. "Employment handicap" shall mean a physical or mental condition which constitutes, contributes to or if not corrected will probably result in an obstruction to occupational performance;
6. "Disabled individual" shall mean any person who has a substantial employment handicap;
7. "Vocational rehabilitation" and "vocational rehabilitation services" shall mean any services, provided directly or through public or private instrumentalities, found by the director to be necessary to compensate a disabled individual for his employment handicap, and to enable him to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance, counseling and placement rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tools and equipment maintenance, and training books and materials;
8. "Rehabilitation training" shall mean all necessary training provided to a disabled individual to compensate for his employment handicap including, but not limited to manual, pre-conditioning, pre-vocational, vocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities;
9. "Physical restoration" shall mean any medical, surgical, or therapeutic treatment necessary to correct or substantially reduce a disabled individual's employment handicap within a reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory conditions;
10. "Prosthetic appliance" shall mean any artificial device necessary to support or take the place of a part of the body or to increase the acuity of a sense organ;
11. "Occupational licenses" shall mean any license, permit or written authority required by any governmental unit to be obtained in order to engage in an occupation;
12. "Maintenance" shall mean money payments not exceeding the estimated cost of subsistence during vocational rehabilitation; and
13. "Regulations" shall mean regulations made by the director with the approval of the state board.

Approved March 9, 1959.

CHAPTER 152

H. B. No. 804
(Anderson of Stutsman)
(Loewen, Stockman)

DISSOLUTION OF SCHOOL DISTRICTS AND ATTACHMENT OF TERRITORY

AN ACT

To amend and reenact section 15-2221 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to dissolution of school districts and attachment of territory.

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

§ 1. Amendment.) Section 15-2221 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-2221. 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, 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.

Approved March 17, 1959.

CHAPTER 153

S. B. No. 69
(Committee on Education)

COMMON SCHOOL DISTRICT ELECTIONS

AN ACT

To amend and reenact section 15-2406 of the North Dakota Revised Code of 1943, relating to common school district elections.

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

§ 1. Amendment.) Section 15-2406 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-2406. Candidates to File; Ballots; Stickers.) In common school districts any person desiring to be a candidate at the annual election therein shall file his name and the name of the office which he seeks with the clerk of the school board not less than five days prior to the election. At least three days before the election, the clerk shall prepare and have printed an official ballot containing all of the names filed as provided in this section. The ballot shall:

1. Be headed "official ballot";
2. Contain the name of the district;
3. Contain the date of the election;
4. Be nonpartisan;
5. State the number of persons for whom votes may be cast for each office;
6. Contain blank spaces beneath the names of the candidates for each office in which additional names may be written by the electors.

Any person who fails to file as provided in this section for an office which he seeks may provide stickers to be attached to the official ballot. Such stickers shall not be more than one-half inch in width and shall contain the name of only one candidate.

Approved March 10, 1959.

CHAPTER 154

H. B. No. 711
(Committee on Education)

ADMISSION OF NONRESIDENT STUDENTS

AN ACT

To amend and reenact section 15-2511 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the approval by the county superintendent of elementary nonresident pupils and determining cost.

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

§ **1. Amendment.)** Section 15-2511 of the 1957 Supplement to the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

15-2511. Pupils; Admission of From Other Districts; Distribution Within Districts; Tuition.) The school board shall admit to the schools of the district pupils other than high school pupils from other districts when it can be done without injuring or overcrowding the schools, and shall make regulations for the admission of such pupils. When a 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 admitting district pupil, if such parent or guardian is a tenant, then to the extent that the landlord pays school taxes in that district. If the attendance of a 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 boards of education of both districts concerned, and the balance of the tuition, after credit for taxes paid, 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 receipts from the building fund. The board may admit to the schools in the district pupils residing in unorganized territory adjacent to the district and may arrange with the parents or guardians of such pupils for the payment of tuition. The board shall not refuse school privileges to, nor collect tuition from, pupils residing in adjacent unorganized territory if the parents or

guardians of such pupils are the holders of property and taxpayers 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. Districts not complying with the decision of the committee herein provided shall forfeit their county tuition payments to the schools receiving the pupils.

Approved March 17, 1959.

CHAPTER 155

H. B. No. 850
(Streibel, Dick, Guy, Hogenson)

REPORTS AND FINANCIAL STATEMENTS OF SCHOOL DISTRICTS

AN ACT

To amend and reenact section 15-2529, subsection 13 of section 15-2908, section 15-3213 and subsection 5 of section 15-5122 of the North Dakota Revised Code of 1943, relating to reports of school districts and providing for publication of financial statements.

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

§ 1. **Amendment.)** Section 15-2529 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-2529. Statement of Receipts and Expenditures: Publication.) The school board shall cause an itemized statement of the receipts and expenditures of the preceding year to be published in a newspaper to be designated by the board. If the board or the treasurer fails to publish the statement before the first of September following the presentation of the treasurer's annual report, the county superintendent of schools shall cause the statement to be published in the newspaper published nearest to such school district in the county. The expense of publication shall be paid by the school district.

§ 2. **Amendment.)** Subsection 13 of section 15-2908 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

13. 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 board of education shall consider advantageous to the public, shall be published in the official newspaper of the city or village, or if no newspaper is published in the district, in a newspaper to be designated by the board, and in cities of over eight hundred inhabitants, it may be published in pamphlet form;

§ 3. Amendment.) Section 15-3213 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-3213. Report of City Treasurer: When Made; Contents; Publication.) The city treasurer, at least fifteen days before the annual election of members of the board and as often as directed by the board, shall prepare and submit to the board, a true and correct statement of the receipts and disbursements of moneys under the provisions of this chapter during the preceding year. Such statement shall set forth, under appropriate heads:

1. The money raised by the board from taxes levied;
2. The school moneys received from the county treasurer;
3. The money received from the sale of bonds;
4. All moneys received by the city treasurer, subject to the order of the board, specifying the sources from which it accrued;
5. The manner in which all money was expended, specifying the amount under each head of expenditures.

The board, at least one week before the annual election, shall cause the statement to be published in the official newspaper of the city.

§ 4. Amendment.) Subsection 5 of section 15-5122 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

5. The manner in which all moneys paid out have been expended, specifying the amount under each head of expenditure, and the city council shall at least one week before such election, cause the same to be published in the official newspaper of said city.

Approved March 12, 1959.

CHAPTER 156

H. B. No. 570
(Gress, Muggli, Stockman,)
(Schmalenberger, Tough)

RURAL MEMBERS OF SCHOOL BOARDS

AN ACT

To amend and reenact section 15-2802 of the North Dakota Revised Code of 1943, relating to the number of rural members of school boards.

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

§ 1. Amendment.) Section 15-2802 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-2802. Rural Members of School Board.) When a special 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 district does not exceed two thousand persons, at least two members of the board of education shall be residents upon farms outside the corporate limits of the city or village. In every special 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 special school district, at least one member of the board of education shall be a resident upon a farm outside the corporate limits of the city or village.

Approved March 9, 1959.

CHAPTER 157

S. B. No. 172
(Yunker, Longmire, O'Brien)

COMPENSATION OF SCHOOL BOARD MEMBERS

AN ACT

To amend and reenact section 15-2905 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to compensation of school board members.

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

§ 1. Amendment.) Section 15-2905 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-2905. Compensation of Board Members.) Each member of the board of education shall receive as compensation five dollars 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.

Approved March 9, 1959.

CHAPTER 158

H. B. No. 733
(Halcrow, Strand, Guy, Loewen)

ADMISSION OF ELEMENTARY PUPILS FROM OTHER DISTRICTS

AN ACT

To amend and reenact section 15-29082 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the approval by the county superintendent of elementary nonresident pupils, tuition, and determining costs.

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

§ 1. Amendment.) Section 15-29082 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-29082. Admission of Pupils From Other Districts; Tuition.) The board of education of any special school district

shall admit to the schools of the district pupils other than high school pupils from other districts when it can be done without injuring or overcrowding the schools, and shall make regulations for the admission of such pupils. When a 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 a 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 boards of education of both districts concerned, and the balance of the tuition, after credit for taxes paid, shall be paid by the district from which the pupil is admitted, but the whole amount of 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 receipts from the building fund. Districts not complying with the decision of the committee herein provided shall forfeit their county tuition payments to the schools receiving the pupils.

Approved March 17, 1959.

CHAPTER 159

S. B. No. 200
(Longmire, Meidinger, Schrock)

AGE OF COMPULSORY SCHOOL ATTENDANCE

AN ACT

To amend and reenact section 15-3401 of the North Dakota Revised Code of 1943, relating to the age of compulsory school attendance.

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

§ 1. Amendment.) Section 15-3401 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-3401. Schools: Compulsory Attendance.) Every parent, guardian, or other person who resides in any school district and has control over any educable child of an age of seven years to sixteen years shall send or take the child to a public school each year during the entire time the public schools of the district are in session.

Approved March 21, 1959.

CHAPTER 160

H. B. No. 657
(Berntson, Knutson of Benson,)
(Kadlec, Sears)

TRANSPORTATION OR MAINTENANCE OF HIGH SCHOOL STUDENTS

AN ACT

To amend and reenact section 15-3409 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to transportation or maintenance of pupils.

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

§ 1. Amendment.) Section 15-3409 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-3409. Transportation or Maintenance of Pupils Permitted.) Any school district may provide transportation from the places of residence or, where convenient or more economical, may at the discretion of the school district board pay a reasonable allowance for board and lodging for pupils who are eligible to attend high school and who reside in the district, in order that such pupils may attend a high school in another school district in the county, or in an adjoining county or any county agricultural and training school. Such transportation or allowance shall be provided in such manner and in such amounts as shall be determined by the board of the district furnishing such transportation or allowance.

Approved March 11, 1959.

CHAPTER 161

H. B. No. 710
(Committee on Education)

SCHOOL BUILDING CONSTRUCTION

AN ACT

To amend and reenact subsections 3 and 4 of section 15-3502 of the 1957 Supplement to the North Dakota Revised Code of 1943 and to amend and reenact section 15-3503 of the North Dakota Revised Code of 1943, relating to the construction of school buildings, and declaring an emergency.

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

§ 1. Amendment.) Subsections 3 and 4 of section 15-3502 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby amended and reenacted to read as follows:

15-3502. School Buildings; Construction.)

3. They shall provide for the admission of light from the side, or from the side and rear, of the classrooms, provided that if there is a light source from both sides, one such side light source shall be at least eight feet above the floor, and the total light area, unless strengthened by the use of skylights, shall be equal to at least fourteen percent of the floor space;
4. All ceilings shall average at least nine feet in height, and shall not be lower than nine feet at any point;

§ 2. Amendment.) Section 15-3503 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-3503. Toilet Rooms; Construction.) All toilet rooms constructed in any public school building shall have ventilation permitting free access of air.

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

Approved March 12, 1959.

CHAPTER 162

S. B. No. 72
(Committee on Education)

TEACHERS' CERTIFICATES

AN ACT

To amend and reenact section 15-3611 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to teachers' certificates.

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

§ 1. Amendment.) Section 15-3611 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-3611. Certificate Required.) No person who is not the holder of a valid certificate or permit shall be employed or permitted to teach in any of the public schools of the state, except in cities organized for school purposes under special laws or organized as independent districts under the general school laws. Be it further provided that by September 1960 no person, who is not the holder of a valid second grade professional certificate, shall be employed or permitted to teach in any of the public schools of the state.

Approved March 3, 1959.

CHAPTER 163

S. B. No. 130
(Meidinger)
(By request)

DEFINITION OF "TEACHER"

AN ACT

To amend and reenact subsection 1 of section 15-3901 of the North Dakota Revised Code of 1943, relating to definitions.

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

§ 1. Amendment.) Subsection 1 of section 15-3901 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. "Teacher" shall include:
   a. All persons employed in teaching in any state institution or by any board of education, school board, or other governing body of any school district of this state;
   b. All superintendents and assistant superintendents employed in any state institution or in the school system of any school district in this state;
   c. All principals, assistant principals, and special teachers in any state institution or in the school system of any school district in this state;
   d. The superintendent of public instruction and all county superintendents of schools and their assistants;
   e. All supervisors of instruction;
   f. All state school inspectors and supervisors;
   g. Every person engaged as president, dean, school librarian, or registrar of any state institution;
   h. The secretary of the North Dakota education association and any assistants to the secretary holding at least a first grade professional certificate;
   i. The commissioner of higher education; and
   j. Any person who serves in the capacity of substitute or part-time teacher for a period of not less than twenty days in any one school year.

Approved March 2, 1959.

CHAPTER 164

S. B. No. 132
(Meidinger)
(By request)

TEACHER RETIREMENT

AN ACT

To amend and reenact subsections 1 and 3 of section 15-3927 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the eligibility to participate in fund.

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

§ 1. Amendment.) Subsections 1 and 3 of section 15-3927 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby amended and reenacted to read as follows:

1. After a period or periods aggregating twenty-five years of service as a teacher, of which eighteen years, including the last five years, of teaching shall have been

spent in public schools or state institutions of this state, if such teacher shall have paid into the fund all of the assessments required under the provisions of this chapter. If a teacher shall retire before attaining the age of fifty-five years, eligibility for the retirement annuity shall be deferred until the age of fifty-five years is attained.

3. A teacher who has met all requirements for an annuity, except that of actual retirement from teaching, but continues to teach shall have the right to select option one or option two, as described in section 15-3929, and to name a beneficiary to receive, in the event of the teacher's death, the reduced retirement allowance as provided in sections 15-3928 and 15-3929. A written designation of the choice of option and beneficiary must be filed with the board of trustees of this fund in order for such choices to be effective. A teacher may make alterations in such choice of options at any time before retirement. If a continuing teacher who has duly registered such choices with the board should die before retiring from teaching, he shall be considered to have retired on the date of his death, and his designated beneficiary, if living, shall receive the retirement allowance for life as provided by the terms of the option previously selected by the teacher. The reduced retirement allowance shall be computed on the ages of teacher and beneficiary as of the date of death of the teacher. Should a continuing teacher later retire voluntarily before death, then sections 15-3928 and 15-3929 shall apply directly except that any previously registered choice of option and beneficiary shall continue in full force and effect and may not be changed.

Approved March 9, 1959.

CHAPTER 165

S. B. No. 129
(Meidinger)
(By request)

RETIREMENT ANNUITY OF TEACHERS

AN ACT

To amend and reenact subsections 1 and 2 of section 15-3928 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to retirement annuity of teachers.

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

§ 1. Amendment.) Subsections 1 and 2 of section 15-3928 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby amended and reenacted to read as follows:

1. If said teacher shall have attained the age of fifty-five years at the time of applying for the annuity, he annually and for life, shall be entitled to receive as an annuity a sum equal to two percent of the total earnings as salary for the years of teaching service for which assessments were paid. Said annuity, however, shall not be less than six hundred dollars in any one year upon completion of twenty-five years of service and shall be subject to all the provisions of this chapter. Provided, however, a teacher who has completed twenty-five years of teaching service in compliance with the retirement law and has earned an annuity of twelve hundred dollars at that age and continues to teach beyond that time shall be eligible to annuity increases of sixty dollars per year, for each year of teaching thereafter. Provided further that a teacher who has completed twenty-five years of teaching service in compliance with retirement law and attained the age of fifty-five may have her annuity calculated at that age and granted the six hundred dollar minimum if her total salary is less than thirty thousand dollars. Provided further that if said teacher continues to teach the annuity shall be increased by one hundred dollars per year until the annuity reaches twelve hundred dollars after which time the annuity shall be increased by sixty dollars per year.
2. If said teacher shall have retired and applied for an annuity under the provisions of section 15-3927, subsection 2, he shall receive as an annuity a sum equal to two percent of the total earnings at salary for the years

of teaching service for which assessments were paid. Said annuity, however, shall not be less than three hundred dollars in any one year, subject to all the provisions of this chapter.

Approved March 2, 1959.

CHAPTER 166

S. B. No. 127
(Meidinger)
(By request)

MILITARY SERVICE CONSIDERED TEACHING SERVICE

AN ACT

To amend and reenact section 15-3936 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to military service in war counted as teaching service.

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

§ 1. Amendment.) Section 15-3936 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-3936. Military Service in War Counted as Teaching Service.) A teacher who has been granted an honorable discharge from the United States armed forces for services rendered during a national emergency, if he was engaged in the occupation of teaching in North Dakota at the time of entering the service, or who had been engaged in teaching in North Dakota prior to such time but was attending an institution of higher learning for the purpose of improving himself in such profession at the time of entry into the armed services, shall be entitled to have the time of such service counted as teaching service under the provisions of this chapter, upon the payment of the assessments which would have been collected from him if he had continued as a teacher during the time of such service. Provided such back assessments are paid not later than the end of the first year of teaching service in North Dakota following receipt of an honorable discharge from the armed forces of the United States.

Approved March 3, 1959.

CHAPTER 167

S. B. No. 131
(Meidinger)
(By request)

WITHDRAWAL FROM TEACHERS' RETIREMENT FUND, REPEAL

AN ACT

To repeal section 15-3938 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to withdrawal from fund by members of armed forces.

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

§ 1. Repeal.) Section 15-3938 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 14, 1959.

CHAPTER 168

H. B. No. 552
(Link, Esterby, Streibel)
(From LRC Study)

EMERGENCY ASSISTANCE FROM STATE EQUALIZATION FUND

AN ACT

To amend and reenact subsection 1 of section 15-4007 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the financial effort required for emergency assistance from the state equalization fund.

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

§ 1. Amendment.) Subsection 1 of section 15-4007 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. That the district shall have provided the normal maximum mill levy which means that in addition to having provided for the normal maximum levy it shall have held an election and increased the normal maximum levy by at least fifty percent except in cases of extreme emergency when approved by the state board of public school education. The district shall submit an affidavit by the county auditor stating that such levy has been or will be spread.

Approved March 5, 1959.

CHAPTER 169

S. B. No. 70
(Committee on Education)

EMERGENCY FUND PAYMENTS TO SCHOOL DISTRICTS

AN ACT

To amend and reenact section 15-4009 of the North Dakota Revised Code of 1943, relating to the emergency fund.

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

§ 1. Amendment.) Section 15-4009 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4009. Expenditure of Emergency Fund; Aid Applied to Payment of Teachers' Salaries.) Aid granted to school districts from the emergency fund shall be applied to the payment of teachers' salaries.

Approved March 3, 1959.

CHAPTER 170

H. B. No. 551
(Link, Esterby, Streibel)
(From LRC Study)

FOUNDATION PROGRAM, TRANSPORTATION

AN ACT

To provide financial assistance in the transportation of school children and to create and enact sections 15-40011 and 15-56011 of the North Dakota Revised Code of 1943 and to amend and reenact sections 15-4013, 15-4014, 15-40141, 15-4015, 15-4016, 15-4019, 15-4020, 15-4021, 15-5601, 15-5602, 15-5603, 15-5604, 15-5605, 15-5606, 15-5609, 57-1524, and 57-1525 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to county and state equalization funds and county tuition funds and school tax levies and limitations, and to repeal chapter 15-58 and section 57-15251 of the 1957 Supplement to the North Dakota Revised Code of 1943 and section 57-1526 of the North Dakota Revised Code of 1943.

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

§ 1. Amendment.) Section 15-4013 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4013. Definition of "High School Student".) As used in this chapter and in the provisions relating to payments from the county equalization fund, the term "high school student" shall include only students who:

1. Have completed all of the work of the first eight grades;
2. Are residents of this state; and
3. Have not attended a high school previously for four years nor completed fifteen or more full units of high school work.

§ 2. Amendment.) Section 15-4014 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4014. 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 for 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, 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 Act "average daily membership" shall

mean the total days all students in a given school are in attendance plus the total days all students are absent, divided by one hundred eighty days.

§ 3. **Amendment.)** Section 15-40141 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-40141. 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 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 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.

§ 4. **Amendment.)** Section 15-4015 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4015. Application for Payments; Report of County Superintendent of Schools; Appeal.) Immediately upon the termination of the school year and in no event later than July fifteenth of each year the principal or superintendent of each district claiming payments from the county equalization fund under the provisions of this chapter shall file with the county superintendent of schools a verified claim stating the name, residence, and the average daily membership as provided for in section 15-4014, and number of units of high school work taken by each enrolled high school student for whom payment is claimed. Such claim shall be attested by the clerk or secretary of the district. The county superintendent shall investigate the validity of the claim and shall determine the residence and other qualifications of each student named in a claim filed with him. He shall certify to the superintendent of public instruction on or before September first of each year the number

of enrolled high school students for which each district in his county is entitled to receive payment from the county equalization fund. At the same time, he shall give notice to any district the claim of which has been disallowed in whole or in part and shall state in such notice the name of any student for whom payment has been disallowed. Any district may appeal to the superintendent of public instruction from the determination of the county superintendent of schools on or before September fifteenth in the year in which the determination is made. The superintendent of public instruction may change or modify the determination of the county superintendent if the evidence submitted by the district warrants a modification. The judgment of the superintendent of public instruction shall be final. Not later than December fifteenth the superintendent of public instruction shall certify to the state auditor a list of the school districts and schools not operated by school districts entitled to payment from the county equalization fund, together with the amounts to which the several districts are entitled.

§ 5. Amendment.) Section 15-4016 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4016. High School Payments Are Exclusive; Exception.) No school district shall charge or collect from any nonresident high school student, his parents or guardian, or the district of his residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident high school students. However, a high school district shall charge tuition for nonresident high school students. The whole amount of such tuition 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. Districts not providing high school education which refuse to pay the tuition charges shall forfeit their rights to county equalization fund payments. The school board of any school district not providing high school education may levy an amount sufficient to pay tuition charges for high school students attending in another North Dakota school district. Such 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.

§ 6. Amendment.) Section 15-4019 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4019. Determination of Sums Due County Equalization Funds.) At the close of each school year the county superintendent of schools of each county shall submit to the superintendent of public instruction a request for a grant in aid from the state equalization fund for the county equalization fund. The request shall be filed on forms furnished by the superintendent of public instruction and shall state the full amount of the payments from the county equalization fund to be made to each school or school district that has complied with the provisions of law relating to such fund. The superintendent of public instruction shall determine the amount of the grants in aid to which each county is entitled by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county multiplied by twenty and five-tenths mills. The balance will be the amount of aid to which the county is entitled for such fund.

§ 7. Amendment.) Section 15-4020 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***15-4020. Distribution of Payments to County Equalization Funds; Duty of State Auditor.)** Upon receiving the certifications of the county superintendent of schools, the superintendent of public instruction shall certify to the state auditor a list of all county equalization funds in the state together with a statement of the payments due such funds. The state auditor shall pay to the county equalization fund from the state equalization fund the sum found to be due under the provisions of this chapter.

§ 8. Amendment.) Section 15-4021 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

****15-4021. Method of Making Payment From Fund; Duty of State Auditor; Use of Moneys Restricted.)** The state auditor shall make the payments provided for in this chapter for high school correspondence work, for vocational education in agriculture, home economics, and distributive occupations, and for occupational information and guidance, upon the receipt of the certificates therefor from the state board of public school education, and he shall make the payments from the emergency fund on the basis of need, and the payments to county equalization funds upon receipt of the certificates therefor from the superintendent of public instruction. Such payments shall be by the auditor's warrants drawn upon the fund and made payable to the respective school districts, schools or county treasurers, as the case may be, or to the

*Note: Section 15-4020 was also amended by chapter 372, section 11.
**Note: Section 15-4021 was also amended by chapter 372, section 12.

county superintendent of schools, as directed by the superintendent of public instruction. If such warrants are sent to the county superintendents, they shall deliver them to the school districts, schools, or county treasurers within their respective counties. Each clerk, secretary or other official shall make a record of each such warrant received by him and shall deliver such warrant to the treasurer. Such payments shall be deposited to the general fund of the school district or to the county equalization fund as the case may be.

§ 9. Amendment.) Section 15-5601 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5601. Elementary Per Pupil Payments; Amount.) There shall be paid out of the county equalization fund, to the school districts of the county operating elementary schools and to the state school for the blind, the state school for the deaf and the state training school, employing teachers holding valid certificates or permits, payments based on the average daily membership as provided for in section 15-4014, the following amounts:

1. In one room rural schools there shall be paid 1.5 times $150, or a total of $225 for each of the first sixteen pupils in average daily membership and $150 for each additional pupil in average daily membership except that no payment shall be made for more than twenty pupils in average daily membership; and
2. In elementary schools having under one hundred pupils in average daily membership there shall be paid 1.25 times $150, or a total of $187.50 for each of the first twenty pupils in average daily membership in each classroom or for each teacher and $150 for each additional pupil in average daily membership in each classroom or for each teacher except that no payment shall be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher; and
3. In elementary schools having one hundred or more pupils in average membership there shall be paid $150 for each of the first thirty pupils in average daily membership in each classroom or for each teacher except that no payment shall be made for more than thirty pupils in average membership in each classroom or for each teacher.

Payment shall not be made for Indian pupils in districts in which the school facilities are being provided, maintained and staffed wholly or in part by the federal government for the education of Indian pupils. It is further provided that for the school year 1959-1960, districts with a one room rural

school or schools closed subsequent to July 1, 1949, shall receive payments as follows:

a. If the district is composed of eighteen sections of land or less the sum of eight hundred fifty dollars for 10 pupils or less in a school and seventy-five dollars for each pupil in excess of ten in a school.

b. If the district is composed of more than eighteen sections of land the sum of twelve hundred fifty dollars for ten pupils or less in a school and seventy-five dollars for each pupil in excess of ten in a school;

providing the school board has made a written agreement for the attendance of the pupils in another public school and vehicular transportation is furnished. Districts receiving payments where less than four pupils are enrolled shall receive a proportional amount of the payments as the total enrollment bears to four.

§ 10.) Section 15-56011 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

15-56011. Balance in Fund After Payments; How Divided.) Any balance remaining in the county equalization fund after making payments as provided for in section 15-5601 shall be divided among the school districts of the county according to the total number of students in average daily membership in schools in such school districts.

§ 11. Amendment.) Section 15-5602 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5602. Credit for Tuition Paid By District of Residence.) A credit of one hundred fifty dollars shall be allowed against tuition charged by the district in which an elementary pupil is enrolled in all cases where the tuition for such pupil is paid by the district in which the pupil resides. An elementary student who lives in a county in this state bordering on another state and who, because of more convenient roads, distances or other circumstances, has the recommendation of the county superintendent of schools to attend a public school in an adjoining state, may attend such public school. The home county shall pay the school district in such neighboring state the amount of one hundred fifty dollars toward the elementary tuition for such pupils. Such elementary students attending public schools in a foreign state shall be counted in the county from which they come in calculating the obligations of said county. The payment of such foreign elementary tuition shall be paid by the home county.

§ 12. Amendment.) Section 15-5603 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5603. Certificates Made to County Superintendent of Schools.) On or before July fifteenth of each year the clerk of each school district, shall certify to the county superintendent of schools the total number of high school and elementary pupils in average daily membership in schools in the school district for the preceding year.

§ 13. Amendment.) Section 15-5604 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5604. County Superintendent of Schools Determine Payments: Appeals.) The county superintendent of schools shall determine from the certificates submitted to him by each school district or school, the elementary per pupil payments from the county equalization fund due each school district or school. In determining the payments due, he shall make such investigation as he deems necessary. If a payment is disallowed, in whole or in part, notice thereof and the reason for disallowance shall be given to the district or school on or before September first. Any district or school may appeal to the superintendent of public instruction from the determination of the county superintendent of schools on or before September fifteenth in the year in which the determination is made. The superintendent of public instruction may change or modify the determination of the county superintendent if the evidence submitted by the district or school warrants a modification. The decision of the superintendent of public instruction shall be final.

§ 14. Amendment.) Section 15-5605 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5605. Payments to Schools and School Districts.) Not later than December thirty-first the county superintendent of schools shall certify to the county auditor a list of the school districts or schools entitled to elementary per pupil payments from the county equalization fund together with the amounts to which the several districts or schools are entitled. The county auditor shall pay to each district or school the amount received by the county from the state equalization fund upon receiving such certificate, and shall make a second payment on or before March fifteenth in an amount to be determined by the county superintendent of schools and shall pay the balance on or before May fifteenth of each year. Payments shall be made by auditor's warrants drawn upon the county equalization fund to the respective school districts or schools. The payments shall be deposited in the general fund of the district or school.

§ 15. Amendment.) Section 15-5606 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5606. Districts in More Than One County.) If a school district embraces land in more than one county, the county superintendent of schools of the county in which the largest portion of the area of the school district is located shall determine the county equalization fund payments for such district and shall certify to the auditor of each county the amount to be paid by such county which shall be in the same ratio as the number of pupils of the school district residing in such county bears to the total number of pupils of the district.

§ 16. Amendment.) Section 15-5609 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5609. Penalty for False Report.) Any school official who shall falsify any report in connection with the administration of the county equalization fund shall be guilty of a misdemeanor.

§ 17. Amendment.) Section 57-1514 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1514. Tax Levy Limitations in School Districts.) The aggregate amount levied by any school district, whether common, independent, or special, 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;
4. Any school district maintaining a consolidated elementary school 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.

§ 18. Amendment.) Section 57-1524 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1524. County Mill Levy for Schools.) The county auditor, at the time the annual levy of taxes is made, shall levy a tax of twenty-one mills on the dollar on all taxable property in the county to be placed in the county equalization fund for apportionment as provided by law. The levy provided for in this section shall be over and above any tax levy limitations provided by law.

§ 19. Amendment.) Section 57-1525 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1525. County Equalization Fund; How Constituted.) The county equalization fund shall consist of the taxes collected by virtue of the twenty-one mill levy made as provided by section 57-1524, payments from the state equalization fund and the balance remaining from collections of the per capita school tax under the provisions of section 57-1523 after the deductions are made as provided in section 15-3923. The distribution of moneys in the county equalization fund shall only be made pursuant to the provisions of section 15-5601 and 15-4014 of the North Dakota Revised Code of 1943, and section 21 of this Act, as they may be amended. If an apportionment of the county equalization fund is withheld from any district, it shall be retained in the fund and disbursed in the same manner as other moneys in the fund. Grants from the state equalization fund shall be converted into and become a part of the county equalization fund of each county.

§ 20. Definitions.) The following words when used in sections 20, 21, 22, and 23 shall have the meanings respectively ascribed to them in this section:

1. "School district" means any type of school district prescribed by the laws of this state.
2. "Route" means a highway, road, or street over and upon which a school bus regularly travels in accordance with a schedule maintained for the transportation of pupils from their homes to schools.
3. "Daily mileage" means twice the distance computed to the nearest tenth of a mile traveled in a single trip by each school bus over its scheduled route or routes.
4. "School bus" means any vehicle or other means of conveyance owned or operated by a school district or any vehicle subject to a contract for transportation of school pupils in accordance with the provisions of section 15-3412 of the 1957 Supplement to the North Dakota Revised Code of 1943 as amended.
5. "Pupil-miles" shall be the daily mileage multiplied by the total number of pupils transported each day in a school bus.

§ 21. Aid for Transportation.) There shall be paid from the county equalization fund to each school district providing school bus transportation a sum equal to .5 cent per pupil-mile for pupils transported in contract school buses or in district owned and operated buses. Such payments shall be made only to school districts operating school buses in accordance with the laws of this state relating to standards for school buses, and to the qualifications of school bus drivers. Certification as to the compliance with the laws of this state in regard to school buses and their drivers shall be made in such manner and in such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section.

§ 22. Method of Making Payment.) Payments under the provisions of this Act for transportation shall begin with the 1959-1960 school year but shall not be made to districts receiving closed school payments for the 1959-1960 school year. On or before the 15th day of July, 1960, and on or before July 15 of each year thereafter, the clerk of each school district in this state providing school bus transportation shall certify to the county superintendent of schools the number of pupils transported each day upon each school bus route, the number of miles in each school bus route, the number of days pupils were transported over such school bus route, the number of pupil-miles calculated in the manner prescribed in this Act, the amount of transportation payments claimed, and such other information as the superintendent of public instruction may require. On or before the first day of September in 1960 and each year thereafter, the county superintendent of schools shall certify all claims for transportation payments submitted by school districts in the county to the state superintendent of public instruction. At the time the county superintendent of schools certifies such claims to the superintendent of public instruction, he shall also give notice to any district of any disallowance that may have been made by him in the claim for transportation payments. Any district may appeal the decision of the county superintendent of schools to the superintendent of public instruction on or before the 15th day of September of any year in which the determination is made. The superintendent of public instruction may change or modify the determination of the county superintendent if the evidence submitted by the district warrants a modification. The judgment of the superintendent of public instruction shall be final.

§ 23. State Transportation Payments; Disbursement to School Districts.) The superintendent of public instruction shall determine the total amount of payments to be made from the county equalization fund of each county including those

for transportation, the proceeds of the taxable assessed valuation of each county multiplied by nineteen and five-tenths mills, and the total payments to be received from the state equalization fund excluding state payments for transportation. In the event it is determined by the superintendent of public instruction that insufficient moneys will be available in each county equalization fund to make all payments required to be paid from the fund, including those for transportation, he shall certify to the state auditor a list of such counties together with a statement of the amount of payments due each county equalization fund for the purpose of providing aid for the transportation of pupils. The state auditor shall pay the sum certified by the superintendent of public instruction to each county, where it shall be credited to the county equalization fund. The payments from the state equalization fund as aid for the transportation of pupils shall be made in the same manner and at the same time as other payments from the state equalization fund to county equalization funds are made. Disbursements from the county equalization fund to the respective school districts entitled to payments therefrom shall be upon warrant of the county auditor at the same time and in the same manner as other payments from the county equalization fund to the respective school districts are made.

§ 24.) Section 15-40011 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

15-40011. Declaration of Legislative Intent.) It is hereby declared that it is the intent of the legislative assembly to support elementary and secondary education in this state from state and county funds at sixty percent of the educational cost per pupil per year as adjusted by other provisions of this Act, exclusive of the cost of physical facilities, transportation and current indebtedness. It is hereby determined that sixty percent of such per pupil cost on the effective date of this Act is one hundred fifty dollars.

§ 25. Repeal.) Chapter 15-58 and section 57-15251 of the 1957 Supplement to the North Dakota Revised Code of 1943 and section 57-1526 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 21, 1959.

CHAPTER 171

H. B. No. 849
(Knutson of Benson and Sears)

COUNTY AGRICULTURAL AND TRAINING SCHOOL TUITION

AN ACT

To create and enact section 15-42171 of the North Dakota Revised Code of 1943, relating to tuition charges in county agricultural and training schools and to repeal section 15-4217 of the North Dakota Revised Code of 1943.

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

§ 1.) Section 15-42171 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

15-42171. Tuition in County Agricultural and Training Schools.) The board of trustees of a county agricultural and training school in all counties in this state shall charge and collect tuition for all students attending the school who are residents of school districts whether or not such school districts are operating high schools, but students coming from districts which operate high schools shall pay their own tuition. The tuition charge shall not be more than the total cost of education of each pupil in average daily membership at such school after deducting county and state equalization fund payments, state and federal aid received by the school on a per pupil basis and money received from any other source. For purposes of this section "average daily membership" shall mean the total days all students in a given school are in attendance plus the total days all students are absent, divided by one hundred and eighty.

§ 2. Repeal.) Section 15-4217 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 21, 1959.

CHAPTER 172

H. B. No. 585
(Hauf, Sears, Hogenson, Hjelle, Lowe,)
(Schmalenberger, Davis, Myhre)

AGE OF SCHOOL CHILDREN

AN ACT

Relating to school attendance and to amend and reenact section 15-4701 of the 1957 Supplement.

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

§ 1. Amendment.) Section 15-4701 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4701. Schools Free and Accessible; School Ages.) The public schools of the state shall be equally free, open, and accessible at all times to all children between the ages of six and twenty-one, except that children who do not arrive at the age of six years by midnight, November thirtieth, 1960, shall not start school until the beginning of the following school year, and that children who do not arrive at the age of six years by midnight October thirty-first of each year thereafter shall not start school until the beginning of the following year.

Approved March 9, 1959.

CHAPTER 173

H. B. No. 633
(Johnston)

BIDS ON SCHOOL DISTRICT CONTRACTS

AN ACT

Relating to bids on school district contracts and to amend and reenact section 15-4715 of the 1957 Supplement.

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

§ 1. Amendment.) Section 15-4715 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4715. 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 or board of education who participates in a violation of this section shall be guilty of a misdemeanor.

Approved March 4, 1959.

CHAPTER 174

H. B. No. 583
(Hornstein, Ostrem, Saugstad, Streibel)

TEACHERS' EMPLOYMENT AND CONTRACTS

AN ACT

Relating to teachers' employment and contracts, and amending and reenacting section 15-4727 of the 1957 Supplement.

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

§ 1. Amendment.) Section 15-4727 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4727. 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, board of education or state board of higher education, as the case may be, not earlier than the 15th day of February and not later than the 15th 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 15th in any year and not earlier than February 15, the board shall notify all teachers of a date, which shall not be less than 30 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 non-action of the board on or before April 15, 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 1 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 15-4726 through 15-4728. 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.

Approved March 9, 1959.

CHAPTER 175

H. B. No. 548
(Link, Esterby, Streibel)
(From LRC Study)

LENGTH OF ELEMENTARY AND SECONDARY SCHOOL YEAR TERM

AN ACT

To create and enact section 15-4733 of the North Dakota Revised Code of 1943, and to amend and reenact section 15-4106 of the North Dakota Revised Code of 1943, and to amend and reenact section 15-2509 and subsection 1 of section 15-2908 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the length of elementary and secondary school terms.

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

§ 1.) Section 15-4733 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

15-4733. Length of Elementary and Secondary School Year Term.) All elementary and secondary schools in this state shall provide at least one hundred seventy-five days of classroom instruction during each school term. Any day in which classes cannot be held because of Acts of God, epidemic or failure of physical facilities shall be included in the 175 days provided for in this section.

§ 2. Amendment.) Section 15-4106 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4106. High School Courses: Requirements; Credits.) Four units of high school work shall be considered the minimum number for any year from the ninth grade to the twelfth grade, inclusive. All unit courses shall be taught a minimum of forty minutes a day for at least one hundred seventy-five days, except that all natural science courses shall exceed forty minutes to such an extent as may be determined by the superintendent of public instruction. Any day in which classes cannot be held because of Acts of God, epidemic or failure of physical facilities shall be included in the 175 days provided for in this section. In all high schools and in all schools maintaining any of the grades from the ninth to the twelfth, inclusive, and doing high school work, it shall be made possible for each grade to complete four units of work each year. The work which is done by pupils in any school which does not conform to the requirements contained in this section shall

not be accredited by the superintendent of public instruction through state high school examinations or otherwise.

§ 3. Amendment.) Section 15-2509 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-2509. School Term: Minimum: Discontinuance of Term: Arbitration.) The terms in a common school district shall be arranged to accommodate pupils of all ages and to furnish school privileges equally and equitably to all pupils in the district. Each common school shall be kept in session for not less than one hundred seventy-five days of classroom instruction in each school year, except that 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. Any day in which classes cannot be held because of Acts of God, epidemic or failure of physical facilities shall be included in the 175 days provided for in this section. 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 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 patron and the board as to whether the board has furnished or arranged to furnish adequate facilities, the matter may be submitted by the patron to the board of arbitration consisting of the county superintendent of schools, one arbitrator named by the patron, 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 section 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.

§ 4. Amendment.) Subsection 1 of section 15-2908 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. To establish a system of graded schools which shall be free to all children of legal school age residing within such district, and such schools shall provide at least one

hundred seventy-five 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 175 days provided for in this section.

Approved March 10, 1959.

CHAPTER 176

H. B. No. 820
(Hauf, Fossum, Streibel)

TRADE AND CORRESPONDENCE SCHOOLS

AN ACT

To amend and reenact subsection 3 of section 15-5001, sections 15-5002, 15-5003, 15-5004 and subsection 2 of section 15-5006 of the North Dakota Revised Code of 1943 to conform with chapter 132, Session Laws of 1955, relating to trade and correspondence schools.

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

§ 1. Amendment.) Subsection 3 of section 15-5001 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5001. Definitions.)

3. "Executive officer" means the officer who directs the policy making of the division of vocational education. The superintendent of public instruction is by law the executive officer for vocational education;

§ 2. Amendment.) Section 15-5002 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5002. License Procured; From Whom.) Every private trade or correspondence school, before offering any instruction, first shall procure a license from the executive officer.

§ 3. Amendment.) Section 15-5003 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5003. Licensing of Private Trade and Correspondence Schools: Requirements for.)

1. The executive officer is empowered to issue a license upon compliance with the terms and provisions of this chapter.
2. Application for a license shall be made to the executive officer upon a form prescribed and furnished by him.

3. A license shall not be issued until the executive officer has approved the method and content of the advertising, the standards and methods of instruction, the equipment and housing provided, the qualifications of the teachers, the form and contents of the student enrollment argeement or contract, and the sufficiency of its resources and equipment for its license purpose.
4. If the license is granted it shall be issued upon the faithful performance of all agreements and contracts with students, as disclosed by the application for license, and the compliance with this chapter and all rules and regulations prescribed thereunder. Every license shall expire on the thirtieth day of June following the date of issuance. Licenses may be renewed subject to the continued compliance with the rules and regulations of this chapter.

§ 4. **Amendment.)** Section 15-5004 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5004. Solicitors Required to Procure Permits.)

1. Every solicitor, before engaging in such business, first shall procure a permit from the executive officer.
2. A permit shall be issued only upon written application to the executive officer. The application shall be upon a form prescribed and furnished by the executive officer and shall be accompanied by ten dollars, the fee for such permit. If the application is granted, the permit shall not be issued until the applicant has filed with the executive officer a continuing surety bond to the state of North Dakota in the penal sum of one thousand dollars, conditioned for the faithful performance of all contracts and agreements with students by the solicitor and the employing private trade or correspondence school, as disclosed by the application for the permit, and for the compliance by the solicitor with this chapter and all rules and regulations prescribed thereunder. Every permit shall expire on the thirtieth day of June following the date of issuance.

§ 5. **Amendment.)** Subsection 2 of section 15-5006 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5006. Revocation or Suspension of License or Permit.)

2. Upon the filing with the board of charges against the holder of a license or permit issued under this chapter, the executive officer may suspend such license or permit pending determination thereof.

Approved March 12, 1959.

CHAPTER 177

S. B. No. 101
(O'Brien and Thompson)

CLASSIFICATION OF ELEMENTARY SCHOOL DISTRICTS AS HIGH SCHOOL DISTRICTS

AN ACT

To create and enact section 15-53011 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the classification of certain elementary school districts as high school districts for the purpose of reorganization.

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

§ 1.) Section 15-53011 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

15-53011. Classification of Elementary School Districts Where County Agricultural and Training Schools Are Located.) For purposes of school district reorganization as provided in chapter 15-53 of the 1957 Supplement to the North Dakota Revised Code of 1943, an elementary school district in which a county agricultural and training school is located, shall be considered a high school district.

Approved March 3, 1959.

CHAPTER 178

S. B. No. 68
(Committee on Education)

REORGANIZATION OF SCHOOL DISTRICTS

AN ACT

To amend and reenact section 15-5314 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to reorganization of school districts.

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

§ 1. Amendment.) Section 15-5314 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5314. 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 Act, 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 special 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.

Approved March 4, 1959.

CHAPTER 179

S. B. No. 71
(Committee on Education)

TEACHING SCHOLARSHIPS

AN ACT

To amend and reenact sections 15-5708 and 15-5710 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to teaching scholarships.

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

§ 1. Amendment.) Section 15-5708 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5708. Scholarship Payments; Conditions; Notes Required; Scholarship Continued.) Upon the granting of a scholarship and the acceptance thereto, the recipient shall be entitled to the sum of one hundred dollars for each college quarter to cover the cost of tuition, books and other institutional expenses and to provide a part of the subsistence costs of the recipient. The scholarship payment shall be given only to regularly enrolled students taking a full load of college work in a two-year course leading to a second grade professional certificate, who have declared their intent to enter teaching in North Dakota in a rural school for a term equal to the length of time the scholarship is held. At the beginning of each quarter of a regular college year, the board shall certify to the state auditor the name of each recipient of a scholarship, the auditor shall issue his warrant to the state treasurer who shall pay the amount of the scholarship through the secretary of the college in which the recipient is enrolled. Each recipient of a scholarship shall sign and execute notes to the state treasurer, endorsed by a responsible adult for the amount of such scholarship. The notes shall bear interest at the rate of three percent per annum and shall become due and payable with accrued interest forty-five months after the date of issue, except as otherwise provided in this chapter. The board may grant scholarships to a scholarship recipient to be used during the summer quarter of any year whenever the recipient may

thereby qualify for a second grade professional certificate in time to begin teaching at the beginning of the rural school year following the completion of the summer quarter. Such scholarship shall be in the same amount as for any other quarter. Upon the granting of the scholarship and the acceptance thereto, payment shall be made only to candidates who declare their intent to teach two years in a North Dakota rural public school.

§ 2. Amendment.) Section 15-5710 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-5710. Collection or Cancellation of Notes.) If a scholarship recipient, before the notes provided for in this Act (chapter) become due, has satisfactorily completed two years of teaching in a one-room rural school, the notes and accrued interest thereon shall be canceled. The county superintendent of schools of the county where the recipient has taught shall certify to the board the time of teaching completed by the recipient, and the board, if satisfied, shall notify the state treasurer to cancel the notes. Whenever less than a full school year of teaching has been completed the notes may be canceled in the order of execution, corresponding with the months of teaching which are completed. In the event of death or total disability of the recipient, the notes and accrued interest shall be canceled. The board may designate the county superintendent of schools of the county where the recipient has taught or resides as its agent in the collection of such notes and in carrying out the provisions of this Act (chapter).

Approved March 3, 1959.

CHAPTER 180

S. B. No. 105
(Larson)

TRANSFER OF FUNDS TO STATE SCHOOL CONSTRUCTION REVOLVING FUND

AN ACT

To transfer funds received in the payment of interest and principal under chapter 15-60, of the 1957 Supplement to the North Dakota Revised Code of 1943, to the state school construction revolving fund and declaring an emergency.

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

§ 1. Transfer of Funds.) The state superintendent of public instruction is hereby authorized to transfer all money accumulating from the school districts in the payment of interest and principal to the state school construction fund, which is not necessary for administration, to the revolving fund.

§ 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, 1959.

ELECTIONS

CHAPTER 181

S. B. No. 73
(Holand)

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 March 10, 1959.

CHAPTER 182

H. B. No. 605
(Wheeler, Johnston, Baldwin, Haugland)

REGISTRATION OF ABSENT VOTERS' BALLOTS ON VOTING MACHINES

AN ACT

Providing for registering absent voters' ballots on voting machines.

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

§ 1.) Absent voters' ballots, if any, shall be registered on the voting machines by two election officials of opposed interests, if such there be, otherwise by any two election officials. The voting of absent voters' ballots on the voting machines shall be done in secrecy by the two election officials during the voting day at such intervals as are available when machines are not in use by voters.

Approved March 4, 1959.

CHAPTER 183

H. B. No. 599
(Einarson, Streibel, Halcrow)
(Berntson, Christopher, Leet)

CONSTITUTIONAL AMENDMENTS AND INITIATED AND REFERRED MEASURES

AN ACT

To amend and reenact section 16-1107 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to constitutional amendments and initiated and referred measures.

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

§ 1. Amendment.) Section 16-1107 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

16-1107. Constitutional Amendments and Initiated and Referred Measures; Placed on Separate Ballots; Publishing.) Constitutional amendments duly certified to the county auditor

by the secretary of state, or any question to be voted for aside from the election of public officers, shall be printed on a separate ballot and shall be deposited in a box separate from that provided to receive the ballots for public officers. A constitutional amendment, initiated or referred measure, or other question shall be stated fully and fairly on such ballot. Immediately preceding the constitutional amendment or initiated or referred measure on the ballot, the secretary of state shall cause to be printed a short concise statement in bold face type, which statement shall fairly represent the substance of the constitutional amendment or the initiated or referred measure. The attorney general shall approve all such statements written by the secretary of state. The words "Yes" and "No" shall be printed on the ballot at the close of the statement of the question, in separate lines with a square formed of black lines after each statement in which the voter may indicate by a cross or other mark how he desires to vote on the question. Where two or more amendments or questions are to be voted on, they shall be printed on the same ballot. In precincts in which voting machines are used, the entire amendment or measure need not be set forth on such machine but the ballot title, in the case of amendments or measures submitted by the people, or the title of the legislative bill or resolution, in the case of proposed amendments submitted by the legislative assembly, shall be set forth in full.

Approved March 11, 1959.

CHAPTER 184

H. B. No. 643
(Saugstad and Schmalenberger)

MEETINGS OF COUNTY COMMITTEES AND STATE CENTRAL COMMITTEES

AN ACT

To amend and reenact sections 16-1710, 16-1712, and 16-1715 of the North Dakota Revised Code of 1943, relating to the meetings of the county committees and the state central committees.

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

§ 1. Amendment.) Section 16-1710 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

16-1710. Meeting of County Committee; Organization.) The county committee of each party shall meet at a place desig-

nated by the county auditor at the county seat at any hour between the hours of two o'clock p. m. and eight o'clock p. m. on the second Monday in July following the primary election. The exact hour shall be set by the existing county committee chairman. The county committee shall organize by:

1. Selecting a chairman, a vice chairman, a secretary, and a treasurer;
2. Adopting rules and modes of procedure not in conflict with law; and
3. Selecting an executive committee consisting of from five to eleven persons chosen from the county committee. The chairman and secretary of the county committee shall be members of the executive committee.

In counties having more than one legislative district, each legislative district is entitled to representation on the county executive committee apportioned in the ratio which the number of precinct committeemen each legislative district may have bears to the total number of precinct committeemen in the county, and shall be selected by the precinct committeemen from each legislative district meeting separately.

§ 2. Amendment.) Section 16-1712 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

16-1712. Selection of Delegate to State Committee When Two or More Counties Embraced in Legislative District.) When two or more counties are embraced in one legislative district, the county committee of each county shall meet as provided in section 16-1710 and shall elect a committee of three of its members to meet with a similar committee from the other county or counties comprising such legislative district, at the courthouse at the county seat of the senior county of such district, at two o'clock p. m. on the Friday following the meeting provided for in section 16-1710, and shall proceed to elect a member of the state central committee from such legislative district. Each such county committee shall be entitled to cast votes equal to the number of precinct committeemen elected in its county in such manner and for such candidate as shall be determined by the majority of such committee acting personally or by proxy.

§ 3. Amendment.) Section 16-1715 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

16-1715. State Central Committee: Meetings of; Organization; Vacancies.) Members elected as state central committeemen shall meet on the third Wednesday in July following the primary election. Such meeting shall be held at the state

capitol and shall convene at ten o'clock a. m. Such committeemen shall organize by selecting a chairman, a vice chairman, a secretary, and a treasurer and by adopting rules and modes of procedure. The officers elected need not be members of such committee. A vacancy 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 14, 1959.

CHAPTER 185

S. B. No. 288
(Vendsel)

STATE PARTY CONVENTION MEETINGS

AN ACT

To amend and reenact sections 16-1716 and 16-1717 of the North Dakota Revised Code of 1943, relating to dates for meeting of state party conventions.

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

§ 1. Amendment.) Section 16-1716 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

16-1716. Meeting of Precinct Committeemen of County to Elect Delegates to State Party Convention: Proxies.) At two o'clock p. m. on the second Monday in March in each presidential election year, the precinct committeemen of each county shall meet at the county seat to elect delegates to a state party convention to be held as provided in this chapter. One delegate shall be elected for each three hundred votes or majority fraction thereof cast in such county at the last preceding presidential election for the candidates for presidential electors of such party, but every county shall be entitled to at least one delegate. Delegates shall be electors of their county. If any delegate shall be unable to attend such convention, he shall designate in writing an alternate to attend and represent and act for him. In counties having more than one legislative district, the precinct committeemen from each legislative district, meeting separately, shall elect delegates to the state party convention. One delegate shall be elected for each three hundred votes, or major fraction thereof, cast in said legislative district at the last preceding presidential election for the candidates for presidential elector of such party, but each legislative district shall be entitled to at least one delegate.

§ 2. Amendment.) Section 16-1717 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

16-1717. State Party Convention; Held When.) The state party conventions shall be held in each presidential year prior to the fifteenth day of April of such year at such place and at such time as shall be designated by the party state central committee.

Approved March 10, 1959.

CHAPTER 186

H. B. No. 693
(Fitch)

POLITICAL ADVERTISEMENTS

AN ACT

To amend and reenact section 16-20171 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the disclosure of name of sponsor in political advertisements.

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

§ 1. Amendment.) Section 16-20171 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

16-20171. Political Advertisements to Disclose Name of Sponsor.) From and after the passage of this section, each and every political advertisement, whether on behalf of or in opposition to any candidate for public office, initiated measure or constitutional amendment, and whether such advertisement shall be by newspaper, pamphlet or folder, display cards, signs, posters or billboard advertisements, or by any other public means, shall disclose at the bottom of same the name or names of the sponsors of such advertisement, and the name or names of the person, persons, associations, partnerships or corporations paying for such advertisement, except however, this section shall not apply to campaign buttons. At the close of every radio broadcast containing any advertising announcements or talk for or against any initiated measure or constitutional amendment to be voted on by the people, there shall be announced at the close of said broadcast the name or names of the person, persons, associations, partnerships or corporations paying for such radio broadcast.

Approved March 4, 1959.

FIRES

CHAPTER 187

H. B. No. 646
(Johnston, Stockman, Brown, Wheeler,)
(Saugstad, Lowe, Bye)

ALTERNATE FIREMEN'S RELIEF ASSOCIATION PLAN

AN ACT

To provide for an alternate firemen's relief association plan whereby firemen can participate in a disability pension and retirement pension program, and the surviving dependents of a deceased fireman can receive pension payments and authorizing a tax levy.

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

§ 1. Alternate Firemen's Relief Association Plan; Election of Plan To Be Used.) The provisions of this Act shall be an alternate firemen's retirement and disability plan which may be implemented in lieu of the plan provided for in chapter 18-05 of the North Dakota Revised Code of 1943, as amended. Within sixty days after the effective date of this Act, a vote shall be taken among the members of each firemen's relief association now in existence within the state to determine whether the association shall adopt the plan authorized by this Act or retain the plan established in chapter 18-05 of the North Dakota Revised Code of 1943, as amended; however, if the members of the association vote to adopt the plan authorized by this Act such plan shall not become operative until the city government of the community in which the fire department is located has approved the plan.

§ 2. Operation of Association.) The relief association shall be organized, operated and maintained in accordance with its articles of incorporation and its bylaws by firemen who are members of the fire department. It may regulate and manage its own affairs and for that purpose has such corporate powers as are necessary and useful, subject to the regulations and restrictions of the laws of this state pertaining to corporations.

§ 3. Who Deemed Firemen.) For purposes of this Act, the term "fireman" shall mean any person, who is regularly entered on the payroll of the department serving on active duty and engaged in the hazards of fire fighting, but does not include a probationary or a substitute fireman or any person employed irregularly by the fire department.

§ 4. Accrued Rights Not Destroyed By This Plan: Transfer of Funds; Records.) Any fireman who is a member of the relief association which has been established under chapter 18-05 at the effective date of this Act, may continue as a member of the association created by this Act if the department of which he is a member has elected to come under the provisions of this Act, and any member of the relief association established under chapter 18-05 receiving pensions or benefits or widow and/or children receiving pensions or benefits shall continue to receive such pensions or benefits as are prescribed and being paid under existing association bylaws on the effective date of this Act, and any fireman who is a member of an association maintained under chapter 18-05, and who shall become eligible for full pension under such association's bylaws shall not be penalized by any conditions of this Act. Whenever a department votes to come under the provisions of this Act, any and all funds or accounts and all other records and property maintained by any relief association being discontinued shall be transferred to the relief association being established under this Act.

§ 5. Application for Membership.) When any fireman hereafter employed desires to become a member of the relief association provided by this Act, he shall make written application therefor within ninety days after the date he is entered on the payroll of the department. The application shall be made on a form supplied by the association, and shall be accompanied by the certificate of a physician as required by the association's bylaws. The application and certificate shall be filed with the secretary of the association, with required fees, and thereafter the board of examiners of the association shall make an investigation and file its report thereof with the secretary. The association shall act upon an application within ninety days from the date it is filed with the secretary.

§ 6. Association May Deny Membership to Mentally, Physically Unsound.) The association may deny any applicant membership who is not physically and mentally sound. Additional requirements for entrance age, entrance fees and annual dues may be prescribed in the bylaws of the association.

§ 7. Officers.) The officers of the association shall be a president, and a vice president, both of whom shall be elected from among members of the board of trustees, a secretary-treasurer, a board of trustees and a finance committee. All such officers shall be elected in the manner and for the terms prescribed in its articles of incorporation and bylaws. The board of trustees shall manage the affairs of the association. The secretary-treasurer shall furnish a corporate bond to the association for the faithful performance of his duties

in an amount to be determined by the association. The premium on the bond shall be paid by the association. The secretary-treasurer may be paid a salary not to exceed two dollars per member annually.

§ 8. Report of Receipts and Expenditures Regarding State Funds To Be Filed With State and City Auditor.) Prior to February first of each year, the secretary-treasurer shall prepare an itemized report of all receipts and expenditures of state funds for the preceding year. One certified copy thereof shall be filed with the city auditor and one with the state auditor. Neither the city nor the state shall pay any money to the relief association until such copy is filed.

§ 9. Apportioning Insurance Tax Received by Municipality.) The amount received under section 18-0406 by the municipal treasurer in a municipality having a paid fire department and a duly organized and incorporated firemen's relief association shall, except as hereafter provided, be apportioned as follows: one-half thereof shall be placed in a fund to be disbursed by the governing body of the municipality in maintaining the fire department, and one-half thereof shall be paid to the secretary-treasurer of the firemen's relief association. In addition, thereto, the governing body of the municipality may in its discretion pay all or any portion of the amount normally disbursed in maintaining the fire department to the secretary-treasurer of the firemen's relief association if its financial condition shall make such disposition necessary or advisable.

§ 10. City Shall Make Additional Levy.) At the time the tax levies for the support of the city are made, and in addition thereto, the governing body of any city with a population of thirty-eight thousand or more, according to the latest federal census figure, which shall have adopted this plan, shall levy a tax of one one-hundreth mill on all taxable property within the city, for each active member of the fire department relief association at the time the levy is made. This tax shall be levied notwithstanding the city maximum annual tax levy for all purposes as limited by statute. This tax is in addition to the tax levy as so limited.

At the time the tax levies for the support of the city are made, and in addition thereto, the governing body of any city with a population of thirty-eight thousand or less, according to the latest federal census figure, which shall have adopted this plan, shall levy a tax of two one-hundredths mill on all taxable property within the city, for each active member of the fire department relief association at the time the levy is made. This tax shall be levied notwithstanding the city maximum annual tax levy for all purposes as limited by statute. This tax is in addition to the tax levy as so limited.

§ 11. Proceeds From Levy To Be Forwarded to Association.) Each year in which the levy provided for in section 10 of this Act is made, immediately after April 1 and September 1 the proceeds of the levy, together with any interest and penalties collected thereon, shall be forwarded by the county treasurer to the city treasurer, and after certification by the city auditor, the city treasurer shall pay over such amounts to the secretary-treasurer of the firemen's relief association.

§ 12. Firemen to Contribute to Association Fund.) The officer in charge of the finances of the city shall deduct from the salary of each fireman participating in the plan provided in this Act an amount to be determined by the bylaws of the fireman's relief association but which shall be not less than five percent of the monthly salary of a first class fireman, until such firemen have completed thirty years service with the department at which time the amount deducted shall be decreased to a lesser amount to be prescribed by the bylaws of the relief association, but which shall be not less than two and one-half percent of the monthly salary of a first class fireman. This amount shall be paid to the secretary-treasurer of the relief association monthly and shall be credited by the association to each fireman individually in the state fund. All moneys paid into city pension funds prior to the effective date of this Act by firemen participating in the plan provided for in this Act shall be paid to the secretary-treasurer of the association and shall be credited by the association to the individual member in the state fund.

§ 13. Association State Fund and Association General Fund.) The moneys received by the association are to be kept in an "association state fund" or in an "association general fund". The moneys received from the state, city, or employee's salary contribution shall be deposited in the "association state fund" and may be expended only for the purposes named in section 14. All other moneys shall be deposited in the "association general fund" and may be expended for other purposes related to the general principles for which this Act is established. The relief association shall manage and control all funds that come into its possession. Moneys in these funds may be invested in bonds of the United States of America, bonds of the state of North Dakota or any other state, in certificates of indebtedness of the state of North Dakota, in any bonds or certificates of indebtedness of any political subdivision of the state of North Dakota which constitute the general obligations of the issuing tax authority, or the Bank of North Dakota or any other bank or savings and loan association which is insured by the United States of America.

§ 14. Disbursement of Moneys From Association State Fund.) The amounts paid into the relief association by the

state, city, and employee's salary contribution and set aside in the "association state fund" shall be appropriated and disbursed only for:

1. The payment of disability or service pensions to members of the association;
2. Pensions to widows and children or orphans of members or retired members;
3. The payment of the salary of the secretary-treasurer and the premiums on his bond;
4. Funeral payments;
5. Cost of the state audit;
6. Essential postage; and
7. Actuarial study.

§ 15. Service Pensions: Qualifications.)

1. A monthly service pension shall be paid to members of the association with the following qualifications:

Years of service	Years of age at retirement	Percent of first class fireman's monthly salary on January 1 during year the pension is paid
20	50	40%
21	51	42%
22	52	44%
23	53	46%
24	54	48%
25	55	50%
26	56	52%
27	57	54%
28	58	56%
29	59	58%
30	60	60%

2. All members must serve twenty years before they shall be eligible for a service pension; however, any member who has twenty years of service and who has not attained the age of fifty years, shall have the right to retire from the department without forfeiting his right to a service pension. Such person shall, upon application, be placed on the deferred pension roll of the association, and after he has reached the age of fifty years, the association shall, upon application therefor, pay his service pension from the date he attains eligibility at a rate of forty percent of the monthly salary of a first class fireman as determined on January 1 of the year in which the pension is paid. A member having thirty years service can be placed upon the deferred pension roll until he reaches the age of sixty years, at which time he shall be allowed the maximum payment provided for in the schedule in subsection 1 of this

section. Any person making such application thereby waives all other rights, claims or demands against the association for any cause that may have arisen from, or that may be attributable to, his service on the fire department.

§ 16. Disability Pensions: Qualifications.) Any member of the relief association who is unable because of physical or mental disability, to perform the duties of a fireman shall receive monthly a disability pension equal to fifty percent of the monthly salary of a first class fireman on January 1 of the year that the pension is being paid, unless such member is eligible for a larger service pension in which case he shall draw an amount equal to his service pension. No member shall receive a disability pension unless he is disabled for a period of at least seven consecutive days, at which time he shall be paid from the time of disability.

§ 17. Pensions to Widows and Children of Deceased Members.) When a service pensioner, disability pensioner, deferred pensioner, or an active member of a relief association dies leaving:

1. A widow to whom he was married while an active member of the association; or
2. A child or children who were living while the deceased was on the payroll of the fire department, or who were born within nine months after said decedent was withdrawn from the payroll of said fire department; or
3. Both such widow and such children;

then such widow and children shall be entitled to a monthly pension as follows:

(1) If the deceased leaves only a widow, a pension in the sum of forty percent of a first class fireman's monthly salary on January 1 during year the pension is paid to her during her natural life or until she remarries;

(2) If the deceased leaves both a widow and children, a monthly pension to the widow in the sum of forty percent of a first class fireman's monthly salary on January 1 during year the pension is paid, for the rest of her natural life or until she remarries, and to the parent or guardian of any children under the age of eighteen years of age there shall be paid monthly twenty percent of a first class fireman's monthly salary to be divided equally among such children;

(3) If the deceased leaves only children, a monthly pension shall be paid to the guardian of such child or children for such child or children in the sum of sixty percent of a first class fireman's monthly salary on January 1 during the year the pension is paid, to be divided equally

among such children, provided however, that if there is only one surviving child, he shall receive a sum equal to forty percent of a first class fireman's monthly salary. All pensions to child or children shall terminate when the child or children reaches the age of eighteen years.

§ 18. Proportional Decrease in Benefits if Funds Not Sufficient.) If the balances of the funds in a city of fifty thousand or more shall decrease to $250,000; in a city with a population of over forty thousand but less than fifty thousand shall decrease to $100,000; in a city with a population of thirty-eight thousand or less shall decrease to $50,000, the benefit provided for in sections 15, 16, and 17 of this Act shall be proportionately decreased, but in no case shall they be decreased more than twenty percent at any one time. When the balances return to the above figures then the benefits shall again be paid as prescribed in sections 15, 16 and 17.

§ 19. Fund Based Upon Actuarial Tables.) The pension fund shall be based upon actuarial tables and the association shall have the authority to engage an actuary for studies of the plan when such a practice is deemed necessary by the association.

§ 20. Members Withdrawing From Association: Members in Military Service.) Any member who withdraws from employment in the department or who ceases to be a member of the association, shall be entitled to a return of fifty percent of his contributions paid to the association, without interest. Any benefits already received by such person shall be deducted from the fifty percent which would ordinarily be returned to him. Any applicant for a service pension who subsequent to his entry into the service of such fire department, has served in the military forces of the United States, shall not have the period of such military service deducted in the computation of the period of service herein provided for, but such military service shall be construed and counted as a part and portion of his active duty in said fire department, provided however, that credit for such military service shall not exceed five years. Any such member, who was a full-time regular fireman at the time of his entry into the armed services and who seeks credit for such service, shall, upon his return to employment in the fire department, pay into the pension fund for each year of military service the same amount of money as he would have contributed from his salary had he been in the continuous employment of the department.

§ 21. Money Received Under Pension Not Subject to Legal Process: Assignments.) Payments made or to be made by a firemen's relief association to any member of the pension roll shall not be subject to judgment, garnishment, execution,

or other legal process. Persons entitled to such payments shall not have the right to assign the same, and the association shall have no authority to recognize any assignment or to pay over any sum which has been assigned.

§ 22. State Examiner to Examine Books of Relief Association: Report of Unauthorized Spending to Governor: Duty of Governor.) The state examiner, annually shall examine the books and accounts of the secretary-treasurer of each firemen's relief association receiving funds under the provisions of this Act. If he finds that the money, or any part of it, has been or is being expended for unauthorized purposes, he shall report the facts to the governor. Thereupon, the governor shall direct the state auditor to refuse to issue any warrants for the benefit of the fire department or relief association of the municipality in which such association is organized until it shall be made to appear to the state examiner, who shall report the fact to the governor, that all moneys wrongfully expended have been replaced. The governor may take such further action as the emergency may demand. Each firemen's relief association shall pay into the state treasury fees for such annual examinations at the same rate as fixed by section 6-0121 of the North Dakota Revised Code of 1943 for the examination of the books and accounts of city auditors and city treasurers.

§ 23. Funeral Benefits.) The bylaws of the association shall provide for funeral benefits for its active or retired members not to exceed the sum of $500 for each funeral.

§ 24. Construction.) This Act shall not be construed as abridging, repealing, or amending the laws of this state relating to volunteer firemen of this state.

§ 25. Effect of Invalidity of Part of This Act.) If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Act, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

Approved March 21, 1959.

CHAPTER 188

H. B. No. 667
(Trom, Guy, Idso, Lindberg)

SALE OF CERTAIN FIRE EXTINGUISHERS PROHIBITED

AN ACT

Prohibiting the sale, distribution and possession of fire extinguishers containing toxic or poisonous vaporizing liquids, providing a penalty, and declaring an emergency.

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

§ 1. **Prohibiting Sale, Distribution and Possession of Fire Extinguishers Containing Certain Toxic and Poisonous Vaporizing Liquids.)** No person, partnership or corporation shall sell, distribute or purchase any fire extinguisher, if the extinguisher contains any of the following liquids:

Carbon tetrachloride CCl_4
Chlorobromomethane CH_2BrC_1
Azeotropic chlormethane CM_7
Bromochlorodifluoromethane $CBrC_1F_2$
Dibromodifluoromethane CBr_2F_2
1,2-Dibromo-2-chloro-1, 1,2-tribluoroethane $CBrF_2CBrClF$
1,2-Dibromo-2, 2-difluoroethane $CH_2BrCBrF_2$
Methyl bromide CH_3Br
Ethylene dibromide CH_2BrCH_2Br
1,2-Dibromotetrafluoroethane $CBrF_2CBrF_2$
Hydrogen bromide HBr
Methylene bromide CH_2Br_2
Bromodifluoromethane $CHBrF_2$
Bromotrifluoromethane $CBrF_3$
Dichlorodifluoromethane CCl_2F_2

or any other toxic or poisonous vaporizing liquid.

§ 2. **Penalty.)** Any person violating the provisions of this Act shall be punishable by a fine not to exceed one hundred dollars, or not to exceed thirty days in jail, or by both such fine and imprisonment.

§ 3. **Emergency.)** An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 17, 1959.

CHAPTER 189

H. B. No. 744
(Neukircher, Fitch, Loewen)

REPORTING FIRE LOSSES

AN ACT

To amend and reenact section 18-0105 of the 1957 Supplement to the North Dakota Revised Code of 1943, providing for the reporting of fire losses to the state fire marshal by insurers authorized to transact fire insurance business in the state of North Dakota.

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

§ 1. Amendment.) Section 18-0105 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0105. Insurance Companies to Report Fire Losses to State Fire Marshal.) Each insurer authorized to transact fire insurance business in this state is hereby required to report to the state fire marshal, either directly or through an approved agency, fire losses on property insured in the company, giving the name of the insured, the date of the fire, the amount of loss, the loss paid, the character of the property destroyed or damaged, and the supposed cause of the fire. Provided, however, the commissioner may waive the reporting of such losses which are deemed unimportant because of the small amount involved to the end that a saving in time and expense will result. This report shall be mailed to the state fire marshal as soon as possible after notice of loss is received by the company. This report shall be in addition to, and not in lieu of, any report the company may be required to make by any law of this state to the commissioner of insurance.

Approved March 4, 1959.

CHAPTER 190

H. B. No. 655
(Brown and Johnston)

RURAL FIRE PROTECTION DISTRICTS, ANNEXATION OF CITIES AND VILLAGES

AN ACT

To amend and reenact section 18-1001 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to territory to be annexed and petition, and declaring an emergency.

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

§ 1. **Amendment.)** Section 18-1001 of the 1957 Supplement to the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

18-1001. Territory To Be Annexed; Petition.) Whenever sixty percent of the freeholders residing in any rural territory, equivalent in area to one township or more, elects to form, organize, establish, equip, and maintain a rural fire protection district, they shall signify such intention by presenting to the county auditor of the county or counties in which such territory is situated, a petition setting forth the desires and purposes of such petitioners. Such petition shall contain the full names and postoffice addresses of such petitioners; the suggested name of the proposed district, the area in square miles to be included therein, and a complete description according to government survey, wherever possible, of the boundaries of the real properties intended to be embraced in the proposed rural fire protection district. The petitioners shall also present to the county auditor a plat or map showing the suggested boundaries of the proposed district, and shall deposit with the county auditor a sum sufficient to defray the expense of publishing the notices required by sections two and three of this Act. Provided further that any city or village located within the area, whether such city or village has a fire department or not, may be included in the rural fire district if sixty percent or more of the electors residing therein sign such petition.

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

Approved March 12, 1959.

CHAPTER 191

H. B. No. 654
(Brown and Johnston)

RURAL FIRE PROTECTION DISTRICT ANNEXATION, REPEAL

AN ACT

To repeal subdivisions a and b of subsection 1 of section 18-1011 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to territory to be annexed, and declaring an emergency.

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

§ 1. Repeal.) Subdivisions a and b of subsection 1 of section 18-1011 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

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

Approved March 12, 1959.

FOODS, DRUGS, OILS, AND COMPOUNDS

CHAPTER 192

S. B. No. 196
(Murphy)
(By request)

IMITATION ICE CREAM

AN ACT

To amend and reenact chapter 19-06 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to imitation ice cream, and fixing the effective date thereof.

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

§ 1. Amendment.) Section 19-0601 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0601. Definitions.) In this chapter unless the context or subject matter otherwise requires:

1. "Ice milk and ice milk mix" shall mean and include any frozen, or unfrozen substance, mixture, or compound which is not ice cream, milk sherbet, ice, or frozen or frosted malted milk as the same are defined by the department, regardless of the name under which it is sold or offered for sale:
   a. If the freezing of such substance, mixture or compound is accompanied by agitation of the ingredients thereof;
   b. If such substance, mixture or compound is made in imitation or semblance of ice cream;
   c. If such substance, mixture, or compound is prepared or frozen in the same manner as ice cream is customarily prepared or frozen; or
   d. Ice milk shall contain a minimum of four percent milk fat and shall weigh at least four and one-half pounds avoirdupois per gallon and shall contain a minimum of twelve percent milk solids not fat.
2. "Retail dealer" is any person, firm, or corporation operating a store, stand, or other place where ice milk is sold to consumers;
3. "Peddler" is any person selling or vending ice milk directly to the consumer at any place other than at a store, stand or other fixed place of business.

4. "Department" shall mean the department of agriculture and labor.
5. "Manufacturer" shall mean and include any person, firm or corporation who makes, produces or processes any ice milk for sale to retailers or consumers.

§ 2. Amendment.) Section 19-0602 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0602. Unlawful to Sell Ice Milk at Wholesale or Retail Without License.) No manufacturer, retail dealer or peddler shall sell, exchange or offer for sale at wholesale or retail or have in his possession with intent to sell, offer for sale or for exchange at wholesale or retail in this state, any ice milk without first having obtained a license therefor from the department.

§ 3. Amendment.) Section 19-0603 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0603. Application for License.) Any manufacturer, retail dealer or peddler making application for a license to sell at wholesale or retail, or peddle ice milk shall make the same upon a form prescribed by the department, and shall show the name of the county in which the applicant seeks to do business and the location of his place of business if he is a retailer.

§ 4. Amendment.) Section 19-0604 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0604. Licenses; Term; Revocation.) A license for the manufacturing, retailing or peddling of ice milk shall be issued by the department for a period of one year beginning on the first day of January of the year of issue and terminating on the thirty-first day of December following the date of issuance thereof. Each license shall cover but one manufacturer, retail dealer, or peddler. If issued to a retail dealer it shall cover but one place of business, and if issued to a peddler, it shall cover but one county, if issued to a manufacturer it shall cover the entire state. A license issued under this chapter shall not be transferable, and the department may revoke any such license for a violation of any provision of this chapter.

§ 5. Amendment.) Section 19-0605 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0605. License Fees.) The fees for licenses to manufacture, sell or peddle ice milk shall be as follows:

1. Retail dealers ten dollars;
2. Peddlers ten dollars;
3. Manufacturer fifty dollars, provided, however, that only one license shall be required of a manufacturer in this state for the place where he manufactures ice milk or ice milk mix, whether said products are sold at wholesale, retail or both at such place.

§ 6. Amendment.) Section 19-0606 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0606. Notice to Purchasers.) Any manufacturer, retail dealer or peddler selling ice milk to consumers shall display a sign so placed or carried as to be easily read by purchasers bearing the words "ice milk" in letters at least two inches in height and one inch in width.

§ 7. Effective Date.) This Act shall not become effective until January 1st, 1960.

Approved March 14, 1959.

CHAPTER 193

S. B. No. 198
(Freed and Foss)

LICENSE FEES FOR BEVERAGES

AN ACT

To amend and reenact section 19-0805 of the North Dakota Revised Code of 1943, relating to license fees for beverages.

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

§ 1. Amendment.) Section 19-0805 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0805. License Fees.) The license fees for beverages licensed for sale by the department shall be as follows:

1. Soda water, ginger ale, root beer, and pop, each brand or class $20.00
2. Concentrated extracts, fountain syrups, beverage bases, each brand 20.00

3. True fruit juices, imitation or compound fruit beverages, each brand	20.00
4. Mineral and spring water, each brand	20.00
5. Cereal beverages and malts, each brand	50.00
6. Wines, each brand	25.00
7. Whiskey, rum, brandy, liquors and other distilled liquors:	
a. First brand	150.00
b. Each additional brand	50.00

Approved March 14, 1959.

GAME, FISH, AND PREDATORS

CHAPTER 194

H. B. No. 706
(Gronhovd, Sorlie, Diehl,)
(Breum, Strand)

LEASING LAND FOR DEVELOPMENT AND IMPROVEMENT

AN ACT

To authorize the state game and fish department to lease land which is under its jurisdiction to nonprofit corporations for development and improvement.

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

§ 1. State Game and Fish Department Land: Leasing of.) The state game and fish department is hereby authorized to lease, for a period of not more than ninety-nine years, any land under its jurisdiction, for the purpose of development and improvement, to any nonprofit corporation upon the consideration of specified improvements to be made by such corporation and such other improvements as the state game and fish department and the leasing nonprofit corporation may subsequently agree upon. Such lease shall provide that all funds received by the corporation from such property shall be expended upon the leased premises for development and improvements and such other terms and conditions as may be agreed upon. The participating nonprofit corporation shall have the authority, subject to the approval of the state game and fish department, to sublease the premises for cabin sites and other recreational purposes. Upon the termination of the lease, the leased property, together with all improvements shall revert to the state game and fish department.

Approved March 14, 1959.

CHAPTER 195

H. B. No. 683
(Goebel, Schuler, Dahl)

TURTLE REGULATIONS

AN ACT

Providing for the regulating of the taking of turtles within this state.

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

§ 1. Turtles Not To Be Taken Without Permit or Contract From Game and Fish Commissioner.) No person shall engage in the commercial taking, trapping or hooking of turtles within this state, without first having obtained a permit so to do, from the game and fish commissioner, who shall have authority to issue such permits at his discretion, when he deems it advisable and he shall have the authority to designate the form of such permits, the areas or waters in which such permits shall be valid and such other restrictions as he may deem advisable.

The commissioner shall have authority to contract with any person at his discretion, to engage in the removal of turtles from any waters or areas of this state. Any moneys derived from the sale of turtle permits or from turtle removal contracts shall be credited to the game and fish fund in the same manner as income from sale of fishing licenses.

Approved March 13, 1959.

CHAPTER 196

S. B. No. 62
(Krause)

TAKING OF FUR-BEARING ANIMALS

AN ACT

To amend and reenact subsection 7 of section 20-0101, subsection 1 of section 20-0302 and section 20-0702 of the 1957 Supplement to the North Dakota Revised Code of 1943 and to repeal sections 20-0711, 20-0712, 20-0714, 20-0715, 20-0716, 20-0717, and 20-0718 of the North Dakota Revised Code of 1943 and sections 20-0710 and 20-0713 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the definition of game animals, license to take beaver, season for taking fur-bearing animals and to authorize the governor by proclamation to protect beavers, raccoons, and badgers.

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

§ **1. Amendment.)** Subsection 7 of section 20-0101 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

7. "Game animals" shall include big game animals, as herein defined and mink, muskrats, and weasels;

§ **2. Amendment.)** Subsection 1 of section 20-0302 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. Any resident of this state, or any member of his family residing customarily with him, may hunt, fish, or trap during the open season without a license upon land owned or leased by such resident. No such person, however, shall hunt, take or kill deer without first having procured a big game hunting license as prescribed in this title, but upon the execution and filing of an affidavit by any person owning or leasing land within a district opened for the hunting of deer, such person shall receive a license to hunt deer upon such land described in said affidavit without charge therefor, and such license so issued without charge shall have endorsed on it the description of such land and it may be used to hunt deer only upon such land; and

§ **3. Amendment.)** Section 20-0702 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0702. Fur-Bearing Animals Which Are Protected: Not To Be Taken or Disturbed During Closed Seasons.) No person

shall hunt, shoot, trap, or take, in this state, any mink, muskrats, weasels, or tree squirrels, except during the open or lawful season thereon as established under the provisions of section 20-0801 or section 20-0704. The governor may, by proclamation, place beavers, raccoons and badgers on the protected list of fur-bearing animals at any time, and may keep such fur-bearers on the protected list for such length of time as he may deem reasonable and necessary. If such fur-bearers are placed on the protective list as provided for in this section, the governor may, by proclamation, prescribe the area, manner and number that may be hunted, trapped, shot or taken.

§ 4. Repeal.) Sections 20-0711, 20-0712, 20-0714, 20-0715, 20-0716, 20-0717, and 20-0718 of the North Dakota Revised Code of 1943 and sections 20-0710 and 20-0713 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 17, 1959.

CHAPTER 197

H. B. No. 563
(Saugstad, Breum, Wheeler, Magnuson)

GAME AND FISH COMMISSIONER, TERM OF OFFICE

AN ACT

To amend and reenact section 20-0201 of the North Dakota Revised Code of 1943, relating to the term of office of the state game and fish commissioner.

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

§ 1. Amendment.) Section 20-0201 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0201. State Game and Fish Commissioner: Office To Be Maintained; Appointment; Term; Removal.) A state game and fish commissioner shall be appointed by the governor, and he shall hold office for a term of two years beginning on the first day of July of each odd numbered year, and until his successor is appointed and qualified. Such commissioner shall be subject to removal by the governor for cause only.

Approved March 14, 1959.

CHAPTER 198

S. B. No. 111
(Hernett, Fiedler, Krause,)
(Wadeson, Vendsel)

GAME AND FISH DEPARTMENT EMPLOYEES

AN ACT

To amend subsection 1 of section 20-0205 of the North Dakota Revised Code of 1943 to provide for the appointment and removal of a chief warden, district deputy wardens, biologists and technicians, and other employees and to repeal sections 20-0208 of the North Dakota Revised Code of 1943 and 20-0211 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the appointment of a chief warden and deputy district wardens.

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

§ 1.) Subsection 1 of section 20-0205 of the North Dakota Revised Code of 1943 is amended and reenacted to read as follows:

20-0205. Powers of Commissioner.) The commissioner may:

1. Employ such part-time, temporary or probationary wardens, biologists, technicians or other assistants as may be necessary in performing the duties of his office and may remove such employees at will. The salaries and necessary traveling and other expenses of such appointees shall be authorized, audited, and paid in the same manner as the salaries and expenses of state officers are authorized, audited, and paid. The total expenditures for such salaries and expenses, however, shall not exceed the amount appropriated therefor;

§ 2. Chief Game Warden, District Deputy Game Wardens, Biologists and Technicians; Appointment; Removal.) The commissioner with the approval of the governor, may appoint the following permanent employees:

1. A chief game warden who shall enforce all game and fish laws of this state and supervise all deputy game wardens;
2. Twenty-three district deputy game wardens, to be assigned to such district as shall be determined by the commissioner, whose duty it shall be to enforce all game and fish laws of this state; and
3. Such biologists and technicians with specialized training and experience as shall be necessary, who shall perform such duties as may be specified by the commissioner.

Such appointees shall be removed for cause only and in the manner specified in this Act.

§ 3. Bond and Oath of Deputy Commissioner, Chief Game Warden and Deputy Game Wardens.) The deputy commissioner and chief game warden, within ten days of appointment, shall take the oath prescribed for civil officers and file the same with the secretary of state and shall furnish a bond in the penal sum of five thousand dollars. Each deputy game warden, before entering upon the discharge of his duties shall furnish a bond in the penal sum of one thousand dollars.

§ 4. Removal Proceedings; Game and Fish Hearing Board.) The removal of all game and fish employees other than the deputy commissioner, and temporary, part-time or probation appointees may be instituted only by the filing of a verified written charge with the governor. If the governor believes that such charges constitute grounds for removal he shall order a hearing thereon, on fifteen days notice to the individual accused, before a hearing board which shall consist of the governor as chairman and the secretary of state and the attorney general. If the governor believes that such charge or charges do not constitute grounds for removal, he shall dismiss the charges forthwith.

§ 5. Time of Hearing; Notice of Hearing and of Determination.) The hearing specified in section four hereof shall be held within sixty days of the filing of the charges. Not less than fifteen days before the time set for the hearing, notice thereof, signed by the governor, together with a copy of the written charges, shall be served upon the individual accused, by personal service if his whereabouts is known, within the state of North Dakota, otherwise by publication in the manner provided by law for the service of summons in a civil action. The hearing board shall have authority to hear such charge or charges and make an appropriate order in the proceedings, which order shall be filed with the governor, and if it shall be an order of removal, it shall be served upon the individual removed either in person or by registered mail within ten days after its issuance.

§ 6. Suspension Pending Hearing.) In the event that the governor orders a hearing, he may at his discretion, suspend such accused individual pending the final determination of the hearing board and if the charges are dismissed, such suspended individual shall be reinstated without loss of salary during the period of suspension.

§ 7. Appeal to District Court.) Any individual who is dismissed by order of the hearing board, may appeal to the district court of Burleigh County, North Dakota, which appeal

shall be taken and determined in the manner provided by chapter thirty-two of the title, Judicial Procedure, Civil.

§ 8. Repeal.) Section 20-0208 of the North Dakota Revised Code of 1943 and section 20-0211 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 17, 1959.

CHAPTER 199

H. B. No. 645
(Diehl, Breum, Bye, Sorlie)

SPECIAL PERMITS TO HUNT DEER

AN ACT

To amend and reenact section 20-0310 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to licenses to hunt big game and special permits to hunt deer.

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

§ 1. Amendment.) Section 20-0310 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0310. License to Hunt Big Game Required; Special Permits to Hunt Deer; Penalty.) No person shall hunt, kill, take, or attempt to take in this state any big game without having a big game hunting license as prescribed in this chapter. In addition to the regular big game hunting license the governor by order or proclamation may authorize the issuance of special permits to hunt deer in certain restricted areas which he shall designate. The number of special permits issued shall be determined by order or proclamation of the governor and shall be issued to those applicants who first apply for such permits, until all the authorized permits have been issued. The fee for such permits shall be one dollar for both residents and nonresidents. No big game hunting license or special permit shall be sold to any person or purchased for any person under the age of fourteen years, but the age limitation herein prescribed shall not apply to applicants for big game licenses for hunting big game by bow and arrow during any open bow and arrow season. Any person violating the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs of prosecution, or by imprisonment in the

county jail for not less than twenty days nor more than thirty days, or by both such fine and imprisonment. Each violation of this section shall be a distinct and separate offense.

Approved March 14, 1959.

CHAPTER 200

H. B. No. 771
(Saugstad)

FISHING LICENSES

AN ACT

To provide authorization for the issuance to nonresidents of a short term fishing license; to provide for a resident family fishing license; and to amend and reenact section 20-0312 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the schedule of fees for hunting and fishing licenses.

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

§ 1. **Nonresident Short Term Fishing License.)** In addition to the regular nonresident fishing license provided for in section 20-0309 there is hereby authorized a nonresident short term fishing license. This license shall be valid for a period not to exceed seven days from date of issue, and the fee for such license shall be one dollar.

§ 2. **Resident Family Fishing License.)** In addition to the regular resident fishing license provided for in section 20-0304 there is hereby authorized a resident family fishing license which shall allow only the husband and wife of a family to fish in this state under one family license. Such license shall be valid for the same period as other resident fishing licenses and the fee for such license shall be three dollars. Such license shall be issued in duplicate, and one copy of such license shall be in the possession of the husband and one copy in the possession of the wife while such parties are actually engaged in fishing.

§ 3. **Amendment.)** Section 20-0312 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0312. Schedule of Fees for all Hunting, Trapping, or Fishing Licenses.) The various hunting, trapping or fishing license fees shall be as follows:

1. For a resident hunting license, the sum of two dollars of which fifty cents shall be credited to the state game and fish bounty fund;
2. For a nonresident hunting license, the sum of twenty-five dollars;
3. For a resident big game hunting license, the sum of six dollars of which one dollar shall be credited to the game and fish bounty fund;
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.

Approved March 13, 1959.

CHAPTER 201

S. B. No. 194
(Hernett, Wadeson, Krause, Fiedler)

TRANSPORTATION OF GAME AND FISH BY NONRESIDENTS

AN ACT

To amend and reenact section 20-0328 and subsection 1 of section 20-0329 of the North Dakota Revised Code of 1943, relating to the transportation of game or fish by nonresidents and to provide for a limitation on the total number of certain game birds which may be taken during the year by nonresidents and providing a penalty.

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

§ 1. Amendment.) Section 20-0328 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0328. Transportation of Game or Fish By Nonresidents Having a Hunting, Trapping or Fishing License.) Any nonresident having a nonresident hunting, trapping or fishing license who is lawfully in possession of any game animals, or fish, may:

1. Carry such animals, or fish with him on leaving this state; or

2. Ship by common carrier, upon identifying himself by displaying his nonresident license, such animals, or fish, if such shipment is carried openly for the inspection of its contents and is plainly marked with a suitable tag bearing his name and address and the number of his nonresident hunting, trapping, or fishing license, and has attached to it a special shipping tag provided on the nonresident license form. The total number of such game animals, or fish shipped in any one season shall not exceed the number he may lawfully possess.

§ 2. Amendment.) Subsection 1 of section 20-0329 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. To any person having a resident hunting license, a permit or permits to ship, during the respective open seasons, not to exceed in any one season twenty-five protected game birds, to points within this state other than his home or to points outside of this state;

§ 3.) Subject to such limitations as may be specified by law or governor's proclamation, a nonresident shall not take or kill in this state nor transport or ship from this state nor carry from this state more than the following prescribed number of game birds during any one calendar year, to-wit:

ducks—20	geese and brant—12
pheasants—16	sharp-tailed grouse—12
Hungarian partridge—12	ruffed grouse—12

The number of swans, plovers, snipes, wood cocks, sage hens, quails, partridges, cranes, rails, coots, wild turkeys, and doves which may be taken, killed, possessed, transported or carried from this state by a nonresident shall be prescribed in the governor's proclamation.

The form of nonresident license to take game birds shall be prescribed by the commissioner and shall contain as a part thereof locking seals for the number of each prescribed species of game bird, and each seal shall bear the name of the species, and a number corresponding to the number of the license.

Each nonresident licensee shall immediately after killing a game bird, affix the prescribed seal around the leg of his kill in such a manner that the seal may not be removed without destroying same. Such seal shall remain attached until such time as the game bird is consumed or removed from this state and seal shall not be reused in any manner.

The license and unused seal shall be carried by the licensee at all times while hunting or in possession of game and shall be displayed for inspection to any game warden or peace officer.

Any person violating the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than thirty days or by both such fine and imprisonment.

Approved March 17, 1959.

CHAPTER 202

H. B. No. 685
(Schuler, Goebel, Saugstad)

POSSESSION OF GAME TAKEN LAWFULLY OUTSIDE THIS STATE

AN ACT

To amend and reenact sections 20-0332 and 20-0404 of the North Dakota Revised Code of 1943 and sections 20-0502 and 20-0603 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to possession of game lawfully taken outside the state.

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

§ 1. Amendment.) Section 20-0332 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0332. Game or Fish May Be Held After Close of Season Only Under Permit and When Tagged.) Except as otherwise provided in this title, no person shall take, kill, or wound, nor attempt to take, kill, or wound, any protected fish, game bird, or game animal, except during the open season therefor, nor have any such fish, bird, or animal, either dead or alive, except such as was lawfully taken during the open season, in his possession or under his control. It shall be presumed that any protected fish, bird, or animal, or any part thereof, found in the possession of any person after the close of the open season therefor was taken illegally unless the same is possessed under a permit issued under, and tagged in the manner prescribed in, section 20-0330 or was legally taken outside of the state and properly tagged with evidence indicating that such game was legally taken. The possession, transportation, or control of any protected fish, game bird, or game animal, or any part thereof, contrary to any provision of this section shall constitute a misdemeanor and shall be punishable by the same penalty as is provided for the illegal killing, catching, taking, or hunting thereof.

§ 2. Amendment.) Section 20-0404 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0404. Possession Limit of Game Birds.) No person at any time shall possess, control, ship, transport, or store or can or otherwise preserve, more than a two days' bag limit of any species of game bird mentioned in this chapter, except that game birds legally taken outside of this state that are properly tagged with evidence that such bird had been legally taken, may be possessed, transported or shipped in this state.

§ 3. Amendment.) Section 20-0502 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0502. Season for Taking and Transporting Deer; Bag Limit on Deer.) Any person having a deer hunting license as prescribed in this title may take, kill, and transport one deer, in this state, during the open or lawful season therefor which shall be between the twentieth day of November and the following thirtieth day of November, both days inclusive, of each year, unless changed by proclamation of the governor in accordance with the provisions of this title, except that any big game, which has been lawfully taken in other states may be transported, shipped, possessed within this state when properly tagged with evidence that it has been lawfully taken.

§ 4. Amendment.) Section 20-0603 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0603. Legal Size Fish.) No person at any time, shall take, catch, kill, have in his possession or under his control any fish whose size is less than that prescribed and made legal by the governor's order and proclamation. Any person catching any fish that is under the legal size limit, immediately shall return the same to the water from which it was taken, with as little harm as possible to such fish. Fish of a species abounding in the waters of this state, which has been legally taken outside of this state, may be possessed, transported or shipped in this state, but evidence of having been legally taken shall accompany such fish, except that this provision shall not apply to persons, firms or corporations that peddle fish or sell such fish from a permanently located wholesale fish market, jobbing house or other place for the wholesale marketing of fish or grocery store or retail fish market which may legally possess such fish taken in other states by complying with section 20-0610.

Approved March 14, 1959.

CHAPTER 203

S. B. No. 106
(Freed and Krause)

REINSTATEMENT OF FISHING LICENSES

AN ACT

To amend and reenact section 20-0337 of the North Dakota Revised Code of 1943, relating to forfeiture and reinstatement of fishing licenses.

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

§ 1. **Amendment.)** Section 20-0337 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0337. Violators to Forfeit Licenses or Permits: Forfeited Licenses or Permits Not To Be Replaced; Reinstating License or Permit.) Any person convicted of violating any of the provisions of this title, in addition to the fine and imprisonment provided, shall forfeit any license or permit held by him for the privileges he has violated, and no license or permit shall be issued to such person, except as hereinafter provided, for the remainder of the year in which such violation occurred. However, in the case of a forfeiture of a fishing license for a first violation, such license or permit shall be reinstated thirty days from the date of such forfeiture.

Approved March 10, 1959.

CHAPTER 204

H. B. No. 684
(Schuler, Saugstad, Goebel)

HUNTING BLINDS

AN ACT

To amend and reenact section 20-0407 of the North Dakota Revised Code of 1943, relating to the use of blinds in hunting.

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

§ 1. **Amendment.)** Section 20-0407 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0407. Blinds, Boats, and Decoys Lawfully Usable in Taking Ducks and Geese; When.) Stationary blinds on land, boats anchored in natural cover, blinds in waters within natural cover, and artificial decoys may be used in the taking of wild ducks and geese. In the taking of such waterfowl the use, directly or indirectly, of live duck or goose decoys shall not be permitted.

Approved March 13, 1959.

CHAPTER 205

H. B. No. 564
(Saugstad, Wheeler,)
(Magnuson, Breum)

COLOR OF CLOTHING OF HUNTERS

AN ACT

To amend and reenact section 20-0505 of the North Dakota Revised Code of 1943, relating to the displaying of red, yellow, or orange on clothing worn by all persons hunting big game and wild turkeys.

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

§ 1. Amendment.) Section 20-0505 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0505. Red, Yellow, or Orange Color To Be Displayed by Hunters of Wild Turkeys and Big Game.) All persons shall wear red, yellow, or orange caps while hunting big game animals or wild turkeys. In addition every person, while hunting big game animals or wild turkeys shall have one hundred and forty-four square inches of red, yellow, or orange color conspicuously displayed on his back and one hundred and forty-four square inches of red, yellow, or orange conspicuously displayed on his chest.

Approved March 14, 1959.

CHAPTER 206

H. B. No. 555
(Strege and Stallman)

ILLEGAL METHODS OF TAKING MINNOWS

AN ACT

To amend and reenact section 20-0607 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the taking of minnows, other than for resale, by the use of a dip net, minnow trap, or minnow seine.

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

§ 1. Amendment.) Section 20-0607 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-0607. Illegal Methods for Taking Fish.) No person except as provided in section 20-0606 shall lay, set or use any drug, poison, lime, medicated bait, fish berries, dynamite or other lethal or injurious substance whatever; or lay, stretch or place any tip-up snare, trap, set or trot line, wire string, rope or cable of any sort in any of the waters of this state for the purpose of catching, taking, killing or destroying any fish. However, any person may take minnows by the use of a minnow trap or dip net not exceeding twenty-four inches in diameter or thirty-six inches in depth. A minnow seine not more than twenty-five feet in length may be used, however, by those persons holding a bait vendor's license for the taking of minnows for bait. Except as otherwise provided for in this section, dip nets may only be used as an aid in landing fish which have been legally taken by hook and line. One minnow trap per license holder, other than those holding bait vendor's license, may be used for the purpose of taking bait minnows. Such trap shall not be larger than specified in the governor's proclamation and shall be emptied at least once in every forty-eight hour period.

Approved March 14, 1959.

CHAPTER 207

S. B. No. 60
(Wadeson)

NONMIGRATORY WATERFOWL SEASON; REPEAL

AN ACT

To amend and reenact subsection 2 of section 20-0802 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the nonmigratory waterfowl bag limit and to repeal section 20-0806 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to nonmigratory waterfowl season.

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

§ 1. Amendment.) Subsection 2 of section 20-0802 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. A bag limit on migratory waterfowl which is less than the federal bag limit thereon;

§ 2. Repeal.) Section 20-0806 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 10, 1959.

CHAPTER 208

H. B. No. 561
(Saugstad, Wheeler, Magnuson, Breum)

BIG GAME, WILD TURKEYS

AN ACT

To amend and reenaact section 20-0803 of the 1957 Supplement to the North Dakota Revised Code of 1943, which is section 2 of chapter 163 of the North Dakota Session Laws of 1953, relating to eligibility to apply for a license to hunt big game; to provide for authority of the governor to proclaim a permit season for taking wild turkey and to provide for a fee for such permits; and to repeal section 20-0803 of the 1957 Supplement to the North Dakota Revised Code of 1943, which is section 2 of chapter 156 of the North Dakota Session Laws of 1953, relating to contents of the governor's order or 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 20-0803 of the 1957 Supplement to the North Dakota Revised Code of 1943, section 2 of chapter

163 of the North Dakota Session Laws of 1953, is hereby amended and reenacted to read as follows:

20-0803. 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 apply for one such license for each farmstead unit in each consecutive season.

§ 2. Governor's Proclamation Relating to the Taking of Wild Turkeys.) The governor may by proclamation provide for a permit season to take wild turkeys in such manner, number, places and times as shall be deemed to be in the best interests of this state. The fee for a wild turkey permit shall be three dollars, provided however, that all applicants must have a resident hunting license.

§ 3. Repeal.) Section 20-0803 of the 1957 Supplement to the North Dakota Revised Code of 1943, which is section 2 of chapter 156 of the North Dakota Session Laws of 1953 is hereby repealed.

Approved March 14, 1959.

CHAPTER 209

H. B. No. 708
(Strege and Stallman)

DEPOSIT OF REFUSE UNLAWFUL

AN ACT

To create and enact section 20-1114 of the North Dakota Revised Code of 1943, prohibiting littering and deposit of refuse in and upon game refuges, lakes, rivers, parks, recreation areas, and in the immediate vicinity thereof, and providing a penalty for violations.

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

§ 1.) Section 20-1114 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

20-1114. The Deposit of Refuse Unlawful.) The deposit or leaving of any litter, refuse, rubbish, bottles, cans, or other waste materials on or about any game refuge, lake or river, public park or recreation area, or in the immediate vicinity thereof is prohibited. Any person violating any provision of this section is guilty of a misdemeanor and shall be punished by a fine of not more than $100.00 or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment. Enforcement of the provisions of this Act shall be within the jurisdiction of police officers, sheriffs and deputies, as well as state game and fish department enforcement personnel.

Approved March 14, 1959.

CHAPTER 210

H. B. No. 545
(Poling, Berntson, Saugstad)
(From LRC Study)

PROOF OF KILL ON PREDATORY ANIMALS

AN ACT

To amend and reenact sections 20-1302, 20-1303, 20-1304, 20-1305, 20-1309, 20-1402, 20-1403, 20-1404, 20-1405, 20-1406, and 20-1410 of the North Dakota Revised Code of 1943, relating to proof of kill for the collection of bounties on predatory animals and birds, and to penalties.

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

§ 1. Amendment.) Section 20-1302 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1302. Method and Time of Claiming Bounties on Wolves and Coyotes.) The state game and fish commissioner shall determine what part of the animal, if any, shall be exhibited for proof of kill for the collection of a bounty. Any person having killed an animal for which a bounty is provided in section 20-1301 may obtain the bounty by:

1. Exhibiting to the county auditor of the county in which the animal was killed the proof of kill as determined by the game and fish commissioner;
2. Filing with such auditor an affidavit stating that he killed such animal or caused it to be killed, and the name of the county in which, and the date upon which, the same was killed;
3. Filing with such auditor statements from two resident taxpayers of the county stating that they are acquainted with the person exhibiting the proof of kill, and that, to the best of their knowledge and belief, the animal from which the proof of kill exhibited was taken was killed within the limits of the county.

The proof of kill must be exhibited and the affidavit and statements filed within ninety days after the date upon which the animal was killed.

§ 2. Amendment.) Section 20-1303 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1303. Proof of Kill To Be Examined and Marked; Certificate Required; Issuance; Contents.) The county auditor and the county treasurer, or in the latter's absence, the clerk of

the district court, shall examine minutely and count all proof of kill exhibited for the purpose of obtaining the bounty. If such examination discloses that the proof of kill is adequate, the county auditor shall mark the proof of kill in such manner as the game and fish commissioner has directed. The county auditor then shall make out and deliver to the person exhibiting the proof of kill a certificate duly signed by him in his official capacity and attested by the other officer acting with him, showing:

1. The number and kinds of proofs of kill marked;
2. The name of the person exhibiting the proof of kill;
3. The filing of the affidavit and statements, as required in section 20-1302; and
4. The making of the examination required in this section.

§ 3. Amendment.) Section 20-1304 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1304. Additional Proof of Time, Place, and Manner of Killing Animal Required; When.) If any county auditor or officer acting with him has reason to believe that any person exhibiting a proof of kill, as provided in this chapter, has evaded the provisions of this chapter to obtain the bounty unlawfully, such officer shall require satisfactory evidence of the time, place, and manner of the killing of the animal from which such proof of kill was taken.

§ 4. Amendment.) Section 20-1305 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1305. Record of Proof of Kill Exhibited and Marked To Be Kept by County Auditor; Contents.) The county auditor shall keep in a bound book an official record of all proofs of kill marked. Such record shall show:

1. The date the proofs of kill were marked;
2. The number and kinds of proofs of kill marked;
3. The name of the person exhibiting such proofs of kill; and
4. The names of the taxpayers submitting statements with reference thereto.

§ 5. Amendment.) Section 20-1309 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1309. General Penalty.) Any person who shall present to a county auditor any proof of kill which has been marked previously, with intent to defraud this state, and any officer who shall sign any certificate provided for in this chapter without first counting the proofs of kill exhibited to him,

or who shall intentionally evade any of the provisions of this chapter, 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.

§ 6. **Amendment.)** Section 20-1402 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1402. Method and Time of Claiming Bounties on Magpies Killed.) The state game and fish commissioner shall determine what part of the magpie, if any, shall be exhibited for the proof of kill for the collection of a bounty. Any person who has killed a magpie may obtain the bounty by:

1. Exhibiting the proof of kill of such bird to the county auditor of the county in which the magpie was killed;
2. Filing with such auditor an affidavit stating that he killed such bird or caused it to be killed and giving the name of the county in which, and the date upon which, the same was killed; and
3. Filing statements from two resident taxpayers of the county stating that they are acquainted with the person exhibiting the proof of kill, and that, to the best of their knowledge and belief, the bird from which the proofs of kill exhibited were taken was killed within the limits of the county.

The proofs of kill must be exhibited and the affidavit and statements filed within sixty days after the date upon which the bird was killed.

§ 7. **Amendment.)** Section 20-1403 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1403. Proofs of Kill To Be Examined; Certificate Required; Issuance; Contents.) The county auditor and the county treasurer, or in the latter's absence, the clerk of the district court, shall examine minutely and count all proofs of kill exhibited for the purpose of obtaining the bounty. If such examination discloses that the proofs of kill are from the magpie, the county auditor shall make out and deliver to the person exhibiting the proof of kill a certificate duly signed by him in his official capacity and attested by the other officer acting with him, showing:

1. The number of proofs of kill exhibited;
2. The name of the person exhibiting the proof of kill;
3. The filing of the affidavit and statements, as required in section 20-1402; and
4. The making of the examination required in this section.

§ 8. Amendment.) Section 20-1404 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1404. Additional Proof of Time, Place, and Manner of Killing of Magpies Required; When.) If any county auditor or officer acting with him has reason to believe that any person exhibiting the proofs of kill of any bird, as provided in this chapter, has evaded the provisions of this chapter to obtain the bounty unlawfully, such officer shall require satisfactory evidence of the time, place, and manner of the killing of the bird from which such proofs of kill were taken.

§ 9. Amendment.) Section 20-1405 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1405. Record of Proofs of Kill Exhibited To Be Kept by County Auditor; Contents.) The county auditor shall keep in a bound book an official record of all proofs of kill exhibited to him as is provided in section 20-1402. The record shall show:

1. The date the proofs of kill were exhibited;
2. The number of proofs of kill exhibited;
3. The name of the person exhibiting the same; and
4. The names of the taxpayers submitting statements with reference thereto.

§ 10. Amendment.) Section 20-1406 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1406. Retention and Destruction of Proofs of Kill by County Auditor.) The county auditor shall retain all proofs of kill which have been exhibited to him as is provided in section 20-1402 and shall cause the same to be destroyed.

§ 11. Amendment.) Section 20-1410 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1410. General Penalty.) Any person who, with intent to defraud this state, shall exhibit any proof of kill which is not a part of a magpie or on which a bounty has been paid, and any officer who shall sign any certificate provided for in this chapter without first counting the proofs of kill exhibited to him, or who shall intentionally evade any of the provisions of this chapter, 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 11, 1959.

GOVERNMENTAL FINANCE

CHAPTER 211

H. B. No. 842
(Stockman, Burk, Neukircher, Johnston)

THE 1959 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 1959 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 1959 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 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 apropriated 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 or 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 13, 1959.

CHAPTER 212

H. B. No. 543
(Berntson, Hilleboe, Poling, Rolfsrud,)
(Schmalenberger, Vinje)
(From LRC Study)

TRANSFER OF CERTAIN FUNDS

AN ACT

To transfer certain funds now deposited in the Bank of North Dakota, and all future revenue collections, to the general fund of this state, and to amend and reenact section 6-0634 of the North Dakota Revised Code of 1943, and sections 2-0511, 2-0518, 43-2208, and 57-3910 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the transfer of certain moneys to the general fund of this state.

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

§ 1. Transfer of Administration of Bismarck Dental Demonstration Fund.) The state health department is hereby directed to relinquish all administrative control of the "Bismarck Dental Demonstration Fund", which is deposited in the Bank of North Dakota, and to return the administration of such fund back to the Bismarck Chamber of Commerce.

§ 2. Transfer of Stallion Registration Fund.) All moneys in the "Stallion Registration Fund" on deposit in the Bank of North Dakota, are hereby transferred to the general fund.

§ 3. Transfer of Division of High School Correspondence Study Fund.) All moneys in the "Division of High School Correspondence Study Fund" on deposit in the Bank of North Dakota shall be deposited in the general fund, together with all future revenue collections by the division of high school correspondence study department.

§ 4. Transfer of State Water Conservation Commission Fund (Yellowstone Pumping Irrigation District).) All moneys in the "State Water Conservation Commission Fund" received from the collection of taxes from the Yellowstone Pumping Irrigation District, now on deposit in the Bank of North Dakota are hereby transferred to the general fund.

§ 5. Transfer of State Water Conservation Commission Fund.) All moneys in the "State Water Conservation Commission Fund" received from the various political subdivisions in payment of water surveys by the commission are hereby transferred to the general fund, together with all future revenue collections received by the State Water Conservation Commission from such water surveys.

§ 6. Transfer of North Dakota State Water Conservation Commission Fund (Climate and Weather).) All moneys in the "North Dakota State Water Conservation Commission Fund" received from the sale of a magazine entitled "Climate and Weather", on deposit in the Bank of North Dakota are hereby transferred to the general fund, together with all future revenue collections received by the State Water Conservation Commission from the sale of such magazine.

§ 7. Transfer of Securities Commissioner Oil and Gas Account Fund.) All moneys in the "Securities Commissioner Oil and Gas Account Fund" on deposit in the Bank of North Dakota are hereby transferred to the general fund.

§ 8. Amendment.) Section 43-2208 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-2208. 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.

§ 9. Transfer of Tax Commissioner Fund (Postage Account).) All moneys in the "Tax Commissioner Fund" received by the state tax commissioner from cigarette retailers for the payment of return postage for cigarette stamps, now on deposit in the Bank of North Dakota are hereby transferred to the general fund.

§ 10. Amendment.) Section 6-0634 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0634. Unclaimed Dividends of Credit Unions.) The state examiner shall deposit all unpaid dividends promptly in the general fund. The state examiner is authorized to issue a voucher for the payment of such dividends from the general fund to the persons respectively entitled thereto, for a period of one year after liquidation of the credit union and such funds are hereby appropriated from the general fund for this purpose.

§ 11. Transfer of Liquidated Credit Union Account Fund.) All moneys in the "State Examiner Trustee, Liquidated Credit Union Account Fund" on deposit in the Bank of North Dakota are hereby transferred to the general fund.

§ 12. Amendment.) Section 57-3910 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3910. Payment of Tax, Bond, Creation of Lien.)

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 quarterly period, the first of such periods being the period commencing with July 1, 1957;
2. Every retailer, at the time of making the return required hereunder, shall compute and pay to the commissioner the tax due for the preceding period;
3. The commissioner, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this chapter, may require any person subject to such tax to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the commissioner may fix, to secure the payment of any tax and penalties due or which may become due from such person. In lieu of such bond, securities approved by the commissioner in such amounts as he may prescribe, may be deposited with him, which securities shall be kept in the custody of the commissioner and may be sold by him at public or private sale, without notice to the depositor thereof, if it becomes necessary so to do in order to recover any tax and penalties due. All moneys received by the state tax commissioner under the provisions of this section shall be deposited in the general fund. The state tax commissioner shall issue a voucher for the unused money received by him to the persons entitled thereto and such funds are hereby appropriated from the general fund for such purposes.

§ 13. Transfer of Sales Tax Division Fund Bond Account.) All moneys in the "Sales Tax Division Fund Bond Account" received by the state tax commissioner, under the provisions of section 57-3911 of the 1957 Supplement to the North Dakota Revised Code of 1943, on deposit in the Bank of North Dakota are hereby transferred to the general fund.

§ 14. Transfer of Aeronautics Commission Fund.) All moneys in the "Aeronautics Commission Fund" which are received from the provisions of sections 2-0511 and 2-0518 of the 1957 Supplement to the North Dakota Revised Code of 1943, on deposit in the Bank of North Dakota are hereby transferred to the general fund, together with all future revenue received by the commission from the provisions of these sections. The

county share of these moneys shall be issued to them from the general fund upon voucher of the commission and such funds are hereby appropriated from the general fund for this purpose.

§ 15. Amendment.) Section 2-0511 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2-0511. Aircraft Registration; Fees.) Every aircraft operating within this state for more than thirty (30) days shall be registered with the commission for each year in which the aircraft is operated within this state, subject to rules and regulations established by the commission. The commission shall charge for each such registration, and for each annual renewal thereof, the following fees:

Gross Weight in Pounds	License Fees
0 to 1,000	$ 15.00
1,001 to 1,500	18.75
1,501 to 2,000	22.50
2,001 to 2,500	30.00
2,501 to 3,000	37.50
3,001 to 3,500	45.00
3,501 to 4,000	52.50
4,001 to 5,000	60.00
5,001 to 6,000	75.00
6,001 to 7,000	90.00
7,001 to 8,000	105.00
8,001 to 9,000	120.00
9,001 to 10,000	135.00
10,001 to 15,000	150.00
15,001 to 20,000	225.00
20,001 to 30,000	300.00
30,001 to 40,000	450.00
40,001 to 50,000	600.00
50,001 to 75,000	750.00
75,001 to 100,000	1,125.00
100,001 and over	1,500.00

The above fees to be reduced ten percent (10%) each year after the initial registration until the fee reaches a figure equal to fifty percent (50%) of the original registration fee, which shall be the fee each year thereafter. All weights shall be based upon the maximum permissible take-off weight. The above registration fee shall be in lieu of personal property taxes upon such aircraft. All fees received from the provisions of this section shall be deposited in the general fund of this state. Seventy-five percent (75%) of each registration fee so collected by the commission shall be returned upon voucher of the commission from the general fund and such funds are

hereby appropriated from the general fund, to the treasurer of the county of the registrant's residence or if the registrant is not a resident of North Dakota then to the treasurer of the county in which is located the airport at which the registrant's aircraft is based and the county treasurer shall pay such remittances over to the municipality operating an airport within said county; provided that if there is more than one publicly owned and operated airport within said county, that the said moneys shall be prorated between said public airports on the same ratio that the assessed value of each municipality operating an airport shall bear to the total assessed value of all municipalities operating airports within said county; and if there are no publicly owned or operated airports in said county, said remittances so paid to the county treasurer shall be held and retained by said treasurer in a separate fund to be used in the future for airport purposes.

§ 16. Amendment.) Section 2-0518 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2-0518. License for Aerial Spraying: Regulations; Penalties.) No person shall engage in aerial spraying without first obtaining a license for each aircraft used in such activities as provided in this section. Application shall be made for such license to the North Dakota aeronautics commission upon forms provided by the commission for such purpose. Upon the payment of a license fee of fifteen dollars for each aircraft to be licensed, and upon compliance with such reasonable rules and regulations as may be promulgated by the aeronautics commission for the safety and protection of persons and property, the commission shall issue a license for such aircraft to be used in aerial spraying. Persons engaged in private spraying shall be required to pay same fee for the use of aircraft for this purpose, and shall comply with all rules and regulations promulgated by the commission for aerial spraying. The license and fees provided in this section shall be in addition to any other license or registration required by law, and the proceeds shall be deposited in the general fund. One-half of the proceeds shall be transferred to the county treasurer from the general fund upon voucher of the commission, to be divided equally to approved publicly owned or operated airfields in said county, and such funds are hereby appropriated from the general fund for such purposes.

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

Approved February 11, 1959.

CHAPTER 213

H. B. No. 542
(Berntson, Hilleboe, Poling, Rolfsrud,)
(Schmalenberger, Vinje)
(From LRC Study)

TRANSFER OF CERTAIN FUNDS

AN ACT

To amend and reenact section 53-0607 of the North Dakota Revised Code of 1943, relating to the transfer and disposition of funds in the attorney general inspector license fund, and to transfer all moneys in the World War II adjusted compensation administration fund, to the general fund of this state.

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

§ 1. Amendment.) Section 53-0607 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

53-0607. License Fee: How Disposed of.) All license fees prescribed in this chapter shall be paid to the chief clerk under the direction and supervision of the attorney general and by him shall be paid promptly to the state treasurer, who shall deposit all such moneys in the general fund of this state.

§ 2.) All moneys in the World War II adjusted compensation administration fund in the state treasury, as provided for in section 37-2111 of the 1953 Supplement to the North Dakota Revised Code of 1943, are hereby transferred to the general fund of this state.

Approved February 6, 1959.

CHAPTER 214

H. B. No. 541
(Berntson, Hilleboe, Poling, Rolfsrud,)
(Schmalenberger, Vinje)
(From LRC Study)

TRANSFER OF CERTAIN STATE FUNDS

AN ACT

To transfer and dispose of certain special funds and nonreverting appropriations, and to amend and reenact sections 54-2714, and 54-2715 of the North Dakota Revised Code of 1943, and sections 6-0746, 6-0748, 6-0749, 39-1702, 54-3809, and 57-3204 of the 1957 Supplement to the North Dakota Revised Code of 1943, and to repeal section 6-0751 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the transfer and disposition of moneys in certain special funds and nonreverting appropriations, and making an appropriation.

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

§ 1.) All moneys in the livestock dealers fund as provided for in section 36-0409 of the North Dakota Revised Code of 1943, as amended, in the state treasury are hereby transferred to the general fund of this state.

§ 2. Transfer of Purchasing Department Fund; Standing Appropriation.) All moneys in the purchasing department fund and any future collections of the purchasing department or its successor are hereby transferred to the general fund of this state. An amount not exceeding at any time the sum of seventy-five thousand dollars may be withdrawn upon voucher of the purchasing department or its successor from the general fund for the procurement and maintenance of an inventory of equipment and supplies for state departments and agencies and such amounts, not exceeding the sum of seventy-five thousand dollars at any time is hereby appropriated as a standing appropriation for this purpose.

§ 3. Amendment.) Section 6-0746 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0746. Disposition of Unclaimed Dividends Delivered to State Examiner.) Whenever any unclaimed dividend delivered to the state examiner by the receiver of an insolvent bank pursuant to the provisions of section 6-0738 of the North Dakota Revised Code of 1943, shall have remained in the possession of the state examiner for a period of fifteen years from the date of delivery to said examiner, it shall be paid

to the state treasurer who shall credit such payments to the general fund of this state. Any unclaimed dividends credited to such fund may thereafter be paid to the lawful owner thereof, his heirs, executors, administrators, or assigns when proven to the satisfaction of the state examiner that he is legally entitled thereto. Such payment shall be made by a warrant drawn by the state auditor and issued in payment of a claim voucher certified to by the claimant and approved by the state examiner.

§ 4. Amendment.) Section 6-0748 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0748. Fees and Charges That May Be Made by State Examiner.) The state examiner may make such charges and exact such fees as may be reasonable and equitable for the execution of deeds, satisfactions, assignments or other documents required for the purpose of transferring undistributed assets or for the purpose of correcting public records and quieting title to property in which the insolvent bank has or has had an apparent interest. Such charges and fees shall be paid to the state treasurer and by him be credited to the general fund of this state.

§ 5. Amendment.) Section 6-0749 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0749. Investment of Moneys in the Hands of the State Examiner.) Moneys remaining in the hands of the state examiner may be invested by the state examiner in bonds of the United States government or bonds of the state of North Dakota or he may deposit such moneys in the Bank of North Dakota and the earnings from the interest on such investments or deposit shall be paid to the state treasurer and by him be credited to the general fund of this state.

§ 6. Amendment.) Section 39-1702 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1702. Unsatisfied Judgment Fund Established: When Collection of Fee Suspended.) The fees paid pursuant to section 39-1701 shall be deposited with the state treasurer, who shall credit the same to the general fund of this state and maintain a separate accounting thereof. Judgments recovered under the provisions of chapter 39-17 of the 1957 Supplement to the North Dakota Revised Code of 1943 shall be paid from moneys deposited in the general fund under the provisions of this section and such moneys are hereby appropriated for such purpose. It is also provided that there shall

be a continuing appropriation out of the fund of all moneys required for administration purposes but not to exceed ($35,000.00) thirty-five thousand dollars annually for administration of the unsatisfied judgment fund. If on the 1st day of June in any year the amount of money standing to the credit of the unsatisfied judgment fund in the general fund is $100,000.00 or more, the requirement for the payment of such fee shall be suspended during the succeeding year and until such year in which, on the 1st day of June of the previous year, the amount of such fund is less than $100,000.00 when such fee shall be reimposed and collected as provided herein.

§ 7. **Amendment.)** Section 54-2714 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***54-2714. Cancellation of Outstanding Warrants.)** The state auditor, at the beginning of each fiscal year, shall certify to the state treasurer each warrant more than five years old which remains outstanding and unpaid, and shall show the number and amount thereof, and the fund on which it was drawn. Upon receipt of the certificate, the state treasurer shall issue his receipt for the amount of the outstanding warrants and shall credit such amount to the general fund of this state. Upon receipt of the said state treasurer's receipt, the state auditor shall charge the state treasurer with the amount of each warrant described in said certificate and shall cancel the same on his records.

§ 8. **Amendment.)** Section 54-2715 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

****54-2715. Procedure When Canceled Warrant Presented for Payment.)** If any canceled warrant subsequently should be presented for payment, the holder thereof shall execute a voucher for the amount, to which shall be attached the original warrant, or other satisfactory evidence of ownership of the warrant. The voucher when approved by the state auditor and the state auditing board shall be paid by the state auditor's warrant drawn on the general fund of this state.

§ 9. All moneys in the special fund of the state commission on alcoholism are hereby transferred to the general fund of this state.

§ 10. **Amendment.)** Section 54-3809 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-3809. Reimbursement for Treatment; Rates; Disposition of Revenue and Aid; Expenditures.) The commission, insofar

*Note: Section 54-2714 was also amended by chapter 372, section 107.
**Note: Section 54-2715 was also amended by chapter 372, section 108.

as may be possible, shall seek to be reimbursed by the patient or persons liable for the support of the patient for any or all items of expense incurred by the commission in connection with the care, custody, treatment, and rehabilitation and may make such financial arrangements concerning necessary expenses as it deems best. No patient shall be charged at a rate greater than actual cost of the care, treatment or rehabilitation furnished such patient. The commission may accept funds, property, or services from any source, and all revenue received by the commission from gifts, and grants in aid is hereby appropriated and shall be used in carrying out the provisions of this Act. All moneys received by the commission for reimbursement of expenses incurred by the commission in connection with the care, custody, treatment, and rehabilitation of any person, and from the sale of articles or services shall be deposited by the commission in the general fund of this state. Expenditures of any funds available to the commission shall be made upon vouchers signed by the chairman or the executive director of the commission.

§ 11. Amendment.) Section 57-3204 of the 1957 Supplement to the North Dakota Revised Cole of 1943 is hereby amended and reenacted to read as follows:

57-3204. Allocation of Tax.) The taxes imposed by this chapter upon car line companies and express companies shall be levied for the purpose of providing revenue for the payment of interest due or to accrue upon outstanding North Dakota real estate series bonds, and the state treasurer shall collect such taxes and shall deposit the same monthly to the credit of "real estate bond interest payment fund" established by section 54-3014, and the state board of equalization shall consider the revenue derived from the administration of this chapter in determining the necessity and amount of any tax to be levied for the benefit of such 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.

§ 12. Repeal.) Section 6-0751 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 16, 1959.

HEALTH AND SAFETY

CHAPTER 215

H. B. No. 598
(Wheeler, Aamoth, Dahlund, Burk)

AMBULANCE SERVICE

AN ACT

Relating to counties or municipalities of the state of North Dakota; providing for the establishment of ambulance service therein; and declaring an emergency.

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

§ 1.) Any county or municipality of the state of North Dakota, by itself, or in combination with any other county or municipality of the state of North Dakota, may, acting through its governing body, establish, maintain, contract for, or otherwise provide ambulance service for such county or municipality; and for this purpose, out of any funds of such county or municipality not otherwise committed, may buy, rent, lease or otherwise contract for all such vehicles, equipment or other facilities or services which may be necessary to effectuate such purpose.

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

Approved March 14, 1959.

CHAPTER 216

H. B. No. 565
(Van Sickle, Muggli, Aamoth,)
(Dahlund, Poling)

DISINTERMENT AND REMOVAL OF BODIES IN CEMETERIES

AN ACT

To provide for disinterment and removal of bodies in cemeteries under certain circumstances.

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

§ 1. Definitions.) In this Act, unless the context otherwise requires, the term:

1. "Human remains" or "remains" means the body of a deceased person, and includes the body in any stage of decomposition or cremated remains.
2. "Cemetery" means any one, or a combination of more than one, of the following, in a place used, or intended to be used, and dedicated, for cemetery purposes:
   a. A burial park, for earth interments.
   b. A mausoleum, for crypt or vault interments.
   c. A crematory, or a crematory and columbarium, for cinerary interments.
3. "Burial park" means a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes.
4. "Cemetery authority" includes a cemetery corporation, association, or other person owning or controlling cemetery lands or property.
5. "Cemetery business, cemetery businesses" and "cemetery purposes" are used interchangeably and mean any and all business and purposes requisite to, necessary for, or incident to, establishing, maintaining, operating, improving, or conducting a cemetery, interring human remains, and the care, preservation, and embellishment of cemetery property, including but not limited to, any activity or business designed for the benefit, service, convenience, education, or spiritual uplift of property owners or persons visiting the cemetery.

§ 2. Municipal Ordinance for Disinterment.) The governing body of any municipality may, by ordinance and under such rules and regulations as it may adopt, provide for the disinterring and removal of all human remains from any cemetery

which is within the municipality, or owned and controlled by the municipality and located without its boundaries, whenever the governing body finds that the further maintenance of all or any part of the cemetery as a burial place for the human dead threatens or endangers the health, safety, comfort or welfare of the public.

§ 3. **County Order for Disinterment.)** The board of county commissioners of any county may, by resolution and under such rules and regulations as it may adopt, order the disinterring and removal of all human remains from any cemetery which is within the county and outside the boundaries of any municipality, whenever the board finds that the further maintenance of all or any part of the cemetery as a burial place for the human dead threatens or endangers the health, safety, comfort or welfare of the public.

§ 4. **Declaration of Intent.)** The cemetery authority of any cemetery from which human remains are ordered removed by a municipal ordinance or county resolution adopted in accordance with this Act, shall declare its intention and purpose to disinter and remove the remains in accordance with such movement orders, and to reinter the remains in another cemetery or cemeteries outside the limits of the municipality or county or to deposit the remains in a mausoleum or columbarium.

§ 5. **Contents of Declaration.)** Any resolution or declaration of intention to disinter and remove human remains pursuant to this Act adopted or declared by any cemetery authority shall specify and declare that at any time after the expiration of six months from and after the first publication of the notice of the resolution or declaration, the human remains then remaining in all or any part of the cemetery will be removed by the cemetery authority.

§ 6. **Publication.)** Notice of a declaration of intention to remove the human remains from all or any part of any cemetery shall be given by publication in a newspaper of general circulation published in the municipality or county in which the cemetery or the portion from which removals are to be made is situated. Publication shall be at least once each week for eight successive weeks.

§ 7. **Heading and Contents.)** The notice shall be entitled "Notice of Declaration of Intention to Remove Human Remains from . . . . (insert name of cemetery) in accordance with the provisions of . . . . (insert authority such as ordinance, resolution or statute) of the (insert name of municipality or county) and shall specify a date not less than six months after the first publication when the cemetery authority causing the

notice to be published will proceed to remove the remains then remaining in such cemetery or the portion from which removals are to be made.

§ 8. Posting of Copies.) Copies of the notice shall within ten days after the first publication be posted in at least three conspicuous places in the cemetery or the portion from which removals are to be made.

§ 9. Mailing to Plot Owners.) A copy of the notice shall be mailed to every person who owns, holds, or has the right of interment in, any plot in the cemetery or part affected, whose name appears upon the records of the cemetery. The notice shall be addressed to the last known post office address of the plot owner as it appears from the records of the cemetery, and if his address does not appear or is not known, then to him at the city, or city and county, in which the cemetery land is situated. If such persons who own, hold, or have a right of interment in, any plot of the cemetery or part affected are unknown or cannot be located, the publication of the notice of declaration of intent to disinter provided for in section 6 of this Act shall be deemed to be proper and sufficient notice to such persons.

§ 10. Mailing to Heirs of Persons Interred.) The notice shall also be mailed to each known living heir at law of any person whose remains are interred in the cemetery, if his address is known. If the heirs of any person whose remains are interred in the cemetery are unknown or cannot be found, the publication of the notice of the declaration of intent to disinter provided for in section 6 of this Act shall be sufficient and proper notice to such persons.

§ 11. Notice of Desire To Be Present During Disinterment and Reinterment.) At any time before the date fixed for the removal of remains by the cemetery authority, any relative or friend of any person whose remains are interred in the cemetery from which removals are to be made may give the cemetery authority written notice that he desires to be present when the remains are disinterred or are reinterred.

The notice to the cemetery authority shall specify:

1. The name of the person whose remains are to be disinterred.
2. As accurately as possible, the plot where the remains are interred.
3. The date of interment.
4. An address at which the required notices may be given by the cemetery authority.

The notice may be delivered, or forwarded by registered or certified mail, to the office or principal place of business of the cemetery authority proposing to make removals.

After receipt of such notice before the date fixed for the removal of the remains by the cemetery authority, it shall give written notice to the person requesting it of the time when the remains shall be disinterred and of the time when and the place where they will be reinterred. This notice shall be given by delivery, or by mail, to the person requesting it at least ten days prior to the date specified for the disinterment of the remains.

Whenever a request of notice is given by a relative or friend, the cemetery authority shall not disinter the remains referred to until the notice of the time of disinterment is given the relative or friend, as provided in this section.

§ 12. Voluntary Removal.) At any time prior to the removal by a cemetery authority of the remains of any person, any relative or friend of the decedent may voluntarily remove and dispose of the remains. The person desiring to cause the removal shall, prior to removal, deliver to the cemetery authority an affidavit stating the name of the decedent whose remains it is desired to remove and, so far as is known to affiant, the date of burial and the names and places of residence of the heirs at law of the decedent. If the person desiring to cause the removal is not an heir at law of the person whose remains he desires to remove, the removal shall not be made by him until he has delivered to the cemetery authority the written consent of a majority of the known heirs at law of the decedent who are residents of this state. The statements in the affidavit are sufficient evidence of the number, names, and residences of the heirs at law for all of the purposes of this Act, and the written consent of the majority of the heirs at law named in the affidavit is sufficient authority for the cemetery authority to permit the removal of the remains.

§ 13. Removal by Purchaser or Owner of Plot or Right of Interment.) Removal of all remains in a plot without the filing of an affidavit of consent may be caused by any of the following:

1. The purchaser or owner of the plot.
2. The purchaser or owner of the right of interment in the plot.
3. Any one of joint purchasers or owners of the plot or of the right of interment in the plot.

§ 14. Removal by Heirs of Grantee of Plot or Right of Interment; Affidavit.) If the right, title or interest of any grantee of any plot or of the right of interment therein has passed by succession to the heir or heirs at law of the grantee without distribution by order of court, the heir or heirs at law may remove the remains of persons interred in the plot. The affi-

davit of any heir at law setting out the facts of heirship shall be accepted by the cemetery authority as sufficient evidence of the fact of the transfer.

§ 15. Removal of Appurtenances to Interment Space.) Whenever remains are removed by a relative or friend of a decedent, under the provisions of this Act, the person causing the removal is entitled to remove any vault, monument, headstone, coping or other improvement appurtenant to the interment space from which the remains have been removed. The affidavit or written consent given under the provisions of this Act are sufficient authority for the cemetery authority to permit the removal of any such appurtenance. If such appurtenances remain on the plot for more than ninety days after the removal of the last human remains, they may be removed and disposed of by the cemetery authority, and thereafter no person claiming any interest in the plot, or any such appurtenance shall maintain in any court any action in relation to any such appurtenance.

§ 16. Removal and Reinterment by Cemetery Authority.) After the completion of notice, and after the expiration of the period of six months specified in the notice, any cemetery authority may cause the removal of all human remains interred in the cemetery or portion from which the remains have been ordered removed, and may reinter such remains in any other place in this state where interments are permitted, without further notice to any person claiming any interest in the cemetery, or portion affected, or in the remains interred therein. Whenever any remains are removed from any cemetery or portion of a cemetery pursuant to this Act by a cemetery authority, such remains shall be reinterred as near as possible to the cemetery from which such remains were taken. The remains of each person reinterred shall be placed in a separate and suitable receptacle and decently and respectfully interred under rules and regulations adopted by the cemetery authority making the removal, and the state department of health of the state of North Dakota.

§ 17. Disposal of Lands.) Whenever human remains have been ordered removed under this Act, and the cemetery authority has made and published notice of intention to remove such remains, the portions of the cemetery in which no interments have been made, and those portions from which all human remains have been removed, may be sold, mortgaged, or otherwise encumbered as security for any loan or loans made to the cemetery authority. No order of any court shall be required prior to the making of any such sale, mortgage, or other encumbrance of such lands; but any sale of such cemetery lands made by any cemetery corporation or

association controlled by a governing body shall be fairly conducted and the price paid shall be fair and reasonable and all such sales shall be confirmed, as to the fairness and reasonableness of the price paid, by the district court of the county in which the lands are situated.

§ 18. Recordation of Removal of Human Remains; Acknowledgment.) After the removal of all human remains interred in any part or the whole of the cemetery lands, the cemetery authority shall file for record in the office of the county recorder of the county or municipality in which the lands are situated a written declaration reciting that all human remains have been removed from the lands described in the declaration.

The declaration shall be acknowledged in the same manner as acknowledgments of deeds to real property by the president and secretary, or other corresponding officers of the cemetery authority, or by the person owning or controlling the cemetery lands, and thereafter any deed, mortgage, or other conveyance of any part of such lands is conclusive evidence in favor of any grantee or mortgagee named therein, and his successor or assigns, of the fact of the complete removal of all human remains therefrom.

§ 19. Proceeds of Sale of Land; Use.) Money payable or to become payable as the purchase price or on account of the purchase price of unused cemetery lands, or lands from which all remains have been removed is not subject to garnishment, attachment or execution, but shall be used exclusively for any or all of the following purposes:

1. Acquisition of lands and improvements for cemetery purposes.
2. Disinterment, removal, and reinterment of bodies, pursuant to this Act.
3. Endowment care of graves, markers, and cemetery embellishments.
4. The payment of expenses incidental to the disinterment, removal, and reinterment.
5. Any other purpose consistent with the objects for which the cemetery authority owning the cemetery is created or organized.

§ 20. Use of Funds to Pay Expense of Removal.) Whenever any cemetery corporation or association has declared for removal and has published notice of its intention to make removals under this Act, it may employ any money in its treasury to defray the expense of removal, including:

1. The expense of purchasing or otherwise providing a suitable place for the interment of remains in any other cemetery.

2. The expenses of disinterment, transportation and reinterment.
3. The expenses of removal and disposal of vaults, monuments, headstones, copings, or other improvements.
4. All necessary expenses incident to the sale or mortgaging of any land from which removals have been made.
5. All other expenses necessarily incurred in carrying out the removal, and reinterment, or disposing of remains so removed.
6. All expenses incident to any of the above purposes.

§ 21. Endowment Care Fund for Cemetery on Reinterment.) From the money remaining in the treasury of the cemetery corporation or association after completing the removal and reinterment of the remains from its cemetery lands and the payment of all incidental expenses, the cemetery corporation or association shall set aside an adequate endowment care fund for the maintenance and care of the cemetery in which the remains have been interred. After making provisions for an endowment care fund to provide for maintenance and care, the governing body of the cemetery corporation or association may use such portion of the funds then remaining as it may determine to be just and fair in reimbursing those who voluntarily and at their own cost and expense removed the remains of friends or relatives from the cemetery lands from which the remains were ordered removed. Such reimbursement shall not be greater in amount than the average cost to the cemetery corporation or association for removals directly made by it. Any balance remaining in the fund may be used for such other purposes as the cemetery corporation or association may lawfully declare.

§ 22. Use of Funds for Perpetual or Other Care or Improvement of Cemetery of Reinterment.) Whenever any cemetery corporation or association having a governing body has caused the removal of remains from all or any portion of its cemetery and has funds in its treasury which are not required for other purposes, it may set aside, invest, use, and apply from such unexpended funds such sum as, in the judgment of the governing body, it is necessary or expedient to provide for the perpetual or other care or improvement of any cemetery in which the disinterred remains may be reinterred. In lieu of itself investing, using or applying the funds for care or improvement, the cemetery corporation or association may transfer the funds to any other corporation under such conditions and regulations as in the judgment of the governing body will insure their application to the purposes of care or improvement. Before any such transfer of funds is made, the cemetery corporation or association shall obtain an order authorizing the transfer from the district court of the county

where the cemetery or portion from which the remains were removed is situated. The order shall be obtained upon petition of the cemetery corporation or association, after such notice by publication as the court may direct, and any member or former plot owner may support or oppose the granting of the order by affidavit or otherwise. Before making the order, proof shall be made to the satisfaction of the court that notice has been given and that it is for the best interest of the cemetery corporation or association that the transfer be made.

§ 23. Interment of Decedent in Religious Cemetery; Compliance With Religious Requirements in Removing Remains.) The heirs, relatives or friends of any decedent whose remains have been interred in any cemetery owned, governed or controlled by any religious corporation or by any church or religious society of any denomination or by any corporation sole administering temporalities of any religious denomination, society or church, or owned, governed or controlled by any person or persons as trustee or trustees for any religious denomination, society or church shall not disinter, remove, reinter or dispose of any such remains except in accordance with the rules, regulations and discipline of such religious denomination, society or church.

The officers, representatives or agents of the church or religious society shall be the sole judge of the requirements of the rules, regulations and discipline of such religious denomination, society or church.

Approved March 12, 1959.

CHAPTER 217

H. B. No. 546
(Poling, Berntson, Saugstad,)
(From LRC Study)

RABIES CONTROL COMMITTEE

AN ACT

Providing for the establishment of a rabies control committee and providing for its members and powers and duties.

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

§ 1. Rabies Control Committee; Members; Powers and Duties.) There is hereby established a rabies control committee consisting of the director of the state health department who shall be chairman, the game and fish commissioner, the

commissioner of agriculture and labor, and the state veterinarian. The members shall meet at such times as the chairman shall direct and the members shall not receive compensation for their service on the rabies control committee. It shall be the duty of the committee to prevent and control rabies in any area in the state that the committee has determined to be an emergency area because of the prevalence of rabies. The committee shall place its primary emphasis on human exposure cases; however, they shall be authorized to provide rabies vaccine for dogs and cats in an emergency area and may employ a veterinarian to administer such vaccine. The committee may also provide rabies vaccine for humans if requested to do so by the attending physician of the person to receive such vaccine. In addition, the committee shall have the authority to quarantine, vaccinate, or exterminate any animal in an area which has been designated by the committee as an emergency rabies area. If requested to do so by local authorities the committee may assist them in the prevention and control of rabies where an emergency exists. The rabies control committee is further authorized to apply to the emergency commission for any necessary moneys needed to carry out the provisions of this Act.

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

Approved February 21, 1959.

CHAPTER 218

H. B. No. 614
(Haugland, Fitch, Berntson, Link, Beede, Bye)

COMPENSATION OF HEALTH COUNCIL MEMBERS

AN ACT

To amend and reenact section 23-0102 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to compensation of members of the health council.

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

§ 1. Amendment.) Section 23-0102 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

23-0102. 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 state superintendent of public instruction, 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 chair-

man 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 receives 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.

Approved March 14, 1959.

CHAPTER 219

S. B. No. 207
(Longmire and O'Brien)

BURIAL COSTS OF OLD AGE ASSISTANCE RECIPIENTS

AN ACT

To amend and reenact subsection 5 of section 23-0603 and section 50-0734 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the obligation of counties in paying burial costs of persons receiving old age assistance.

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

§ 1. Amendment.) Subsection 5 of section 23-0603 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

5. If the deceased left no husband, wife, or kindred answering the foregoing description and did not leave means sufficiently to defray his funeral expenses, including the cost of a casket, the county welfare board of the county in which the deceased had residence for poor relief purposes or if such residence cannot be established, then the county in which the death occurs, shall employ some person to arrange for and supervise the burial. The necessary and reasonable expense thereof, not exceeding two hundred fifty dollars, shall be borne by the county. The county also shall pay reasonable costs of transporting the body to the place of burial when burial is made in a cemetery out of the county in which death occurred, but not exceeding one hundred dollars.

§ 2. **Amendment.)** Section 50-0734 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

50-0734. Recovery From the Estate of Recipient of Assistance.) On the death of any recipient of old age assistance under the provisions of this chapter, the total amount of assistance paid under this chapter shall be allowed as a preferred claim against the estate of such person in favor of the state, after funeral expenses for recipient and his or her spouse, not to exceed in each individual case two hundred 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, has 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.

Approved March 17, 1959.

CHAPTER 220

H. B. No. 663
(Poling, Klinger, Muggli, Johnson, Haugland)

FIREWORKS DEFINITION

AN ACT

To amend and reenact section 23-1501 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the definition of fireworks; and to amend and reenact section 23-1506 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the penalty for violations of chapter 23-15 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ **1. Amendment.)** Section 23-1501 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

23-1501. Fireworks Defined.) The term fireworks shall mean and include any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers or other fireworks of like construction, any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. Nothing in this regulation shall be construed as applying to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap.

No person, firm or corporation shall offer fireworks for sale to individuals at retail before the 27th day of June and after the 5th day of July in any calendar year. No person, firm or corporation shall offer fireworks for sale unless such person, firm or corporation has operated a retail business wherein merchandise was assessed by local taxing authorities on April 1st in the year immediately preceding the fireworks sale.

Expressly excepted from the term "fireworks" and expressly permissible for sale and use in this state shall be all fireworks enumerated as ICC Class C. Common Fireworks

as the same are defined in the regulations of the Interstate Commerce Commission and, more specifically, shall include and be limited to the following:

(1) Star Lights, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty grams each in weight. (10 ball);

(2) Helicopter Type Flyers, total pyrotechnic composition not to exceed twenty grams each in weight;

(3) Cylindrical Fountains, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside tube diameter shall not exceed ¾ inch;

(4) Cone Fountains, total pyrotechnic composition not to exceed fifty grams each in weight;

(5) Wheels, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of driver tubes shall not be over ½ inch;

(6) Illuminating Torches and Colored Fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight;

(7) Sparklers and Dipped Sticks, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate shall not exceed five grams;

(8) Comets and Shells, of which the mortar is an integral part, except those designed to produce an audible effect, total pyrotechnic composition not to exceed forty grams each in weight;

(9) Lady Fingers, (not to exceed seven-eighths of an inch in length or one-eighth inch in diameter,) total pyrotechnic composition not to exceed one-half grain each in weight;

(10) Whistles without report, total pyrotechnic composition not to exceed forty grams each in weight;

No person shall sell any of the permissible fireworks enumerated above to any person under the age of twelve (12) years.

§ 2. **Amendment.)** Section 23-1506 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

23-1506. Violation a Misdemeanor.) Any person violating the provisions of this Act (chapter) shall be guilty of a misdemeanor, and shall be punished by a fine of $100.00 or by imprisonment in the county jail for not more than 30 days or by both such fine and imprisonment.

Approved March 11, 1959.

HIGHWAYS, BRIDGES AND FERRIES

CHAPTER 221

H. B. No. 741
(Halcrow, Johnson, Anderson of Richland, Berntson)

COMMERCIAL FACILITIES ON CONTROLLED-ACCESS HIGHWAYS

AN ACT

Prohibiting the location on public-controlled land of commercial facilities for serving motor vehicle users of controlled-access facilities.

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

§ 1.) No automotive service station or other commercial establishment for serving motor vehicle users shall be constructed or located within the right-of-way of, or on publicly-owned or publicly-leased land acquired or used for or in connection with, a controlled-access facility.

Approved March 11, 1959.

CHAPTER 222

H. B. No. 811
(Lindberg)
(By request)

CONSTRUCTION OF UTILITY OR TRANSMISSION LINES

AN ACT

To prohibit the construction of any utility or transmission line within one hundred two feet of any state highway right-of-way, or within seventy-seven feet of any county highway right-of-way, exceptions, and enforcement, and providing for the acquiring of relocation right-of-way and declaring an emergency.

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

§ 1.) No person, firm or association shall construct any electrical supply or communication line, gas, oil or water or other pipe line parallel to and within one hundred two feet of the center line of any state highway right-of-way or within

seventy-seven feet of the center line of any county highway right-of-way without first obtaining the consent of the highway commissioner or board of county commissioners except that such prohibition shall not apply to highways or streets located within areas platted as town sites or additions and subdivisions thereof.

§ 2.) Any utility or transmission line hereinafter constructed contrary to the provisions of this Act shall be required to remove at their own expense when required to do so for purposes of highway expansion.

§ 3.) Whenever highway improvements require the relocation of utility facilities, and it is deemed to be in the best interest of the state, the highway commissioner or the board of county commissioners may acquire such right-of-way as may be required for such relocation, in the manner they are authorized by law to acquire highway right-of-way.

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

Approved March 17, 1959.

CHAPTER 223

S. B. No. 56
(Holand, Roen, Johnson, Gefreh, Wenstrom, Krause)
(From LRC Study)

HIGHWAY DEPARTMENT BUILDING LIMITATION

AN ACT

Relating to the construction of certain buildings by the state highway department.

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

§ 1. **Highway Department; Building Limitation.)** The state highway department shall not construct or cause to be constructed any building costing in excess of ten thousand dollars unless the department has received a specific appropriation from the legislative assembly for such purpose.

Approved March 4, 1959.

CHAPTER 224

S. B. No. 121
(Kee, Garaas, Morgan, Longmire, Wenstrom,)
(Gilbertson, Yunker, Paulson)

HIGHWAY DEPARTMENT SHORT TERM FINANCING

AN ACT

To provide highway department short term financing.

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

§ 1.) The North Dakota highway department is hereby authorized, whenever needed, to arrange, with any financing agency, state-owned or private, short term loans in the event that construction funds on hand are insufficient to meet current obligations and federal aid allocations due or to become due have not been received, and state apportionment of highway user revenues are due but have not been made. Short term financing as provided herein shall be in amounts no larger than can be repaid within six months from moneys known to be due and forthcoming from normal sources to the highway department. The rate of interest authorized to be paid by the highway department shall be at a rate not greater than three percent per annum, payments for such interest shall be made from present sources of revenue of the highway department. In no event may such short term financing be used in anticipation of increased federal aid highway grants or increased state highway user revenue funds, nor shall such loans be obligated for road construction that cannot be financed from known source of income.

Approved March 3, 1959.

CHAPTER 225

S. B. No. 114
(Kee and Luick)

HIGHWAY MAINTENANCE RADIO NET

AN ACT

To authorize the North Dakota state highway department to purchase, install and maintain a highway maintenance radio net.

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

§ 1.) The highway department is hereby authorized to purchase, install and maintain a state highway department radio communications network out of funds now and hereinafter designated as state highway maintenance funds. The highway department is further authorized to enter into an agreement with the federal civil defense administration for the purchase of radio equipment for said radio communications network on a 50-50 fund matching basis.

Approved March 4, 1959.

CHAPTER 226

H. B. No. 626
(Stockman and Poling)

HIGHWAY RIGHT-OF-WAY

AN ACT

To provide for the clearing of title record of ownership of state highway system right-of-way held in name of political subdivisions, departments or agencies.

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

§ 1.) Any political subdivision, department or agency of the state, holding an interest of record in any part of the right-of-way for any highway on the state highway system, shall upon application of the state highway commissioner, cause such interest to be conveyed to the state of North Dakota for the use and benefit of the state highway department and no consideration for such conveyance shall be required. This Act shall not be construed to require that lands or interest there-

in held by political subdivisions, departments or agencies of the state, for other than highway purposes, be conveyed to the state without full consideration.

Approved March 5, 1959.

CHAPTER 227

S. B. No. 45
(Johnson, Luick, Saumur, Krause, Roen)
(From LRC Study)

DESIGNATION OF STATE HIGHWAY SYSTEM

AN ACT

To amend and reenact section 24-0102 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the designation of the state highway system.

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

§ 1. Amendment.) Section 24-0102 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0102. Designation of State Highway System.) The commissioner is hereby vested with complete authority to designate, locate, create, and determine what roads, highways and streets shall constitute the state highway system, subject however, to such conditions, requirements and mileage limits as provided for by law. The total mileage of the state highway system may be increased by not to exceed one hundred miles in any one calendar year. In designating, locating, creating and determining the several routes of the state highway system, the commissioner shall take into account such factors as the actual or potential traffic volumes, the construction of by-passes and alternate routes, the conservation and development of the state's natural resources, the general economy of the state and communities, and the desirability of fitting such system into the general scheme of the nationwide network of highways.

Approved March 14, 1959.

CHAPTER 228

S. B. No. 39
(Johnson, Luick, Saumur, Krause, Roen)
(From LRC Study)

ACQUISITION OF RIGHT-OF-WAY FOR STATE HIGHWAY SYSTEM

AN ACT

To amend and reenact sections 24-0118, 24-0518 and 24-0404 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the cost and expense of acquisition of right-of-way for the state highway system, and declaring an emergency.

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

§ 1. Amendment.) Section 24-0118 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0118. Right-of-way and Materials May Be Acquired by Purchase or Eminent Domain.) The commissioner, by order, on behalf of the state, and as part of the cost of constructing, reconstructing, widening, altering, changing, locating, relocating, aligning, realigning, or maintaining a state highway, or of providing a temporary road for public use, may purchase, acquire, take over, or condemn under the right and power of eminent domain, for the state, any and all lands in fee simple or such easements thereof which he shall deem necessary for present public use, either temporary or permanent, or which he may deem necessary for reasonable future public use, and to provide adequate drainage in the improvement, construction, reconstruction, widening, altering, changing, locating, relocating, aligning, realigning, or maintaining of a state highway, provided however, as to any and all lands acquired or taken for highway, road or street purposes, he shall not obtain any rights or interest in or to the oil, gas or fluid minerals on or underlying said lands. No county shall be required to participate in the cost, or expense of right-of-way for the state highway system. By the same means, he may secure any and all materials, including clay, gravel, sand, or rock, or the lands necessary to secure such material, and the necessary land or easements thereover, to provide ways and access thereto. He may acquire such land or materials notwithstanding that the title thereto may be vested in the state or any division thereof; provided, however, that no interests in gas, oil or fluid minerals shall be acquired by this procedure.

§ 2. Amendment.) Section 24-0518 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0518. Counties May Cooperate With Department; Procedure.) Whenever any board of county commissioners of any county shall decide that any county road or roads in such county shall be improved or constructed in cooperation with the department, such board shall make written application to the commissioner for the improvement and construction thereof. If the commissioner shall approve such application, he, in writing, shall notify the said board of such approval, and at the same time shall submit to the said board an estimate of the cost of such improvement, including the cost of engineering, the purchase or acquirement of right-of-way, and all other expenses, and the share or portion thereof which such county shall bear. However, the commissioner shall not require any county to pay for the cost or expense of acquiring right-of-way for the state highway system. Whenever the board of county commissioners aforesaid shall elect to proceed with such improvement, the said board shall adopt a resolution signifying such election and in such resolution shall set aside out of such funds as are or may become available the amount necessary to pay the county's share of the cost of such improvement. Upon written demand of the commissioner, the board of county commissioners shall instruct and direct the county auditor by resolution to draw a warrant or warrants on the county treasurer in favor of the contractor, or of the department, for the county's share of such amount or amounts as may become due during the progress of such improvement. The county shall also draw additional warrants in favor of the department as may be necessary to reimburse it for the county's share of the cost of engineering and the acquisition of right-of-way. Such warrants shall be drawn by the county treasurer upon the certificate of the commissioner.

§ 3. Amendment.) Section 24-0404 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0404. Municipalities May Aid Federal Highway Construction.) A municipality, through its governing body, wherever a federal aid highway is routed through such municipality, may participate in the financing, planning, construction and acquisition of right-of-way of said highway.

§ 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 6, 1959.

CHAPTER 229

S. B. No. 162
(Johnson and Baeverstad)
(By request)

ACQUISITION OF PROPERTY FOR CONTROLLED-ACCESS FACILITIES

AN ACT

To amend and reenact section 24-0132 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the acquisition of property for controlled-access facilities.

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

§ 1. **Amendment.)** Section 24-0132 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0132. Acquisition of Property and Property Rights.) For the purposes of this Act (S.L. 1953, c. 177) the highway authorities of the state, or any county, or municipality may acquire private or public property and property rights for controlled-access facilities and service roads, including rights of access, air, view, lights, and such advertising rights outside of the right-of-way as may be determined by the commissioner to be in the public interest, by gift, devise, purchase, or condemnation in the same manner as such units are now or hereafter may be authorized by law to acquire such property or property rights in connection with highways and streets within their respective jurisdictions. All property rights acquired under the provisions of this Act (S.L. 1953, c. 177) shall be in fee simple, provided however, as to any and all lands acquired or taken for highway, road or street purposes, they shall not obtain any rights or interest in or to the oil, gas or fluid minerals underlying said lands. In connection with the acquisition of property or property rights for any controlled-access facility or portion thereof, or service road in connection therewith, the state, county, or municipal highway authority may, in its discretion, acquire an entire lot, block, or tract of land, if, by so doing, the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.

Approved March 9, 1959.

CHAPTER 230

S. B. No. 120
(Kee, Garaas, Morgan, Longmire,)
(Wenstrom, Gilbertson, Yunker, Paulson)

HIGHWAY DEPARTMENT BUDGETS

AN ACT

To amend and reenact section 24-0209 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to highway department budgets.

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

§ 1. Amendment.) Section 24-0209 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0209. Departmental Budget Estimates; Departmental Budgets.) Not later than the fifteenth day of May of each year, each head of a department, division, section, or activity of the department who may be directed and designated to do so by the commissioner, shall submit to the commissioner an outline of the work which should be undertaken by such department, division, section, or activity during the following fiscal year and the estimated expense thereof, in such detail as the commissioner may prescribe, together with such other cost data and information as the commissioner shall direct.

Not later than the thirtieth day of June of each year, the commissioner shall adopt a departmental budget wherein shall be allocated, set aside, and appropriated to each department, division, section, or activity of the department for the ensuing fiscal year, a definite and fixed sum or allowance in such amount and with such detail as the commissioner may elect for the use and purpose specified in such departmental budget. Nothing herein, however, shall prevent the commissioner from adding to, amending, revising, or reducing from time to time and as circumstances may warrant, such departmental budget.

Approved March 2, 1959.

CHAPTER 231

H. B. No. 587
(Leet, Overbo, Kelly)

CONTRACTS REQUIRING ADVERTISING FOR BIDS

AN ACT

To amend and reenact sections 24-0217 and 24-0223 of the 1957 Supplement to the North Dakota Revised Code of 1943 to increase the sums of highway contracts requiring advertising for bids and contract bonds.

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

§ 1. Amendment.) Section 24-0217 of the 1957 Supplement to the North Dakota Revised Code is hereby amended and reenacted to read as follows:

***24-0217. Contracts; Bids.)** Whenever the cost of any improvement or the purchase price of equipment or materials and supplies, exclusive of repairs to equipment, 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, purchase, 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 two thousand dollars, the department shall request bids from as many contractors, manufacturers, and dealers as can be requested conveniently.

§ 2. Amendment.) Section 24-0223 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0223. Award of Contracts: Bonds.) Each and every contract in excess of the sum of five thousand dollars shall be awarded by the department to the responsible bidder submitting the lowest and best bid, but said department may reject all bids. If no satisfactory bid or bids shall be received, new bids may be called for. The successful bidder shall be required to furnish a suitable bond in at least the amount of the contract and with such surety as may be determined by the department and as shall be approved by it.

Approved March 14, 1959.

*__Note:__ Section 24-0217 was also amended by chapter 372, section 34.

CHAPTER 232

S. B. No. 88
(Longmire and Garaas)

HIGHWAY DEPARTMENT CONTRACTS AND PUBLIC BUILDING CONSTRUCTION

AN ACT

To amend and reenact section 24-0220 and section 48-0204 of the North Dakota Revised Code, as amended, relating to the bidding requirements for state highway department contracts and to the construction of public buildings, contents for advertising bids, and providing for bidder's bond.

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

§ 1. Amendment.) Section 24-0220 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0220. 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 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.

§ 2. Amendment.) Section 48-0204 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

48-0204. Contents of Advertisement.) The advertisement for bids required by section 48-0203 shall state:

1. When and where the plans, drawings, and specifications therefor may be seen and examined;
2. The place where, and the day and hour when, the bids will be opened;
3. That the right of the board to reject any and all bids is reserved;
4. Each bid shall be accompanied by a certified check of the bidder on a solvent North Dakota bank, in the amount equal to five percent of his bid, to be forfeited to the governing board should the bidder fail to effect a contract within ten days after a notice of an award or by a bidder's bond in a sum equal to 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;
5. All bidders must be licensed for the highest amount of their bids, as provided by section 43-0705; and
6. No bid will be read or considered which does not fully comply with the above provisions as to bond and licenses, and any deficient bid submitted will be resealed and returned to the bidder immediately.

Approved March 17, 1959.

CHAPTER 233

S. B. No. 137
(Kee and Luick)

HIGHWAY DEPARTMENT PAYMENTS TO CONTRACTORS

AN ACT

Authorizing the state highway commissioner to determine the percentage of payments to contractors for work completed prior to acceptance and to amend section 24-0225 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ 1. Amendment.) Section 24-0225 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0225. Payments Made Monthly to Contractors.) Payment shall be made monthly to the contractor for all work done or material furnished, in such amount as shall be determined by the highway commissioner, but in no event less than ninety percent nor more than ninety-nine percent thereof, and payment shall be made in full upon the completion of the contract and acceptance of the work.

Approved March 9, 1959.

CHAPTER 234

H. B. No. 792
(Lindberg)

CONSTRUCTION CONTRACT PREFERENCE, REPEAL

AN ACT

To repeal section 24-0235 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the giving of preference to North Dakota residents in bidding on contracts for road and bridge work and materials; and to amend and reenact section 48-0206 of the 1957 Supplement to the North Dakota Revised Code of 1943, omitting the preference given to North Dakota residents in bidding for contracts for the construction, alteration, or repair of public buildings, and declaring an emergency.

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

§ 1. Repeal.) Section 24-0235 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

§ 2. Amendment.) Section 48-0206 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

48-0206. Opening Bids; Award of Contract; Bond Required.) At the time and place specified in the notice, the governing board shall open publicly and read aloud all bids received, and may reject all bids or award the contract to the lowest and best bidder. The governing body concerned shall require of the contractor to whom the contract is awarded a bond complying with chapter 1 of this title. Such board shall have the power to reject any and all bids and may advertise anew in accordance herewith until a satisfactory bid is received.

§ 3. Emergency.) An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1959.

CHAPTER 235

S. B. No. 38
(Johnson, Luick, Saumur, Krause, Roen)
(From LRC Study)

ACCESS ROUTES FROM INTERSTATE SYSTEM

AN ACT

Providing for the construction of access routes necessitated by the construction of the interstate highway; to amend and reenact section 24-0236 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the expenditure of state highway funds; and to amend and reenact section 24-A0102 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the definition of interstate highway system; and to declare legislative intent.

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

§ 1. Legislative Intent.) It is the intent of the legislature that the highway commissioner have sufficiently broad authority to provide, within means available, and with the cooperation from political subdivisions, for an integrated highway system, including reasonable access from the interstate highways to the municipalities most directly affected by the construction of such highway.

§ 2. Access Routes.) Whenever the construction of an interstate, controlled-access highway, results in the removal from the state highway system, a highway which passes through or approaches within one mile of any incorporated municipality, the commissioner may if conditions warrant, expend state highway funds to the extent of not over 25% of the cost to construct access routes on the federal-aid secondary county system. Only such access routes may be constructed under authorization of this Act as are not over three miles in length and are necessary to provide as good or better access from such municipalities to the network of the state highway system, as existed prior to the construction of such interstate highway.

Such access routes may be constructed from the municipal limits to the interstate highway or in such other locations as will, in the opinion of the commissioner, comply with the intent of this Act.

§ 3. Amendment.) Section 24-0236 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0236. State Funds Not Used on Feeder Roads.) Except as provided in section 2 of this Act no state funds shall be expended for feeder roads or other roads not on the state highway system except for the necessary administrative costs and for such work as is reimbursable from federal or county funds or from funds of other organizations or governmental departments for which reimbursement arrangements have been made. After completion of any such cooperative construction, all authority and control over roads off the state highway system shall be returned to the local authorities under whom control was vested previously.

§ 4. Amendment.) Section 24-A0102 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted by creating and enacting subsection 46 to read as follows:

46. "Interstate system" or "interstate highway system" shall mean that part of the state highway system designated as the North Dakota portion of the national system of interstate and defense highways as provided for in public law 85-767, enacted by the 85th Congress of the United States.

Approved March 4, 1959.

CHAPTER 236

H. B. No. 694
(Frank, Mosal, Bier, Thompson of McLean, Kitzmann)

INJURY AND DESTRUCTION TO HIGHWAYS; ENFORCEMENT

AN ACT

To amend and reenact section 24-1201 and subsections 1 and 2 of section 39-0309 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to injuries to highways and authority of highway patrol.

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

§ 1. Amendment.) Section 24-1201 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-1201. Injuries to Highways.) No person shall willfully dig up, remove, displace, break or otherwise injure or destroy any public highway, right-of-way, or bridge, or any rest area, picnic area, or tourist camp or improvements thereon, operated in connection with a public highway, or any private way laid

out by authority of law, or any bridge upon such way without first securing permission from the person or governing body having jurisdiction and control thereof.

***§ 2. Amendment.)** Subsections 1 and 2 of section 39-0309 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby amended and reenacted to read as follows:

1. Of a peace officer for the purpose of enforcing the provisions of this title relating to operators' licenses, the provisions of Title 24 relating to highways, and of any other law regulating the operation of vehicles or the use of the highways;
2. To make arrests upon view and without warrant for any violation committed in his presence of any of the provisions of this title relating to operators' licenses, or of Title 24 relating to highways or to other laws regulating the operation of vehicles or the use of the highways.

Approved March 9, 1959.

CHAPTER 237

S. B. No. 276
(Livingston, Larson, Foss, Luick, Thompson)

GARBAGE ON HIGHWAYS

AN ACT

To amend and reenact section 24-1203 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the depositing of garbage on highways.

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

§ 1. Amendment.) Section 24-1203 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-1203. Garbage Deposited on Highways.) No person, firm or corporation shall throw or deposit or cause to be thrown or deposited any garbage, glass, bottles, boxes, or rubbish of any kind upon any public highway in the state. Political subdivisions of this state are hereby authorized to offer a reward, the amount of which shall be determined by the governing body of such political subdivision, for any information leading to the conviction of any person violating this section as to any public highway which is under the jurisdiction of the political subdivision offering such reward.

Approved March 10, 1959.

***Note:** Subsection 1 of section 39-0309 was also amended by chapter 289, section 14.

INSANE, FEEBLEMINDED, TUBERCULAR, BLIND AND DEAF

CHAPTER 238

H. B. No. 723
(Guy, Haugland, Anderson of Stutsman,)
(Thompson of McLean)

LRC STUDY OF EXISTING MENTAL HEALTH FACILITIES

AN ACT

Authorizing and directing the legislative research committee to study existing mental health facilities in North Dakota for the purpose of reorganizing and coordinating the same and authorizing necessary expenditures for professional assistance in making the study and to make an appropriation.

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

§ 1.) Whereas, the treatment of the mentally ill is a field in which there is a rapid development of new ideas and techniques; and

Whereas, there are currently numerous boards and agencies of this state that are interested in the diagnosis and treatment of such persons; and

Whereas, it would be of great benefit to the people of this state, by way of financial savings, as well as better treatment of such persons, if a study could be made of the work of such boards and agencies for the purpose of determining whether reorganization and coordination of their work could be accomplished; and

Whereas, only by a comprehensive study can such reorganization and coordination be accomplished;

§ 2.) The legislative research committee is hereby authorized and directed to study the existing agencies, public and private, now engaged in the diagnosis or treatment of the mentally ill and to submit suitable legislation, if deemed advisable, for the better organization, administration or coordination of such existing agencies and facilities and for the creation of new facilities for such treatment if the same be needed. The legislative research committee shall be authorized and empowered to employ such agencies or persons as it deems necessary to aid and assist in such study.

§ 3. **Appropriation.)** There is hereby appropriated out of the general fund the sum of seven thousand five hundred dollars for the use of the legislative research committee in carrying out the study provided for in this Act.

Approved March 11, 1959.

CHAPTER 239

S. B. No. 185
(Longmire and Saumur)

PROPERTY TRANSFER TO BLIND SCHOOL AT GRAND FORKS

AN ACT

Providing for the transfer of certain real property for the benefit and use of the state blind school located at Grand Forks, North Dakota.

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

§ 1.) The state board of administration is hereby authorized to convey and return, to the University Memorial Corporation, certain property given to the state by such a domestic nonprofit corporation, for the benefit and use of the state school for the blind, in accordance with restrictions contained in the original deed of conveyance which property is described as follows:

Lots one, two, three, four, and five in block ten and a strip sixty-six feet wide in block thirteen more particularly described as follows: beginning at the northwest corner of said block thirteen; thence in an easterly direction along the north line of said block thirteen, four hundred twenty-six and eight-tenths feet to the westerly line of Princeton Street; thence at right angles in a southerly direction sixty-six feet; from thence at right angles in a westerly direction and parallel to the north line of said block thirteen four hundred twenty-six and eight-tenths feet to the westerly line of said block thirteen; from thence at right angles in a northerly direction along the westerly line of said block thirteen, sixty-six feet to the place of beginning, all in University Place, according to the plat thereof on file in the office of the register of deeds in and for Grand Forks County, North Dakota, and recorded in book forty-six of deeds, page five hundred seventy-seven.

Less the following tract which is a part of the above described property: Commencing at a concrete monument which marks the center of section five township one hundred

fifty-one, north of range fifty; thence south along the quarter line which is the assumed meridian, a distance of three hundred sixty-seven and fifty-hundredths feet to the point of beginning, thence south fifty-three degrees five minutes east a distance of three hundred twenty feet, thence due south a distance of nine and sixteen-hundredths feet, thence north eighty-nine degrees forty and five-tenths minutes west a distance of two hundred fifty-five and eighty-four hundredths feet to the quarter line, thence due north a distance of one hundred ninety-nine and ninety-hundredths feet along the quarter line to the point of beginning. The above described tract contains sixty-one hundredths acres more or less.

§ 2.) The state board of higher education is hereby authorized to transfer certain state-owned property under its jurisdiction to the state board of administration for the use and benefit of the state school for the blind at Grand Forks, North Dakota, which property is described as follows:

Commencing at a concrete monument which marks the center of section five township one hundred fifty-one, north of range fifty, then south along the quarter line which is the assumed meridian, a distance of forty feet; thence north eighty-nine degrees forty and five-tenths minutes west a distance of one hundred thirteen and seventy-five hundredths feet to the point of beginning; thence south twenty-one degrees fourteen minutes west a distance of one hundred nineteen feet, thence south twenty-three degrees eighteen minutes east a distance of one hundred sixty feet; thence south fifty-three degrees and five minutes east a distance of one hundred seventeen feet, thence due south along the quarter line a distance one hundred ninety-nine and ninety hundredths feet; thence north eighty-nine degrees forty and five-tenths minutes west a distance of eight hundred ninety feet; thence due north a distance of five hundred twenty-seven and forty hundredths feet thence south eighty-nine degrees forty and five-tenths minutes east and parallel to the quarter line a distance of seven hundred seventy-six and twenty-five hundredths feet to the point of beginning. The above described tract contains nine and ninety-three hundredths acres more or less.

The state board of administration is authorized to grant to the public and the city of Grand Forks, North Dakota, such right-of-way over the property designated for use for a school for the blind as in the discretion of the board of administration is reasonable and necessary.

Approved March 4, 1959.

INSURANCE

CHAPTER 240

H. B. No. 790
(Thompson of McLean)

AUTOMOBILE WARRANTIES

AN ACT

To regulate the issuance of car warranties, to require a license, bond, approval of car warranty contract form and the filing of rate schedules and to authorize the revocation of license upon breach of warranty contracts, and providing a penalty.

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

§ 1.) An automobile warranty issued by anyone other than the automobile manufacturer or dealer shall be construed as a contract of insurance and all warranties shall be on a contract form prescribed or approved by the commissioner of insurance.

§ 2.) No person, firm, corporation or association shall engage in the business of providing or writing automobile warranty insurance without first having obtained from the commissioner of insurance a certificate of authority to issue automobile warranty insurance policies.

§ 3.) The commissioner of insurance shall not issue a certificate of authority to issue automobile warranty insurance policies unless he shall be satisfied by the submittal of evidence as he may reasonably require that such company is qualified in accordance with the laws of this state governing insurance companies, to transact business in this state under the laws thereof.

§ 4.) Each certificate of authority issued under any provisions of this Act shall expire on the thirtieth day of April succeeding the date of issuance, and renewal thereof may be issued by the commissioner when he is satisfied that such company is qualified to transact business in this state under the laws thereof.

§ 5.) Any company engaged in the issuance of car warranty insurance policies shall be considered an insurance company and subject to the fees specified by law to be paid by insurance companies.

§ 6.) Before an automobile warranty insurance company shall be authorized to transact business in this state, the commissioner of insurance shall require it to file with him a cash surety bond in the sum of one hundred thousand dollars on such form as shall be prescribed by the commissioner.

§ 7.) Every person, firm, corporation or association engaged in the automobile warranty insurance business shall file with the commissioner a current rate schedule and only such rates as are approved by the commissioner shall be effective.

§ 8.) The commissioner of insurance is hereby authorized to revoke the license of any person, firm, corporation or association engaged in the sale of automobile warranty insurance, without a hearing, when he has determined that a breach of warranty contract has occurred. Such revocation order may be appealed to the district court of Burleigh County by a licensee aggrieved thereby.

§ 9.) Any person, firm or association who shall engage in the sale or furnishing of car warranties in this state without complying with the provisions of this Act shall be guilty of a misdemeanor and punishable by a fine of one thousand dollars or imprisonment in the county jail for not more than one year or both such fine and imprisonment.

Approved March 12, 1959.

CHAPTER 241

H. B. No. 652
(Lowe, Schuler, Trom, Solberg, Wilkie, Bassingthwaite)

INSURANCE FOR NUCLEAR REACTION DAMAGE

AN ACT

Authorizing affixing or including a written statement to the standard policy excluding loss or damage caused by nuclear reaction; provided, however, that insurers may assume coverage for loss or damage caused by nuclear reaction by endorsement.

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

§ 1. Authorizing Affixing or Including to the Standard Policy a Written Statement Excluding Loss or Damage Caused by Nuclear Reaction.) Insurers issuing the standard policy pursuant to section 26-0340 of the 1957 Supplement to the North Dakota Revised Code of 1943 are authorized to affix thereto or include therein a written statement that the policy

does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under said policy.

§ 2. Insurers May Assume Coverage for Loss or Damage Caused by Nuclear Reaction by Endorsement.) Provided, however, that nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination.

Approved March 9, 1959.

CHAPTER 242

S. B. No. 230
(Murphy)
(By request)

INSURING TITLES TO REAL PROPERTY

AN ACT

Governing the organization and operation of corporations organized for the purpose of insuring titles to real property.

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

§ 1.) Every domestic or foreign corporation organized for the purpose of insuring titles to real property in this state or of insuring against loss by reason of defective titles thereto, or encumbrances thereon, shall be subject to and shall comply with all the requirements of the laws of this state made applicable to insurance companies generally and the rules and regulations of the commissioner of insurance, excepting as hereinafter provided and insofar as said laws, rules or regulations may be inconsistent with the other provisions in this chapter contained.

§ 2.) No domestic corporation organized for the purpose of insuring titles to real property in this state or of insuring against loss by reason of defective titles thereto, or encumbrances thereon, shall be incorporated under this chapter unless it has an authorized capital of not less than two hundred fifty thousand dollars and a surplus of not less than one hundred thousand dollars, and it may issue no policy or insurance until at least fifty percent of the minimum capital stock re-

quired by this section, and all the surplus required, shall have been paid in, the residue of capital stock to be paid in within twelve months from the time of filing the articles of incorporation, but the commissioner of insurance, for good cause shown, may extend the time of payment of such residue for the further period of one year.

§ 3.) The surplus provided for in section 2 of this chapter shall constitute a guaranty fund, which shall be invested in securities as provided by section 26-0811 North Dakota Revised Code of 1943, as amended, and be duly deposited with the commissioner of insurance and his certificate thereof procured, as provided by law. This deposit shall be maintained unimpaired and the principal of the fund shall be applied only to the payment of losses and expenses by reason of its guaranty and insurance contracts, with the right to the company to collect the income thereof and to substitute other like securities of equal amount and value from time to time.

§ 4.) Within thirty days after the filing of the annual statement as provided by chapter 26-07 North Dakota Revised Code of 1943, as amended, the corporation shall in addition to the deposit of the surplus as provided by section 3 annually apportion to a special reserve fund an amount equal to ten percent of all premiums received. This special reserve fund shall not be subject to other liabilities of the corporation to the extent of, and so long as there is, any outstanding liability on any guaranty or insurance or certificate issued by it. The corporation shall be entitled to withdraw from this special reserve fund annually a sum equal to five percent of said fund as shown in its annual statement. No title insurance company shall be obliged to maintain an unearned premium reserve.

§ 5.) If an insurer fails to satisfy any judgment against it arising out of its liability under any title insurance policy, issued, insured, or assumed by it, within thirty days after the finality of the judgment becomes fixed, the judgment may be enforced against the insurer's guaranty fund deposit through the following procedure:

(1) The judgment creditor shall petition the court wherein the judgment is entered and as part of the same cause, truthfully setting forth the facts regarding the insurer's failure to satisfy the judgment as required by this section.

(2) Upon such petition the court shall direct the issuance of a special execution directed to the sheriff of Burleigh County, requiring that the sheriff sell so much of the securities on deposit as may be required to satisfy the judgment and pay the costs of the levy.

(3) The special execution shall be executed by the sheriff by delivering to the state treasurer and to the commissioner of insurance each a certified copy of said writ of execution together with a certified copy of the judgment and of said petition and order, and within ten days thereafter there shall be delivered to said sheriff sufficient of such securities to satisfy the judgment in full. Said securities shall be sold by the sheriff upon execution as in the case of sales of personal property upon execution generally.

§ 6.) No domestic corporation organized for the purpose of insuring title to real property in this state or of insuring against loss by reason of defective titles thereto, or encumbrances thereon, or foreign corporation authorized to do business in this state, shall issue any policy, binder, or certificate unless it shall have secured from a person, firm or corporation holding a certificate of authority under the provisions of chapter 43-01 North Dakota Revised Code of 1943, as amended, the record title evidence of the title to be insured, and such title evidence has been examined by a person duly admitted to the practice of law as provided by chapter 27-11 North Dakota Revised Code of 1943, as amended, and any corporation violating the provisions of this section shall have its certificate of authority revoked as provided by chapter 26-07, North Dakota Revised Code of 1943, as amended.

Approved March 17, 1959.

CHAPTER 243

H. B. No. 755
(Brown)

LIFE INSURANCE POLICIES

AN ACT

To amend and reenact subsection 8 of section 26-0335 of the North Dakota Revised Code of 1943, as amended relating to provisions required in life insurance policies issued on other than standard forms; and repealing all acts or parts of acts in conflict herewith.

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

§ 1. Amendment.) Subsection 8 of section 26-0335 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

8. A provision which, in event of default in premium payments, after premiums shall have been paid for three

years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be equal at least to the reserve at the date of default on the policy and on any dividend additions thereto, computed according to a mortality table, interest rate, and method of valuation permitted by section 26-1001, less a sum of not more than two and one-half percent of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtness to the company on the policy. Such provision shall stipulate that the policy may be surrendered to the company at its home office within one month from the date of default for a specified cash value at least equal to the sum which otherwise would be available for the purchase of insurance as aforesaid, and may stipulate that the company may defer payment for not more than six months after the application therefor is made. Provided, however, that if the benefits under the policy are calculated according to the Commissioners 1958 Standard Ordinary Mortality Table, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality shown in the Commissioners 1958 Extended Term Insurance Table, and that if the benefits under the policy are calculated according to any other more modern table than the American Experience table of mortality, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality not exceeding 130 percent of the rates according to such more modern table. This provision shall not be required in a policy providing term insurance of twenty years or less;

§ 2. Repeal.) All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1959.

CHAPTER 244

H. B. No. 743
(Neukircher, Fitch, Loewen)

FIRE INSURANCE POLICIES

AN ACT

Permitting the commissioner of insurance to approve forms of insurance policies other than the standard policy as provided in section 26-0340 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ 1.) The commissioner of insurance may approve for use within the state of North Dakota a form of policy which does not correspond to the standard fire insurance policy as provided by section 26-0340 of the 1957 Supplement to the North Dakota Revised Code of 1943, provided that the coverage of such approved policy form with respect to the peril of fire shall not be less than that contained in the standard fire insurance policy as provided in said section.

Approved March 4, 1959.

CHAPTER 245

H. B. No. 749
(Van Sickle)

EXPENSE FUND ASSESSMENTS IN BENEVOLENT SOCIETIES

AN ACT

To amend and reenact section 26-2519 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to expense fund assessments of benevolent societies.

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

§ 1. Amendment.) Section 26-2519 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2519. The Expense Fund; Credits to; Levies for.) The membership fee of the society, which shall be not less than

one dollar nor more than five dollars, may be used for expenses. The certificate of membership shall state the percentage of death assessments, not exceeding ten percent, that may be used for expenses, and moneys received on such assessments, within the limitations herein stated, shall be credited to the expense fund. Expense fund assessments may be levied in accordance with the provisions therefor in the membership certificate in amounts not exceeding three dollars in any one calendar year.

Approved March 4, 1959.

CHAPTER 246

S. B. No. 180
(Livingston, Krause, Redlin, Brooks)

HOSPITAL SERVICE CONTRACT PROVISIONS

AN ACT

To amend and reenact section 26-2602 of the North Dakota Revised Code of 1943, relating to authorized contract provisions.

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

§ 1. Amendment.) Section 26-2602 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2602. Contract Provisions Authorized.) The hospital service plan operated by such corporation also may provide for hospital service and other related health services, excluding the practice of medicine, as advancements in health care and treatment warrant the extension and provision of such services and in case of emergency or expediency. All hospital and related health services provided shall be subject to the approval of such hospital service plan corporations.

Approved March 2, 1959.

CHAPTER 247

S. B. No. 181
(Livingston, Brooks, Krause, Redlin)

ANNUAL REPORTS TO INSURANCE COMMISSIONER

AN ACT

To amend and reenact section 26-2605 of the North Dakota Revised Code of 1943, relating to annual report to commissioner of insurance.

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

§ 1. Amendment.) Section 26-2605 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2605. Annual Report to Commissioner of Insurance.) Every such corporation, annually, on or before the first day of April, shall file in the office of the commissioner of insurance a statement verified by at least two of the principal officers of said corporation showing its condition on the thirty-first day of December then next preceding, which shall be in such form and shall contain such matters as the commissioner of insurance shall prescribe.

Approved March 2, 1959.

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 248

S. B. No. 74
(Kee, Garaas, Luick, Hernett, Gefreh,)
(O'Brien, Fiedler, Erickstad)

SALARIES OF JUDGES

AN ACT

To amend and reenact sections 27-0202, 27-0503, and 27-0808 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the salaries of judges of the supreme court, the salaries and expenses of judges of the district courts, and the salaries of judges of county courts of increased jurisdiction.

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

§ 1. Amendment.) Section 27-0202 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-0202. Salaries of Judges of Supreme Court.) Each judge of the supreme court shall receive an annual salary of fourteen thousand dollars.

§ 2. Amendment.) Section 27-0503 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-0503. Salaries and Expenses of District Judges.) Each district judge of this state shall receive an annual salary of twelve thousand dollars and his actual travel expenses, which shall include mileage and subsistence while engaged in the discharge of his official duties outside the county in which his chambers are located. Such salary and expenses shall be payable monthly in the manner provided by law.

§ 3. Amendment.) Section 27-0808 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-0808. Salaries of Judges of County Courts of Increased Jurisdiction: Amount; Payment.) A county judge of a county court of this state having increased jurisdiction, for all services rendered in any capacity, shall receive the following salary: six thousand five hundred dollars in counties having a population not exceeding 15,000 inhabitants; eight thousand dollars

in counties having a population exceeding 15,000 inhabitants but not exceeding 40,000 inhabitants; and nine thousand five hundred dollars in counties having a population exceeding 40,000 inhabitants. Such salary shall be payable by the county in equal monthly installments.

Approved February 19, 1959.

CHAPTER 249

H. B. No. 582
(Frank)

UNIFORM TRAFFIC COMPLAINT AND SUMMONS

AN ACT

To authorize a uniform complaint and summons for use in connection with violations of laws relating to the operation of motor vehicles, and to repeal section 27-0226 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the authority of the North Dakota supreme court to establish such a uniform complaint and summons form.

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

§ 1. Uniform Traffic Complaint and Summons.) There is hereby established a uniform complaint and summons which may be used in cases involving violations of statutes or ordinances relating to the operation or use of motor vehicles. Whenever the complaint and summons established by this Act is used, the provisions of section 29-0504 of the North Dakota Revised Code of 1943 relating to arrests without warrants shall not apply, and the magistrates or states attorneys shall not be required to make another complaint of the offense charged in the uniform complaint and summons. The uniform complaint and summons established herein shall be in substantially the following form:

State of North Dakota } ss In ..... Court,
County of ..... } Before Hon. .....;

The undersigned, being duly sworn, upon his oath deposes and says that, on the.....day of.....19.....

.....
First Name Middle Name Last Name Street City State

did unlawfully operate a motor vehicle upon a public highway, namely....., ... N E S W of.....
Location City

and did then and there commit the following offense:.....
MPH in.....
MPH Zone.....
.....
.....
.....
.....

All in violation of Sec.....of the N. D. R. C. of 1943 as amended and against the peace and dignity of the state of N. D.

Officer.....LET A WARRANT ISSUE HEREIN
Sworn to and subscribed before me this .....
.....day of.....19..... States Attorney

.....
Judge

Description of Defendant and Vehicle

Mo..... Day..... Yr..... Race..... Sex..... Wt..... Ht.....
Birth date
Hair..... Dr. Lic: State..... No..... Motor Vehicle:
PSC
Make..... Reg. No..... State..... Year..... ICC No.....

Claimed Conditions of the Violation

Slippery Surface—
.....Rain .....Snow .....Ice
Darkness—
.....Night .....Fog .....Snow
Other Traffic Present—
.....Cross .....Oncoming .....Pedestrian
.....Same direction
In Accident—
.....Ped. .....Vehicle .....Intersection .....Right angle
.....Head on .....Rear end .....Ran off road .....Other
.....
Area: .....School .....Rural .....Business .....Industrial
.....Residential
Highway type: .....2 Lane .....4 Lane .....4 Lane Divided
.....Gravel .....Dirt

The State of North Dakota to the Above Named Defendant

You are hereby summoned to appear at the time and place designated below to answer to the charge above indicated to be made against you.....
Appearance
Before: City Mag—Justice of Peace—County Ct. A. M.
..... P. M.
Location Month Day Year Time
Dated this.....day of.....19.....
Officer.....

Promise to Appear

I hereby consent and promise to appear at the time and place specified in the above summons, the receipt of a copy of which is hereby acknowledged, and I expressly waive earlier hearing.

Dated this.....day of.....19.....

Defendant .....

§ 2. Repeal.) Section 27-0226 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 14, 1959.

CHAPTER 250

S. B. No. 291
(Committee on Delayed Bills
(By request)

REPLACING INCAPACITATED COUNTY JUDGES

AN ACT

To amend and reenact section 27-0723 of the North Dakota Revised Code of 1943, relating to change of judges in county courts when the original county judge is unable to act.

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

§ 1. Amendment.) Section 27-0723 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-0723. Change of Judge; When Permitted; How Obtained; Authority and Duties of Other Judge.) If the judge of the county court of any county is disqualified, is necessarily absent from this state, or is ill and unable to act, he shall request in writing the county judge of an adjoining county to act in his place and stead; provided, however, that should the county judge become incapacitated or incompetent because of illness to the extent that he is unable to make a request in writing, then the district court having jurisdiction of said county shall in writing request the county judge of an adjoining county to act in the place and stead of the incapacitated county judge. When acting pursuant to such request, the county judge of such adjoining county shall possess all the powers and shall have all the jurisdiction of the county judge for whom he acts, and the judge so requested shall attend for the purpose of acting for such judge at such time as may be necessary.

Approved March 10, 1959.

CHAPTER 251

H. B. No. 556
(Strege, Stallman, Breum)

SELECTION OF JURORS

AN ACT

To amend and reenact section 27-0909 of the North Dakota Revised Code of 1943, relating to the method of selection of jurors.

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

§ 1. Amendment.) Section 27-0909 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-0909. Governing Bodies of Organized County Subdivisions to Select Names Apportioned; Method of Selection.) At the time and place designated in the notice provided for in section 27-0908, the board of supervisors of the township, or the city council or board of city commissioners of the city, or the board of trustees of the village, as the case may be, shall meet and select from the names of the resident taxpayers of such township, city, or village three times as many names as are apportioned to the township, city, or village by the county commissioners and the township, city, or village clerk or auditor, at such meeting, shall write each name so selected on a separate ticket and shall record the list of the names so written and selected in a book to be kept for that purpose. Such board then shall compare the names on such tickets with such recorded list of names to satisfy itself that such tickets are correct. The tickets thereafter shall be folded, placed in a box or some other receptacle, and shaken up, and one of the members of the board shall select by lot from the tickets in such box or receptacle the proper number of names apportioned to his township, city, or village. The clerk or auditor then shall record in a book to be kept for that purpose such names in the order in which they were drawn. No governing body of any subdivision shall select therefrom any person to serve as a juror who has served on the regular panel as a juror from such political subdivision during the preceding five years.

Approved March 4, 1959.

CHAPTER 252

S. B. No. 221
(Wartner and Garaas)

JUDICIAL COUNCIL

AN ACT

To amend and reenact sections 27-1501, 27-1502 and 27-1510 of the North Dakota Revised Code of 1943, relating to making retired judges of the supreme and district courts members of the judicial council and limiting state bar fund payment for their mileage expenses to travel within the state.

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

§ 1. Amendment.) Section 27-1501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-1501. Judicial Council Established.) There shall be maintained a judicial council consisting of:

1. All judges of the supreme and district courts of the state;
2. One judge of the county court to be chosen by the supreme court;
3. The attorney general;
4. The dean of the school of law of the university;
5. Five members of the bar who are engaged in the practice of law who shall be chosen by the executive committee of the state bar association; and
6. All retired judges of the supreme and district courts of the state.

§ 2. Amendment.) Section 27-1502 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-1502. Term of Office; Vacancy; How Filled.) The judges of the supreme and district courts, the attorney general, and the dean of the school of law in the university shall hold office as members of the council during the time they occupy their respective official positions. The retired judges of the supreme and district courts shall hold office as members of the council during retirement from their respective official positions. The term of office of the county judge chosen by the supreme court, and of the members of the bar, shall be two years, commencing on the first Monday of January of odd numbered years. A vacancy shall be filled by the authority originally selecting the member.

§ 3. **Amendment.)** Section 27-1510 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-1510. Compensation; Expenses.) No member of the council shall receive compensation for any services rendered by him in such capacity, but any necessary expenses incurred by any judge of the district and supreme courts in the discharge of his duties as a member shall be deemed expenses incurred in the performance of the duties of his office and shall be paid as such. The expenses of all other members of the council shall be audited and paid from the state bar fund in the same manner as other claims against such fund are paid except that in the matter of mileage expenses, the retired judges who are members of the council shall be paid such only for travel within the state.

Approved March 17, 1959.

CHAPTER 253

H. B. No. 638
(Wheeler, Idso, Muggli, Breum)

JUVENILE COMMISSIONERS AND JUVENILE COURT ASSISTANTS

AN ACT

To amend and reenact section 27-1603 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the compensation of juvenile commissioners, and amending Title 27 of the North Dakota Revised Code of 1943 by creating section 27-16031 providing for the appointment of juvenile court assistants and section 27-16032 providing for the compensation and expenses of juvenile court assistants.

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

§ 1. **Amendment.)** Section 27-1603 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-1603. Juvenile Commissioners: Compensation.) Each juvenile commissioner shall receive as full compensation for his services such amount as may be fixed and approved from time to time by a judge of the juvenile court, either upon a per diem basis not to exceed $10.00 per day for the time actually and necessarily employed in the discharge of his official duties, or upon a salary basis. In no event shall the salary paid

the said juvenile commissioner exceed six thousand five hundred dollars per annum, if paid on a salary basis. In addition thereto, the juvenile commissioner shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his official duties, in accordance with the amount allowed to the district court reporter. The salary or per diem or travel expenses, as the case may be, shall be paid by the county for which he is appointed or shall be apportioned by the judge among the several counties of the judicial district as are served by such juvenile commissioner. Such compensation shall be paid monthly by the county treasurer of the respective counties upon properly verified claims and upon approval of the judge as other claims against the county are allowed and paid.

§ 2. Amendment.) Title 27 of the North Dakota Revised Code of 1943 is hereby amended by creating a new section 27-16031 to read as follows:

27-16031. Appointment of Juvenile Court Assistants.) A judge of the juvenile court, in his discretion, subject to approval of the county commissioners of the county or counties concerned may provide for the employment of clerical or specialized personnel, under the direction and supervision of the judge, to assist the court, the juvenile commissioner, and juvenile officers, in carrying out the provisions of this chapter.

§ 3. Amendment.) Title 27 of the North Dakota Revised Code of 1943 is hereby amended by creating a new section 27-16032 to read as follows:

27-16032. Compensation and Expenses of Juvenile Assistants.) Clerical or specialized personnel employed to assist in carrying out the provisions of this chapter, shall receive as full compensation for their services, such amount as may be fixed and approved from time to time by a judge of the juvenile court, subject to approval of the county commissioners of the county or counties concerned together with reasonable travel expenses, in the manner and subject to the limitations and apportionment applicable to the juvenile commissioner.

Approved March 14, 1959.

CHAPTER 254

H. B. No. 676
(Johnston)

SUPREME AND DISTRICT COURT JUDGES' RETIREMENT

AN ACT

To amend and reenact subsection 1 of section 27-1701 of the 1957 Supplement to the North Dakota Revised Code of 1943, 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.) Subsection 1 of section 27-1701 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

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.

Approved March 12, 1959.

JUDICIAL PROCEDURE, CIVIL

CHAPTER 255

H. B. No. 786
(Stockman)

SALE OR CONVEYANCE OF REAL ESTATE, ENFORCEMENT OR CANCELLATION LIMITATION

AN ACT

To provide a limitation of ten years upon the commencement of an action or proceeding to cancel or enforce any contract for the sale or conveyance of real estate.

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

§ 1. Cancellation or Enforcement of Contract for Sale of Real Estate: Limitation: When Time Begins to Run: Commencement of Proceedings.) On and after July 1, 1960, no action or proceeding shall be maintained by a person out of possession to cancel or enforce any contract for the sale or conveyance of real estate, after twenty years from the date of said contract, as shown by the record of such instrument, or after twenty years from the date of recording of any instrument which describes or refers to such contract, which itself is not of record, unless the record of such contract or other instrument shows that less than ten years have elapsed since the due date of the last payment on the indebtedness or part thereof, secured thereby, or since the right of action has accrued thereon, or unless the record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years from the expiration of the time of such extension has not yet expired. The limitation of this Act shall not be extended by the nonresidence of any plaintiff or defendant or of any vendor or vendee, nor by reason of any payment made after the due date of the last payment on the indebtedness or part thereof, nor by reason of any disability of any party interested in the contract.

Approved March 12, 1959.

CHAPTER 256

H. B. No. 785
(Stockman)

FORECLOSURE OF REAL ESTATE MORTGAGE LIMITATION

AN ACT

To provide a limitation of ten years upon the commencement of an action or proceeding to foreclose a real estate mortgage and to repeal subsection 3 of section 28-0115 of the North Dakota Revised Code of 1943.

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

§ 1. Foreclosure of Real Estate Mortgage: Limitation: When Time Begins to Run: Commencement of Proceedings.) On and after July 1, 1960, no action or proceeding to foreclose a real estate mortgage heretofore or hereafter given, whether by action or advertisement, shall be maintained unless commenced within ten years from the due date of the last payment of the debt secured by the mortgage, as stated therein, and this limitation shall not be extended by the nonresidence of any plaintiff or defendant or any party interested in the land upon which the mortgage is a lien in any action to foreclose such mortgage, nor by reason of any payment made after such due date, nor by reason of any disability of any party interested in the mortgage, nor by reason of any extension of time of payment of the mortgage or the debt or obligation thereby secured or any portion thereof, unless such extension shall be in writing and shall have been recorded in the same office in which the original mortgage is recorded, within the limitation period herein provided, or prior to the expiration of any previously recorded extension of such mortgage or debt.

The time within which any such action or proceeding may be commenced shall begin to run from the date of such mortgage, unless the time of the due date of the last payment of the debt or obligation secured by such mortgage shall be clearly stated in such mortgage. Any action or proceeding to foreclose a real estate mortgage, whether by action, by advertisement or otherwise, commenced within the period of limitation herein provided may be prosecuted to completion notwithstanding the expiration of the period of limitation, and proceedings to foreclose a real estate mortgage by advertisement shall be deemed commenced on the date of the first publication of the notice of sale. A foreclosure action or proceeding shall also be deemed commenced by service or mailing of the

statutory notice of intention to foreclose, where such is required, providing that such service or mailing is followed by commencement of an action or by the first publication of a notice of mortgage foreclosure sale within ninety days.

§ 2. **Repeal.)** Subsection 3 of section 28-0115 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 12, 1959.

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 257

S. B. No. 76
(Erickstad)

FORFEITURE OF BAIL BY FELON

AN ACT

To provide that any person charged with or convicted of a felony who willfully forfeits his bail shall be guilty of a misdemeanor.

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

§ 1. Jumping Bail a Misdemeanor.) Any person charged with or convicted of a felony who has been admitted to bail in connection with such felony, and who willfully fails to appear as ordered by the court and thereby incurs a forfeiture of his bail, and who does not appear or surrender himself within thirty days thereafter, is guilty of a misdemeanor which shall be punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

Approved March 4, 1959.

CHAPTER 258

S. B. No. 159
(Erickstad)

MOTION FOR NEW TRIAL

AN ACT

To create and enact section 29-2406 to the North Dakota Revised Code of 1943 relating to time within which motion for new trial may be made.

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

§ 1.) Section 29-2406 to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

29-2406. Motion for New Trial; Time Within Which Made.) The motion for a new trial, except in case of a sentence for

death, must be made before the time for an appeal has elapsed. In case of a sentence of death, the motion may be made at any time before the execution.

Approved March 16, 1959.

CHAPTER 259

H. B. No. 729
(Wheeler)

EVIDENCE IN AGGRAVATION OR MITIGATION OF PUNISHMENT

AN ACT

To amend and reenact section 29-2618 of the 1943 Revised Code of North Dakota relating to evidence in aggravation or mitigation of punishment; how presented.

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

§ **1. Amendment.)** Section 29-2618 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

29-2618. Evidence in Aggravation or Mitigation of Punishment; How Presented.) Circumstances in aggravation or mitigation of punishment must be presented by testimony of witnesses examined in open court, except that when a witness is so sick or infirm as to be unable to attend, his deposition may be taken by a magistrate of the county out of court, at a specified time and place, upon such notice to the adverse party as the court may direct; and except that the criminal record of the defendant furnished by the federal bureau of investigation or the state superintendent of criminal identification and reports of the state parole officer may be received by the court without verification or other foundation.

Approved March 12, 1959.

JUDICIAL PROCEDURE, PROBATE

CHAPTER 260

H. B. No. 558
(Muggli)

AUTHORITY OF ADMINISTRATORS, EXECUTORS AND GUARDIANS

AN ACT

To provide that administrators, executors or guardians may obtain loans from the federal government or institutions guaranteed by the federal government, without court approval, upon harvested cereal crops which are a part of the estate being managed by the executor, administrator or guardian.

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

§ 1. Authority to Obtain Loan on Crops.) An administrator, executor or guardian shall have the authority to negotiate for and obtain loans from the federal government or any of its agencies or from any private institution when such loan is guaranteed by the federal government or any of its agencies upon harvested cereal crops which are a part of the estate being managed by the executor, administrator or guardian. It shall not be necessary for such persons to obtain the approval of any court before obtaining such loans.

Approved March 4, 1959.

CHAPTER 261

S. B. No. 270
(Holand and Erickstad)

PERSONS NOT COMPETENT TO SERVE AS EXECUTOR, ADMINISTRATOR OR GUARDIAN

AN ACT

To amend and reenact section 30-1101 of the North Dakota Revised Code of 1943 relating to persons not competent to serve as executor, administrator, or guardian.

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

§ 1. Amendment.) Section 30-1101 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1101. Executor, Administrator, and Guardian; Persons Not Competent.) A person is not competent to serve as an executor or administrator nor as a guardian, if he:

1. Is under twenty-one years of age;
2. Is incapable by law of making a contract;
3. Has been convicted of a felony;
4. Is found by the court to be unfit to discharge the duties of his trust by reason of drunkenness, improvidence, mental or physical infirmity, or lack of integrity.

The husband of the widow of a decedent is not competent to serve as the guardian of such decedent's children if such decedent left minor children living.

Approved March 10, 1959.

CHAPTER 262

H. B. No. 716
(Stockman and Wheeler)

DESCENT AND DISTRIBUTION OF HOMESTEAD ESTATE

AN ACT

To amend and reenact section 30-1604 of the North Dakota Revised Code of 1943 relating to the descent and distribution of real property subject to homestead estate, and declaring an emergency.

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

§ 1. Amendment.) Section 30-1604 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1604. Descent and Distribution of Real Property Subject to Homestead Estate.) The real property subjected to the homestead estate shall descend, subject to the full satisfaction of such estate, exempt from decedent's debts except claims in favor of the county for poor relief and also for claims of the state of North Dakota for repayment of old age assistance and aid to the permanently and totally disabled and as otherwise provided in section 47-1804, and shall be distributed in the manner in which real property not subjected to a homestead estate is distributed or as directed in the decedent's will, but in no case shall the real property constituting the homestead of a decedent, or any part thereof descend or be distributed to any person other than the surviving husband or wife and decedent's heirs in the direct descending line as prescribed in the title Succession and Wills until all the decedent's debts are fully paid.

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

Approved March 12, 1959.

CHAPTER 263

S. B. No. 87
(Longmire)

BIDS FOR REAL PROPERTY OF AN ESTATE

AN ACT

To amend and reenact section 30-1915 of the North Dakota Revised Code of 1943, relating to written bids of estate realty.

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

§ 1. Amendment.) Section 30-1915 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1915. Written Bids: When and How Received.) The bids for real property of an estate offered for sale as is provided in section 30-1914 must be in writing and, unless the court directs otherwise in the order of sale, shall be filed in the office of the county court to which the return of sale must be made, at any time after the first publication of the notice and before the making of the sale. Any person making the appraisal as provided herein, shall not bid upon the property.

Approved March 4, 1959.

CHAPTER 264

H. B. No. 844
(Thompson of McLean)
(By request)

UNDERTAKING ON APPEAL FROM COUNTY COURT

AN ACT

To amend and reenact section 30-2610 of the North Dakota Revised Code of 1943, relating to undertaking on appeal from a county court.

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

§ 1. Amendment.) Section 30-2610 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-2610. Undertaking on Appeal: Contents; Stay; From Whom Undertaking Not Required Unless Ordered by Court.) An undertaking on appeal must be:

1. Executed in favor of the appellees by the appellant, or his agent or attorney, in his name;
2. Executed by sufficient sureties approved by the judge;
3. Given in such sum as the county court shall prescribe; and
4. To the effect that the subscribers will pay to the parties entitled thereto all costs of the appeal that shall be awarded against the appellant by direction of the district court, not exceeding the sum therein stated.

But the execution or enforcement of the decree or order appealed from shall not be stayed unless the instrument contains a further undertaking to the effect that the subscribers also will pay all damages which the appellees or any of them shall sustain by reason of the appeal, or a separate undertaking to that effect is executed and filed in like manner. However, when the state, or any state officer, or state board, in a purely official capacity, or any municipal corporation within the state shall take an appeal, the appeal shall be perfected and the execution or enforcement of the decree or order appealed from stayed as provided in this chapter, and no undertaking need be given, but the district court on motion may require sureties to be given in such form and manner as it shall prescribe as a condition of the further prosecution of the appeal.

Approved March 14, 1959.

JUDICIAL PROOF

CHAPTER 265

H. B. No. 840
(Wheeler)

COMPENSATION AND MILEAGE OF WITNESSES

AN ACT

To amend and reenact section 31-0116 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the compensation and mileage paid to witnesses in civil or criminal cases.

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

§ 1. Amendment.) Section 31-0116 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

31-0116. Compensation and Mileage of Witness; County to Pay Fees in Criminal Action.) A witness in a civil or criminal case is entitled to receive:

1. The sum of six dollars for each day's attendance before the district court or before any other court, board, or tribunal; and
2. The sum of ten cents for each mile actually traveled one way.

In all criminal cases such witness fees and mileage on the part of the state shall be paid out of the county treasury of the proper county.

Approved March 9, 1959.

JUDICIAL REMEDIES

CHAPTER 266

H. B. No. 568
(Strege, Stallman, Breum, Guy, Bopp)

WAGES EXEMPT FROM GARNISHMENT

AN ACT

To amend and reenact section 32-0902 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to exemption of salary in garnishment proceedings.

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

§ 1. Amendment.) Section 32-0902 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

32-0902. What Wages Exempt From Garnishment.) The wages or salary of any person who is the head of a family and a resident of this state, to the amount of thirty-five dollars per week, shall be exempt from garnishment. Every employer shall pay to such person such exempt wages or salary, not to exceed the sum of thirty-five dollars per week of each week's wages earned by him, when due, upon such wage earner's making and delivering to such employer his affidavit that he is such head of a family and residing with the same in this state, notwithstanding the service of a garnishee summons, and the surplus only of his wages above such exemptions shall be held by the employer to abide the event of the garnishment suit.

Approved March 9, 1959.

CHAPTER 267

S. B. No. 138
(Wenstrom and Longmire)

PRIVATE PROPERTY TAKEN FOR PUBLIC USE

AN ACT

To amend and reenact section 32-1503 of the North Dakota Revised Code of 1943 relating to the classification of the estates and rights in private property which may be taken for public use.

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

§ 1. Amendment.) Section 32-1503 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

32-1503. What Estate Subject To Be Taken.) The following is a classification of the estates and rights in lands subject to be taken for public use:

1. A fee simple, when taken for public buildings or grounds, or for permanent buildings, for reservoirs and dams and permanent flooding occasioned thereby, or for an outlet for a flow or a place for the deposit of debris or tailings of a mine, or for the construction of parking lots and facilities for motor vehicles;
2. An easement, when taken for any other use except, upon a proper allegation of the need therefor, the court shall have the power to order that a fee simple be taken for such other use;
3. The right of entry upon and occupation of lands and the right to take therefrom such earth, gravel, stones, trees, and timber as may be necessary for a public use.

However, the provisions of this section shall not authorize the state or any political subdivision thereof to obtain any rights or interest in or to the oil, gas or fluid minerals on or underlying any estate or right in lands subject to be taken for a public use.

Approved March 10, 1959.

JUSTICE COURT

CHAPTER 268

S. B. No. 275
(Wenstrom)

COUNTY JUSTICE AND COUNTY JUSTICE COURT

AN ACT

To abolish the office of justice of the peace and to confer the jurisdiction of such office elsewhere, and to amend and reenact sections 27-0820, 27-0702, 33-0108, 40-1801, 29-0114, 29-0706, 11-1002, 11-1006, 58-0502, 58-0507, 40-1501, 40-1401, 40-1803, 40-1807, 40-1808, 40-1810, 40-1811, 40-1813, 40-1814, 40-1816, 40-1817, 40-1818, 40-1819, 33-0312, 33-1212, 33-0123, 40-1806, and 40-1805 of the North Dakota Revised Code of 1943 and the 1957 Supplement thereto, relating to the jurisdiction and powers of police magistrate, county court, county court of increased jurisdiction, and creating a new chapter 27-18 of the North Dakota Revised Code of 1943, relating to the creation of the office of county justice and prescribing the compensation, jurisdiction and powers thereof, and providing for appeal, and amending and reenacting section 40-0708 of the North Dakota Revised Code of 1943 and the 1957 Supplement thereto, providing for the office of police magistrate in villages, and eliminating the office of justice of the peace conformable to section 1 of this Act, and repealing sections 40-1802 and 11-1003 of the North Dakota Revised Code of 1943, and providing for an effective date.

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

§ 1. Office of Justice of the Peace Abolished.) The office of justice of the peace, as a separate office and as an office ex officio, is hereby abolished and the jurisdiction and powers thereof shall be conferred as provided in this Act, and wherever justices of the peace, or the justice court is referred to in the laws of this state, the same shall mean the county justice and the county justice court, as the case may be.

§ 2. Amendment.) Section 27-0820 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-0820. Jurisdiction of County Courts of Increased Jurisdiction.) A county court of any county of this state which, by an election, has been given increased jurisdiction, in addition to its prior jurisdiction, shall have concurrent jurisdiction with the district court in all civil actions where the amount in controversy does not exceed one thousand dollars and in all crim-

inal actions below the grade of felony. The jurisdiction and powers formerly vested in the justices of the peace are hereby conferred concurrently upon such county court.

§ 3. Amendment.) Section 27-0702 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

27-0702. Jurisdiction of County Courts.) The county court of each county shall have exclusive original jurisdiction in probate and testamentary matters, including the appointment of administrators, and guardians, the settlement of the accounts of executors, administrators, and guardians, and the sale of lands by executors, administrators, and guardians, and it shall have such other probate jurisdiction as may be conferred by law. In a county not having a county court of increased jurisdiction, the jurisdiction and powers formerly vested in the justices of the peace are hereby conferred concurrently upon the county court, unless and until a county justice is appointed.

§ 4. Amendment.) Section 40-1801 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1801. Jurisdiction of Police Magistrate.) The police magistrate within a city or village shall have exclusive jurisdiction of, and shall hear, try, and determine, all offenses against the ordinances of the city or village, as the case may be. The criminal jurisdiction and related powers vested in the justices of the peace are hereby conferred concurrently upon the police magistrates of cities and villages.

§ 5. New Chapter Created.) There is hereby created a new chapter 27-18 of the North Dakota Revised Code of 1943 to read as follows:

CHAPTER 27-18

County Justice

Section
27-1801 Office of county justice; when created; how filled.
27-1802 Qualifications and tenure of county justice.
27-1803 Compensation of county justice; amount; payment.
27-1804 Jurisdiction of county justice.
27-1805 Appeal from county justice.

27-1801. 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. 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.

27-1802. Qualifications and Tenure of County Justice.) The county justice shall be licensed to practice law in this state but need not be an elector of the county for which he is elected or appointed, and shall hold office for a term of two years commencing at the same date as the term of the county judge. The county justice so elected or appointed may serve more than one county.

27-1803. Compensation of County Justice; Amount; Payment.) The county justice shall receive as full compensation for his services an annual salary not exceeding the sum of thirty-six hundred dollars, as may be determined from time to time by the board of county commissioners of the county for which he is elected or appointed. In addition thereto, the county justice shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his official duties, in accordance with the amount allowed the district court reporter. The salary and travel expenses, as the case may be, shall be paid by the county for which he is elected or appointed or shall be equitably apportioned by the several boards of county commissioners among the several counties as are served by such county justice. Such compensation shall be paid monthly by the county treasurers of the respective counties upon properly verified claims as other claims against the county are allowed and paid.

27-1804. Jurisdiction of County Justice.) In addition to the jurisdiction and powers formerly vested in the justices of the peace and conferred upon the county justice, the county justice shall have jurisdiction to hear and determine all cases of misdemeanor arising from crimes committed in the county for which he is elected or appointed. The territorial jurisdiction of the county justice shall be coextensive with the county or counties for which he is elected or appointed.

27-1805. Appeal From County Justice.) The right of appeal from a county justice shall be preserved in the same manner and to the same extent as formerly authorized with respect to the justices of the peace.

§ 6. Amendment.) Section 29-0114 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

29-0114. Who Are Magistrates.) The following officers are magistrates:

1. The judges of the supreme court, with authority to act as such throughout the state;

2. The judges of the district courts, with authority to act as such throughout the judicial districts for which they respectively are elected; and
3. As limited by law directing the place of exercising their jurisdiction and authority, county justices, police magistrates and, when authorized by law, the judges of the county courts, including those with increased jurisdiction, with authority each to act as such throughout the county or the judicial subdivision in which the county, city, or municipality for which he is elected or appointed, is located.

§ 7. Amendment.) Section 29-0706 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

29-0706. Change of Place of Hearing; Procedure.) Whenever a person accused of a public offense is brought before a police magistrate for examination, and, at any time before such examination is commenced, he files with such police magistrate his affidavit stating that by reason of the bias or prejudice of said police magistrate he believes he cannot have a fair or impartial examination before him, such police magistrate must transfer said action, and all the papers therein, including a certified copy of his docket entries, to a county justice for the same county. The state's attorney, or his assistant, in the same manner and for the same reasons as the defendant, may obtain a transfer of such action from the police magistrate before whom the action was commenced, or from the county justice to whom it has been transferred on the application of the state, in which event it shall be transferred to the next nearest county justice. The place of examination cannot be changed more than once by each party under this section.

§ 8. Amendment.) Section 11-1002 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-1002. 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 county justice;
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 11-1102, the public administrator, who shall be chosen in the manner prescribed in section 11-2101, the county justice, who shall be chosen in the manner prescribed in section 27-1801, the county coroner, who shall be chosen in the manner prescribed in section 11-19A03, and the constables, who shall be appointed by the board of county commissioners.

§ 9. Amendment.) Section 11-1006 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

11-1006. Bonds of County Officers.) Before entering upon the duties of their respective offices, the county officers herein named shall be bonded for the faithful discharge of their respective duties in the same manner as other civil officers are bonded and in the following amounts:

1. The county auditor, clerk of the district court, register of deeds, and sheriff, fifteen thousand dollars, except in counties having a population of less than ten thousand inhabitants, and in such counties, the amount shall be ten thousand dollars;
2. A county commissioner, two thousand dollars;
3. The county coroner, or a county constable, five hundred dollars;
4. The state's attorney, three thousand dollars;
5. The county surveyor, such amount, not to exceed two thousand dollars, as may be determined by the board of county commissioners;
6. The public administrator, not less than ten thousand dollars;
7. The county treasurer, an amount fixed by the board of county commissioners, which amount shall be not less than seventy-five thousand dollars, except in counties

having a population of less than ten thousand inhabitants, and in such counties, not less than forty thousand dollars. When the total amount of taxes to be collected by the county treasurer in any one year is less than the minimum amount of bond specified in this subsection, the bond shall be in a sum equal to the amount of taxes to be collected.

When the amount of any bond required under this section is dependent upon the population of a county, such population shall be determined as provided in section 11-1010.

§ 10. Amendment.) Section 58-0502 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

58-0502. Officers of a Township; Terms of Office.) The elected officers of a civil township shall be:

1. Three supervisors;
2. One township clerk;
3. One assessor;
4. One treasurer; and
5. Two constables.

One supervisor shall be elected at each annual township meeting and shall hold his office for a term of three years. The other elective officers shall be elected every two years and shall hold their respective offices for a term of two years. Each officer shall serve until his successor is elected and qualified.

§ 11. Amendment.) Section 58-0507 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

58-0507. Officers to Take Oath.) Each person elected or appointed to the office of supervisor, township clerk, assessor, treasurer, constable, or township overseer of highways, within ten days after he is notified of his election or appointment, shall take and subscribe the oath prescribed in section 211 of the North Dakota Constitution. If the oath shall be administered by the township clerk, no fee shall be charged therefor.

§ 12. Amendment.) Section 40-1501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1501. Officers To Be Elected in Commission Cities.) The following officers shall be elected in each city operating under the commission system of government:

1. A president of the board of city commissioners;
2. Four city commissioners; and
3. A police magistrate.

§ 13. Amendment.) Section 40-1401 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1401. Officers To Be Elected in Council Cities.) The following officers shall be elected in each city operating under the council form of government:

1. A mayor;
2. The aldermen required under the provisions of section 40-0803 and 40-0804;
3. A city treasurer, but in cities having the city manager form of government the city treasurer shall be an appointive officer and the city manager shall have power to appoint the city treasurer and to remove such officer at will. The appointment and removal of the city treasurer, however, shall be confirmed by the city council. In any city which heretofore has adopted or which hereafter may adopt the provisions of chapter 44 of this title, the city treasurer shall be appointed as other full-time city employees and upon action of the city council may be included within and under the provisions of said civil service system; and
4. A police magistrate.

§ 14. Amendment.) Section 40-0708 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0708. Officers of Village; When Elected; Combining Offices.) A village clerk, assessor, treasurer and police magistrate shall be elected at the first village election after incorporation and annually thereafter, and shall hold their respective offices until the third Tuesday in March following, or until their successors are elected and qualified. Any two or more of such offices may be held by one and the same person.

§ 15. Amendment.) Section 40-1803 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1803. Vacancy in Office of Police Magistrate; Temporary Absence of Police Magistrate.) If a vacancy exists in the office of police magistrate by death, resignation, or otherwise, it shall be filled by appointment by the executive officer, subject to confirmation by the governing body of the city. An appointee shall qualify, and he shall hold office until the next city election, and until his successor is elected and qualified. During the temporary absence, interest, or disability of the police magistrate, any county justice designated by the executive

officer shall act as police magistrate until the police magistrate is available in the trial of causes triable before the police magistrate.

§ 16. Amendment.) Section 40-1805 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1805. Police Magistrate Is Conservator of the Peace; Powers on Sunday Restricted.) The police magistrate within his city and within his village shall be a conservator of the peace, and he shall have power to bring persons before him forthwith for trial. His court shall be open every day except Sunday to hear and determine cases cognizable before him. He shall perform no official act on Sunday except that he may receive complaints, issue process, take bail, and receive verdicts.

§ 17. Amendment.) Section 40-1807 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1807. Warrants of Arrest Issued by Magistrate; Service of Warrant.) Whenever any person competent to testify against the accused makes a complaint to a police magistrate upon oath or affirmation that an offense against a city ordinance or village ordinance or bylaw, as the case may be, has been committed, the magistrate shall issue a warrant for the arrest of the offender. The warrant shall be served by the chief of police, marshal, sheriff, any constable of the county, or by some person appointed specially by the magistrate for that purpose.

§ 18. Amendment.) Section 40-1808 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1808. Warrants Issued by Magistrate to Run to Whom.) All warrants issued by a police magistrate for the violation of any general law of this state shall run to the sheriff, or any constable of the county or to the chief of police, marshal, or any policeman of the municipality.

§ 19. Amendment.) Section 40-1810 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1810. Trials for Misdemeanors Before Police Magistrate Governed by Justice Court Procedure.) All trials before a police magistrate for misdemeanors arising under the laws of this state shall be governed by the criminal procedure applicable to justices' courts in like cases.

§ 20. Amendment.) Section 40-1811 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1811. Proceedings in Criminal Cases Not Provided for in This Chapter To Be Governed How.) In all cases not specifically provided for in this chapter, the process and proceedings in the court of a police magistrate shall be governed by the provisions of the laws of this state regulating proceedings in justices' courts in criminal cases.

§ 21. Amendment.) Section 40-1813 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1813. Suspension of Sentence.) A police magistrate may suspend any sentence imposed by him during the good behavior of the person so sentenced or for other reasonable cause.

§ 22. Amendment.) Section 40-1814 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1814. Police Magistrate May Enforce Orders and Judgments.) A police magistrate shall have the power to enforce due obedience to his orders and judgments. He may fine or imprison for contempt offered to him while holding court, or to process issued, or orders made by him, in the same manner and to the same extent as is provided by the laws of this state in the case of a county justice.

***Note:** This bill as signed by the governor did not contain a section 23.

§ 24. Amendment.) Section 40-1816 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1816. Procedure When Jury Demanded in Court of Police Magistrate.) When a jury has been demanded in accordance with the provisions of section 40-1815, the police magistrate shall prepare a list of the names of eighteen residents of the city or village having the qualifications of jurors in the district court. The defendant and the attorney for the city or the village, or the chief of police or the village marshal, if the city or village is not represented by an attorney, shall strike names from such list alternately until each has stricken three names therefrom. If the defendant shall refuse to strike names from such list, the police magistrate shall strike three names therefrom. The magistrate then shall issue his venire to the chief of police or to the village constable, as the case may be, commanding him to summon the twelve persons whose names remain upon the lists as jurors.

§ 25. Amendment.) Section 40-1817 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1817. Challenges for Cause to Jurors in Court of Police Magistrate.) In all trials by the jury in a police magistrate's court, challenges shall be allowed in the same manner and for the same causes as in the district court in cases of misdemeanor, but no peremptory challenges shall be permitted. If either party objects to the competency of a juror, the question on the challenge shall be tried in a summary manner by the magistrate, who may examine the juror or other witnesses under oath. If the number of jurors is reduced below twelve by challenges for cause or because of the failure to appear of any juror named on the venire, the chief of police of the city or the village marshal shall summon a sufficient number of talesmen having the qualifications of jurors to complete the panel which, in all cases, shall consist of twelve jurors.

§ 26. Amendment.) Section 40-1818 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1818. Fee of Juror in Court of Police Magistrate.) Each person summoned as a juror in any case in the court of a police magistrate shall be entitled to a fee of four dollars. If the defendant is convicted, the fees of all jurors shall be taxed against him as a part of the costs of the case.

§ 27. Amendment.) Section 40-1819 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1819. Appeals From Determinations of Police Magistrate.) An appeal may be taken to the district court from any judgment in a police magistrate's court in the same form and manner as appeals are taken and perfected from a judgment of conviction of a defendant in justice court, and in accordance with sections 33-1234, 33-1235 and 33-1239, and shall be tried in the district court in accordance with sections 33-1240 and 33-1241, and bail shall be taken in accordance with sections 33-1236 and 33-1237, and witnesses may be placed under bond as provided for in section 33-1238, all sections of the North Dakota Revised Code of 1943, as amended. On all appeals from a determination in a police magistrate's court the district court shall take judicial notice of all of the ordinances of the city or of the village, as the case may be.

§ 28. Amendment.) Section 33-0108 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

33-0108. Criminal Jurisdiction of County Justice.) The jurisdiction and authority of justices of the peace to prevent the commission of public offenses, to institute searches and

seizures, to require the arrest and detention of persons charged with crime, to require and accept bail, and otherwise to act as magistrates in matters of crime, is prescribed by the title Judicial Procedure, Criminal. Each county justice has jurisdiction and authority coextensive with his county to hear, try, and determine every criminal action in which the offense charged is punishable by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period of not more than one year, or by both such fine and imprisonment, and every other criminal action in which jurisdiction is conferred specially by law.

§ 29. Amendment.) Section 33-0312 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

33-0312. Justice Court to Which Civil Action Transferable Upon Change of Venue; Number of Changes Allowable.) The place of trial of a civil action in a justice court may not be changed on motion of the same party more than once. When the court orders the place of trial to be changed, the action must be transferred for trial to a justice court the parties may agree upon, and if they do not so agree, then the next nearest county justice, the location of which has not been changed during the thirty days immediately preceding.

§ 30. Amendment.) Section 33-1212 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

33-1212. Change of Venue.) When the defendant in a criminal action in a justice court, or his attorney, or the state, by the state's attorney or any other attorney acting for the state, before the trial commences, files an affidavit in writing stating that he has reason to believe and does believe that a fair and impartial trial of the action cannot be had before the justice about to try the same, by reason of the bias or prejudice of such justice, the action must be transferred to a justice of the county agreed upon by or in behalf of the parties, or if there is no such agreement, to the next nearest county justice, and an order must be made transferring the same accordingly, but the place of trial cannot be changed more than once by each party under the provisions of this section.

§ 31. Amendment.) Section 33-0123 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

33-0123. Fees To Be Charged by Police Magistrate.) A police magistrate shall be entitled to charge and receive the following fees:

1. For issuing summons or warrant of arrest and all proceedings prior to trial, two dollars;
2. For entry of default judgment or sentence upon plea of guilty or order binding over on waiver, two dollars;
3. For trial of issue of fact or preliminary hearing, four dollars;
4. For issuing execution and all proceedings subsequent to entry of judgment, one dollar;
5. Performing marriage ceremony, three dollars; and
6. For taking affidavit or acknowledgment other than in pending proceedings, twenty-five cents.

§ 32. Amendment.) Section 40-1806 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1806. Police Magistrate Who Is Paid Salary to Turn Fees Into City Treasury.) When the police magistrate is paid a salary by the city, he shall not receive fees of any kind or in any amount from the city. In all criminal actions and in all actions instituted under any ordinance of the city, however, he shall collect the same fees as are allowed by section 33-0123, and such fees shall be paid by him into the city treasury at the end of each month. At the end of each month, the magistrate shall make and file with the city auditor a written report under oath showing an account of all fees collected by him in such actions during the preceding month and showing the actions in which such fees were collected. His salary shall not be paid to him until he has complied with the provisions of this section.

§ 33. Title Effective Date.) This Act shall become effective July 1, 1961.

§ 34. Repeal.) Sections 40-1802 and 11-1003 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 21, 1959.

LABOR AND EMPLOYMENT

CHAPTER 269

H. B. No. 718
(Dahlund, Magnuson, Tough, Bloom, Nicolson, Streibel)

QUALIFICATIONS OF LABOR UNION OFFICIALS

AN ACT

To create and enact section 34-01093 of the 1957 Supplement, relating to qualifications to hold office in labor union or labor organization.

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

34-01093. Qualifications to Hold Office in Labor Union or Labor Organization.) No person who has been convicted of any crime involving moral turpitude or a felony, excepting traffic violations, shall serve in any official capacity or as any officer in any labor union or labor organization in this state. No such person, nor any labor union or labor organization in which he is an officer shall be qualified to act as a bargaining agent or representative for employees in this state. Such disqualification shall terminate whenever such officer is removed or resigns as an officer in such labor union or labor organization.

Approved March 12, 1959.

CHAPTER 270

S. B. No. 231
(Ringsak, Kee, Wartner, Kisse)

SURVIVING SPOUSE TO RECEIVE WAGES DUE

AN ACT

To amend and reenact section 34-0112 of the North Dakota Revised Code of 1943, relating to employers paying surviving spouse wages due.

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

§ 1. Amendment.) Section 34-0112 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

34-0112. Employer to Pay Surviving Spouse Wages Due.) If at the time of the death of any person, his employer is indebted to him for work, labor, or services performed, and no executor or administrator of his estate has been appointed, such employer, upon the request of the surviving spouse, forthwith shall pay said indebtedness to such an amount as may be due, but not exceeding the sum of twelve hundred dollars, to the said surviving spouse. The employer shall require proof of the claimant's relationship to the decedent by affidavit and shall require claimant to acknowledge receipt of such payment in writing. Any payments made by an employer pursuant to the provisions of this section shall operate as a full and complete discharge of the employer's indebtedness to the extent of such payment, and no employer thereafter shall be liable therefor to the decedent's estate or the decedent's executor or administrator thereafter appointed. Any amount so received by a spouse shall be considered in diminution of the allowance provided for by section 30-1606.

Approved March 10, 1959.

LIENS

CHAPTER 271

H. B. No. 572
(Collette, Kadlec, Berntson, Christopher,)
(Stockman, Vinje, Goebel, Baldwin)

FACTOR'S LIEN

AN ACT

Creating a factor's lien upon merchandise, and the proceeds of the sale thereof, and providing procedures with respect thereto.

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

§ 1. Definitions.) The term "factor" shall mean any person, firm, bank or corporation, United States small business administration or other governmental agency, their successors or assigns, engaged in whole or in part, in the business of lending or advancing money on the security of merchandise whether or not they are employed to sell such merchandise. The term "merchandise" shall mean any personal property intended for sale, either before or after manufacturing or processing or in the process thereof, but shall not include machinery, equipment or trade fixtures of the borrower which is not intended for sale. The term "borrower" shall mean the owner of the merchandise, or his agent, who creates a lien in favor of a factor.

§ 2. Continuing Lien.) If so provided by any written agreement with the borrower, a factor shall have a continuing lien upon all merchandise of the borrower generally described in such agreement, or any separate written statements thereafter signed by the borrower and delivered to the factor, regardless of whether or not such merchandise is in the constructive, actual or exclusive occupancy or possession of the factor, or whether such merchandise shall be in existence at the time of creating the lien or at the time of filing the notice hereinafter referred to, or shall come into existence subsequently thereto or shall be acquired by the borrower thereafter, and upon any accounts receivable or other proceeds resulting from the sale or other disposition of such merchandise, and to the extent provided for in said written agreement or separate written statement such lien shall secure the factor for all his loans and advances to, or for the account of, the borrower made within the time specified in a notice filed

pursuant to the provisions of sections 3 and 4 of this Act, or of any amendment of notice filed pursuant to said sections, together with interest thereon, and all commissions, obligations, indebtedness, charges and expenses properly chargeable against or due from said borrower, and for the amounts due or owing upon any notes or other obligations given or received by a factor for or upon account of any such loans or advances, interest, commissions, obligations, indebtedness, charges and expenses.

§ 3. Execution of Lien; Contents; Amendment of Notice.) Notice of the creation of a factor's lien shall be signed by the factor and the borrower, shall be filed as hereinafter in this Act provided, and shall contain the following information:

(a) The name and address of the factor, and the name under which the factor does business, if an assumed name.

(b) The name and address of the borrower.

(c) The general character of merchandise subject to the lien, or which may become subject thereto, together with the place or places where such merchandise is or will be situated.

(d) The date of the written agreement between the factor and the borrower and the period of time, not exceeding one year from the date of filing the notice, during which loans or advances may be made against merchandise under the terms of said agreement.

Amendments of the notice signed by the factor and the borrower may be filed from time to time in the same manner to record any changes in the information contained in the original, subsequent or amended notices, and to record any extension of the time, not exceeding one year from the date of filing such amendment of notice, during which advances may be made under the terms of said written agreement, or any separate written statements signed by the borrower and delivered to the factor subsequent to the original agreement.

§ 4. Notice, Filing of.) Such notice of the creation of a factor's lien shall be filed, as hereafter provided, within fifteen days after the execution of the written agreement between the factor and the borrower providing for the creation of said lien; and no factor's lien created pursuant to this Act shall be valid or enforceable against creditors of the borrower until the notice provided for in section 3 of this Act has been so filed. Notice of the creation of a factor's lien shall be filed in the office of the register of deeds of the county in which the merchandise subject to or to become subject to the lien is or will be situated. Such notice need not be witnessed or acknowledged or contain a receipt for copy.

§ 5. Purchase for Value.) Purchasers for value in the ordinary course of the business of the borrower shall take the merchandise free and clear of the factor's lien provided for herein, whether or not they have knowledge of the existence of such lien.

§ 6. Effectiveness of Factor's Lien; Exceptions.) Any factor's lien created pursuant to this Act shall from and after the date of filing of the notice of creation of the factor's lien be effectual upon, and attach to, the merchandise from time to time described in the written agreement or separate written statements as against all claims of unsecured creditors of the borrower, and as against subsequent liens of creditors, except that notwithstanding the prior perfection of the lien of the factor under the provisions of this statute specific liens for processing, warehousing, or shipping the merchandise in the usual course of the borrower's business preparatory to sale shall be superior to the lien of the factor on said merchandise, but this section shall not obligate the factor personally for any debts secured by such superior lien.

§ 7. Foreclosure.) Any factor's lien created pursuant to this Act may be foreclosed, the property sold, and redemption made in the same manner as provided for foreclosure, sales, or redemption under chattel mortgages or in such other manner as may have been agreed in writing between the borrower and factor.

§ 8. Payment; Satisfaction; Certificate; Time Limitation.) Upon payment or satisfaction of the indebtedness secured by any factor's lien, the factor, upon the request of the borrower, shall furnish to the borrower a certificate or certificates signed by the factor stating that such indebtedness has been paid or such lien satisfied, or both. When such certificate or certificates are filed with the officer with whom the original notice of lien has been filed, such liens shall be deemed discharged. Failure of the factor to deliver any such certificate or satisfaction within 10 days after any such request shall subject the factor to double damages at the suit of any person injured by such neglect. All liens shall be deemed to have expired three years from the date of filing of the notice of creation thereof unless prior to the expiration of such three year period the factor files a statement under oath that the indebtedness secured by said factor's lien has not yet been paid in full or otherwise discharged, and upon the filing of such statement the said lien shall be deemed to continue for one year from the date of such filing or until the prior payment of the indebtedness.

§ 9. Governed by Chapter 9-11, 1957 Supplement; Exceptions.) The lien of the factor upon any accounts receivable

resulting from the sale or other disposition of the merchandise subject to the lien provided for herein, shall be governed as far as applicable by the provisions of chapter 9-11 of the 1957 Supplement to the 1943 Revised Code of North Dakota; provided, however, that unless the factor and the borrower shall agree otherwise, the delivery by the borrower to the factor of a written agreement or separate written statement, as hereinbefore provided for, designating the merchandise which will be subject to the lien, shall operate as an assignment of the accounts receivable which will result from the sale or other disposition with the same effect as if an assignment thereof by the borrower to the factor had been duly perfected under said chapter 9-11 of the 1957 Supplement to the 1943 Revised Code of North Dakota.

§ 10. Acts That Do Not Invalidate.) No one or more of the following acts:

(a) The return to or recovery by the borrower of merchandise sold and the subsequent dealing with said merchandise by the borrower as his own property; or

(b) The granting of credit allowances or adjustments by the borrower to the person purchasing such merchandise; or

(c) Failure of the factor to require the borrower to account to the factor for the proceeds of merchandise sold, or to account to the factor for moneys received on any account receivable resulting from the sale of merchandise covered by any factor's lien;

shall impair, invalidate or render void the factor's lien on any such merchandise or any other merchandise remaining subject to such factor's lien nor the factor's right to or lien upon any balance remaining owing on any such account receivable or on any other account receivable resulting from the sale of any other merchandise which is subject to such factor's lien irrespective of whether the factor shall have consented to or acquiesced in any such act or acts.

§ 11. Effect of Possession.) When any factor, or any third party for the account of any such factor, shall have possession of any merchandise, such factor shall have a continuing general lien, as set forth in section 2 of this Act, without filing the notice provided for in this Act. Nothing herein shall be construed as affecting or limiting any other existing or future lien or right of the factor at common law or by statute, or any transaction falling within the provisions of law requiring or permitting filing, recording, consent, publication, notices or formalities of execution of instruments creating chattel mortgages or other liens of any nature.

§ 12. Construction.) This Act is to be construed liberally to secure the beneficial interests and purposes thereof. A substantial compliance with its several provisions shall be sufficient for the validity of a lien and to give jurisdiction to the courts to enforce the same. This Act shall be construed as supplemental to and not in any way repealing, restricting nor limiting the operation or effect of chapters 3-06 and 35-06 of the Revised Code of North Dakota for the year 1943, or any acts amendatory thereof.

Approved March 17, 1959.

CHAPTER 272

S. B. No. 210
(Wenstrom and Garaas)

FILING AND DISCHARGE OF FEDERAL LIENS

AN ACT

Authorizing the filing of notices of liens for taxes payable to the United States of America and certificates discharging such liens and to make uniform the law relating thereto.

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

§ 1. Notice of Lien and Discharge; Where Filed.) Notices of liens for taxes payable to the United States of America and certificates discharging such liens shall be filed in the office of the county register of deeds of the county in this state within which the property subject to such lien is situated.

§ 2. Filing; Entry in Federal Tax Lien Index.) When a notice of such tax lien is filed, the register of deeds shall forthwith enter the same in an alphabetical federal tax lien index, showing on one line the name and residence of the taxpayer named in such notice, the collector's serial number of such notice, the date and hour of filing, and the amount of tax with the interest, penalties and costs. He shall file and keep all original notices so filed in numerical order in a file or files and designated Federal Tax Lien Notices.

§ 3. Discharge of Lien, Filing and Indexing.) When a certificate of discharge of any tax lien issued by the collector of internal revenue or other proper officer is filed in the office of the register of deeds where the original notice of lien is filed, said register of deeds shall enter the same with date of filing in the federal tax lien index on the line where notice

of the lien so discharged is entered, and permanently attach the original certificate of discharge to the original notice of lien.

§ 4. **Index and Files Furnished Register of Deeds.)** The federal tax lien index and files for the federal tax lien notices shall be furnished to the county register of deeds of each county in the state, in the manner now provided by law for the furnishing of books in which deeds are recorded.

§ 5. **Purpose.)** This Act is passed for the purpose of authorizing the filing of notices of liens in accordance with the provisions of section 3186 of the Revised Statutes of the United States, as amended by the Act of March 4, 1913, 37 Statutes at Large, page 1016, and any acts or parts of acts amendatory thereof.

§ 6. **Short Title.)** This Act may be cited as the Uniform Federal Tax Lien Registration Act.

Approved March 9, 1959.

LIVESTOCK

CHAPTER 273

S. B. No. 262
(Wadeson)

DUPLICATE SCALE TICKETS AT LIVESTOCK MARKETS

AN ACT

To require public livestock markets or commission firms, to give a duplicate scale ticket to all persons consigning livestock to or purchasing livestock from public livestock markets, and providing a penalty.

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

§ 1. Public Livestock Markets or Commission Firms; Duplicate Scale Tickets.) All public livestock markets or commission firms doing business in this state shall deliver to each person consigning livestock to such market or purchasing livestock from such market, a duplicate scale ticket showing the net weight of such livestock. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars.

Approved March 2, 1959.

CHAPTER 274

S. B. No. 175
(Vendsel, Fiedler, Kisse, Roen)

INSPECTION OF LIVESTOCK PRIOR TO REMOVAL FROM STATE

AN ACT

Requiring inspection of livestock to determine ownership, providing certain exceptions and a penalty.

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

§ 1.) The owner or possessor shall not remove cattle, horses or mules from this state or within a mile of any boundary of the state for the purpose of removal except upon complying with the following: such livestock shall be inspected for

marks and brands by an official brand inspector of the North Dakota stockmen's association and a certificate of inspection shall accompany such livestock to destination. Or in lieu of such inspection, the owner or possessor shall make and sign an invoice or waybill covering such stock showing marks and brands, number, sex and kind of the stock and the consignee and market destination where official brand inspection is provided by or for the said stockmen's association and shall mail a copy of such invoice to the association before the stock leaves the state.

§ 2.) It shall be unlawful for the owner or possessor to remove any such livestock from any place of such regular official brand inspection unless and until official brand inspection has been made and the brand inspection certificate issued.

§ 3.) Any violation of this chapter shall constitute a misdemeanor and shall be punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment for not less than 30 days nor more than 90 days.

Approved March 4, 1959.

CHAPTER 275

H. B. No. 781
(Saugstad, Guy, Sorlie)

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 livestock feedlots; and making an appropriation.

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

§ 1. Quarantined Livestock Feedlots: Establishment by Regulations of the State Livestock Sanitary Board and Licensing Thereof.) The livestock sanitary board is authorized to promulgate regulations for the establishment and maintenance by any person of a quarantined livestock feedlot. Any person may, on compliance with such regulations, obtain a license for said feedlot upon filing an application with the state livestock sanitary board and upon the payment of an annual fee

of fifty dollars to the state livestock sanitary board. Such fee shall be deposited with the state treasurer in the quarantined livestock feedlot fund out of which upon legislative appropriation the veterinarian inspector's fees and cost of administration, shall be paid. When so licensed and upon compliance with the regulations for the maintenance of the quarantined livestock feedlot, such licensee shall be authorized to confine and feed, in the feedlot, without vaccination or tests for brucellosis and such other diseases as the livestock sanitary board may specify, cattle to be sold only for slaughter or at public market or to another quarantined feedlot.

§ 2. **Appropriation.)** There is hereby appropriated to the state livestock sanitary board out of any moneys in the state treasury in the quarantined livestock feedlot fund the sum of twenty-five thousand dollars 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, 1959 and ending June 30, 1961.

Approved March 11, 1959.

CHAPTER 276

H. B. No. 678
(Gress and Rolfsrud)

LIVESTOCK AUCTION MARKETS

AN ACT

To amend and reenact sections 36-0507, 36-0508, and 36-0511 of the North Dakota Revised Code of 1943, and sections 36-0501, 36-0503, 36-0504, 36-0505, 36-0506, 36-0509, 36-0510, 36-0512, and 36-0513 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to changing the name of "livestock sales rings" to "livestock auction markets", and to repeal section 36-0503 of the 1957 Supplement to the North Dakota Revised Code of 1943, as amended by section 20 of chapter 231 of the 1957 Session Laws of North Dakota.

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

§ 1. **Amendment.)** Section 36-0501 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0501. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Livestock" shall mean horses, mules, cattle, swine, sheep, and goats;
2. "Livestock auction markets" shall mean a place or establishment conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures and their appurtenances, in which livestock is received, held, or kept for sale and where such livestock is sold or offered for sale, at either public auction or private sale; and
3. "Dairy commissioner" shall mean the dairy department of the department of agriculture and labor.

§ 2. Amendment). Section 36-0503 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0503. 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 dairy department. An applicant for such license shall:

1. Make a written application therefor in the form prescribed by the dairy department;
2. File with the dairy department a statement showing that he or it is financially responsible to operate such an auction market and that he or it owns or controls adequate facilities for the care, sorting, feeding, loading and unloading, and shipment of livestock, and have the written approval of the livestock sanitary board;
3. Pay to the dairy department a license fee of one hundred dollars; and
4. File with the dairy department 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 dairy department and reposting of the changed schedule.

§ 3. Amendment.) Section 36-0504 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0504. 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 dairy department. The dairy department 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 dairy department 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.

§ 4. Amendment.) Section 36-0505 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0505. 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 and shall not be renewed without the approval of the livestock sanitary board. On or before January 20 of each year the livestock sanitary board shall certify, in writing, to the dairy department the name and address of each auction market approved by it and within five days after it approves any additional auction market. 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 dairy department does not issue a requested original license or renewal license, the fee paid shall be refunded to the applicant.

§ 5. Amendment.) Section 36-0506 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0506. Investigation of Auction Market; Hearing Conducted to Determine Whether License Should Be Issued or Revoked.) The dairy department 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 dairy department 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.

§ 6. Amendment.) Section 36-0507 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0507. Sanitary Regulations of Livestock Auction Market.) Every livestock auction market shall be maintained in a sanitary condition. Any portion thereof used for the handling of hogs, including all hog pens, alleys, and auction markets, shall be equipped with concrete floors at least three inches thick. Such floors shall be cleaned and disinfected after each sale, or in case of a continuous sale, not less than once each week or as often as may be prescribed by the state livestock sanitary board.

§ 7. Amendment.) Section 36-0508 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0508. Scales Maintained by Auction Market To Be Inspected.) All scales used in the operation of a livestock auction market shall be tested and inspected by the department of weights and measures in the manner provided in this Code. All livestock sold by weight shall be weighed on such scales. and the purchaser and seller of such livestock shall be furnished with a true and correct statement of such weight.

§ 8. Amendment.) Section 36-0509 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0509. 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 dairy department 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.

§ 9. Amendment.) Section 36-0510 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0510. Inspection of Livestock; Fees and Regulations Governing.) When an animal enters a livestock auction market and before it is offered for sale, it shall be inspected for health by a state-employed veterinarian and in the case of cattle for brands by a trained brand inspector, acting under rules promulgated by the North Dakota stockmen's association and the livestock sanitary board. Veterinary inspection shall include all livestock, whether it is to be moved interstate or intrastate. The fees for such inbound inspection shall be sent to the livestock sanitary board by the auction market company and shall be deposited with the state treasurer in the livestock auction market fund out of which, upon legislative appropriation, the veterinary inspector's fees and costs of administration shall be paid. The fees for such inspection and the manner of paying the veterinarian shall be established by rules and regulations adopted by the livestock sanitary board and such fees shall be set in accordance with the costs of providing inspection service for the purpose of conforming with the federal laws and regulations governing interstate movement of cattle.

§ 10. Amendment.) Section 36-0511 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0511. Treatment Administered to Livestock Before Removal From Auction Market; Fees for Inspection and Treatment.) No operator of a livestock auction market shall permit the removal of any livestock from the establishment until such livestock has been treated in accordance with the regulations prescribed by the state livestock sanitary board. The authorized veterinarian of such board shall furnish to each purchaser a certificate showing that inspection has been made and treatment administered as provided by the rules and regulations of the state livestock sanitary board. If livestock is destined to be shipped interstate, the certificate shall show that it has been inspected in accordance with the requirements of the state of destination. All fees for veterinary inspection, treatment, and services, including brand inspection, shall be collected by the operator of the livestock auction market and paid to the inspector.

§ 11. Amendment.) Section 36-0512 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***36-0512. Operator to Warrant Title to Purchaser; Dispute in Title of Animal Sold.)** The operator of each livestock

***Note:** Section 36-0512 was also amended by chapter 277.

auction market shall warrant to the purchaser the title of all livestock bought by him through such auction market and shall be liable to the rightful owner of any livestock sold through the auction market for the net proceeds in cash received therefor. If the operator of an auction market is notified by an authorized brand inspector that there is a question as to whether or not any designated livestock sold through such market is lawfully owned by the consignor thereof, such operator shall hold the proceeds received from the sale of the livestock for a reasonable time, not to exceed sixty days, to permit the consignor to establish ownership. At the expiration of such time, if the consignor fails to establish his lawful ownership of the livestock to the satisfaction of the brand inspector, the proceeds shall be transmitted by such operator to the dairy department, and the dairy department shall dispose of the same to the rightful owner in accordance with the provisions of this Code.

§ 12. Amendment.) Section 36-0513 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0513. Use of Fees Collected by Dairy Department: Grounds for Refusal or Revocation of License; Procedure on Revocation and on Default of Licensee.) All fees collected by the dairy department under the provisions of this chapter shall be deposited and disbursed in accordance with the provisions of section 36-0409. A license to operate a livestock auction market may be refused or revoked for any of the reasons specified in section 36-0410, and the provisions of section 36-0411 shall apply to the revocation of licenses issued under the provisions of this chapter. The provisions of sections 36-0412 to 36-0419, both inclusive, shall apply 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 dairy department by such licensee.

§ 13. Repeal.) Section 36-0503 of the 1957 Supplement to the North Dakota Revised Code of 1943, as amended by section 20 of chapter 231 of the 1957 Session Laws of North Dakota, is hereby repealed.

Approved March 11, 1959.

CHAPTER 277

S. B. No. 176
(Fiedler, Vendsel, Kisse, Roen)

TITLE TO LIVESTOCK SOLD THROUGH AUCTION MARKETS

AN ACT

To amend and reenact section 36-0512 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to ownership and title of livestock sold through livestock auction markets.

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

§ 1. Amendment.) Section 36-0512 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***36-0512. Operator to Warrant Title to Purchaser; Dispute in Title of Animal Sold.)** The operator of each livestock auction market shall warrant to the purchaser the title of all livestock bought by him through such auction market and shall be liable to the rightful owner of any livestock sold through the auction market for the net proceeds in cash received therefor. If the operator of an auction market is notified by an authorized brand inspector that there is a question as to whether or not any designated livestock sold through such auction is lawfully owned by the consignor thereof, such operator shall hold the proceeds received from the sale of the livestock for a reasonable time, not to exceed sixty days, to permit the consignor to establish ownership. At the expiration of such time, if the consignor fails to establish his lawful ownership of the livestock to the satisfaction of the brand inspector, the proceeds shall be paid into the estray fund in accordance with the provisions of chapter 36-22 of the 1957 Supplement to the North Dakota Revised Code of 1943.

Approved March 4, 1959.

***Note:** Section 36-0512 was also amended by chapter 276, section 11.

CHAPTER 278

S. B. No. 64
(Saumur, Morgan, Erickson, Roen)

TUBERCULIN AND BRUCELLOSIS TESTING

AN ACT

To amend and reenact section 36-1517 of the North Dakota Revised Code of 1943, relating to tuberculin and brucellosis testing of entire counties being enforced under certain conditions.

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

§ 1. Amendment.) Section 36-1517 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-1517. Tuberculin and Brucellosis Testing of Entire County May Be Enforced Under Certain Conditions.) The board and its agents may enforce the tuberculin or brucellosis testing of all cattle in a county under the provisions of this chapter relating to the eradication of bovine tuberculosis or brucellosis when such county lies adjacent on two sides to counties:

1. In which all cattle have been tuberculin or brucellosis tested; and
2. Which have been established by federal and state authorities as modified accredited tuberculosis-free counties or certified brucellosis-free counties.

Approved March 4, 1959.

MILITARY

CHAPTER 279

H. B. No. 719
(Lindberg and Schuler)

SOLDIERS' HOME, BOARD, ADMITTANCE

AN ACT

To amend and reenact section 37-1503 of the North Dakota Revised Code of 1943, and to amend and reenact subsection 3 of section 37-1510 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the qualifications of the members of the board of trustees of the soldiers' home, and admittance to the soldiers' home.

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

§ 1. Amendment.) Section 37-1503 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-1503. Government of Soldiers' Home: Appointment of Board of Trustees; Qualifications; Terms of Office.) The general supervision and government of the soldiers' home shall be vested in a board of five members known as the "board of trustees of the soldiers' home." The members of such board shall be appointed by the governor with the advice and consent of the senate. Each member shall be a citizen of the United States of America, a resident of this state, and shall have been honorably discharged from active service with the armed forces of the United States and have served in the armed forces during a period of war or armed conflict. Upon and from the termination of the term of office of any present member of such board, his successor shall be appointed for a period of five years.

§ 2. Amendment.) Subsection 3 of section 37-1510 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

3. The wife or widow of a United States or North Dakota service man mentioned in subsection 1 of section 37-1502 may be admitted upon the same footing as her husband, provided, however, that such wife or widow shall have entered into the contract of marriage to her husband at least five years prior to date of application or prior

to the date necessary for her to obtain a United States pension and shall have attained the age of forty-five years at date of application;

Approved March 14, 1959.

CHAPTER 280

H. B. No. 721
(Lindberg and Schuler)

ADJUSTED COMPENSATION DISALLOWED CLAIMS

AN ACT

Providing for a board of review to reexamine all disallowed claims for adjusted compensation under the provisions of chapter 37-23 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ 1. Board of Review.) The governor shall appoint a board of review consisting of three veterans whose duty it shall be to reexamine claims filed for adjusted compensation under the provisions of chapter 37-23 of the 1957 Supplement to the North Dakota Revised Code of 1943. The board shall reexamine only claims which remain disallowed as of March 15, 1960, and in regard to which a request for reexamination together with necessary supporting information is filed prior to May 15, 1960. The decision of the board of review in regard to the payment or nonpayment of such claims shall be final. All disallowed claims in regard to which no request for review is filed prior to May 15, 1960, shall be barred from any adjusted compensation payments. The adjutant general shall give notice on or before April 15, 1960, of the pending termination of the right of reexamination to all claimants whose claims remain disallowed. Such notice shall be given by ordinary mail addressed to the last known address of such claimant according to the records of the office of the adjutant general. The board shall render a final decision in regard to all disallowed claims under their jurisdiction prior to August 30, 1960.

Approved March 14, 1959.

MINING AND GAS AND OIL PRODUCTION

CHAPTER 281

S. B. No. 99
(Wenstrom, Roen, Freed)

OIL WELL DRILLING BONDS

AN ACT

To amend and reenact subdivision d of subsection 1 of section 38-0804 of the 1957 Supplement to the North Dakota Revised Code of 1943, providing for oil well drilling bonds.

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

§ 1. Amendment.) Subdivision d of subsection 1 of section 38-0804 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of chapter 38-08 of the North Dakota Revised Code of 1943 and amendments thereto, 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.

Approved March 16, 1959.

MOTOR VEHICLES

CHAPTER 282

S. B. No. 261
(Meidinger and Kee)

MANUFACTURER'S PLATE

AN ACT

Authorizing factory representatives of passenger motor vehicle manufacturers to purchase a manufacturer's plate which shall be in lieu of all registration fees, sales tax, and use tax on the passenger motor vehicles used by such representatives in the course of their employment.

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

§ 1. Manufacturer's Plate; Fee.) A resident factory representative of any passenger motor vehicle manufacturer may procure from the motor vehicle registrar a manufacturer's plate, which shall be designed by the registrar, for a fee of one hundred and fifty dollars, which fee shall be for a twelve-month period. If such plate is procured at other than the beginning of the registration period such fees shall be prorated on a monthly basis. The procurement of such manufacturer's plate by a factory representative shall be in lieu of the payment of any other registration fees, sales tax, or use tax on the passenger motor vehicle used by the factory representative in the course of his employment for the period for which the manufacturer's plate is current and valid. Such manufacturer's plate shall not be used by any person other than the representative to whom it was issued, nor shall such plate be used on any vehicle other than that vehicle used by the factory representative in the course of his employment. Upon the sale of the vehicle for which such manufacturer's plate was issued, the plate shall be retained by the factory representative and used upon replacement vehicles subsequently acquired from the manufacturer for use in the course of his employment.

Approved March 17, 1959.

CHAPTER 283

S. B. No. 264
(Erickson and Roen)

RECIPROCITY COMMISSION

AN ACT

To create a motor vehicle registration reciprocity commission; to define its powers and duties; and to provide for reciprocal use of the highways.

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

§ 1. Reciprocity Commission; Membership; Powers and Duties.) There is hereby created a reciprocity commission consisting of the state highway commissioner, the registrar of motor vehicles and the superintendent of the state highway patrol. This commission shall have the power and duty to execute agreements, arrangements, or declarations involving the reciprocal use of the highways of this state by vehicles excepted in part or in full from registration requirements or mile tax payments in lieu thereof.

§ 2. Secretary to Commission.) The state highway commissioner shall furnish a secretary to the commission, together with such additional staff as shall be necessary to carry out the functions of the commission.

§ 3. Reciprocal Use of Highways.) No person shall operate a vehicle upon the highways of this state unless such vehicle is registered under the laws of this state, has paid the mile tax in lieu of registration, or has complied with the requirements of a reciprocity agreement, arrangement or declaration executed by the reciprocity commission in accordance with powers and authority delegated to the commission by law.

Approved March 16, 1959.

CHAPTER 284

H. B. No. 622
(Strege, Stallman, Wheeler,)
(Stockman, Renfrow, Bopp)

TEMPORARY ROADBLOCKS

AN ACT

Authorizing the establishment of temporary roadblocks on the highways of this state, defining a temporary roadblock, providing minimum requirements in establishing temporary roadblocks, and other matters properly related thereto, providing a penalty, and declaring an emergency.

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

§ 1. Definition.) For the purpose of this Act a temporary roadblock means any structure, device, or means used by police, sheriffs, deputy sheriffs, game wardens, highway patrolmen, agents of the Federal Bureau of Investigation, or officers of the United States Border Patrol, for the purpose of controlling traffic through a point on a highway, road or street, whereby all vehicles may be slowed or stopped.

§ 2. Authority to Establish Roadblocks.) The duly authorized law enforcement officers are hereby authorized to establish in their respective jurisdictions, or in other jurisdictions within the state, temporary roadblocks upon the highways, roads and streets of this state for the purpose of apprehending persons wanted for violation of the laws of this state, or of any other state, or of the United States of America, and using the highways, roads or streets of this state for the purpose of escape.

§ 3. Minimum Requirements.) For the purpose of warning and protecting the traveling public, the minimum requirements to be met by such officers establishing temporary roadblocks are:

1. The temporary roadblock must be established at a point on the highway clearly visible at a distance of not less than three hundred feet in either direction.
2. At the point of the temporary roadblock, a sign shall be placed on the center line of the highway, displaying the word "STOP" in letters visible in the headlights of an automobile approaching at a distance of two hundred feet in both directions either in daytime or darkness.
3. At the point of the temporary roadblock, at least one red light must be placed at the side of the highway

which shall display an intermittent or flashing beam of light, clearly visible to the oncoming traffic at a distance of not less than three hundred feet under normal atmospheric conditions.

4. At a distance of not less than five hundred feet from the point of the temporary roadblock, warning signs must be placed at the side of the highway containing wording of sufficient size and reflectorized to warn the oncoming traffic that a "POLICE STOP" lies ahead.

§ 4. Existing Law Preserved.) Nothing in this Act shall be deemed to limit or encroach upon the existing authority of North Dakota law enforcement officers in the performance of their duties involving traffic control and criminal apprehension.

§ 5. Penalty.) Any person who shall proceed or travel through a roadblock without subjecting himself to the traffic control so established 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 fine and imprisonment.

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

Approved March 11, 1959.

CHAPTER 285

H. B. No. 579
(Einarson and Halcrow)

SPEED LIMITATIONS

AN ACT

To amend and reenact section 24-0114 and section 39-0907 of the 1957 Supplement to the North Dakota Revised Code of 1943 and section 39-0903, subsection 18 of section 40-0501 and subsection 14 of section 40-0502 of the North Dakota Revised Code of 1943, relating to the regulation of speed limits by the highway commissioner, superintendent of state highway patrol and local authorities.

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

§ 1. Amendment.) Section 24-0114 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0114. Determination of Speed.) The commissioner, with respect to highways under his jurisdiction may conduct an investigation and determine safe speed limits on any state highway as provided under section 39-0902 to include any street(s) within the corporate limits of any village, town or city when such street(s) has been designated as part of any state highway and on any bridge causeway, or viaduct as provided for under section 39-0904.

§ 2. Amendment.) Section 39-0903 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0903. Local Authorities May Set Speed Limitations; Signs Posted.) Local authorities in their respective jurisdictions may set speed limitations greater or less than provided for in section 39-0902, except that the speed limit shall not be altered on any street(s) when such street(s) has been designated as part of any state highway except by mutual agreement with the state highway commissioner. Local authorities shall place and maintain upon all highways upon which such speed limit is set, adequate signs giving notice of such special regulations.

§ 3. Amendment.) Section 39-0907 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0907. Speed Zones on State Highways.) Whenever the state highway commissioner with respect to highways and the superintendent of the North Dakota state highway patrol, shall jointly determine upon the basis of an engineering and traffic investigation that the speed of vehicular traffic on a state highway is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of such highway to include streets within the corporate limits of any village, town or city, when such streets have been designated as part of any state highway, said officials acting jointly may determine and declare a reasonable and safe speed limit thereat not in excess of the maximum prescribed by law, which shall be effective at all times or during hours of daylight or darkness or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersections or other place or part of the highway.

§ 4. Amendment.) Subsection 18 of section 40-0501 of the Revised Code of 1943 is hereby amended and reenacted to read as follows:

18. **Speed of Vehicles and Locomotives.)** To regulate the speed of vehicles and locomotives within the corporate

limits of the corporation, except that the speed limit for vehicles on those streets designated as part of any state highway shall be determined by mutual agreement with the state highway commissioner;

§ 5. Amendment.) Subsection 14 of section 40-0502 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0502. Additional Powers of Cities.)

14. **Traffic Regulation.)** To regulate, control, or restrict within designated zones, or congested traffic districts, except that the speed limit for vehicles on those streets designated as part of any state highway shall be as determined by mutual agreement with the state highway commissioner, the use of streets, alleys, or other public ways by various classes of traffic, except that any municipal regulations shall be ineffective as to common carriers licensed by this state under a certificate of public convenience and necessity until such regulations are approved by the public service commission;

Approved March 11, 1959.

CHAPTER 286

S. B. No. 142
(Livingston, Erickstad, Longmire, Holand, Garaas)

CHEMICAL TEST FOR INTOXICATION, IMPLIED CONSENT

AN ACT

Relating to chemical tests of intoxication for drivers of motor vehicles and providing for suspension of operator's license upon refusal to submit to proper test and to amend and reenact section 39-0101 of the North Dakota Revised Code of 1943, as amended, by creating and enacting subsection 61 and to amend and reenact section 39-0801 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to intoxicating liquor and persons under the influence of intoxicating liquor.

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

§ 1. 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 Act 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 3 of this Act 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.

§ 2. Persons Qualified to Administer Tests.) Only a physician, or a qualified technician, chemist or registered nurse acting at the request of a law enforcement officer may withdraw blood for purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of breath, saliva or urine specimen. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of law enforcement officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the law enforcement officer shall be made available to him.

§ 3. Consent of Person Incapable of Refusal Withdrawn.) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed to have withdrawn the consent provided by section 1 of this Act and the test or tests may not be given.

§ 4. Revocation of Privilege to Drive Motor Vehicle Upon Refusal to Submit to Chemical Testing.) If a person under arrest refuses to submit to chemical testing, none shall be given, but the state highway commissioner, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, and that the person had refused to submit to the test or tests, shall revoke his license or permit to drive and any nonresident operating privilege for a period of six months; or if the person is a resident without a license or a permit to operate a motor vehicle in this state the commissioner shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

§ 5. 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 oppor-

tunity to be heard within ten days after the receipt of the request, but the request must be made within thirty days after arrest. 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.

§ **6. Judicial Review.)** If the revocation or denial is sustained, the person whose license or permit to drive or nonresident operating privilege has been revoked or denied, may file a petition within thirty days after the determination 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 receipt of the notice, the commissioner shall file in the office of the clerk of 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.

§ **7. 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. Evidence that there was, at the time, five-hundredths of one percent or less, by weight of alcohol in his blood, is prima facie evidence that the person was not under the influence of intoxicating liquor;
2. Evidence that there was at that time, more than five-hundredths of one percent and less than fifteen-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. Evidence that there was, at that time, fifteen-hundredths of one percent or more by weight of alcohol in his blood, shall be admitted as prima facie evidence that the person was 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.

§ 8. Proof of Refusal Admissible in Any Civil or Criminal Action or Proceeding.) If the person under arrest refuses to submit to the test or tests, proof of refusal shall be admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, provided the person shall first have testified in the action.

§ 9. Effect of Evidence of Chemical Tests.) The provisions of this Act do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor.

§ 10. Notice to Other States.) When it has been finally determined under the procedures of this Act that a nonresident's privilege to operate a motor vehicle in this state has been revoked or denied, the commissioner shall give information in writing of the action taken to the official in charge of traffic control or public safety of the state of the person's residence and of any state in which he has a license.

§ 11. Application to Prosecutions Under Municipal Ordinances.) The provisions of this Act shall also apply to prosecutions for the violation of municipal ordinances prohibiting the driving or control of a motor vehicle while under the influence of intoxicating liquor.

§ 12. Amendment.) Section 39-0101 of the North Dakota Revised Code of 1943, as amended, is hereby amended by creating and enacting subsection 61 to read as follows:

61. "Intoxicating liquor" shall mean and include any beverage containing alcohol.

§ 13. Amendment.) Section 39-0801 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0801. Persons Under the Influence of Intoxicating Liquor or Narcotic Drugs Not to Operate Vehicle; Penalty.)

a. No person shall drive or be in actual physical control of any vehicle upon a highway in this state if:
   1. He is an habitual user of narcotic drugs or is under the influence of a narcotic drug, or;
   2. He is under the influence of intoxicating liquor.

b. Any person violating any provision of this section shall upon first conviction 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 offense, such person shall be punished by imprisonment for not less than ninety days nor more than one year, and in the discretion of the court, a fine of not more than one thousand dollars.

Approved March 17, 1959.

CHAPTER 287

H. B. No. 623
(Renfrow, Stallman, Tollefson, Strege,)
(Leet, Overbo, Bassingthwaite)

YIELD RIGHT-OF-WAY SIGNS

AN ACT

To provide for use of yield right-of-way signs and to amend and reenact subsection 49 of section 39-0101 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to through highways.

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

§ 1. Vehicle Approaching a Yield Right-of-way Sign.) In addition to any requirement in law to yield right-of-way the

driver of a vehicle approaching a "yield right-of-way" sign shall slow to a reasonable speed for existing conditions of traffic and visibility, or shall stop if necessary, yielding right-of-way to all vehicles on the intersecting street or highway which have entered the intersection or are so close as to constitute an immediate hazard.

§ 2. Amendment.) Subsection 49 of section 39-0101 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49. "Through highway" shall mean every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same when stop signs are erected, or to yield right-of-way when yield right-of-way signs are erected as provided by law;

Approved March 13, 1959.

CHAPTER 288

S. B. No. 133
(Ringsak, O'Brien, Wartner, Brooks)

EMERGENCY VEHICLES

AN ACT

To amend and reenact section 39-0101 of the 1957 Supplement to the North Dakota Revised Code of 1943 by creating and enacting subsection 60 of such section relating to a definition of an authorized emergency vehicle and to amend and reenact sections 39-1003 and 39-1026 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to operation of authorized emergency vehicles.

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

§ 1. Amendment.) Section 39-0101 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 60 thereto which shall read as follows:

60. "Authorized emergency vehicles" shall include any of the following types:
    (a) A vehicle publicly or privately owned and operated in the performance of his duty, by a member of any police or fire department, including the North Dakota game and fish department, any sheriff or deputy sheriff, or any member of the North Dakota highway patrol.

(b) A vehicle publicly owned and operated in the performance of his duty by a member of any federal governmental agency, to include all branches of the military service, when engaged in police, fire fighting or ambulance type service.

(c) When used in responding to emergency calls, any ambulance, wrecker, or civil defense vehicle equipped with a top red light, three flares and three red flags with stake mounts.

§ 2. Amendment.) Section 39-1003 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1003. Authorized Emergency Vehicles.) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

1. The driver of an authorized emergency vehicle may:
   a. Park or stand, irrespective of the provisions of this chapter;
   b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
   c. Exceed the speed limit so long as he does not endanger life or property;
   d. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions herein granted to an authorized emergency vehicle shall apply only when it is operated upon official business and the driver sounds an audible signal by bell, siren, or exhaust whistle or gives adequate warning by use of a flashing red light which is visible under normal atmospheric conditions for at least five hundred feet.
3. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

§ 3. Amendment.) Section 39-1026 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1026. Operation of Vehicles on Approach of Authorized Emergency Vehicles.)

1. Upon the immediate approach of an authorized emergency vehicle giving an audible signal by bell, siren, or

exhaust whistle or displaying a visible flashing red light the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

2. Whenever an emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing red light approaching traffic shall move to the right hand edge or curb of the roadway and shall stop but once having stopped traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer.
3. This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

Approved March 10, 1959.

CHAPTER 289

S. B. No. 42
(Johnson, Luick, Saumur, Krause, Roen)
(From LRC Study)

REVISION OF MOTOR VEHICLE LAWS

AN ACT

To create and enact section 39-0110, to amend and reenact section 39-0205, subsection 4 of section 39-0501, subsection 1 of section 39-0505 and section 39-1207 of the North Dakota Revised Code of 1943, and section 39-0102, subsection 1 of section 39-0309, sections 39-04A06, 39-04A07, 39-0510, 39-0803, 39-0902, 39-1102, and 39-1208 of the 1957 Supplement of the North Dakota Revised Code of 1943; to amend and reenact chapter 39-04 of the North Dakota Revised Code of 1943, as it may be amended, and to repeal subsection 4 of section 39-04A04, and sections 39-0504 and 39-0514 of the North Dakota Revised Code of 1943, as they may be amended, and to repeal section 39-0513 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to motor vehicles' operation and registration and the use of motor vehicles on the highways and streets of this state.

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

§ 1.) Section 39-0110 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

39-0110. Proof of Payment of Registration Fees and Taxes.) The motor vehicle registrar and the state highway commissioner are hereby authorized to require all owners or operators of motor vehicles using the highways of this state or registered in this state to show proof of the payment of all proper taxes and registration fees upon such motor vehicles.

§ 2. Amendment.) Section 39-0205 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0205. Records of the Department Open to Public Inspection.) All registration and license records in the office of the department shall be public records and shall be open to inspection by the public during business hours. The motor vehicle registrar shall charge a uniform fee, not to exceed one dollar, for each item of information furnished to any person concerning a specific motor vehicle. However, such charges shall not be assessed to a person requesting information concerning a motor vehicle of which he is the owner, nor shall such charges apply to law enforcement officials requesting motor vehicle information in their official capacity. All fees received under the provisions of this section shall be credited to the motor vehicle registration fund.

§ 3. Amendment.) Subsection 4 of section 39-0501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4. "Dealer" shall mean every person, partnership or corporation engaged in the business of buying, selling or exchanging motor vehicles, or who advertises, or holds himself out to the public as engaged in the buying, selling or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation or association doing business in several cities or in several locations within a city shall be considered a separate dealer in each such location;

§ 4. Amendment.) Subsection 1 of section 39-0505 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. A full description of the motor vehicle, including the name of the maker, either the engine, serial, or identification number, and any other distinguishing marks thereon;

§ 5. Amendment.) Section 39-1207 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1207. Peace Officers May Weigh Vehicle to Determine Load: Decreasing Gross Weight of Vehicle.) Every police officer, including members of the state highway patrol and appointees of the state highway department, having reason to believe that the weight of a vehicle and the load carried thereon is unlawful, may weigh such vehicle and load or have the same weighed either by means of portable or stationary scales, and for that purpose he may require the vehicle to be driven to the nearest scales. Such officer may require the driver of such vehicle immediately to unload such portion of the load as may be necessary to decrease the gross weight to the maximum allowed by the provisions of this chapter.

§ 6. Amendment.) Section 39-0102 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0102. State-owned Motor Vehicles to Have Name Painted on Side of Vehicles; Penalty for Failure.) All motor vehicles owned by any state department, institution, or industry and operated by such department, institution, or industry shall have painted on each front door the following words: NORTH DAKOTA, in letters four inches in height. Two and one-half inches directly below such words shall be printed in letters one and one-half inches in height the name of the department, institution or industry of the state owning or operating such motor vehicle. The above requirements shall not apply to cars owned and operated by the state highway patrol or cars used principally in institutional, juvenile, parole and placement service; or to any truck owned by any state department, institution, or industry. Any state official, or any employee of any state department, institution, or industry, who uses a motor vehicle which shall not be marked as is required by this section is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

§ 7. Amendment.) Section 39-04A06 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-04A06. Exceptions.) This chapter shall not apply to any bona fide resident farmer who shall:

1. Transport property between farms and the usual local trading places, between farms locally, or transport farm equipment owned by a bona fide resident farmer of this state when such farm equipment is transported in vehicles owned by such resident farmer;
2. Transport his own livestock or commodities from his farm with his own truck to any village, market, or place

where such livestock and commodities are to be sold, stored, or otherwise disposed of, or transport livestock or commodities from any village, city or place where same is purchased or acquired to his farm where such supplies are to be used, consumed, or processed;

3. In the normal course of his business exchange work with his neighbors.

In addition, any person transporting property within the city or village limits or not to exceed two miles from the corporate or recognized limit of such city or village shall be excepted from the provisions of this chapter.

§ 8. Amendment.) Section 39-04A07 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-04A07. Enforcement.) It shall be the duty of the state highway patrol and highway department appointees to enforce the provisions of this chapter.

§ 9. Amendment.) Section 39-0510 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0510. Registration Card; Issuance; Contents; Signing of.) Upon registering a motor vehicle, the department shall issue to the applicant a registration card which shall set forth:

1. The date issued;
2. The registration number assigned to the applicant and to the vehicle;
3. A description of the registered vehicle, including either the engine, serial, or identification number;
4. A space for the signature of the applicant; and
5. Such other statements of fact as may be determined by the department.

Upon receiving a registration card, the applicant shall sign his usual signature or name with pen and ink in the space provided upon such card.

§ 10. Amendment.) Section 39-0803 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0803. Reckless Driving: Penalty.) Any person shall be guilty of reckless driving if he drives a vehicle upon a highway:

1. Carelessly and heedlessly in willful or wanton disregard of the rights or safety of others; or
2. Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or the property of another.

Except as otherwise herein provided, any person violating the provisions of this section 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. Upon a second or a subsequent offense, such person shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment. Any person, however, violating the provisions of this section, who by reason of reckless driving as herein defined, causes and inflicts injury upon the person of another, shall be guilty of aggravated reckless driving, and shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in the discretion of the court.

§ 11. Amendment.) Section 39-0902 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0902. Speed Limitations.) a. Subject to the provisions of section 39-0901 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. Fifty-five miles an hour under other circumstances, unless otherwise permitted, restricted, or required by conditions.

b. The highway commissioner may designate and post special areas of the state highways where the maximum speed limit of sixty-five 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. 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 sixty-five miles an hour for passenger vehicles or fifty-five miles an hour for trucks. It shall be prima facie unsafe for any person to exceed any highway 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.

§ 12. Amendment.) Section 39-1102 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1102. Headlamps on Motor Vehicles.) Every motor vehicle other than a motorcycle, road roller, road machinery, or farm tractor shall be equipped with at least two headlamps with at least one headlamp on each side of the front of the motor vehicle, which headlamps shall comply with the requirements and limitations set forth in sections 39-1103 and 39-11031, and shall be of a type which has been approved.

§ 13. Amendment.) Section 39-1208 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1208. Penalty for Violation of Chapter.) Any person violating any of the provisions of chapter 39-12 of the North Dakota Revised Code of 1943, as it may be amended, 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.

§ 14. Amendment.) Subsection 1 of section 39-0309 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

*1. Of a peace officer for the purpose of enforcing the provisions of this title relating to operators' licenses and of any other law regulating the operation of vehicles or the use of the highways, and in addition the highway patrol shall enforce all laws relating to the use or presence of alcoholic beverages in motor vehicles using the highways or streets of this state;

§ 15. Amendment.) Chapter 39-04 of the North Dakota Revised Code of 1943, as amended, is hereby amended and reenacted to read as follows:

39-0401. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Dealer" shall mean every person, partnership or corporation engaged in the business of buying, selling or exchanging motor vehicles, or who advertises, or holds himself out to the public as engaged in the buying, selling or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, or association doing business in several cities or villages or in several locations within a city shall be considered a separate dealer in each such location;
2. "Specially constructed vehicle" shall mean any vehicle which shall not have been constructed originally under the distinct name, make, model, or type, by a generally recognized manufacturer of vehicles;
3. "Essential parts" shall include all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle;
4. "Reconstructed vehicle" shall mean any vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition or substitution of essential parts, new or used. A reconstructed vehicle may be registered upon the payment of the same fees for the calendar year that are paid for a motor vehicle of comparable make and year as the reconstructed vehicle;
5. "Foreign vehicle" shall mean every motor vehicle which shall be brought into this state otherwise than in the

*__Note:__ Subsection 1 of section 39-0309 was also amended by chapter 236, section 2.

ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state;

6. "Commercial passenger transportation" shall mean the carriage of passengers for hire, except that such term shall not include:
   a. The carriage of passengers within the limits of a city or village;
   b. The carriage by local bus lines of passengers to or from a railroad station from or to places within any city or village or within two miles of the limits thereof;
7. "Commercial freighting" shall mean the carriage of things other than passengers, for hire, except that such terms shall not include:
   a. The carriage of things other than passengers within the limits of the same city or village;
   b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or village or in the immediate vicinity thereof, in this state, and not to exceed two miles from the corporate or recognized limits of said city or village; or
   c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market;
8. "Gross weight" shall mean the total of the unloaded weight of the vehicle, or combination of vehicles, and the load carried thereon.

39-0402. Application for the Registration of a Motor Vehicle; Contents.) Application for the registration of a motor vehicle shall be made as is provided in this section:

1. Application shall be made by the owner thereof upon appropriate forms approved or furnished by the registrar, and every application shall be signed by the owner and shall contain his residence, address and a brief description of the vehicle to be registered, including the name of the maker, either the engine, serial, or identification number, if any, whether new or used, and the last license number known, and the state in which issued, and, upon the registration of a new vehicle, the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain such other information as may be required by the registrar; and
2. If the motor vehicle for which registration is sought is a specially constructed, reconstructed, or foreign vehicle, such facts shall be stated in the application. The owner

of every foreign motor vehicle which has been registered outside of this state shall exhibit to the registrar the certificate of the title and registration card or such other evidence as will satisfy the registrar that the applicant is the lawful owner or possessor of the vehicle; and

3. If the motor vehicle for which registration is sought has a manufacturer's identification number other than on the engine, such identification number shall be included in the application, and when so registered, such identification number shall be deemed to include the engine number; and
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.
5. In applying for such certificate of title the buyer shall state his post office address and the county and city or township of his residence and the dealer shall make specific inquiry relative thereto before filling such information in the application blank.

39-0403. Size of Tires To Be Given in Application When Truck, Combination Truck, or Trailer Registered.) All applicants for the registration of a motor truck or a combination of truck or trailer shall state on the application the size or sizes of tires used on the vehicle to be registered.

39-0404. Register of Applicants To Be Kept by the Department; Destruction of Application.) The department shall file each application received, and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled thereto, shall register the vehicle therein described and the owner thereof in suitable books or on index cards as follows:

1. Under a distinctive registration number assigned to the vehicle and to the owner thereof, referred to in this chapter as the registration number;
2. Alphabetically under the name of the owner; and
3. Numerically by the serial or identification number of the vehicle.

Such application may be destroyed by the department after it is two years old.

39-0405. Registration Refused When.) The department shall not grant an application for the registration of a motor vehicle in any of the following events:

1. When the applicant therefor is not entitled thereto under the provisions of this chapter;
2. When the applicant has neglected or refused to furnish the department with the information required in the appropriate official form, or reasonable additional information required by the department;
3. When the fees required therefor by this title have not been paid; or
4. When any sales tax or use tax required by law to be paid has not been paid in case of a motor vehicle for which such registration is requested for the first time in this state.

39-0406. Registration Rescinded; When.) The department shall rescind and cancel the registration of a motor vehicle:

1. When the department shall determine that a vehicle is unsafe or unfit to be operated or is not equipped as required by law;
2. Whenever the person to whom the registration card or registration number plates therefor have been issued shall make or permit to be made any unlawful use of the same or permit the use thereof by a person or on a motor vehicle not entitled thereto; or
3. Whenever a check is returned to the department because of insufficient funds, the license shall be canceled thirty days after notification by regular mail. The provisions of chapter 39-04 of the North Dakota Revised Code of 1943, as it may be amended, shall be followed upon the renewal of the registration, after thirty days.

39-0407. Department to Suspend Registration Upon Notice of Theft or Embezzlement.) Whenever the owner of any motor vehicle which is stolen or embezzled files an affidavit alleging either of such facts, the department immediately shall suspend the registration of such vehicle and shall not transfer the registration thereof nor reregister the same until such time as it shall be notified that the owner has recovered such vehicle. Notices given as provided in this section shall be effective only during the current registration year in which given, but if during such year such vehicle is not recovered a new affidavit may be filed with like effect during the ensuing year. Every owner who has filed an affidavit of theft or embezzlement immediately must notify the department of the recovery of such vehicle.

39-0408. Number Plates Furnished by Department.) The department shall furnish to every motor vehicle owner two

number plates for each registered motor vehicle, and one number plate for each registered motorcycle or house trailer.

39-0409. Registrar May Design and Issue Number Plates.) The registrar may design and issue plates of distinctly different color every four years for each classification of motor vehicle, and there shall at all times be a marked contrast between the background color of the plates and that of the numerals and letters thereon.

39-0410. Special Plates for Amateur Radio Station License Holders.) Passenger motor vehicle owners who are residents of the state of North Dakota and who hold an unrevoked and unexpired official amateur radio station license issued by the federal communications commission, Washington, D.C., upon application to the motor vehicle registrar, accompanied by proof of ownership of such amateur radio station license, compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles, and payment of the regular license fee, as prescribed under the North Dakota motor vehicle laws, shall be issued special number plates in lieu of the number plates ordinarily issued, upon which shall be inscribed the official amateur radio call letters of such applicant as assigned by the federal communications commission. Such applications must be filed by October first prior to the year of issuance. The motor vehicle registrar shall make such rules and regulations as may be necessary and shall require compliance with all state license laws relating to use and operation of private passenger cars before issuing such plates.

The motor vehicle registrar shall furnish to the sheriff of each county in the state of North Dakota an alphabetically arranged list of the names and special plate letters of each person to whom a plate is issued under the provisions of this section, and it shall be the duty of the sheriffs of the state to maintain and to keep current such lists for public information and inquiry.

39-0411. Display of Number Plates.) Except as otherwise specifically provided, no person shall operate or drive a motor vehicle on the public highways of this state unless such vehicle shall have a distinctive number assigned to it by the registrar, and two number plates, bearing such number conspicuously displayed, horizontally and in an upright position, one on the front and one on the rear of such vehicle, each securely fastened, except number plates assigned to a motorcycle or house trailer shall be attached to the rear thereof. As far as is reasonably possible, such plates shall at all times be kept free and clear of mud, ice, or snow so as to be clearly visible and all number plates, markers, or evidence of regis-

tration or licensing except for the current year shall be removed from such vehicle. All motor vehicle license plates issued by the registrar, shall continue to be the property of the state of North Dakota for the period for which said plates are valid.

39-0412. Contents of Number Plates; Size of Letters and Numerals on Plates; Reflectorized; Tabs or Stickers; Additional Fee.) Number plates shall be of metal or other suitable material bearing the name of the state, either in full or by abbreviation, the number of the year, the slogan "Peace Garden State" and a distinctive number for assignment to each vehicle. The distinctive number may be in figures or a combination of figures and letters and shall be of a size clearly distinguishable by law enforcement officers and individuals generally. To reduce highway accidents at night all such number plates shall be legible for a minimum distance of one hundred feet to an approaching motorist by day or night with lawful headlight beams and without other illumination. Each standard six inch by twelve inch finished numeral plate except trailer plates and dealer's plates shall be treated with a reflectorized material according to the specifications prescribed by the registrar. The registrar shall furnish such number plates for a four-year period commencing January 1, 1958. In any year during which number plates are not furnished the registrar shall furnish for each annual registration a year plate, tab, or sticker to designate the year of registration. This plate, tab, or sticker shall show the calendar year for which issued, and is valid only for that year. It shall be unlawful for any person to transfer to another vehicle the number plate, tab, or sticker during the period or calendar year for which issued. For the purpose of procuring number plates which are treated for increased visibility as hereinbefore provided, an additional fee of fifty cents per year for each registration of a vehicle shall be added to the registration fee, which additional fee shall be deposited by the registrar with the state treasurer. The funds so deposited shall be known as the "license plate revolving fund" and disbursements therefrom shall be made by warrants drawn by the registrar on vouchers duly approved by the state auditor.

39-0413. Duplicates To Be Obtained Upon Registration Card When Number Plates Are Lost, Mutilated, or Illegible.) If any number plate or registration card issued under the provisions of this chapter shall be lost, mutilated, or shall have become illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information of such fact satisfactory to the department and upon payment of the required fees, which shall not exceed three dollars.

39-0414. Renewal of Registration.) Every vehicle registration under this chapter shall expire December thirty-first each year and shall be renewed annually upon application by the owner and by payment of the fees required by law, such renewal to take effect on the first day of January each year. An owner who has made proper application for renewal of registration of a vehicle previous to January first but who has not received the number plates, plate, or registration card for the ensuing year shall be entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the number plates or plate issued for the preceding year for such time, to be prescribed by the department, as may be required for the issuance of such new plates.

39-0415. When Registration Fees Become Due and Delinquent.) The registration fee for a motor vehicle shall become due as soon as such vehicle first is used upon the highways of this state and upon January first in each year thereafter. The annual registration fee shall be paid upon transfer of ownership in the vehicle and in any event on or before February first, and shall be delinquent after February first unless paid. Except as otherwise provided in this chapter, license fees falling due between February first and December thirty-first shall become delinquent upon the expiration of five days after the same become due.

39-0416. Penalty for Delinquent Registration Fees; Exception.) A penalty of ten cents a day shall be added to the license fees required by the provisions of this chapter for each and every day such license fee shall be delinquent, for not more than fifteen days, and two dollars for every thirty days or fraction thereof, not to exceed one hundred and fifty days. If the registrar is satisfied that a vehicle is not owned by a dealer and that it has not been operated on the highways during one or more years previous to the application for reregistration, no penalty fee shall be charged.

39-0417. Certificate of Notary Showing Compliance With Registration Is Prima Facie Evidence.) The possession of a certificate made out by the notary public who took acknowledgment of the application when the vehicle was first registered or required to be registered under the laws of this state, where such certificate shows the date of application, the make and model of the motor vehicle, the manufacturer's number of the motor vehicle which such application describes, and further shows that such notary public personally mailed the application with the remittance fee, shall be prima facie evidence of compliance with the motor vehicle law with reference to the motor vehicle therein described, for a period of fifteen days from the date of such application.

39-0418. Motor Vehicles Exempt From Registration Fees; Reciprocal Use of State Highways by Foreign Licensed Motor Vehicles.)

1. Except as provided in this section, every motor vehicle as defined in subsection 2 of section 39-0101 of the North Dakota Revised Code of 1943, as it may be amended, operated or intended to be operated upon any highway, road, or street in this state shall be registered annually with the motor vehicle registrar. Any vehicle being operated on the highways, roads, or streets of this state shall display such license plates as are furnished by the motor vehicle registrar upon the payment of the fees prescribed in chapter 39-04 of the North Dakota Revised Code of 1943, as it may be amended.

Upon satisfactory proof to the registrar that a motor vehicle owned by a resident of this state was not used upon any of the highways of this state in any one or more years, such motor vehicle may be registered upon payment of the registration fee for the current year, and upon further payment of a flat five dollars for each calendar year for which the vehicle was not registered and no license fee was paid therefor.

Any resident of the state of North Dakota, serving in the armed forces of the United States for a period of time greater than one year, may relicense any motor vehicle owned by him without paying any fee for the intervening years when such vehicle was not licensed, nor any penalties therefor, providing such veteran shows by suitable affidavit that such vehicle was not in use during any year in which it was not licensed. Such vehicle shall be licensed for the license fee applicable to the month of the year in which application for license is made.

2. The following motor vehicles may be operated upon the highways, roads, and streets of this state without being registered, under such limitations as are herein specified, provided, however, that whenever the reciprocity commission determines that it is to the best interest of the state of North Dakota and determines by reciprocal agreement or otherwise that as great or greater privileges are not granted North Dakota residents while traveling in other states or territories, they may cancel or limit the application of any exception to residents or motor vehicles from such other state or territory:

a. Farm tractors as defined in subsection 5 of section 39-0101 of the North Dakota Revised Code of 1943, as it may be amended, and road rollers and other road construction or maintenance machinery that cannot be operated on the highways and streets of this state in a normal operating manner.
b. Motor vehicles owned and operated by Indian mission schools or by this state or any of its agencies, depart-

ments or political subdivisions, provided, however, that such vehicles shall display license plates provided by the motor vehicle registrar at actual cost.

c. Motor vehicles registered in any other state or territory when coming into this state a distance not exceeding twenty miles, provided, however, that such motor vehicles have displayed thereon the current license plates issued by the state or territory in which they are registered and provided further that the owners or operators thereof are not residents of this state for any purpose and are not gainfully employed or stationed in this state. Nor shall such vehicles be required to pay any other tax, and no registration fee or tax shall be required when such vehicles do not leave the incorporated limits of any village or city while in the state of North Dakota within a zone circumscribed by a line running parallel to the corporate limits of any city, village, or contiguous cities and villages, and twenty miles distant therefrom. Nothing contained in this section shall be construed as preventing trucks from coming into the state such distance as shall be necessary to reach the nearest railway shipping station.

d. Motor vehicles owned and operated by the United States government, or any foreign government, or any of their agencies or departments, provided, however, that such motor vehicles shall display identification plates.

e. Passenger motor vehicles registered in any other state or territory, provided, however, that such motor vehicles have displayed thereon the current license plates issued by the state or territory in which they are registered and provided further that the owners or operators thereof are not residents of this state for any purpose and are not gainfully employed or stationed in this state.

f. Motor vehicles owned and operated by a manufacturer of motor vehicles when such motor vehicles are operated or moved such distance as may be authorized by the motor vehicle registrar from the factory where manufactured or assembled, to a depot or place of shipment, or other point of delivery, provided, however, that such vehicles have displayed in plain sight the name and address of the manufacturer and a written permit from local police authorities.

g. Motor vehicles owned and operated by a licensed North Dakota motor vehicle dealer from a railway depot, warehouse, salesroom, or place of shipment, provided, however, that such vehicles have displayed in plain

sight the name and address of the dealer and a written permit from the local police authorities.

h. Motor vehicles owned and operated by nonresidents engaged in harvest of agricultural products from August first through November fifteenth of any one year, provided, however, that such motor vehicles have displayed thereon a decal or other means of identification issued by the motor vehicle registrar upon payment of a fee of twenty-five dollars.

i. Passenger motor vehicles owned and operated by nonresident military personnel stationed in this state, provided such motor vehicle is registered in the state or territory whereof such military person is a resident and provided further that current license plates from such state or territory are displayed on such motor vehicle.

j. Passenger motor vehicles or pickup trucks not exceeding ten thousand pounds gross weight owned and operated by a disabled veteran under the provisions of Public Law 663 of the 79th Congress of the United States, provided, however, that such vehicles display a distinctive license plate issued by the motor vehicle registrar upon the payment of one dollar. Such license plate shall not be transferable and registration of such vehicles shall expire upon transfer of ownership.

k. Motor vehicles having not over two axles owned and operated by nonresidents and any motor vehicle of three axles or more operated in this state pursuant to a proportional licensing or other agreement or arrangement with any jurisdiction having motor vehicle registration authority.

l. Motor vehicles owned and operated by the holder of a valid building mover's permit issued by the public service commission, or by a resident well driller, provided, however, that such vehicles are used only for moving buildings or building moving equipment, or on which is mounted well drilling equipment; provided further that such vehicles display a special license plate issued by the motor vehicle registrar upon the payment of a fee of twenty-five dollars for two axle trucks, fifty dollars for single axle truck-tractor units and seventy-five dollars for each tandem axle truck-tractor unit.

Any vehicle which has been issued this special motor vehicle license may be registered under the regular motor vehicle registration law, by payment of the difference between the amount paid for the special motor vehicle license and the regular registration fee for such vehicle and surrendering of such special license plate.

Any vehicle which has been issued this special motor vehicle license and is found being operated upon the highways of this state without being equipped with special house moving or well drilling equipment, shall forfeit the fee paid and in addition, shall be required to register under the regular motor vehicle registration law of this state. None of the above limitations shall be construed as restricting the operation of the special licensed vehicle when such operation would not require a greater fee than that paid for this operation.

3. In addition to any other penalties provided by law, any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed one hundred dollars or by imprisonment in the county jail for not to exceed thirty days or by both such fine and imprisonment.

39-0419. Motor Vehicle Registration Fees and Mile Tax.) Motor vehicles required to pay registration fees or a mile tax shall pay the following fees:

1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do so by the state highway commissioner, shall pay the following fees:

a. Vehicles or combinations of vehicles having three axles or less, one and one-half cents per mile;

b. Vehicles or combinations of vehicles having four axles, two cents per mile;

c. Vehicles or combinations of vehicles having five axles or more, three cents per mile.

All fees collected under the provisions of this subsection shall be credited to the state highway construction fund.

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 and Subsequent Years
2399 or less	$ 16.50	$ 13.25	$ 10.00	$ 6.75
2400-2799	22.00	17.75	13.25	9.00
2800-3199	27.50	22.00	16.50	11.00
3200-3599	33.00	26.50	20.00	13.25
3600-3999	38.50	31.00	23.25	15.50
4000-4499	49.50	39.75	30.00	20.00
4500-4999	66.00	53.00	39.75	26.50
5000-5999	93.50	75.00	56.25	37.50
6000-6999	121.00	97.00	72.75	48.50
7000-7999	148.50	119.00	89.25	59.50
8000-8999	176.00	141.00	105.75	70.50
9000 and over	203.50	163.00	122.25	81.50

In addition to the fees required in this subsection and section 49-1832 of the North Dakota Revised Code of 1943, as it may be amended, 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 Years	3rd, 4th Years	5th, 6th Years	7th and Subsequent Years
0 to 4,000	$ 15.75	$ 12.75	$ 9.50	$ 4.25
4,001- 6,000	21.00	17.00	12.75	6.50
6,001- 8,000	26.25	21.00	15.75	8.50
8,001-10,000	31.50	25.25	19.00	10.50
10,001-12,000	36.75	29.50	22.75	12.75
12,001-14,000	42.00	33.75	25.25	14.75
14,001-16,000	47.25	38.00	28.50	17.00
16,001-18,000	52.50	42.00	31.50	19.00
18,001-20,000	57.75	46.25	34.75	21.00
20,001-22,000	63.00	50.50	38.00	23.25
22,001-24,000	68.25	54.75	41.00	25.25

Gross Weights	Years Registered		
	1st, 2nd, and 3rd Years	4th, 5th, and 6th Years	7th and Subsequent Years
24,001-26,000	$ 159.50	$ 127.50	$ 96.00
26,001-28,000	187.00	149.50	112.00
28,001-30,000	220.00	176.00	132.00
30,001-32,000	253.00	202.50	152.00
32,001-34,000	286.00	229.00	171.50
34,001-36,000	319.00	255.00	191.50
36,001-38,000	352.00	281.50	211.00
38,001-40,000	385.00	308.00	231.00
40,001-42,000	418.00	334.50	251.00
42,001-44,000	451.00	361.00	270.50
44,001-46,000	484.00	387.00	290.50
46,001-48,000	517.00	413.50	310.00
48,001-50,000	550.00	440.00	330.00
50,001-52,000	583.00	466.50	350.00
52,001-54,000	616.00	493.00	370.00
54,001-56,000	649.00	519.00	389.50
56,001-58,000	682.00	545.50	409.00
58,001-60,000	715.00	572.00	429.00
60,001-62,000	748.00	609.50	449.00
62,001-64,000	781.00	625.00	468.50
64,001-66,000	814.00	651.00	488.50
66,001-68,000	847.00	677.50	508.00
68,001-70,000	891.00	715.00	535.00
70,001-72,000	946.00	759.00	568.00
72,001-73,280	990.00	803.00	594.00

c. Motorcycles:

(1) Without side car, five dollars per motorcycle

(2) With side car, eight dollars per unit

3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 663 of the 79th Congress of the United States shall be exempt from the payment of state sales or use tax and, if paid, such veterans shall be entitled to a refund.

4. The fee for a trailer identification plate for all privately owned trailers shall be two dollars; for all trailers which are offered for lease or rent to the public, five dollars; and for all commercial trailers, ten dollars.

5. Vehicles having a gross weight of more than 24,000 but not more than 40,000 and which are used as farm vehicles only, shall be entitled to registration upon payment of fifty percent of the fee prescribed in subsection 2b of this section. A farm vehicle shall be considered, for the purpose of this subsection, as a motor vehicle owned and operated by a bona 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. The registrar shall issue a distinctive registration plate for such vehicles.

39-0420. Additional Fees Required of Trucks.) In addition to the registration fee provided for in this chapter, a truck used as a common carrier or contract carrier shall pay the additional fee provided for in section 49-1832.

39-0421. Fees for Motor Vehicles First Registered in State.) When a motor vehicle first becomes subject to registration during the calendar year, the registration fee shall be for the remainder of the year prorated on a monthly basis, one-twelfth of the annual registration fee for each calendar month or fraction thereof. Penny adjustments shall be carried to the next quarter dollar. Temporary registrations shall be issued in such manner as is prescribed by the motor vehicle registrar.

39-0422. Motor Vehicle Exceeding Gross Weight for Which Licensed Not To Be Operated on Highway.) 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 shall 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 of the North Dakota Revised Code of 1943, as it may be amended.

39-0423. Registered Motor Vehicle Transporting Property May Change Registration to Higher Gross Weight.) Any owner of a motor vehicle transporting property who has licensed such vehicle for any gross weight limitations, may change such registration to a higher gross weight limitation, by the payment of the difference between the fee required for the new registration and the fee paid for the registration under which the vehicle is being operated. If such owner makes an application for such change of registration, such additional registration fee shall be for the remainder of the year prorated on a monthly basis, one-twelfth of the annual higher registration fee for each calendar month or fraction thereof. In no event shall such fee be less than three dollars.

39-0424. Registrar to Determine Weight of Motor Vehicle When Manufacturer's Weight Unknown.) Any passenger motor vehicle not having an advertised manufacturer's weight shall pay a license fee based upon the actual weight as determined by the registrar from satisfactory proofs submitted to

him. Any truck not having a manufacturer's advertised load capacity shall pay a license fee in accordance with the schedules provided in this chapter and applicable thereto upon its load capacity as determined by the registrar upon satisfactory proofs submitted to him.

39-0425. Seasonal Registration of Passenger Buses Permitted When.) If, when the regular passenger vehicle fee is to be paid on a motor bus transporting persons for hire, a notice and a satisfactory showing is made to the registrar that the operation of such motor bus is seasonal only, requiring the use of the equipment for less than six months in any one year, the registrar may order the applicant for license to pay one-half of the bus seat tax provided for in subsection 2a of section 39-0419 of the North Dakota Revised Code of 1943, as it may be amended, and one-half of the regular registration fee provided for in subsection 2a of section 39-0419 of the North Dakota Revised Code of 1943, as it may be amended. The number plates issued for such motor bus shall be returned to the registrar by the owner of such vehicle at the end of such season.

39-0426. Registration of Vehicles Transporting Property; Based on Gross Weight; Minimum Gross Weight.) 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.

39-0427. Manufacturer or Dealer to Give Notice of Sale or Transfer.) Every manufacturer or dealer, upon transferring a motor vehicle, whether by sale, lease, or otherwise, to any person other than a manufacturer or dealer, immediately shall give written notice of such transfer to the department upon the official form provided by the department. Every such notice shall contain the date of such transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be called for in such official form.

39-0428. Motor Vehicle and Motorcycle Dealers Licenses: Fees; Additional Number Plates.) It shall be unlawful for any person, partnership or corporation to engage in the business of buying, selling or exchanging of motor vehicles, or to advertise or hold himself out to the public as engaging in the buying, selling or exchanging of motor vehicles, or to engage

in the buying of motor vehicles for resale, unless he possesses a current dealer's license for which he shall pay a license fee of twenty-five dollars per year, and with which shall be issued one set of dealer's plates. Additional dealer's number plates shall be issued to the dealer upon payment of a fee of twenty-five dollars per set. Such number plates may be used on any car owned by the dealer. In addition to the dealer's license plate the motor vehicle registrar may issue to any dealer holding a regular dealer's license plate an in transit license plate for a fee of two dollars per plate. Such plate may be used on vehicles in lieu of dealer's plates while a motor vehicle is in transit from its place of manufacture or any other place to the dealer. Additional special plates may be issued by the registrar to any dealer, for a fee of two dollars, which special plate shall be used only on a vehicle while:

a. It is being demonstrated within a radius of fifteen miles of the licensee's place of business to a prospective buyer, or being tested by a mechanic within a radius of fifteen miles of the licensee's place of business, or

b. It is being transferred from the licensee's place of business or used car lot to another place of business or used car lot for display or sale.

A motorcycle dealer shall pay a license fee of five dollars for each set of motorcycle number plates issued to him. Application for such license and renewal thereof, shall be made to the registrar of motor vehicles, shall be in writing, and duly verified by oath. The applicant shall submit such information as said registrar may require, upon blanks provided by the registrar for such purpose. No application shall be granted nor a license issued to anyone until and unless the applicant shall furnish proof satisfactory to the registrar of the fact that the applicant has an established place of business, and has facilities and equipment for the maintenance, servicing and repair of motor vehicles. An established central place of business, when used in this section, means a permanent and enclosed building or structure either owned in fee or leased at a stated periodic rental, at which a permanent business of bartering, trading, and selling of motor vehicles, the repair, maintenance, and servicing of motor vehicles and the storage of parts and accessories therefor, will be carried on as such in good faith and not for the purpose of evading this section, and at which place of business shall be kept and maintained the books, records, and files necessary to conduct the business at such place, and shall not mean a residence, tents, temporary stands or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement. Said central place of business may consist of several buildings, or structures, but no building or structure constituting a part of said central

place of business shall be located at a distance greater than one thousand feet from any of the other buildings or structures of said central place of business. If the license is granted hereunder the licensee shall be permitted to use unimproved lots and premises for sales, storage and/or display of motor vehicles.

If the licensee desires to remove from the central established place of business occupied when the license is granted, to a new location, he shall first secure from the registrar of motor vehicles permission to do so. He shall be required to furnish proof satisfactory to the registrar that the premises to which he proposes to remove conform to the requirements hereinbefore set forth.

39-0429. Certificate of Title To Be Delivered.) Every person, firm or corporation upon the sale and delivery of any motor vehicle shall within ten days after such sale deliver to the vendee a certificate of title covering said motor vehicle endorsed according to law.

39-0430. Cancellation of Licenses.) Whenever any dealer in motor vehicles has violated any of the requirements or provisions of law relating to dealers in motor vehicles under the provisions of title 39 of the North Dakota Revised Code of 1943, or has been convicted of a felony, or shall have ceased to have an established place of business as herein required, the motor vehicle registrar may cancel and revoke the dealer's license, and such cancellation and revocation shall be done in the manner and according to the procedure prescribed in chapter 28-32 of the North Dakota Revised Code of 1943.

39-0431. Bond Required.) Before the issuance of a motor vehicle 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 the license be issued to it or him, that such dealer will comply with all of the statutes of the state of North Dakota, including this chapter, regulating or being applicable to the business of said dealer as a dealer in motor vehicles, and indemnifying any person dealing or transacting business with said dealer in connection with any motor vehicle from any loss or damage occasioned by the failure of such dealer to comply with any of the provisions of title 39 of the North Dakota Revised Code of 1943, as amended, including, but not limited to, the furnishing of a proper and valid certificate of title to the motor vehicle involved in any such transaction, and that such bond shall be filed with the registrar of motor vehicles prior to the

issuance of license provided by law. The aggregate liability of the surety to all persons, however, shall in no event exceed the amount of said bond.

39-0432. Used Car Lots; Location.) A registered dealer as described in this chapter may establish open used car lots as may be necessary in the conduct of his business in an area not further removed than three miles from the city limits of the town in which he operates a licensed place of business.

39-0433. Dealer Permitting License To Be Used by Another Dealer; License Revoked; Penalty.) Any dealer who permits any other dealer to use his dealer's license, or permits the use of such license for the benefit of any other dealer, shall have his dealer's license revoked and shall be subject to a fine of not less than fifty dollars nor more than two hundred dollars.

39-0434. Dealers to Furnish Information to Registrar.) All dealers engaged in the sale of motor vehicles in this state shall furnish the registrar with such information as to models, specifications, selling prices, and such other data requested by the registrar as may be necessary in carrying out the provisions of this chapter.

39-0435. Dealer to File List of Used Cars With Registrar; Fees Paid on Used Cars by Dealer.) On or before February fifth of each year, a licensed dealer shall file with the registrar a list and a description of all used cars on hand on February first of such year. Such used cars need not be licensed until July first unless they are sold before that date. After July first, each used car on hand must be licensed at the full annual fee but without penalty. Any used car taken in by a dealer after July first of any year, which carries the current year's number plates of another state, if sold within the state, shall be required to pay one-half of the regular fee, and if any such car taken in after October first of any year is sold, one-fourth of the regular fee shall be paid.

39-0436. Transfer of Registration and Number Plates Upon Transferring or Assigning Title.) Whenever the owner of a vehicle registered under the provisions of this chapter transfers or assigns his title thereto or interest therein, the registration of such vehicle, together with the number plates originally assigned thereto, shall be transferred to the transferee as provided in this chapter. The number plates originally assigned to the vehicle must remain attached thereto until the end of the current registration year.

39-0437. Violations of Registration Provisions.) It shall be unlawful for any person to commit any of the following acts:

1. To operate, or for the owner thereof knowingly to permit anyone to operate, upon a highway any motor vehicle the registration of which has been canceled or revoked, or which is not registered, or which does not have attached thereto and displayed thereon a number plate or plates assigned thereto by the registrar for the current registration year, subject to the exemptions allowed in this chapter;
2. To display or cause or permit to be displayed, or to have in possession, any registration card or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered;
3. To lend to or knowingly to permit the use by one not entitled thereto of any registration number plate issued to the person so lending or permitting the use thereof;
4. To fail or refuse to surrender to the department, upon demand, any registration card or registration number plate which has been suspended, canceled, or revoked as is provided in this chapter; and
5. To use a false or fictitious name or address in any application for the registration of any vehicle, or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise to commit a fraud in any such application.

39-0438. Taxes or Fees Provided for To Be in Lieu of Other State or Local Personal Property Taxes.) The taxes or fees provided for in this chapter shall be in lieu of all other personal property taxes upon such motor vehicles, either state or local.

39-0439. 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 quarterly and credited by the state treasurer, as follows:

1. First, nine percent of all fees collected pursuant to subsection 2a of section 39-0419 of the North Dakota Revised Code of 1943, as amended, and fourteen and one-half percent of all fees collected pursuant to subsection 2b of section 39-0419 of the North Dakota Revised Code of 1943, as amended, shall be transferred 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 to the state highway department; and

3. Fifty percent to the counties of this state in proportion to the number of motor vehicle registrations credited to each county. Each county shall be credited with the certificates of title of all motor vehicles registered by residents of such county.

39-0440. Officers to Enforce the Provisions of Chapter.) The highway patrol and all other road or police officers, including appointees of the highway commissioner shall enforce the provisions of this chapter.

39-0441. Penalty for Violation of Provisions of Chapter.) Any person violating any of the provisions of this chapter for which another penalty is not specifically provided is guilty of a misdemeanor and for the first offense shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment. For a second and subsequent offense, such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

39-0442. Construction Contract Truck Registration; Penalty.) Every person, firm or corporation holding a construction contract with the state of North Dakota or any of its political subdivisions, who hires, uses, or procures the use of trucks which are not registered in this state, shall file a statement with the motor vehicle registrar, identifying each such truck by description and motor number and disclosing the date such truck was first used in this state and the purpose and extent of such use. Any person, firm or corporation violating any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than one hundred dollars, or imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

39-0443. Antique Automobiles; License and Fee.) Any motor vehicle which is at least forty years old may be permanently licensed by the motor vehicle registrar upon the payment of a registration fee of ten dollars. The motor vehicle registrar shall design and issue a distinctive number plate for this purpose.

39-0444. Credits on Destroyed Vehicle.) Any owner of a motor vehicle licensed or taxed in this state, if such vehicle is permanently destroyed, may deduct from any license fee or tax thereafter due from such owner during the same year upon another motor vehicle an amount equal to the unused portion of the fee or tax paid upon the vehicle so destroyed, computed pro rata by the month, one-twelfth of the annual fee or tax paid for each month of the year remaining after the month in which such vehicle was so destroyed.

39-0445. Driveaway Transporter Registration.) Every person, firm, partnership, or corporation regularly and lawfully engaged in the transportation of vehicles over the highways of this state from a manufacturing or assembly point or from the owner to agents of manufacturers or dealers or other persons by the driveaway or towaway methods, where such vehicles being driven, towed, or transported by the saddlemount, towbar, or fullmount methods or any lawful combination thereof will be transported over the highways of this state, shall annually apply to the motor vehicle department of this state for a registration certificate and license to so use the highways of this state. The applicant shall also apply to the department for a sufficient number of distinctive in-transit plates or devices showing the certificate number for identification of the vehicles being transported by the certificate-holder, and such in-transit plates or devices shall be used on any vehicle being driven, towed, or transported by and under the control of the certificate-holder.

39-0446. Driveaway Transporter Registration; Expiration.) The certificate and in-transit plates or devices shall expire on the thirty-first day of December of each year.

39-0447. Driveaway Transporter Registration; Display.) Each vehicle or combination of vehicles transported by the license-holder shall display in a prominent position thereon the distinctive in-transit plates or devices, the driven or towing vehicle displaying such on the front thereof and a towed or drawn vehicle on the rear.

39-0448. Driveaway Transporter Registration; Application.) Sections 39-0445 through 39-0453 of this Act, 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 registerable under any other provisions of law, nor to any person not issued a license hereunder.

39-0449. Driveaway Transporter Registration; Fee.) The fee for a transporter's certificate and license shall be fifty dollars, and the fee for each in-transit plate or device shall be fifteen dollars.

39-0450. Motor Vehicle Department Powers.) The department is empowered to require submission of any information or data as may be pertinent, in its discretion, to administer sections 39-0445 through 39-0453 of this Act, and it shall not issue any certificate or in-transit plates or devices unless it has received payment in full thereof.

39-0451. Penalties.) If any certificate-holder or transporter refuses to make and file with the department the application

provided for in sections 39-0445 through 39-0453 of this Act, or has caused or permitted or is permitting the unlawful use of his certificate or plates or devices, such person shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than twenty-five dollars and not more than one hundred dollars, and upon the third such offense he may, in addition to the fines, forfeit his current certificate and in-transit plates or devices and shall forthwith return the same to the department, and the use thereafter shall be unlawful and deemed a misdemeanor and upon conviction thereof such person shall be fined a sum of not less than one hundred dollars nor more than five hundred dollars.

39-0452. Driveaway Transport License Fees; Effect.) The fees provided for in sections 39-0445 through 39-0453 of this Act, are in lieu of all other fees, and are declared to be consideration for the right to use the highways of the state of North Dakota.

39-0453. Noncompliance; Effect.) Persons not complying with sections 39-0445 through 39-0453 of this Act, shall comply with any other applicable motor vehicle law of this state.

§ 16. Repeal.) Sections 39-0504, 39-0514, and subsection 4 of section 39-04A04 of the North Dakota Revised Code of 1943, as they may be amended, and section 39-0513 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 17, 1959.

CHAPTER 290

S. B. No. 95
(Gefreh)

HIGHWAY PATROL RETIREMENT SYSTEM

AN ACT

To amend and reenact sections 39-03A13, 39-03A14, 39-03A17, and 39-03A18 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the highway patrol retirement system, and providing for a retroactive date.

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

§ 1. Amendment.) Section 39-03A13 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-03A13. Optional Retirement.) Each contributor whose employment with the patrol has been terminated and who has at least fifteen years accumulated deductions may, after reaching the age of sixty years, apply to the board for the optional retirement allowance provided for in section 39-03A14.

§ 2. Amendment.) Section 39-03A14 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-03A14. Optional Retirement Allowance.) Each contributor qualifying under section 39-03A13 shall be entitled to receive from the fund, for the duration of his life, a monthly optional retirement allowance computed by multiplying one-half of the member's average monthly salary for the last ten years times a fraction equal to the total number of years served divided by twenty-five.

§ 3. Amendment.) Section 39-03A17 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-03A17. Severance Allowance.) Each contributor who has not reached the age of sixty-five and whose employment with the patrol has been terminated and who has at least ten years but less than fifteen years accumulated deductions, shall be entitled to receive from the fund, upon making application therefor to the board, a severance allowance which shall consist of the amount of the accumulated deductions of the contributor.

§ 4. Amendment.) Section 39-03A18 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-03A18. Compulsory Termination of Employment.) Except as provided in this section, whenever any contributor shall reach the age of sixty-five years, his employment with the patrol shall be terminated forthwith. If such contributor has at least twenty-five years accumulated deductions he shall be entitled to receive from the fund, without application therefor, the monthly retirement allowance provided for in section 39-03A12. If such contributor has at least fifteen years but less than twenty-five years accumulated deductions he shall be entitled to receive from the fund, without application therefor, the monthly optional retirement allowance provided for in section 39-03A14. If such contributor has less than fifteen years accumulated deductions he shall be entitled to receive from the fund, without application therefor, the severance allowance provided for in section 39-03A17, except that a con-

tributor who is a member of the North Dakota highway patrol on the effective date of this Act shall have the following options:

1. A contributor reaching the age of sixty-five with less than twenty years' service may, at his option, continue in service, if physically qualified, for a maximum of three additional years; or
2. A contributor who shall have reached compulsory retirement age with less than twenty years service and who has terminated his employment with the patrol shall be eligible for a monthly retirement equal to that portion of the retirement benefits under section 39-03A14 as his total accumulations may bear to what the accumulations would have been had he completed twenty years service at the time of his retirement.

§ 5. **Retroactive Date.)** This Act shall be retroactive as of January 1, 1959.

Approved March 4, 1959.

CHAPTER 291

S. B. No. 44
(Johnson, Luick, Saumur, Krause, Roen)
(From LRC Study)

MILITARY EXEMPT FROM DRIVER'S LICENSE

AN ACT

To create and enact subsection 4 of section 39-0602 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the exemption of military personnel from obtaining a North Dakota driver's license.

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

§ 1. **Creation.)** Subsection 4 of section 39-0602 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

4. A member of the armed forces of the United States stationed in North Dakota may operate a motor vehicle in this state as long as such person is stationed in North Dakota, provided, however, that such serviceman has a valid current operator's license from another state or territory of the United States.

Approved March 14, 1959.

CHAPTER 292

S. B. No. 217
(Wenstrom)

LOSS OF DRIVER'S LICENSE, APPEAL

AN ACT

To amend and reenact section 39-0639 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the right of appeal to court.

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

§ 1. Amendment.) Section 39-0639 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0639. Review by Court.) Any person denied a license or whose license has been canceled, suspended, or revoked by the commissioner under the provisions of this chapter, except where such cancellation or revocation is mandatory, may within thirty days after the determination by the commissioner, file a petition for a hearing of the matter in the district court in the county in which such person shall reside or in the county in which the administrative hearing was held. It shall be the duty of the court to set the matter for hearing, and the petitioner shall give thirty days written notice thereof to the commissioner. Thereupon the court shall take testimony and examine into the facts of the case and determine anew whether the petitioner is entitled to a license or is subject to suspension, cancellation, or revocation of license under the provisions of this Act. The decision of the district court may be appealed to the supreme court by either the petitioner or the commissioner, in which event the supreme court shall hear and determine the matter de novo upon the record of the proceedings had in the district court.

The foregoing provisions of this section shall be legibly printed or stamped upon the notice given to the applicant or licensee informing him of the action taken by the commissioner.

Approved March 16, 1959.

CHAPTER 293

S. B. No. 169
(Holand)

WARNING AND CONVICTION NOTATIONS ON DRIVER'S LICENSE

AN ACT

To amend and reenact section 39-0651 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to driver's license carrying warnings and convictions.

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

§ 1. Amendment.) Section 39-0651 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0651. License to Carry Warnings and Convictions.) Every license, permit or duplicate certificate issued by the commissioner under authorization of chapter 39-06 of the 1957 Supplement to the North Dakota Revised Code of 1943 or acts amendatory thereto shall carry notations or indications as to the number of traffic warnings and convictions of moving traffic offenses such licensee has had during that two-year license period.

Each judge, magistrate, or juvenile commissioner in whose court a conviction of a moving traffic offense is had, whether imposition of sentence is deferred or not, in addition to any other requirements of law, shall note upon the license of the person convicted that such conviction has occurred. Each sheriff or highway patrolman issuing a traffic warning shall note upon the license of the offender, that such warning has been issued and notice of such warning shall be given in writing to the commissioner. The commissioner shall establish a uniform system for noting or indicating warnings and convictions upon the license.

Approved March 9, 1959.

CHAPTER 294

H. B. No. 647
(Leet, Renfrow, Loewen)

REPORTING DAMAGED MOTOR VEHICLES

AN ACT

To amend and reenact section 39-0712 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to provisions governing repair of vehicles involved in reportable accidents and providing a penalty for violation.

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

§ 1. Amendment.) Section 39-0712 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0712. Garages to Report.) The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a reportable accident as provided in section 39-0809 of the 1957 Supplement to the North Dakota Revised Code of 1943 or of being struck by any bullet, shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is received, and before any repairs are made to such vehicle, giving the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. The police officer investigating any reportable accident shall attach a sticker to the window of any damaged vehicle showing that the accident in which such vehicle was involved has been investigated. If the vehicle does bear such a sticker the garage or repair shop need not make the report in this section required and may begin repairs immediately. After repairs have been made and before the vehicle is released, the sticker provided herein shall be removed.

Approved March 9, 1959.

CHAPTER 295

S. B. No. 46
(Johnson, Luick, Saumur, Krause, Roen)
(From LRC Study)

PARKING LIGHTS ON MOTOR VEHICLES

AN ACT

To amend and reenact section 39-1101 of the North Dakota Revised Code of 1943 relating to parking lights on motor vehicles.

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

§ 1. Amendment.) Section 39-1101 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1101. Front and Rear Lamps To Be Lighted on Vehicles at Certain Times.) During the period elapsing from one-half hour after sunset of each day to one-half hour before sunrise of the following day, and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred feet ahead, every motor vehicle upon a highway, except as otherwise provided in section 39-1119, shall be equipped with lighted front and rear lamps in the manner provided in this chapter for the different classes of vehicles. No motor vehicle shall be operated upon the highways and streets of this state with only the parking lights turned on.

Approved February 19, 1959.

CHAPTER 296

H. B. No. 648
(Leet, Renfrow, Loewen)

EQUIPMENT ON MOTOR VEHICLES

AN ACT

To amend and reenact section 39-1132 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the provisions governing equipment of vehicles and providing a penalty for violation.

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

§ 1. Amendment.) Section 39-1132 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1132. Penalty for Violation of Chapter.) Any driver, owner, or other person having under his control a vehicle which is not constructed as required by this chapter or according to the rules and regulations of the registrar adopted pursuant to the provisions of this chapter and who permits such vehicle to be driven or moved upon any highway, road or street of this state, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding twenty-five dollars or imprisonment of not more than ten days, or by both such fine and imprisonment.

Approved March 9, 1959.

CHAPTER 297

H. B. No. 615
(Wheeler, Gress, Idso, Halcrow, Gronhovd)

WIDTH, HEIGHT AND LENGTH OF MOTOR VEHICLES

AN ACT

To amend and reenact section 39-1204 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to width, height and length limitations on vehicles and exceptions thereto.

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

§ 1. Amendment.) Section 39-1204 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1204. Width, Height, and Length Limitations on Vehicles; Exceptions.) Vehicles operated on a highway in this state shall not exceed the following width, height, or length limitations:

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.
2. A height of thirteen feet, six inches, whether loaded or unloaded, except that such height limitation shall not affect any present structure such as bridges and underpasses that are not thirteen feet six inches in height.
3. A length, when operated singly, including the load thereon, of thirty-five feet, except buses and trucks, which when equipped with three or more axles shall not exceed a length of forty feet. Any bus in excess of thirty-five feet in length must be equipped with drinking water and toilet facilities.
4. A length when operated in combination, including the load thereon, shall not exceed a length of sixty feet.
5. Length limitations shall not apply to building moving equipment, emergency tow trucks towing disabled lawful combinations of vehicles to a nearby repair facility, vehicles and equipment of the armed forces of the United States or the national guard of this state, structural material of telephone, power and telegraph companies and such other vehicles and loads obtaining a permit from the commissioner upon a showing of reasonable necessity.
6. A tractor-truck and semi-trailer may draw a trailer or semi-trailer converted to a trailer by use of a dolly and fifth wheel, and a motor vehicle may draw no more than two motor vehicles attached thereto by the dual saddle mount method, that is by mounting the front

wheels of the drawn vehicle upon the bed of the drawing vehicle. No more than two vehicles shall be used in any other combination.

Approved March 11, 1959.

CHAPTER 298

H. B. No. 616
(Streibel, Bye, Lowe, Poling, Doherty)

WEIGHT LIMITATIONS

AN ACT

To amend and reenact section 39-1205 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to weight limitations for vehicles.

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

§ 1. Amendment.) Section 39-1205 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-1205. Weight Limitations for Vehicles.)

(1) No single axle shall carry a gross weight in excess of eighteen thousand pounds nor a wheel load to exceed nine thousand pounds. No wheel shall carry a gross weight in excess of five hundred and fifty pounds for each inch of tire width. Axles spaced forty inches apart or less shall be considered as one axle and on axles spaced over forty inches and under eight feet apart, the axle load shall not exceed sixteen thousand pounds per axle. The wheel load, in any instance, shall not exceed one-half the allowable axle load. Spacing between axles shall be measured from axle center to axle center.

(2) Subject to the limitations imposed by the above subsection (1) on tires, wheel and axle loads, no vehicle or combination of vehicles shall be operated whose gross weight, including the load, exceeds sixty-four thousand pounds or that determined by adding the distance in feet between the first axle and the last axle of such vehicle or combination of vehicles, to the factor forty (40) and multiplying this sum by seven hundred fifty (750), whichever is lesser. Such gross weight limitation shall not apply to such equipment as the state highway commissioner or his agents may approve for exemption, but gross weights shall not exceed seventy-three thousand two hundred and eighty pounds. The decision on

exemption shall be determined on the basis of improved equipment design, which, in his opinion, will better distribute the load and reduce roadway damage; provided further that where the distance between the first axle and the last axle of any group of axles of such vehicle or combination of vehicles is eighteen (18) feet or less the gross weight on the group of axles under consideration shall be determined by adding the distance in feet between the first axle and the last axle of the group under consideration to the factor of forty (40) and multiplying this sum by six hundred fifty (650).

Approved March 14, 1959.

CHAPTER 299

S. B. No. 222
(Gefreh, Roen, Longmire)

FINANCIAL RESPONSIBILITY OF MOTOR VEHICLE OPERATORS

AN ACT

To amend and reenact subsection 9 of section 39-1601; paragraph 2 of section 39-1605; subsections 2, 3 and 4 of section 39-1614; subsection 2 b. of section 39-1620; and section 39-1624 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to financial responsibility of drivers and owners of motor vehicles, and providing for an effective date of January 1, 1960.

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

§ 1. Amendment.) Subsection 9 of section 39-1601 is hereby amended and reenacted to read as follows:

39-1601. Definitions.)

9. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of ten thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of five thousand dollars because of injury to or destruction of property of others in any one accident;

§ 2. Amendment.) Paragraph 2 of section 39-1605 is hereby amended and reenacted to read as follows:

39-1605. Suspension of License: When; When Not Applicable.) No such policy or bond shall be effective under this section unless by an insurance carrier or surety company authorized to do business in the state, except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance carrier or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the commissioner to accept service, on its behalf, of notice or process in any action upon such policy or bond arising out of such accident; provided, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than ten thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property to a limit of not less than five thousand dollars because of injury to or destruction of property of others in any one accident. Upon receipt of notice of such accident, the insurance carrier or surety company which issued such policy or bond shall furnish for filing with the commissioner a written notice that such policy or bond was in effect at the time of such accident.

§ 3. Amendment.) Subsections 2, 3 and 4 of section 39-1614 are hereby amended and reenacted to read as follows:

39-1614. Satisfaction of Judgment.)

2. When ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or
3. When, subject to such limit of ten thousand dollars because of bodily injury to or death of one person, the sum of twenty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or
4. When five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of damage to or destruction of property of others as a result of any one accident. Payments made in settlement of any claims because of bodily injury, death or property damages arising from a motor vehicle

accident shall be credited in reduction of the amounts provided for in this section.

§ 4. Amendment.) Subsection 2. b. of section 39-1620 is hereby amended and reenacted to read as follows:

39-1620. Motor Vehicle Liability Policy.)

2. Such owner's policy of liability insurance:
   b. Shall insure the person named therein and any other person, as insured, using such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: ten thousand dollars because of bodily injury to or death of one person in any one accident and subject to said limit for one person, twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and five thousand dollars because of injury to or destruction of property of others in any one accident.

§ 5. Amendment.) Section 39-1624 is hereby amended and reenacted to read as follows:

39-1624. Deposit of Cash With State Treasurer.)

1. Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him twenty-five thousand dollars in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of twenty-five thousand dollars. The state treasurer shall not accept any such deposit and issue a certificate therefor and the commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

§ 6.) This enactment shall become effective the 1st day of January, 1960.

Approved March 16, 1959.

MUNICIPAL GOVERNMENT

CHAPTER 300

H. B. No. 799
(Loewen, Karabensh, Dahl, Muggli, Hornstein)

AUDIT AND PAYMENT OF CLAIMS AND ACCOUNTS

AN ACT

To amend and reenact section 40-0112 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the audit and allowance of claims and accounts against municipalities.

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

§ 1. Amendment.) Section 40-0112 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0112. Claims and Accounts Against Municipalities Audited.) No account or claim against a municipality to be paid from any fund, including a municipal utilities fund, shall be allowed by the governing body thereof unless the claim is made out in full and is both itemized and certified in the form prescribed in section 54-1404. The governing body, in its discretion, may require the filing of any additional information which it may deem necessary to the proper understanding and audit of any claim or account and it may require the filing of a sworn statement in such form as it may prescribe. Every account or claim which is allowed by the governing body shall be shown in the minutes of the proceedings of the governing body except that wages and salaries of persons employed by the city may be consolidated and allowed in one order as provided by section 40-1706 and reference made in the proceedings of the governing body to the payroll record certified to the city treasurer.

Approved March 14, 1959.

CHAPTER 301

H. B. No. 770
(Hilleboe)

CHANGE FROM COMMISSION SYSTEM OF CITY GOVERNMENT

AN ACT

To amend and reenact section 40-0408 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the changing from a commission system of city government.

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

§ 1. Amendment.) Section 40-0408 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0408. Change From Commission System of Government; Petition Required.) Any city which shall have operated for more than six years under the city commission system of government may change its organization thereunder and adopt the city council form of government. The proceeding to change shall be initiated by a petition asking for such change signed by not less than forty percent of the electors of the city. For the purpose of this section the term "qualified electors of the city" shall mean the total number of electors voting at the preceding general election. The signatures to such petition need not be appended to a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name of the street upon and the number of the house in which each petitioner resides, and the length of his residence in the city. Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

Approved March 11, 1959.

CHAPTER 302

H. B. No. 609
(Baldwin, Fitch, Hilleboe, Aamoth, Stockman)

MUNICIPAL PUBLIC WORKS PROJECTS

AN ACT

To amend and reenact subsection 59 of section 40-0501 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the powers of municipalities to accept aid from and cooperate with the federal or any state government or any agency or municipality thereof in the establishment, construction and maintenance of public works projects, to give authority to municipalities having a population of more than thirty thousand according to the last federal census to agree to hold such governments, agencies and municipalities harmless from liability arising from such projects and to pay the cost of lands, rights-of-way and easements required in connection therewith, and declaring an emergency.

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

§ 1. Amendment.) Subsection 59 of section 40-0501 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0501. Powers of All Municipalities.)

59. **Public Works Project.)** To accept aid from, cooperate and contract with, and to comply with and meet the requirements of any federal or state agency for the establishment, construction and maintenance of public works, including dams and reservoirs for municipal water supply, for water conservation, for flood control, for the prevention of stream pollution, or for sewage disposal; and in furtherance thereof to acquire by purchase, lease, gift or condemnation the necessary lands, rights-of-way and easements for such projects, and to transfer and convey to the state or federal government, or any agency thereof, such lands, rights-of-way and easements in consideration of the establishment and construction of, and the public benefits which will be derived from any such project. Cities having a population of more than thirty thousand according to the last federal census shall in addition hereto have the power to accept aid from, cooperate and contract with, and to comply with and meet the requirements of the federal or any state government or any agency or municipality thereof, for the establishment, construction and maintenance of public works, including dams and reservoirs

and other facilities for municipal water supply, for water conservation, for flood control, for the prevention of stream pollution, or for sewage disposal; to enter into an agreement with any such government, agency or municipality within or without this state, to hold such government, agency or municipality harmless from any and all liability or claim of liability arising from the establishment, construction and maintenance of such works, and to indemnify such government, agency or municipality for any such liability sustained by it and to pay all costs of defending against any such claim; and in furtherance thereof to acquire by purchase, lease, gift or condemnation the necessary lands, rights-of-way and easements for such projects, and to transfer and convey to such government, agency or municipality, such lands, rights-of-way and easements in consideration of the establishment and construction of, and the public benefits which will be derived from any such project, or to pay the cost of the acquisition of such lands, rights-of-way and easements by such government, agency or municipality. All actions herein authorized may be taken by resolution duly adopted by the governing body of the municipality. Any and all actions and proceedings heretofore taken by any municipality which are within the authority granted by this subsection are hereby legalized and validated.

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

Approved March 4, 1959.

CHAPTER 303

H. B. No. 797
(Lowe)

MUNICIPAL EMPLOYEE PENSION SYSTEM

AN ACT

To create and enact subsection 70 of section 40-0501 of the North Dakota Revised Code of 1943, as amended, relating to powers of all municipalities as to employee pension systems.

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

§ 1.) Subsection 70 of section 40-0501 of the North Dakota Revised Code of 1943, as amended, is hereby created and enacted to read as follows:

70. **Employee Pension System.)** To adopt, by ordinance, a city employee pension system which may provide all rules and regulations governing its operation and discontinuance, provided other pension systems allowed by statute are not in effect, excepting Firemen's Relief Associations and Federal Social Security, or in order to consolidate existing pension plans. In addition to all other rules and regulations deemed necessary and proper by the governing body, it may provide as to matters pertaining to membership, tax levies in an amount not exceeding the total levies authorized by chapters 40-45 and 40-46, membership fees and assessments, management, investments, acceptance of money and property, retirement conditions and payment amount, continuance of system and discontinuance procedures, discontinuance payments, entrance into contracts with an insurance firm or firms for coverage of such employee pension system.

Approved March 21, 1959.

CHAPTER 304

H. B. No. 584
(Lowe, Hilleboe, Baldwin,)
(Aamoth and Johnston)

CITY MANAGER PLAN

AN ACT

To amend and reenact section 40-1008 of the North Dakota Revised Code of 1943 relating to the city manager plan of local government for cities.

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

§ 1. Amendment.) Section 40-1008 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1008. Election to Determine Question of Retention of City Manager Plan; Procedure Thereafter.) At any time after the city manager plan has been in force in any city for a period of five years or more, the governing body of the city may submit at any regular election the question of whether or not such plan shall be retained. If a petition signed by forty percent or more of the qualified electors of the city as shown by the votes cast for the executive officer at the preceding city election, requesting the submission of such question is filed with the city auditor, the governing body shall submit such proposal to the voters of the city at an election to be held within ninety days after the filing of such petition. The signatures to such petition need not be appended to a single paper, but each single paper so used shall clearly state the purpose of the petition at the top of the paper, and each signature shall have been placed thereon not more than ninety days prior to the date on which the petition is filed in the office of the city auditor. Upon each paper one of the signers to such petition shall, under oath before an officer competent to administer oaths, swear that he witnessed the signing of each signature appearing on such paper and 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 and the number of the house in which each petitioner resides, the length of his residence in the state of North Dakota, the length of his residence in the city, and the date on which the petitioner signed the petition. Any petitioner shall be permitted to withdraw his name from a petition at any time prior

to action by the governing body calling the election as provided herein. Such question shall not be submitted more than once in every five years. If a majority of the votes cast at the election shall be against retaining the city manager plan, the city shall revert to the plan in force previous to the adoption of the city manager plan, and the provisions of this chapter shall not be applicable to such city except after another compliance with its terms. The governing body shall fix the date, not less than three months nor more than six months after an election at which the majority vote is against the retention of the city manager plan, when such plan shall cease to be operative in the municipality.

Approved March 11, 1959.

CHAPTER 305

S. B. No. 220
(Wartner and Garaas)

IMPROVEMENTS BY SPECIAL ASSESSMENTS

AN ACT

To provide that irregularities and defects occurring in proceedings taken under the provisions of chapter 40-22 of the North Dakota Revised Code of 1943, as amended, relating to improvements by the special assessment method will not invalidate such proceedings, if the proceedings are for a lawful purpose and are unaffected by fraud, and declaring an emergency.

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

§ 1. Defects and Irregularities in Improvement Proceedings Are Not Fatal.) Defects and irregularities in any proceedings had or to be had under chapter 40-22 of the North Dakota Revised Code of 1943, as amended, relating to municipal improvements by the special assessment method, where the proceedings are for a lawful purpose and are unaffected by fraud and do not violate any constitutional limitation or restriction, shall not invalidate such proceedings, and no action shall be commenced or maintained and no defense or counterclaim in any action shall be recognized in the courts of this state founded on any such defects or irregularities in such proceedings, unless commenced within sixty days of the adoption of the resolution of the governing board awarding the sale of warrants to finance the improvement.

§ 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, 1959.

CHAPTER 306

H. B. No. 827
(Trom)
(By request)

IMPROVEMENT DISTRICTS

AN ACT

To amend and reenact sections 40-2201, 40-2208 and 40-2209 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to defraying expense of improvements by special assessments, creation of improvement districts, size and form thereof, and regulations governing the same, to amend and reenact sections 40-2217 and 40-2218 of the North Dakota Revised Code of 1943, relating to protests against improvements, and hearings thereon, and declaring an emergency.

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

§ 1. Amendment.) Section 40-2201 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended to read as follows:

40-2201. Power of Municipalities to Defray Expense of Improvements by Special Assessments.) Any municipality, upon complying with the provisions of this chapter, may defray the expense of any or all of the following types of improvements by special assessments:

1. The construction of a water supply system, or a sewerage system, or both, or any part thereof, or any improvement thereto or extension or replacement thereof, including the construction and erection of wells, intakes, pumping stations, settling basins, filtration plants, standpipes, water towers, reservoirs, watermains, sanitary and storm sewer mains and outlets, facilities for the treatment and disposal of sewage and other municipal, industrial and domestic wastes, and all other appurtenances, contrivances and structures used or useful for a complete water supply and sewerage system;
2. The improvement of the municipal street system and any part thereof, including any one or more of the processes of acquisition, opening, widening, grading, graveling, paving, repaving, surfacing with tar, asphalt, bituminous or other appropriate material, resurfacing, resealing, and repairing of any street, highway, avenue, alley, or public place within the municipality, and the construction and reconstruction of storm sewers, curbs and gutters, sidewalks, and service connections for water and other utilities, and street lights;

3. The improvement of boulevards and other public places by the planting of trees, the construction of grass plots and the sowing of grass seed therein, and the maintenance and preservation of such improvements by the watering of such trees and grass, the cutting of such grass, and the trimming of such trees, or otherwise in any manner which may appear necessary and proper to the governing body of the municipality;
4. The acquiring of the necessary land and easements and the construction of the necessary works, within and without the municipality, for flood protection of properties within the municipality; and
5. The acquiring or leasing of the necessary property and easements and the construction of parking lots, ramps, garages, and other facilities for motor vehicles.

In planning an improvement project of a type specified in any one of the foregoing subsections, the governing body may include in such plans any and all items of work and materials which in its judgment are necessary or reasonably incidental to the completion of an improvement project of such type.

§ 2. Amendment.) Section 40-2208 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended to read as follows:

40-2208. Improvement Districts To Be Created.) For the purpose of making an improvement project of one of the types specified in section 40-2201 and defraying the cost thereof by special assessments, a municipality may create water districts, sewer districts, water and sewer districts, street improvement districts, boulevard improvement districts, flood protection districts, and parking districts, and may extend any such district when necessary. The appropriate special improvement district may be created by ordinance or resolution. The district shall be designated by a name appropriate to the type of improvement for the making of which is created, and by a number distinguishing it from other improvement districts. Nothing herein, however, shall prevent a municipality from making and financing any improvement and levying special assessments therefor under any alternate procedure set forth in this title.

§ 3. Amendment.) Section 40-2209 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended to read as follows:

40-2209. Size and Form of Improvement Districts: Regulations Governing.) Any improvement district created by a municipality may embrace two or more separate property areas. Each improvement district shall be of such size and

form as to include all properties which in the judgment of the governing body, after consultation with the engineer planning the improvement, will be benefited by the construction of the improvement project which is proposed to be made in or for such district, or by any portion or portions of such project. A single district may be created for an improvement of the type specified in any one of the subsections of section 40-2201, notwithstanding any lack of uniformity among the types, items or quantities of work and materials to be used at particular locations throughout the district. The jurisdiction of a municipality to make, finance and assess the cost of any improvement project shall not be impaired by any lack of commonness, unity, or singleness of the location, purpose or character of the improvement, or by the fact that any one or more of the properties included in the district is subsequently determined not to be benefited by the improvement, or by a particular portion thereof, and is not assessed therefor. There may be omitted from a water or sewer district, in the discretion of the governing body, properties within the corporate limits which are benefited by the improvement therein but do not abut upon a water or sewer main, without prejudice to the right and power of the municipality subsequently to assess such properties to the extent and in the manner permitted by law.

§ 4. Amendment.) Section 40-2217 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2217. Protest Against Resolution of Necessity; Meeting to Hear Protest.) If, within thirty days after the first publication of the resolution declaring the necessity of an improvement project of the type specified in any one of the subsections of section 40-2201, the owners of any property within the improvement district file written protests with the city auditor or village clerk, as the case may be, protesting against the adoption of said resolution, the governing body of the municipality, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof.

§ 5. Amendment.) Section 40-2218 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2218. Protest Bar to Proceeding; Invalid or Insufficient Protests.) If the governing body finds the protests to contain the names of the owners of a majority of the area of the property included within the improvement district the protests shall be a bar against proceeding further with the improvement project described in the plans and specifications. If the

governing body finds the protests to contain the names of the owners of a majority of any separate property area included within the district, such protests shall be a bar against proceeding with the portion of such improvement project, the cost of which is to be assessed in whole or in part upon property within such area, but shall not bar against proceeding with the remainder of the improvement project or assessing the cost thereof against other areas within the district, unless such protests represent a majority of the area of the entire district. If the protests are found to be insufficient or invalid, the governing body may cause the improvement to be made and may contract or otherwise provide in accordance with this title for the construction thereof and the acquisition of property required in connection therewith and may levy and collect assessments therefor.

§ 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 12, 1959.

CHAPTER 307

H. B. No. 705
(Muggli, Solberg, Doherty, Kitzmann, Burk)

CLAIMS AGAINST MUNICIPALITIES

AN ACT

To amend and reenact section 40-4201 of the North Dakota Revised Code of 1943 relating to time for filing a claim against a municipality for demages arising from defective streets, sidewalks, or bridges.

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

§ 1. Amendment.) Section 40-4201 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4201. Claim Against Municipality for Damages Arising From Defective Streets, Sidewalks, or Bridges Must Be Filed.) Any claim against a municipality for damages or injuries alleged to have arisen from the defective, unsafe, dangerous, or obstructed condition of any street, cross walk, sidewalk, culvert, or bridge of the municipality or from the negligence of the municipal authorities in respect to any such street,

sidewalk, cross walk, culvert, or bridge, shall be filed in the office of the city auditor or village clerk, as the case may be, within ninety days after the happening of such injury. Such claim shall be signed and verified by the claimant and shall describe the time, place, cause, and extent of the damage or injury, shall contain an abstract of the facts upon which the claim is based, and shall specify the amount of damages claimed therefor. If it shall appear by the affidavit of a reputable physician that the injured person was rendered, by the injury complained of, mentally incapable of making the claim within the time specified in this section, the claim may be filed, if the claimant survives, within ninety days after the claimant becomes competent to make the same. The affidavit of the physician shall be prima facie evidence of mental incapacity, and may be controverted on the trial of an action for such damages. If the injured person shall die within ninety days after the happening of the injury, or before he shall become mentally competent to make the claim, the claim may be made within ninety days after the death of the injured person by any person having knowledge of the facts, and the person making such claim shall set forth therein specifically the facts relating to the injury of which he has personal knowledge and shall verify such facts positively. The facts of which the person making the claim has no personal knowledge shall be verified to the best of his knowledge, information, and belief.

Approved March 12, 1959.

CHAPTER 308

H. B. No. 795
(Lowe and Stockman)

MUNICIPAL POLICE PENSIONS, CONTINUANCE

AN ACT

Pertaining to police pensions in cities.

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

§ 1. Question of Continuance of Policemen's Pension Plan.) The governing body of a city having a policemen's pension plan may discontinue such plan upon receipt of a petition requesting such discontinuance signed by sixty percent of the police employees and pensioners of the city as of the date of the filing of such petition and upon the subsequent adoption by the governing body of a resolution by two-thirds vote of the members present stating that the plan is not desirable or workable.

§ 2. Procedure Upon Discontinuance of Policemen's Pension Plan.) If the governing body of the city shall determine by a two-thirds vote as provided in section one of this Act that the policemen's pension plan shall be discontinued, the plan shall be discontinued in such city and the governing body shall proceed to liquidate the pension fund created under such plan. Liquidation shall be accomplished by returning to each employee still in the employ of the city ten days after the date of the adoption of the resolution provided for in section one of this Act the entire amount which has been deducted from his salary as an assessment or membership fee and then by payment of pension claims theretofore allowed in the same amounts as are then in effect until the death or disqualification of the pension claimant, and thereafter continuing such payments as would have accrued to survivors of such pension claimants under the local pension provisions if the plan had been continued. If the fund is insufficient to return the amount to which each employee is entitled as provided herein and to pay such pension claims in full, the governing body shall make an annual tax levy, which shall be in addition to any other tax levies authorized by law, in an amount sufficient to assure the payment in full of the pension claims theretofore allowed. If the fund exceeds the amount required to satisfy such returns and such claims, such excess shall be placed in the general fund of the city.

Approved March 21, 1959.

CHAPTER 309

H. B. No. 796
(Lowe)

CITY LEVY FOR SOCIAL SECURITY

AN ACT

Establishing a tax levy for a city having provided its employees with the federal social security plan.

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

§ 1. Tax Levy for City Having Provided Its Employees With the Federal Social Security Plan.) In addition to any other levies authorized by law for general purposes, any city or village having provided its employees with the federal social security plan and not making any of the tax levies authorized by sections 40-4501, 40-4602, and 57-1543 of the North Dakota

Revised Code of 1943, as amended, may levy an annual tax of not more than three mills upon its taxable valuation for the purpose of paying such city's or village's share as employer of the cost of providing its employees with the federal social security plan.

Approved March 21, 1959.

CHAPTER 310

H. B. No. 784
(Stockman)

CITY LEVY FOR EMPLOYEES' PENSION FUND AND SOCIAL SECURITY

AN ACT

To amend and reenact sections 40-4602, 40-4604, 40-4609, and 40-4620 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to a tax levy for a city employees' pension fund and for the city's share of federal social security; membership fees and assessments; requirements for and amounts of retirement pay; and refunds to employees upon termination of employment or upon retirement from pension fund.

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

§ 1. Amendment.) Section 40-4602 of the 1957 Supplement to the North Dakota Revised Code is hereby amended and reenacted to read as follows:

40-4602. Tax Levy for City Employees' Pension Fund and Federal Social Security Authorized; Limitations.) In addition to any other levies authorized by law for general purposes, any city having a population in excess of ten thousand inhabitants according to the last official federal or state census which has adopted a civil service system for city employees may levy an annual tax of not more than two mills for the purpose of creating and maintaining a city employees' pension fund and for the purpose of paying the city's share of federal social security payments to the United States for coverage of city employees under federal social security.

§ 2. Amendment.) Section 40-4604 of the 1957 Supplement to the North Dakota Revised Code is hereby amended and reenacted to read as follows:

40-4604. Membership Fees and Assessments.) Every full time city employee shall, at the time of employment, state in writing whether or not he desires to become a member of

the city employees' pension fund and if his statement is in the affirmative he shall pay to the treasurer of the pension fund a membership fee to be fixed by the board of trustees in an amount not exceeding five dollars. Each member shall be assessed and required to pay annually an amount not more than five percent, to be determined by the board of trustees, upon the amount of annual salary paid to him, and such assessment shall be deducted and retained out of such salary in equal monthly installments.

§ 3. Amendment.) Section 40-4609 of the 1957 Supplement to the North Dakota Revised Code is hereby amended and reenacted to read as follows:

40-4609. Who May Be Retired on Pension; Amount Paid to Retiring Employee.) Any appointed full-time employee of a city having an employees' pension fund who shall have served two hundred forty months or more, whether or not consecutive, as an employee and shall have reached the age of sixty years, or who, while employed by such city, shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he shall be paid out of the pension fund of such city a monthly pension of not to exceed sixty percent of the amount of the average salary received by him monthly during the most recent one hundred twenty months of his employment as provided for in the plan adopted by the governing body of the city, but such pension shall not exceed the sum of one hundred fifty dollars per month. If any member shall have served two hundred forty months in such city employment but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years.

§ 4. Amendment.) Section 40-4620 of the 1957 Supplement to the North Dakota Revised Code is hereby amended and reenacted to read as follows:

40-4620. Employee Entitled to Refund From Fund Upon Termination of Employment With City or Upon Coverage Under Federal Social Security.) Any employee who shall have been in the service of the city for a period of two years and shall have contributed to the city employees' pension fund, and who voluntarily and while in good standing as an employee of said city shall have left the employment of such city, shall be entitled, upon application at the time of such retirement to a refund of all contributions made by him except fifty percent of the contributions made by him during the first two years of his city employment.

Approved March 21, 1959.

CHAPTER 311

H. B. No. 794
(Lowe)

CITY EMPLOYEES' PENSION PLAN, CONTINUANCE

AN ACT

To amend and reenact sections 40-4623 and 40-4625 of the North Dakota Revised Code of 1943 relating to employees' pension plan in cities and to repeal section 40-4624 of the North Dakota Revised Code of 1943.

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

§ 1. Amendment.) Section 40-4623 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4623. Question of Continuance of Employees' Pension Plan.) The governing body of a city having an employees' pension plan may discontinue such plan upon receipt of a petition requesting such discontinuance signed by sixty percent of the employees and pensioners of the city under such plan as of the date of the filing of such petition and upon the subsequent adoption by the governing body of a resolution by two-thirds vote of the members present, stating that the plan is not desirable or workable.

§ 2. Amendment.) Section 40-4625 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4625. Procedure Upon Discontinuance of Employees' Pension Plan.) If the governing body of the city shall determine by a two-thirds vote as provided in section 40-4623 that the employees' pension plan be discontinued, the plan shall be discontinued in such city and the governing body shall proceed to liquidate the pension fund created under such plan. Liquidation shall be accomplished by returning to each employee still in the employ of the city ten days after the date of the adoption of the resolution, provided for in section 40-4623, the entire amount which has been deducted from his salary as an assessment or membership fee and then by payment of pension claims theretofore allowed in the same amounts as are then in effect until the death or disqualification of the pension claimant, and thereafter continuing such payments as would have accrued to survivors of such pension claimant under the local pension provisions if the plan had

been continued. If the fund is insufficient to return the amount to which each employee is entitled as provided herein and to pay such claims in full, the governing body shall make an annual tax levy, which shall be in addition to any other tax levies authorized by law, in an amount sufficient to assure the payment in full of the pension claims theretofore allowed. If the fund exceeds the amount required to satisfy such returns and such claims, such excess shall be placed in the general fund of the city.

§ 3. Repeal.) Section 40-4624 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 21, 1959.

CHAPTER 312

H. B. No. 681
(Lindberg)
(By request)

EXPENDITURES OF MUNICIPAL PLANNING COMMISSIONS

AN ACT

To amend and reenact section 40-4807 of the North Dakota Revised Code of 1943, relating to the limitations on expenditures to be made by planning commissions of municipalities and authorizing tax levies therefor.

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

§ 1. Amendment.) Section 40-4807 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4807. Limitations on Expenditures of Commission; Tax Levy Authorized.) The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the governing body of the municipality. Such governing body shall provide the funds, equipment, and accommodations necessary for the commission's work. Each municipality which has established a planning commission, in making its annual tax levy and as a part thereof, may levy and collect a tax of not to exceed one mill on the dollar of assessed valuation in any fiscal year for the purpose of defraying the lawful expenses incurred by the planning commission in carrying out the purposes of this chapter. Provided that any municipality, in order to obtain the funds necessary to initiate or undertake a comprehensive

study of the planning requirements of such municipality, may, without regard to any tax limitation herein contained, or otherwise provided by any statute of this state, levy a tax, for a period of not to exceed five successive years, of not more than one mill to raise funds required for such comprehensive study.

Approved March 4, 1959.

CHAPTER 313

H. B. No. 610
(Muggli, Burk, Baldwin)

MEETINGS OF PARK COMMISSIONERS

AN ACT

To amend and reenact section 40-4911 of the North Dakota Revised Code of 1943, relating to meetings of the board of park commissioners of municipalities.

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

§ **1. Amendment.)** Section 40-4911 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4911. Regular and Special Meetings of the Park Commission; Procedure.) The board of park commissioners shall hold a regular meeting at least once each month at a time and place to be designated by ordinance and such special meetings as it may deem necessary. A special meeting may be called at any time by the president, or any two members of the board to consider matters specified in the call of such meeting. Written notice of any special meeting shall be given to each member of the board prior to such meeting. The commission may adopt such rules of procedure as it deems necessary.

Approved March 9, 1959.

NUISANCES

CHAPTER 314

S. B. No. 141
(Wadeson)

WHEN DOGS ARE DECLARED TO BE A PUBLIC NUISANCE

AN ACT

Stating when dogs are a public nuisance, and the procedure to be followed when dogs are declared a public nuisance.

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

§ 1. Public Nuisance.) Any dog that habitually molests persons traveling peaceably on the public road, or street, is a public nuisance. Upon complaint, in writing, made to a justice of the peace, containing a description of such dog, and giving his name and that of his owner, if known, and, if not, so stating, and that such dog is a public nuisance, the justice shall give notice to the owner of such dog that a complaint has been filed in his office that such dog has been molesting certain persons and that the owner shall take the necessary action to prevent the dog from any further violations of this Act. If the justice of the peace receives a further complaint regarding such dog after notice has been given to the owner that his dog has been molesting certain people, the justice of the peace shall issue a summons, if such owner is known, commanding him to appear before the justice at his office at a time therein stated, in the same manner as other justice court summonses.

§ 2. Owner Not Known.) If it appears from the complaint that the owner is not known, ten days' notice shall be given by publication in one issue of a newspaper having wide circulation in the area. Such notice shall contain a description of the dog as given in the complaint, a statement that such complaint has been made, and the time and place of hearing thereon.

§ 3. Hearing: Judgment; Execution.) On the day of hearing the justice shall hear the evidence in the case, and, if he shall find therefrom that such dog is a public nuisance, he shall enter judgment accordingly, and thereupon shall order any peace officer to kill and bury the dog, which order the peace officer shall forthwith execute.

§ 4. Costs.) Costs shall be paid by the complainant, but if the dog is adjudged a nuisance, and the owner is known, judgment shall be entered against him for such costs.

Approved March 2, 1959.

OCCUPATIONS AND PROFESSIONS

CHAPTER 315

H. B. No. 650
(Strege, Stallman, Esterby, Anderson)

MASSAGE REGISTRATION ACT OF 1959

AN ACT

To protect the health, safety, and welfare of the people of the state of North Dakota; defining terms used in this Act; prescribing regulation for the practice of massage and the conduct of massage establishments; providing for the creation of a board of masseurs and defining the powers and duties of such board; providing for the inspection of all massage establishments and requiring the registration of all who practice massage; registration fee, appropriating the proceeds thereof to accomplish the purposes of this Act, and providing penalties for the violation of any provisions of this Act.

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

§ 1. Short Title.) This Act may be referred to and cited as the "Massage Registration Act of 1959".

§ 2. Definitions.)

1. "Masseur" or "masseuse" shall mean a person who practices or administers all or any of the following named subjects, and who has made a study of the underlying principles of anatomy and physiology as are generally included in a regular course of study by a recognized and approved school of massage, to-wit: the art of body massage either by hands or with a mechanical or vibratory apparatus for the purpose of body massaging, reducing or contouring, the use of oil rubs, heat lamps, salt glows, hot and cold packs, tub, shower, or cabinet baths. Massage is the practice of a profession scientifically applied to the patient by the operator's hands. Variations of the following procedures are used: touch, stroking, friction, kneading, vibration, percussion, and medical gymnastics. Masseurs or masseuses shall not diagnose or treat classified diseases, nor practice spinal or other joint manipulations, nor prescribe or administer vitamins.
2. The term "massage establishments" as used in this Act shall be construed and deemed to mean any massage establishment, or place of business wherein all or any

one or more of the named subjects and methods of treatments, as defined in this section, are administered or used.

3. The term "board" as used in this Act shall be construed to mean the North Dakota Board of Massage created by this Act.

§ 3. Masseurs and Masseuses To Be Registered.) It shall be unlawful for any person or persons to engage in the practice or attempt to practice massage for a fee, or for a gratuity or to conduct or teach massage without a certificate or registration issued pursuant to the provisions of this Act.

It shall be unlawful for any person or persons to operate or conduct any massage establishment which does not conform to the sanitary regulations herein contained, or which may be adopted by the board created herein, or to employ any person as an operator who does not hold a certificate of registration.

It shall be unlawful for any person or persons to practice any branch of massage as defined in section 2, subsection 1, of this Act, whether for payment or free demonstration without first being a registered masseur or masseuse under the provisions of this Act, or without operating and maintaining a bona fide massage establishment, and without first paying a registration fee to the North Dakota Board of Massage.

§ 4. Exemptions.) The following classes of persons are exempt from this Act:

1. Persons authorized by the laws of this state to practice medicine, surgery, osteopathy, chiropractic, chiropody, or persons holding a drugless practitioner's certificate under the laws of this state.
2. Registered nurses and licensed practical nurses under the laws of this state.
3. Registered physical therapists under the laws of this state.
4. Schools, Y. M. C. A. clubs, athletic clubs, and similar organizations who furnish therapy and massage services to their players and members.

§ 5. Board of Massage Examiners; Terms.) For the purpose of carrying out the provisions of this Act, the governor shall appoint a board to be known as the "North Dakota Board of Massage", to consist of three masseurs or masseuses who are members of the North Dakota massage association. The members of the first board appointed under this Act shall be appointed for terms of one, two and three years respectively and shall hold office until their successors are appointed and qualified. Successors of said members shall be appointed for three years.

§ 6. 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 Act 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 give the governor of the state of North Dakota a penal bond in the sum of one thousand dollars with sufficient sureties to be approved by the governor 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 such establishment is open for the transaction of business.

§ 7. Requisites for Examination; Subject; Minimum Passing Grade; Fees.) Any person who shall furnish to the North Dakota board of massage satisfactory proof that he or she is twenty-one years of age or more, a high school graduate, a bona fide citizen of the United States and a bona fide resident of the state of North Dakota for at least six months immediately preceding his or her application to take the examination, and of good moral character and temperate habits, and shall make oath that he or she has not been convicted of any offense that would constitute a felony, either in this state or any other state or country, and shall present a diploma or credentials issued by a recognized, approved school of massage or like institution of not less than one thousand hours of study and who passes a reasonable demonstrative, oral and written examination, conducted by and under the supervision and direction of said board in the art of body massage by hand, or with any mechanical or vibratory apparatus for the purpose of body massaging, reducing or contouring, the use of oil rubs, salt glow, hot and cold packs, tub, shower, heat lamps, and similar baths, and shall pay the fees hereinafter specified, which fees shall accompany the application to the secretary-treasurer of

the board, shall be entitled to be registered and to be issued a certificate of registration as masseur or masseuse. Minimum requirements for certificate of registration shall be a general average in said examination of seventy-five percent in all subjects involved and not less than fifty percent in any one subject.

Any applicant failing to pass said requirements shall be entitled within six months to a re-examination upon payment of an additional fee of ten dollars, but two such re-examinations shall exhaust the privilege under the original application.

§ 8. Fees for Certificate of Registration.) The fee to be paid by an applicant to determine his or her fitness to receive a certificate of registration to practice as a registered masseur or masseuse as classified and defined in this Act shall be thirty-five dollars.

The fee to be paid by a masseur or masseuse for the renewal of a certificate shall be ten dollars for each renewal and said certificate shall be renewed annually. Attendance at postgraduate work at least three days a year, as prescribed by the board, is a further requirement for renewal of said certificate.

§ 9. Certificate of Registration; Recording; Displaying Conspicuously; Renewal.) Each certificate of registration shall be conspicuously displayed at the place of practice and must be recorded in the office of the clerk of the district court of each county wherein such registered masseur or masseuse practices, and within thirty days after issuance of such certificates. Annually, on or before the first day of January of each year, each and every registered masseur or masseuse shall pay to the secretary-treasurer of the board of massage the renewal fee as herein provided. Attendance at postgraduate work at least three days a year, as prescribed by the board, is a further requirement for renewal of said certificate. In the estimation of the board of massage examiners, if they should so decide, and upon due proof, after a physical examination of any operator whom they suspect or know to be in such physical well being as to jeopardize the health of those who seek relief from him or her, the board shall then require the applicant to have a physical examination by a competent medical examiner, and if found to have had or has any communicable disease to disqualify said applicant of a state certificate to practice massage in the state of North Dakota, the granting of such certificate shall be denied until applicant furnishes due proof of being physically and mentally competent and sound. The holder of an expired certificate of registration may, within one year from the date of expiration thereof, have the certificate renewed upon payment of the required renewal fee, and

production of a new certificate of physical examination as herein provided. All certificate holders shall be designated as certified masseurs or masseuses and shall not use any title or abbreviation thereof without the designation "masseur" or "masseuse".

§ 10. Revocation of Certificates; Preferment of Charges.) The certificate of registration of a masseur or masseuse may be revoked, suspended or annulled upon any one or more of the following grounds:

1. That the registrant is guilty of fraud in the practice of massage or fraud or deceit in his admission to the practice of massage.
2. That the registrant has been convicted in a court of competent jurisdiction of a felony. The conviction of a felony shall be the conviction of any offense, which if committed within the state of North Dakota would constitute a felony under the laws thereof.
3. That the registrant is engaged in the practice of massage under a false or assumed name, or is impersonating another practitioner of a like or different name.
4. That the registrant is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate him or her for the performance of his or her professional duties.
5. That the registrant is guilty of untrue, fraudulent, misleading or deceptive advertising, or that he or she prescribes medicines, drugs, or vitamins, or infringes on any other licensed profession.
6. That the registrant is guilty of willful negligence in the practice of massage, or has been guilty of employing, allowing or permitting any unregistered person to perform massage in his or her establishment.
7. That said registrant has violated any provisions of this Act.
8. Any registrant who does not renew his or her registration for two consecutive years because of sickness or other reason, or absence from the state of North Dakota must take the examination as prescribed for an applicant to become a registered operator and to comply with all the provisions hereof, applicable to any applicant to become a registrant.

Charges may be preferred by any person, or the board may on its own motion direct the executive officer of said board to prefer said charges. Any accusation may be filed with the secretary-treasurer of the board charging any registered masseur or masseuse with any of the offenses herein enumerated. Such accusation shall be in writing, signed by the accuser and verified under oath.

§ 11. Provisions for Hearing; Notice.) Whenever such accusations as provided in section 10 are filed, the board shall set a day for hearing and the secretary-treasurer of the board shall transmit to the accused a true copy of any and all charges filed with him relating to such accusations, and shall notify in writing the accused that on the day fixed for the hearing, which shall not be less than ten days from the date of such notice, he may appear or show cause if any, why his or her certificate and license to practice massage in the state of North Dakota should not be revoked, suspended or annulled. For the purpose of such hearing the board may require by subpoena the attendance of witnesses, to administer oaths and hear testimony and receive evidence, either oral or documentary, for and against the accused, and said accused shall have the right at said hearing to cross-examine the witnesses, to produce witnesses in his defense, and to appear personally or by counsel.

The notice provided for in this section shall be substantially in the following form:

To.....

You are hereby notified that charges have been filed with the secretary-treasurer of the North Dakota Board of Massage against you as a practicing.....
(Masseur or Masseuse)

in the state of North Dakota, a true copy of such charges being attached hereto, and that the said board has fixed the..... day of....., A. D. 19..... at the hour of ..... o'clock..... at..... in..... for a hearing on such charges, at which time and place you are hereby notified to appear before the board, and show cause, if you can, why your certificate to practice massage in the state of North Dakota should not be revoked, suspended or annulled. At the same time and place the board will hear testimony and receive evidence, either oral or documentary both for and against you relating to such charges.

Dated at..... this..... day of..... A. D. 19.....

.....
Secretary-treasurer of the
North Dakota Board of Massage

Such notice shall be sent to the accused by registered mail directed to his last known mailing address, and the post office registration receipt thereof, signed by the accused or his agent, shall be prima facie evidence of service of such notice.

§ 12. Power of Board to Revoke, Suspend, or Annul Certificates.) The board of massage may, upon satisfactory proof

made that any certificate holder has been guilty of any of the charges preferred against him or her, revoke, suspend or annul any certificate to do business issued hereunder, upon a two-thirds majority vote of the board, provided however that such accused person may have the proceedings of said board reviewed by certiorari to the district court of the district in which the certificate is recorded. Said writ shall be issued upon the petition of the person whose certificate has been revoked, suspended or annulled at any time within ninety days after such revocation, suspension or annulment.

The accused shall have the right to demand a trial de novo before the district court and thereafter the court shall hear and determine the guilt or innocence of the accused according to the evidence and law applicable to the facts which shall be produced before him, and unless the court shall render a decision in favor of the accused, and restore him or her to all rights to practice under this Act, the action of the board shall stand. Appeals from any decisions of the district court may be taken to the supreme court of North Dakota in the same manner and subject to like conditions as appeals in other cases are taken. In the event that any such certificate shall be revoked, suspended or annulled under the provisions of this Act, the board shall forthwith transmit to the clerk of the district court in which the accused is registered as a masseur or masseuse, a certificate under its seal certifying that such registration has been revoked, suspended or annulled, as the case may be, and such clerk shall upon receipt of such certificate, file same and forthwith mark such registration revoked, suspended or annulled, as the case may be, and in the event of suspension, shall indicate thereon the period for which it is suspended.

Any person who shall practice massage after his or her certificate has been revoked, suspended or annulled shall be deemed to have practiced massage without a certificate. However, at any time after six months from the date of said conviction, said board may in the exercise of its reasonable discretion by a majority vote, issue a new certificate to the person affected, restoring or conferring all rights and privileges of and pertaining to the practice of massage, but the fee shall be the same as upon issuance of the original certificate.

§ 13. Records To Be Kept by the Secretary-Treasurer of the Board.) The secretary-treasurer of the board shall keep a record book in which shall be entered the names of all persons to whom certificates have been granted under this Act, the certificate number of each, and the date of granting such certificate and renewal thereof and other matters of record, and the book so provided and kept shall be deemed and considered a book of records, and a transcript of any record there-

in or a certificate that there is not entered therein, the name and certificate number of or date of granting such certificate to a person charged with a violation of any of the provisions of this Act, certified under the hand of the secretary-treasurer, and the seal of the board shall be admitted as evidence in any of the courts of the state of North Dakota. The original books, records and papers of the board shall be kept at the office of the secretary-treasurer of said board. The secretary-treasurer shall furnish to any person making application therefor a copy of any such record, certified by him as secretary-treasurer, upon payment of a fee of twenty-five cents per one hundred words so copied, the fee to belong to the secretary-treasurer.

§ 14. Compensation of Board Members; Clerks.) The board members shall receive ten dollars per day and traveling expenses while actually engaged in their official duties. The secretary-treasurer shall be paid three dollars per member per year. The board shall have authority to hire office personnel deemed necessary by it for carrying on its official duties and shall set the compensation to be paid said employees.

§ 15. Disposition of Money Received by the Board.) All moneys collected by the board under this Act shall be paid to the secretary-treasurer, who shall give a receipt therefor and shall deposit moneys so received in a depository bank to the credit of the North Dakota board of massage fund, and said board is hereby empowered to expend said funds for the operation and maintenance of said board under the provisions of this Act, upon vouchers signed by the secretary-treasurer and countersigned by the chairman of the board, provided the total expense incurred shall not exceed the total moneys collected by the board under the provisions of this Act.

§ 16. Other Laws Unaffected by This Act.) Nothing contained in this Act shall be construed or interpreted as changing, modifying, or repealing any of the provisions relating to physicians, osteopaths, chiropractors, chiropodists, optometrists and nurses and the provisions of said several chapters, and the provisions of this Act shall be construed, interpreted, considered and enforced as separate laws and independent of each other.

§ 17. Practitioners at Time Chapter Becomes Effective.) Any person, resident of this state who is actually engaged in the practice of massage, and who has practiced the profession three years at any one place within the state of North Dakota or served as an apprentice three years at any one place within the state of North Dakota, or who has a diploma from an approved school of massage as herein defined at the time of final passage of this Act, or who is eligible for membership in the American Association of Masseurs and Masseuses, shall be granted a certificate of registration as a registered masseur or

masseuse without first having passed the demonstrative, oral or written examination before the board, as provided in section 7 of this Act, by making application to the board and furnishing credentials satisfactory to the board, a certificate of physical examination, and paying the required fee.

§ 18. Reciprocity.) Any person who has been duly licensed in another state to practice massage which state has and maintains a standard of practice, which is substantially the same as that maintained in this state, and who has been lawfully and continuously engaged in such practice for two years or more immediately before filing his or her application to practice in this state and who shall submit to the board a duly attested certificate from the examining board of the state in which he or she is registered, certifying to the fact of his or her registration and being a person of good moral character and of professional attainments may upon paying a fee of thirty-five dollars be granted a certificate to practice in this state without being required to take an examination; provided, however, that no certificate shall be issued to any applicant unless the state or territory from which the certificate is granted extends a like privilege to engage in the practice of massage as defined in this Act within its borders to persons registered under the provisions of this Act, to practice in this state removing to such other state. The board shall have the power to enter into reciprocal relations with other states whose requirements are substantially the same as those herein provided.

§ 19. Penalty for Violation.) Any person who shall violate any of the provisions of this Act shall, upon conviction be punishable by imprisonment in the county jail for not more than thirty days, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment in the discretion of the court.

Approved March 17, 1959.

CHAPTER 316

S. B. No. 126
(Longmire)

PHYSICAL THERAPISTS

AN ACT

Defining, regulating, and registering physical therapists, providing for the appointment of an examining committee, and providing a penalty for the violation of the provisions of the Act.

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. "Physical therapy" means the treatment of any disability, injury, disease or other condition of health of human beings, or the prevention of such disability, injury, disease or other conditions of health and rehabilitation as related thereto by the use of the physical, chemical and other properties of air, cold, heat, electricity, exercise, massage, radiant energy, including ultraviolet, visible and infra-red rays, ultrasound, water and apparatus and equipment used in the application of the foregoing or related thereto. The use of Roentgen rays and radium for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term "physical therapy" as used in this Act.
2. "Physical therapist" means a person who applies physical therapy as defined in this Act upon the prescription, and under the direct supervision, of a person licensed and registered in this state to practice medicine and surgery and whose license is in good standing.

§ 2. Duties of State Board of Medical Examiners.) The state board of medical examiners, hereinafter termed the "board", shall administer the provisions of this Act.

§ 3. Examining Committee.) There is hereby created a state examining committee for physical therapists to assist the state board of medical examiners in carrying out the provisions of this law, regarding the qualifications and examination of physical therapists. The examining committee shall consist of five members, three of whom shall be physical therapists and two of whom shall be licensed and registered doctors of medicine.

§ 4. State Examining Committee; Members; Terms; Appointments; Vacancies.) The governor shall appoint the mem-

bers of the state examining committee for physical therapists for a term of five years. The first term of office shall commence on July 1, 1959, however the terms of office of the members first appointed shall be for one, two, three, four and five years respectively. Thereafter all terms shall be for a term of five years. Except for the first appointments, all appointments to the examining committee shall be made by the governor from a list of three qualified physical therapists or doctors of medicine submitted by the governing body of the North Dakota chapter of the American Physical Therapy Association if a physical therapist is to be appointed and from a list of three doctors submitted by the state board of medical examiners if a doctor is to be appointed. Appointments to the state examining committee to fill a vacancy occurring for other than the expiration of a term shall only be made for the remainder of the unexpired term. After the appointment of the first state examining committee, each physical therapist appointed thereto shall be a duly registered physical therapist, shall have had not less than three years experience in physical therapy immediately preceding his appointment, and shall be actively engaged in physical therapy in this state during his term of office. Each doctor of medicine appointed to said state examining committee shall be duly licensed and registered to practice medicine and surgery in this state, and shall have had not less than four years actual experience in the practice of medicine and surgery. Each member of the state examining committee, before entering upon the discharge of his duties, shall take and file with the secretary of state the oath of office prescribed for state officials.

§ 5. **Officers; Duties; Compensation.)** Within thirty days after the appointment of the members of the state examining committee for physical therapists, they shall elect from their members a president, a vice president, and a secretary, who shall each serve for one year or until their successors are elected and qualified. The state examining committee shall serve in an advisory capacity to the state board of medical examiners in matters pertaining to physical therapists, and the state board of medical examiners shall have authority to prescribe reasonable rules and regulations relative to the qualification and examination of physical therapist applicants. As to any matters coming under its jurisdiction, the state examining committee may take such testimony as it may deem necessary in the exercise of its powers and the performance of its duties under the provisions of this Act, and any member of said committee shall have the power to administer oaths in the taking of such testimony.

A simple majority of the committee shall constitute a quorum for the transaction of business. The secretary shall keep

a record of all proceedings of said committee. The examining committee shall meet at such time and at such place as the president shall direct, under the direction of the state board of medical examiners, except that the committee shall conduct the examination for the registration of physical therapists at least once each year. The board of medical examiners may appoint and fix the compensation of such employees as may be necessary to assist the examining committee and the board of medical examiners shall have the power to employ such expert assistance as it may deem necessary to carry out the purposes of this Act. No member of the examining committee shall receive any compensation for time spent in the performance of his duties but shall receive actual expenses and travel expenses payable out of the funds of the board.

§ 6. Applicants; Qualifications; Examinations.) It shall be the duty of the state board of medical examiners with the advice and assistance of the state examining committee to pass upon the qualifications of all applicants for examination and registration, provide for and conduct all examinations, determine the applicants who successfully pass the examination, and duly register such persons. A person who desires to be registered as a physical therapist must have the following qualifications:

1. Be at least twenty-one years of age;
2. Be a citizen of the United States of America or have filed a declaration of intention to become a citizen and, having made such declaration of intention, have filed a petition for naturalization within sixty days after becoming eligible to do so;
3. Be of good moral character;
4. Have successfully obtained a high school education or its equivalent, as determined by the board; and
5. Have been graduated by a school of physical therapy approved by the board for training physical therapists.

Application shall be made on a form furnished by the board, for examination for registration as a physical therapist. In determining whether or not such approval shall be given, the board may take into consideration, the approval or nonapproval of such schools by the appropriate Council of the American Medical Association or of the Canadian Medical Association, if any, at the time of applicant's graduation, or if graduated prior to 1936 whether or not the school or course was approved by the American Physical Therapy Association, at the time of graduation. The examination shall embrace the following subjects: the applied sciences of anatomy, neuroanatomy, kinesiology, physiology, pathology, psychology, physics, physical therapy as defined in this Act, as applied to medicine, neur-

ology, orthopedics, pediatrics, psychiatry, surgery; medical ethics; and technical procedures in physical therapy as defined in this Act, and such other subjects as the board may determine to be necessary. At the time of making such application, the applicant shall pay to the board a fee of twenty-five dollars which shall not be returned if such application is denied.

§ 7. Registration.) The state board of medical examiners shall register all applicants as physical therapists who successfully pass the examination provided for in this Act and who are otherwise qualified as required herein, and shall furnish a certificate of registration to each successful applicant.

§ 8. Examination, When Not Required.)

1. The state board of medical examiners may register a physical therapist and may furnish him a certificate of registration without examination if he applies for such registration on or before December 31, 1959, and if on the effective date of this Act he meets the qualifications for a physical therapist as set forth by the American Registry of Physical Therapists, and if he is actually engaged in physical therapy in this state and is otherwise qualified. At the time of making such application, the applicant shall pay to the board a fee of twenty-five dollars which shall not be returned if such application is denied.
2. Said board may issue a certificate of registration in physical therapy without examination therein to an applicant who presents evidence, satisfactory to the board, of having passed the examination in physical therapy of the American Registry of Physical Therapists, or an examination before a similar, lawfully authorized examining board in physical therapy of another state, District of Columbia, territory or foreign country, if the standards for registration in physical therapy in such other state, district, territory or foreign country as determined by said board are as high as those of this state. At the time of making such application, the applicant shall pay to the board a fee of twenty-five dollars which shall not be returned if the application is denied.

§ 9. Renewals.) Every physical therapist shall be registered with the board by January 31, 1960, and each January thereafter, shall apply to the board for an extension of his registration and pay a fee of five dollars. Registration that is not renewed on or before January 31, each year, shall lapse on said date. The board, in its discretion, may reinstate a lapsed registration upon the payment of the full five dollar fee.

§ 10. Rules and Regulations.) The board is authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this Act. The secretary of the board shall keep a record of all proceedings under this Act and a list of all persons registered under it. The register shall show the name, address, date and number of the original registration, and the renewal thereof. The board shall, on or before February 15 of each year, compile a list of all registered physical therapists and mail a copy thereof to the state board of health and the state's attorney of each county. Any other interested person may obtain a copy of such list on request to the board upon payment of such amount as may be fixed by the board. The board shall provide blanks, books, application forms, registration certificates, stationery, and any other supplies or assistance that may be necessary to carry out the provisions of this Act. All money received by the board under this Act shall be paid to the secretary of the board. Said money so received may be used by the board in defraying its expenses in carrying out the provisions of this Act. It shall be the duty of the secretary to sign all orders for payment of money and other accounts and other orders of the board.

§ 11. Refusal, Suspension or Revocation of Certificate.) The state board of medical examiners may refuse to grant registration to any physical therapist, or may suspend or revoke the registration of any physical therapist for any of the following grounds:

1. Habitual indulgence in the use of narcotic drugs or other habit forming drugs;
2. Excessive indulgence in the use of alcoholic liquors;
3. Conviction of felony;
4. Conviction of a crime involving moral turpitude;
5. Conviction for violating any municipal, state or federal narcotic law;
6. Procuring, aiding, or abetting a criminal abortion;
7. Obtaining or attempting to obtain registration by fraud or deception;
8. Finding by a court of competent jurisdiction that the registrant is a mentally ill person and has not thereafter been restored to legal capacity;
9. Conduct unbecoming a person registered as a physical therapist or detrimental to the best interests of the public;
10. Failure to file a petition for naturalization within ninety days after becoming eligible to do so, or, if such petition has been filed, failure to become a citizen of the United States of America within six months after such filing;

11. For treating or attempting to treat ailments or other health conditions of human beings other than by physical therapy and as authorized by this Act;
12. For applying or offering to apply physical therapy independent of the prescription and direct supervision of a person licensed and registered in this state to practice medicine and surgery.

§ 12. Use of Certain Words Prohibited.) Any person who shall, in any manner, represent himself as a physical therapist, or who uses in connection with his name the words or letters Physical Therapist, Physiotherapist, Physical Therapy Technician, Registered Physical Therapist, P.T., Ph. T., P.T.T., or R.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that he is a physical therapist, without a valid existing certificate of registration as a physical therapist issued to him pursuant to the provisions of this Act, shall be guilty of a misdemeanor. Provided, however, that nothing in this Act shall prohibit any person licensed or registered, in this state, under another law, from carrying out the therapy or practice for which he is duly licensed or registered. Nor shall it prevent schools, Y.M.C.A. clubs, athletic clubs, and similar organizations from furnishing therapy service to their players and members. This Act, also, shall not be construed so as to prohibit masseurs and masseuses from engaging in their practice not otherwise prohibited by law and provided they do not represent themselves as physical therapists.

§ 13. Physical Therapist Must Be Registered.) It shall be unlawful for any person to practice physical therapy or hold himself out as a physical therapist unless he has been registered by the state board of medical examiners as provided for in this Act.

§ 14. Penalty.) Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding 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 17, 1959.

CHAPTER 317

H. B. No. 577
(Brown, Fitch, Neukircher, Idso, Dahl,)
(Dick, Hilleboe, Knudsen, Mueller, Lowe,)
(Bye, Vinje, Haugland, Davis, Tough, Johnston)

WATCHMAKERS' ACT

AN ACT

Creating a board of examiners in watchmaking, prescribing the power and duties of the board, providing for the regulation, supervision and licensing of watchmakers as defined in the Act, prescribing penalties for violation of provisions of this Act.

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

§ 1. Definition of Watchmaking.) The term of "watchmaking" includes and means the repairing, replacing, rebuilding, readjusting or regulating of the mechanical parts of watches and clocks, and the repairs thereof and the manufacturing and fitting of parts designed for use or used in watches. Such statements shall not include or mean the manufacturing or repairing of watch or clock cases, but shall include the repairing of all winding mechanisms whether they are parts of such cases or not.

§ 2. Board.) The term "board" means the "North Dakota Board of Examiners in Watchmaking".

§ 3. Watchmakers To Be Registered.) No person shall engage in watchmaking for profit or compensation of any kind without first obtaining a certificate of registration, as hereinafter provided, which certificate shall at all times be conspicuously displayed in his place of business.

§ 4. Board of Examiners in Watchmaking.)

(1) There is created a board to be known as the North Dakota Board of Examiners in Watchmaking, whose duties it shall be to administer the provisions of this Act. Such board shall consist of five members, appointed by the governor within sixty days after the effective date of this Act. All persons so appointed shall have been residents in this state and actually engaged in watchmaking, as defined, for at least five years immediately preceding the time of their appointment. Each member of the board shall hold office for six years and until his successor shall be appointed, except that in the first appointments 1 member shall be appointed for 6 years,

1 member for 5 years, 1 for 4 years and 1 for 3 years, and the term of office in such case shall be designated by the governor at the time of the appointment. The board of five to consist of not less than two employees.

(2) The board shall choose annually one of its members as president and one as secretary, who shall severally have power to administer oaths and take affidavits certifying thereto under the seal of the board. The board shall meet at such times and places as the officers may direct. A majority of the board shall constitute a quorum. The secretary shall give such bond as the board shall determine to be proper. The secretary shall keep a full record of its proceedings, which shall be open to inspection at all reasonable times. The members and officers of the board shall be paid per diem of fifteen dollars for time spent in the performance of his duties but not to exceed in one year the total sum of two hundred twenty-five dollars; also they shall be paid mileage of five cents per mile, and actual and necessary expenses for lodging and meals. The secretary, in addition to such per diem and expenses, may be paid an annual salary not to exceed fifteen hundred dollars. All expenses connected with the operation of the board shall be defrayed from the revenue derived from the licenses, renewals, and examination fees.

(3) The board shall establish suitable and proper uniform apprenticeship regulations; may retain administrative or legal counsel, if it deems needed or proper.

(4) The secretary shall collect the fees and shall pay the same into the state treasury, to be kept by the state treasurer in a fund entitled "watchmakers' fund". The secretary shall draw by warrant for necessary expenses which shall be paid from said fund.

§ 5. Examinations; Fees.) Applicants for certificates shall be examined at a time and place fixed by the board. Applications for examination shall be filed with the board at least ten days before the date set for the examination and shall be accompanied by an examination fee of $15. The applicant shall be of good character, at least 18 years of age, and possess such training and experience as the board shall determine to be requisite.

§ 6. Examinations; Re-examinations.) An applicant to be entitled to a certificate shall pass an examination before the board which examination shall be confined to such knowledge, practical ability and skill as is essential in the proper repairing of watches, and shall include a practical demonstration of the applicant's skill in the manipulation of watchmakers' tools.

The board shall make rules and regulations for conducting examinations and shall define the standards of workmanship and skill. In the case of failure at any examination, the applicant shall have the privilege of taking another examination at any other examination period upon the payment of a fee of $7.50.

§ 7. Certificates of Registration.)

(1) If the applicant successfully passes the examination, the secretary of the board shall register such fact and shall issue to him a certificate of registration.

(2) A watchmaker in good standing, registered and licensed in another state or states and having engaged in watchmaking therein for two years immediately preceding his application for a certificate, upon filing with the board satisfactory proof thereof shall be issued a certificate, without examination upon the payment of a fee of twenty-five dollars.

(3) Watchmakers of this state who are in the armed forces of the United States of America at the time this becomes a law, shall be exempt from taking the examination herein provided upon making application for certificate within one year after his discharge from service, accompanied by an application fee of ten dollars.

(4) Certificates of registration shall expire on the first day of January each year and must be renewed within thirty days for one year upon payment of a fee of five dollars or less at the discretion of the board. If such certificate of registration is not renewed on or before June 1st of the year in which issued, such registrant may be required to pay a penalty of one dollar and fifty cents in addition to the renewal fee. Application may be made for renewal after the fifteenth day of December of each year.

(5) The board shall issue a temporary sixty-day certificate upon payment of a fee of one dollar.

(6) Any person actively engaged in the trade for a period of at least three years in the state of North Dakota prior to the enactment of this Act is automatically given a certificate without examination and by paying the regular fee of fifteen dollars.

§ 8. Certificates for Apprentice Watchmakers.) Any person sixteen years of age or over, of good character, apprenticed to a registered watchmaker in accordance with the regulations determined and established by the board, may pursue the trade of watchmaking upon obtaining from the board a certificate of registration as an apprentice watchmaker, which certificate

shall be conspicuously displayed at all times at the place of employment of such apprentice. Apprentice watchmakers shall pay a fee of two dollars annually.

§ 9. May Revoke Certificates.)

(1) The board may revoke a certificate of registration upon the failure of the holder thereof to pay the annual renewal fee, upon giving said holder thirty days' notice in writing of such proposed revocation.

(2) The board may revoke a certificate of registration obtained through error of the board or fraud on the part of the applicant, or if the holder is grossly incompetent, guilty of unethical conduct, or obtained or sought to obtain anything of value by fraudulent representations in the practice of watchmaking. The holder of such certificate shall be given thirty days' notice in writing, enumerating the charges and specifying a date for the hearing on such charges. At the hearing he shall have the opportunity to confront witnesses against him and to produce evidence bearing on such charges. A stenographic record of all proceedings shall be made and transcript kept on file with the board. The holder may within thirty days after revocation file with the secretary of the board, a written notice of appeal to the district court, and the secretary shall transmit to the court and to the attorney general a certified copy of the record. The appeal shall be tried by the court de novo.

(3) One whose certificate has been revoked may, upon the expiration of one year after such revocation, apply to the board for registration and, upon satisfactory proof that the cause of revocation no longer exists, the board may, in its discretion, issue to said person a certificate of registration upon payment of the fees herein provided.

(4) "Unethical conduct" includes and means any conduct of a character likely to mislead, deceive, or defraud the public; advertising of any character in which untruthful or misleading statements are made; loaning of certificate of registration to any person, failure to display the certificate of registration conspicuously at all times; representation that a watch has been cleaned although its major parts, train wheels, and mainspring have not been disassembled and the capped jewels removed and all parts thereof properly cleaned; performance of any work upon a watch, clock, and time-recording instrument in an unworkmanlike or unskilled manner; representation that certain services or parts are necessary or have been or will be used in the repair of a watch,

although such services or parts are not necessary and have not been used in such repairs; employing directly or indirectly any unregistered watchmaker to perform any watchmaking, or repairs on watches, clocks, and time-recording instruments or noncompliance, within thirty days, with the directions given in a written notice from the board to terminate employment with any person who is violating the provisions of this Act.

§ 10. Violations; Penalty Provisions.) Anyone not having a certificate of registration who shall hold himself out as a watchmaker or as qualified to do watchmaking, or anyone who shall violate any of the provisions of this Act is guilty of a gross misdemeanor and shall be punished by revocation of his license for a period of six months and on a second conviction for a period of one year. Upon a third conviction, license shall be revoked for a period of five years.

Approved March 11, 1959.

CHAPTER 318

H. B. No. 630
(Stockman, Baldwin, Lowe, Anderson of Richland)

BARBER SCHOOL STANDARDS

AN ACT

To amend and reenact section 43-0424 of the North Dakota Revised Code of 1943, relating to minimum standard of schools of barbering.

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

§ 1. Amendment.) Section 43-0424 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-0424. Minimum Standard of Schools of Barbering.) No school of barbering shall be approved by the board unless it requires as a prerequisite to graduation a course of instruction of not less than twelve hundred hours to be completed within a reasonable period of time as determined by the board with not more than eight hours in any one working day. Such course of instruction shall include the following subjects:

1. Scientific fundamentals of barbering;
2. Hygiene;
3. Bacteriology;
4. Histology of the hair, skin, muscles, and nerves;
5. Structure of the head, face, and neck;

6. Elementary chemistry relating to sterilization and antiseptics;
7. Diseases of the skin, glands, and nails;
8. Massaging and manipulating the muscles of the upper body;
9. Hair cutting;
10. Shaving;
11. Arranging, dressing, coloring, bleaching, and tinting the hair.

Approved March 4, 1959.

CHAPTER 319

S. B. No. 163
(Wenstrom)
(By request)

DENTISTS

AN ACT

Relating to and regulating the practice of dentistry, providing for exceptions, establishing state board of dental examiners, prescribing qualifications of membership, providing for meetings, appointment of officers, and payment of compensation, prescribing the powers and duties of board, requiring examinations, prescribing qualifications of applicants, authorizing the issuance of licenses and certificates of registration, prescribing grounds for suspension or revocation and imposing conditions for renewal thereof, prescribing procedure for hearings, issuance of orders and appeals, authorizing revocation and reinstatement of licenses, and certificates of registration upon payment of fees, declaring certain acts as misdemeanors and prescribing punishment therefor and to repeal chapter 43-08, as amended, of the North Dakota Revised Code of 1943 and all acts in conflict herewith.

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

§ 1. Definitions.)

1. Practice of dentistry: Every person shall be deemed to be practicing dentistry within the meaning of this Act:
   a. Who holds himself out or advertises that he intends to and will diagnose, treat, operate, or prescribe for any disease, pain, injury, deficiency, deformity of the human teeth, oral cavity, alveolar process, gums, jaws or any injury or disease incidental thereto;
   b. Who shall fill, repair, or treat a human tooth or teeth, or perform any operation whatsoever upon the human tooth or teeth, gums, jaws or oral cavity;

c. Who shall extract any tooth or teeth or attempt to correct the malposition thereof;
d. Who shall by himself, or by or through his agent or employee do, perform or offer to perform any of the acts enumerated herein, whether for reward or gratuitously;
e. Who administers a local or general anesthetic as applied to the practice of dentistry;
f. Who takes or diagnoses dental X-rays;
g. Who makes injections of or prescribes for the use of drugs as applied to dentistry;
h. Who replaces any lost tooth or teeth by artificial ones, and furnishes, supplies, constructs, reproduces or repairs prosthetic dentures, bridges, and appliances to be used and worn as substitutes for natural teeth;
i. Who shall use the word or letters "Dentist" and "D.D.S." or "D.M.D." or any other letter or title designed to connect him with the practice of dentistry in this state.

2. The "board" shall mean the state Board of Dental Examiners.
3. "Legal entity" shall include foreign and domestic corporations, partnerships, trade or firm names and public and private institutions.
4. "Advertising" means to invite the attention of or give notice to the public, by any means, medium or manner whatsoever of any fact, information or data pertaining to or being conducive of the practice of dentistry in this state.
5. "License" shall mean the right, authority or permission granted by the state board of dental examiners to practice dentistry in this state.
6. "Certificate of registration" shall mean a written statement of the board declaring that a licensed dentist has paid the annual registration fee required by this Act.

§ 2. Exceptions.) The provisions of this Act shall not apply:

1. To the filling of written prescriptions of a licensed and registered dentist by any person or legal entity, for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances, to be used or worn as substitutes for natural teeth, provided, that such person or legal entity shall not solicit or advertise, directly or indirectly, by mail, card, newspaper, pamphlet, radio, television or otherwise to the general public to construct, reproduce, repair prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth.

2. To students enrolled in and regularly attending any dental college recognized as such by the board, if their acts are done in dental college and under the direct supervision of their instructor.
3. To legally qualified and licensed physicians, surgeons, and other practitioners authorized by law, who performs any act defined herein as the practice of dentistry in emergency cases.
4. To a duly licensed and registered dentist of another state temporarily operating in this state as a clinician or lecturer under the auspices of a dental college, a reputable dental, dental hygienist or dental assistant society.
5. To a dental hygienist, regularly licensed and registered who practices in the manner provided by this Act.
6. To the practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States Army, Navy, Public Health Service, Coast Guard, Veterans Bureau or Director of the Dental Division of the North Dakota State Health Department.

§ 3. State Board of Dental Examiners; Members; Appointment; Terms of Office; Oath; Vacancies.) The state board of dental examiners shall consist of five members to be appointed by the governor for a term of five years each, with their terms of office so arranged that one term and only one shall expire on the sixteenth day of March of each year. Each member of the board shall hold office until his successor is appointed and qualified. Persons appointed to the board shall qualify by taking the oath required of civil officers. No member shall serve more than one term of office. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy to exist. All vacancies on the board shall be filled by the governor by appointment.

§ 4. Qualifications and Appointment of Members of the Board.) No person shall be appointed as a member of the board unless he has the following qualifications:

1. Is a duly licensed and registered dentist.
2. Is actively engaged in the practice of dentistry and has been so engaged in this state for at least five years immediately preceding his appointment.
3. Is recommended for such appointment by the North Dakota dental association.
4. Never has served as a member of the board. At least ninety days before the expiration of a term of any member of the board, the North Dakota dental association shall make its recommendation to the governor. Not less

than three candidates shall be recommended for each appointment. If the recommendations are not made in the required time, the governor shall make the appointment from the last recommendations of the association.

§ 5. Meetings of Board; Officers; Bond; Compensation of Members; Quorum.) The board shall hold a regular meeting, at such place as is designated by it, on the second Tuesday of July of each year, and such special meetings as are necessary. At the regular meeting of the board the members shall elect from their number a president, vice president, and a secretary-treasurer. The secretary-treasurer shall furnish a bond in the amount fixed by the board. Each member of the board shall receive as compensation the sum of ten dollars for each day actually engaged in the duties of his office, five cents per mile for the distance necessarily traveled in going to and returning from meetings of the board, and not to exceed five dollars a day for meals and lodging while attending meetings of the board. The secretary-treasurer shall be paid an annual salary equal to fifteen percent of all funds received by the board during the year. Three members of the board shall constitute a quorum but a smaller number may adjourn from time to time.

§ 6. Powers of the Board.) The board shall have the power:

1. To make, amend, revise and enforce reasonable rules and regulations to govern its proceedings and to carry out the provisions of the Act.
2. To examine applicants for licenses to practice dentistry or dental hygiene in this state.
3. To issue, suspend, revoke and reinstate, licenses to practice dentistry or dental hygiene and certificates of registration upon any grounds authorized by this Act.
4. To issue subpoenas to require the attendance of witnesses; the production of documentary evidence; and to administer oaths. Any member or executive officer of the board may administer oaths to witnesses, or issue subpoenas, but all subpoenas so issued shall be attested by the secretary who shall affix the seal of the board thereto.
5. To employ and compensate attorneys and clerical assistants and to perform such other duties as are imposed upon the board by this Act.

§ 7. Expenses of Board; How Paid; Funds Held by Secretary-Treasurer.) All moneys collected for the board under the provisions of this Act shall be kept in a separate account by the secretary-treasurer and shall be used for the payment of the compensation and necessary expenses of the officers and members of the board, and disbursed only on warrants signed

by the president and secretary-treasurer. At the end of his term, the secretary-treasurer shall render a full and true account to his successor for any moneys remaining in his hands.

§ 8. Records of Board; Use as Evidence.) The board shall keep full and complete minutes of its proceedings and of its receipts and disbursements and a full and accurate list of all persons licensed and registered by it. The records of the board, together with the list of all licensed and registered dentists, shall be public records and shall be open to public inspection at all reasonable times. Such records, or a transcript of the same or any part thereof, under the seal of the board, duly certified by its secretary-treasurer, shall be competent evidence of the facts therein stated. A certificate of the secretary-treasurer under the seal of the board stating that any person is or is not a duly licensed and registered dentist shall be prima facie evidence of such fact.

§ 9. Report to Governor.) On or before the thirtieth day of June in each year, the board shall make a report of its proceedings during the preceding year to the governor. Such report shall contain an account of all moneys received and disbursed by the board during said time.

§ 10. License and Certificate Required.) No person shall practice dentistry in this state unless:

1. He first obtains a license to practice in this state, and
2. He holds a valid annual certificate of registration, provided, however, that any dentist so licensed and registered may issue a death certificate in an emergency, when the cause of death is known to such dentist.

§ 11. Examination Required; Application; Qualifications; Fees.) Any person who desires to obtain a license to practice dentistry in this state shall make application to the secretary-treasurer of the board on such forms as it may provide and shall submit to an examination by the board. The application shall be verified under oath to the effect that all of the statements contained therein are true of applicant's own knowledge. Applicant shall enclose with his application a recent autographed picture of himself; the sum of fifty dollars; and proof that he has the following qualifications:

1. Is a graduate of a dental college recognized by the board.
2. Is a citizen of the U. S. or has filed a declaration of his intention to become a citizen of the U. S. and that his application for naturalization has been approved by the proper authorities.
3. Is a person of good moral character.

§ 12. Examination; Subjects Covered.) At the next regular meeting of the board held after an application for a license

and a certificate of registration to practice dentistry in this state is made the applicant shall present himself to the board, which shall give him an examination to test his fitness for the practice of dentistry. The examination may include the following subjects:

1. Anatomy;
2. Physiology;
3. Oral surgery;
4. Chemistry;
5. Materia medica;
6. Therapeutics;
7. Metallurgy;
8. Histology;
9. Pathology;
10. Bacteriology;
11. Orthodontics;
12. Prosthetic dentistry;
13. Crown and bridge, X-ray, operative, surgical and mechanical dentistry, and
14. Such other subjects which the board, at the time the examination is given, may deem necessary.

§ 13. License, Certificate When Issued and Re-examination When Required.) If an applicant has the necessary qualifications and successfully passes the examination for a license to practice dentistry in this state, the board shall:

1. Issue to the applicant a license to practice dentistry in this state, which shall be entered upon the records of the board.
2. Issue said licensed dentist a certificate of registration in the form prescribed by the board. Any dentist so licensed and registered, who does not undertake the actual practice of dentistry in this state within five years from the date of his license and registration, shall, before engaging in the practice of dentistry in this state, notify the board of his intention in writing so to do, whereupon the board, after a full investigation, may re-examine said dentist as to his qualifications to practice dentistry in this state should the board deem such re-examination necessary and notify such dentist thereof. The failure of such dentist to give the written notice to the board required herein before he engages in the practice of dentistry in his state shall operate as a forfeiture of his license to practice dentistry.

§ 14. Re-examination; Fee.) If an applicant fails to pass the examination given by the board, he may apply for another examination, and upon the payment of a fee of ten dollars shall be re-examined. The board shall determine the number of times an applicant may be re-examined.

§ 15. License and Certificate, When Issued to Practitioners of Another State.) The board may issue a license and certificate of registration to practice dentistry in this state to any person who wishes to move to this state from another state upon a practical examination only, if such person:

1. For five years or more immediately preceding his application has been licensed to practice dentistry in another state where the requirements are equivalent to those of this state, and where like provisions are accorded to holders of certificates of registration issued in this state;
2. Is a reputable dentist of good moral character;
3. Pays to the board a fee of seventy-five dollars;
4. Delivers to the board a certificate from the examining board of the state in which he is practicing, certifying that he is a licensed and registered dentist in that state, and is of good moral character;
5. Demonstrates his ability to the satisfaction of the board.

§ 16. Certificate; Term; Displayed in Place of Business; Renewal; Fee.) A certificate of registration issued under the provisions of this chapter shall be valid for only one year and shall be renewed on or before the first day of January in each year. The fee for renewal of the certificate shall not exceed ten dollars. The holder of a license and certificate of registration shall display the same conspicuously in his place of business. The certificate of registration or the renewal thereof, shall be prima facie evidence of the right of the holder to practice dentistry in this state during the time for which it is issued. All fees provided for in this Act may be collected by the board in a civil action.

§ 17. Failure to Pay Annual Fee Revocation of License.) Whenever a licensed dentist fails to pay the annual fee for the renewal of his certificate of registration, after thirty days written notice of such default, the board may revoke his license to practice dentistry forthwith and notify such dentist thereof.

§ 18. Revocation or Suspension of License and Certificate, Grounds for.) The board may revoke or suspend the license and the certificate of registration of any dentist who has:

1. Been guilty of dishonorable, unprofessional or immoral conduct;
2. Been denied admission to citizenship in the United States;
3. Been convicted of a felony or other crime involving moral turpitude, whether within or without this state;
4. Has been adjudged insane and not judicially restored by the regularly constituted authorities;
5. Been guilty of habitual intemperance or addicted to the use of drugs;

6. Employed or permitted unlicensed persons to practice dentistry in the office under his control;
7. Become grossly negligent in the practice of his profession;
8. Practiced fraud and deceit in obtaining his license or in the practice of dentistry;
9. Employed a solicitor or agent to obtain business;
10. Willfully betrayed confidential relations;
11. Practiced dentistry under a trade name or a false name other than a partnership name containing the names of one or more of the partners or deceased partners; provided, however, that a licensed dentist, who is associated with an ethical medical clinic, may announce the fact of such association;
12. Shared any professional fee with any one or paid any one for sending or referring patients to him, provided, however, that this shall not prohibit licensed dentists from practicing in a partnership and sharing one another's professional fees, nor prohibit a licensed dentist from employing any other licensed dentist or licensed dental hygienist;
13. Given a public demonstration of any dental operation under any circumstances, except such as may be approved by the board;
14. Used any advertising of any character tending to mislead and deceive the public;
15. Used any advertising in which reference is made to the character or quality of the services performed or to be performed to the materials or medicines used by him or to any price, cost, charge, fee or terms of credit for services performed or for materials used;
16. Used a display sign in a larger area than six hundred square inches or containing letters more than six inches in height;
17. Used artificial lighting or illumination of any kind as a part of a sign or which has the effect of making any sign more prominent or conspicuous;
18. Advertised any free dental work, free examination, free consultation, a guarantee of any dental services, or the painless performance of any dental operation;
19. Used in connection with any advertising any artificial teeth, dentures or any representation of a tooth, teeth, bridgework or any portion of the human head;
20. Used any newspaper advertising except a professional card in the local press, or in programs, year books and other similar publications, which do not occupy more space than four column inches and which do not include more than the dentist's name, title, address, telephone

number and office hours, provided that a dentist who has a specialty may announce that fact if he has been authorized to do so by the board;

21. Controls or owns a dental laboratory or X-ray laboratory or operates the same in connection with his office, and has advertised such dental or X-ray laboratory in a manner prohibited herein;
22. Made any false or untrue statements in his application for an examination to obtain a license to practice dentistry;
23. Made any false representations that he is the holder of a license or certificate of registration to practice dentistry;
24. Made any false claims that he is a graduate of a dental college or the holder of any diploma or degree from such college; and
25. Violated any of the provisions of this Act.

§ 19. Revocation of License and Certificate; Proceedings, How Initiated; Service of Notice and Hearing.) Proceedings for the suspension or revocation of a license and certificate of registration to practice dentistry in this state may be initiated:

1. Upon the complaint of any member of the board, or
2. Upon the complaint of another person.

The complaint shall be in writing and verified under oath by the complainant, either upon personal knowledge or upon information and belief. Three copies thereof shall be filed with the secretary-treasurer of the board, whereupon the board, if it deems the complaint sufficient, shall issue its order setting a date and place for the hearing thereof on the merits. The secretary-treasurer of the board shall cause a copy of the complaint and order for hearing to be served upon the accused, either personally or by certified mail, such service shall be made at least twenty days before the day set forth for hearing thereon.

§ 20. Plea, Answer, Trial of Issues, Witnesses and Cost.) A dentist served with a complaint and order shall appear before the board at the time appointed for such hearing and shall either plead to or answer the charge made against him. If he admits the truth of the charge then the board shall make appropriate findings of fact and conclusions of law and order the suspension or revocation of his license and certificate without any further proceedings. But if the accused fails to appear or if he appears and denies the charge that then the issues presented by the pleadings shall be heard, tried and determined upon the merits in accordance with the procedure prescribed by the Uniform Practice Act applicable to adminis-

trative agencies. The board and the accused may be represented by licensed attorneys. Witnesses may be subpoenaed, examined and cross-examined, depositions may be taken, filed and introduced in evidence in the manner provided for the production and examination of witnesses and the taking of depositions in civil actions in the district court. The hearing, for good cause shown, may be continued from time to time until the trial has been completed. The board shall make a full and complete written record of all the testimony and exhibits offered and received in evidence and of all proceedings had before it at such hearing. A transcript of the evidence and of all proceedings had and made a matter of record shall be furnished to the accused upon written request therefor upon payment of a reasonable fee to be fixed by the board.

§ 21. Determination, Order, Appeal and Review.) If the board finds and determines, after due hearing, that the accusations contained in the complaint have been established by substantial evidence, the board shall make its findings of fact, conclusions of law, and issue its order suspending or revoking the license and certificate of registration, or order the dismissal of the proceedings upon the merits, for failure of proof. The original order shall be filed with the secretary and a copy thereof shall be served upon the respondent by certified mail within ten days from the entry thereof. If the accused feels aggrieved by or dissatisfied with the order of the board he shall have the right to appeal therefrom to the district court of the county wherein such proceedings were tried and determined for a review thereof in said court within the time and in the manner prescribed by law for appeals to the district court from orders issued by administrative agencies.

§ 22. Reinstatement of License, Renewal of Certificate, When Issued, Fees.) No dentist shall be reinstated, and no license and certificate of registration shall be reissued, except on the following conditions:

1. Where the license and certificate of registration have been revoked for cause upon one or more of the grounds specified in this Act, a dentist may be reinstated only:
   a. Upon application to the board for re-examination;
   b. Upon payment of examination fees required by this Act;
   c. Upon successfully passing said re-examination;
   d. Upon payment of an additional administrative fee to be fixed by the board, which shall not exceed fifty dollars.
2. Where the license and certificate of registration has been revoked for nonpayment of annual registration fees required by this Act, said dentist may be reinstated upon

payment to the board of the amount of renewal fees then in default, with an additional administrative fee to be fixed by the board not to exceed fifty dollars; provided, however, that the board after an investigation, may require a dentist whose license has been revoked for nonpayment of the annual registration fee to submit to a re-examination as to his qualification to practice dentistry before he is reinstated, if the board in the exercise of its discretion finds and determines that the best interests of the public, and the applicant, will be served thereby.

§ 23. Notice to Board of Change of Address.) Within ten days after a licensed and registered dentist changes his place of business, he shall notify the secretary-treasurer of the board of his new address. The notice shall be given by certified mail and return receipt requested. Such licensed and registered dentist shall not practice dentistry in his state for more than ten days after such removal without giving such notice.

§ 24. Duplicate License and Certificate; When Issued; Fee.) If a license or certificate of registration to practice dentistry in this state is lost or destroyed, the board shall issue and deliver a duplicate license or certificate upon satisfactory proof by applicant of the loss or destruction thereof. The fee for such duplicate license shall be five dollars and the fee for issuing a duplicate certificate of registration shall be one dollar.

§ 25. Acts Declared a Misdemeanor.) It shall be unlawful:

1. For any dentist, dental hygienist, legal entity or unlicensed person, who owns, operates, or controls any room or office where dental work of any kind is done or contracted for to employ, keep or retain any unregistered dentist or dental hygienist or other unlicensed persons to do any dental work whatsoever.
2. For any dentist to help or assist any unlicensed person to perform any act or operation which is defined herein as the practice of dentistry.
3. For any dentist to advise or direct patients to dental laboratories or dental laboratory technicians for any dental service, or to advise or direct patients to deal directly with laboratories or dental laboratory technicians.
4. For any dentist to work or cooperate with dental laboratories which advertise for public patronage by delegating work to such laboratories in return for the reference of laboratory patrons for professional services.

5. For any dentist to use the services of any person or legal entity not licensed to practice dentistry in this state, to construct, alter, repair or duplicate any denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance, without first furnishing such unlicensed person a written prescription on forms prescribed by the board, which shall contain:
   a. The name and address of such unlicensed person;
   b. The patient's name or number, in the event such number is used, the name of the patient shall be written upon the duplicate copy of such prescription retained by the dentist;
   c. The date on which it was written;
   d. A prescription of the work to be done, with diagram, if necessary;
   e. A specification of the type and quality of materials to be used;
   f. The signature of the dentist and the number of his North Dakota license.

   Such unlicensed person shall retain the original prescription and the dentist shall retain a duplicate copy thereof for inspection by the board or its agent for two years.
6. For any dentist:
   a. To use the service of any unlicensed persons without first having furnished him such prescription;
   b. To fail to retain a duplicate copy thereof for two years, or
   c. To refuse to allow the board or its agent to inspect such prescription during the two-year period of time.
7. For any unlicensed person:
   a. To perform any such service without first having obtained such prescription;
   b. To fail to retain the original thereof for two years; or
   c. To refuse to allow the board or its agent to inspect it during such two-year period of time.
8. For any person:
   a. To falsely claim or pretend to be a graduate from any dental college or the holder of any diploma or degree from such college;
   b. To practice any fraud and deceit either in obtaining a license or a certificate of registration;
   c. To falsely claim or pretend to have or hold a license or certificate of registration from the board to practice dentistry; and
   d. To practice dentistry in this state without a license and certificate of registration.

Any dentist, dental hygienist, legal entity, or unlicensed person who commits any act in violation of the provisions of this section shall be guilty of a misdemeanor and shall be subject to the penalty prescribed in this Act.

§ 26. Punishment for Misdemeanors.) Any dentist, dental hygienist, legal entity or unlicensed person who shall commit any act which is declared to be unlawful herein shall be guilty of a misdemeanor and upon conviction thereof shall be punished, for the first offense, by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty nor more than ninety days, or by both such fine and imprisonment, and upon conviction of two or more of any of such offenses by a fine of not less than five hundred dollars nor more than one 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. Provided, further that the civil remedy of injunction shall be available to enjoin and restrain any violation of any acts declared to be unlawful herein without proof that any person sustained any actual damages.

§ 27. Repeal.) Chapter 43-08 of the North Dakota Revised Code of 1943 as amended and all acts in conflict herewith are hereby repealed.

Approved March 14, 1959.

CHAPTER 320

H. B. No. 576
(Neukircher, Scott, Loewen, Doherty)

LICENSE FEES FOR EMBALMERS

AN ACT

To amend and reenact sections 43-1014 and 43-1015 of the North Dakota Revised Code of 1943 relating to license fees of embalmers.

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

§ 1. Amendment.) Section 43-1014 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1014. License: Issued Without Examination.) The board may issue a license to practice embalming or preparing dead human bodies for burial or shipment to an applicant who has not taken the examination if:

1. He holds a license to practice embalming issued to him by another state where the requirements for a license are equivalent to those of this state and where like privileges are accorded to holders of licenses issued in this state;
2. He pays the fee of fifty dollars.

§ 2. Amendment.) Section 43-1015 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1015. License: Term; Renewal; Fee for Renewal.) The license to practice embalming or preparing dead human bodies for burial shall be issued for one year only but shall be renewed by the board upon the payment to the treasurer of the annual renewal fee. The amount of such fee shall be determined by the board but shall not exceed twenty-five dollars. The board may refuse to renew the license for cause.

Approved March 9, 1959.

CHAPTER 321

H. B. No. 696
(Fitch, Haugland, Hjelle, Loewen)

HAIRDRESSING AND COSMETOLOGY

AN ACT

To amend and reenact sections 43-1104 and 43-1121 of the North Dakota Revised Code of 1943, and sections 43-1106 and 43-1117 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the profession of hairdressing and cosmetology.

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

§ 1. Amendment.) Section 43-1104 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1104. Members of Board: Qualifications.) Each member of the board shall be a citizen of this state and is a licensed hairdresser or a cosmetologist who has had at least three years practical experience in her occupation. No two members of the board shall be members of or affiliated with any school teaching hairdressing or cosmetology, nor shall any two members of the board be graduates of the same school of hairdressers or cosmetologists.

§ 2. Amendment.) Section 43-1106 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1106. Compensation of Members of Board; How Paid.) Each member of the board shall receive fifteen dollars for each day employed in the actual discharge of her duties and her necessary expenses so incurred. The secretary of the board shall receive an annual salary of not more than three thousand six hundred dollars to be fixed by the board, and her necessary expenses actually incurred in the performance of her official duties. The compensation and expenses of all members of the board shall be paid from the fund in the state treasury to the use of the board on requisition signed by the president and the secretary of the board and the warrant of the state auditor.

§ 3. Amendment.) Section 43-1117 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1117. Certificate of Registration Issued for Schools of Hairdressing, Cosmetology and Shops; Fee for Annual Registration.) The board may issue an annual certificate of registration for a school giving instruction in hairdressing and cosmetology. The annual registration fee for such school shall be determined annually by the board but shall not exceed the sum of one hundred dollars. The board shall, after inspection and approval, issue a shop registration certificate, the annual fee for which shall not exceed ten dollars for new registrations and five dollars for shops registered before, but shops duly registered prior to July 1, 1959, shall not be required to register until December 31, 1959.

§ 4. Amendment.) Subsection 3 of section 43-1121 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

3. Such examination fee as may be fixed by the board which shall not exceed fifteen dollars for both classifications;

Approved March 12, 1959.

CHAPTER 322

S. B. No. 109
(Vendsel, Fiedler, Gronvold,)
(Hernett, Meidinger)

DRUG AND PHARMACIST REGULATION

AN ACT

Relating to sale, regulation, and control of drugs, medicines, chemicals, compounds, and pharmacists and amending and reenacting sections 43-1501, 43-1502, 43-1505, 43-1506, 43-1509, 43-1510, 43-1514, 43-1515, 43-1518, 43-1525 and 43-1530 of the North Dakota Revised Code of 1943, as amended.

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

§ 1. Amendment.) Section 43-1501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1501. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Pharmacy" or "drug store" shall mean every store or shop where drugs, medicines, or chemicals are dispensed, displayed for sale, or sold, at retail for medicinal purposes, or where prescriptions are compounded, and which is duly registered by the state board of pharmacy;
2. "Board" shall mean the state board of pharmacy;
3. "Pharmacist" means a person to whom the board has issued a certificate of registration to practice the profession of pharmacy whose certificate has not expired, or been suspended;
4. "Prescription" means any order for drugs or medical supplies, where such order is written or signed or transmitted by word of mouth, telephone, telegram or other means of communication by a duly licensed physician, dentist, veterinarian or other practitioner, licensed by law to prescribe and administer such drugs or medical supplies intended to be filled, compounded or dispensed by a pharmacist;
5. "Drugs" includes:
   a. All substances and preparations recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, Official National Formulary and New and Non-official Drugs, or any official supplement to any of them;

6. "Device", as applied to section 12 herein, means instruments, apparatus or contrivances, including their component parts, and accessories, intended:
   a. For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or
   b. To affect the structure of any function of the body of man or other animals.
7. "Medicine" means a drug or combination of drugs, used in treating disease in man or other animals.
8. "Dispense" includes sell, distribute, leave with, give away, dispose of, deliver or supply.
9. "Original package" means the original carton, case, can, box, vial, bottle or other receptacle, put up by the manufacturer or wholesaler or distributor, with label attached, making one complete package of the drug article.

§ 2. **Amendment.)** Section 43-1502 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1502. Exemptions.) The provisions of this chapter shall not apply to the following:
1. A duly licensed practitioner of medicine supplying his own patients with such remedies as he may desire;
2. The exclusive wholesale business of any dealer;
3. The keeping for sale and sale by general dealers of proprietary medicines in original packages and such simple household remedies as from time to time may be approved for such sale by the board.
4. Registered or copyrighted proprietary medicines;
5. The manufacture of proprietary remedies or the sale of the same in original packages by other than pharmacists.

§ 3. **Amendment.)** Section 43-1505 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1505. Compensation of Board; Disposition of Fees.) Each member of the board shall receive a per diem of twenty dollars for attendance at board meetings, and all actual and necessary expenses incurred in attending such meetings and in performing other official duties. The mileage and travel expense allowed shall not exceed the amount provided for in section 54-0609 as amended. The per diem and expenses shall be paid only from moneys received by the board under the provisions of this chapter. Any moneys remaining after the payment of the per diem and expenses herein provided for shall be held by the treasurer of the board as a special fund to meet the ex-

penses of the board and of the reports and annual meeting of the North Dakota pharmaceutical association, and such other necessary expenses as may be incurred by the association.

§ 4. Amendment.) Section 43-1506 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1506. Organization of Board: Officers Who Act in Place of Those Elected.) At the first regular meeting of the board after the appointment and qualification of a new member for a full term, the board shall elect a president, a secretary, and a treasurer. The president shall be chosen from the membership of the board, but any suitable person, whether a member of the board or not, may be chosen for the other offices. In case of the death, removal, resignation, absence, or refusal or inability to act of the president of the board, the senior member present shall act as president. In case of the death, removal, resignation, absence, or refusal or inability to act of the secretary or treasurer, the board may choose another person to act temporarily or for the remainder of the year.

§ 5. Amendment.) Section 43-1509 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1509. Meetings: When Held; Notice; Quorum.) The board shall hold at least two and not more than four meetings in each calendar year for the examination of applicants for registration. The board may hold such other meetings as may be necessary for the performance of its duties. A special meeting shall be held at such time and place as a majority of the members agree upon, or may be called by the secretary, at the request of the president or any two members, by giving such notice to the members as the board may prescribe by its rules and regulations. A majority of the board shall constitute a quorum for the transaction of business.

§ 6. Amendment.) Section 43-1510 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1510. Powers of Board.) In addition to other powers provided by law, the board shall have the following powers and duties, which shall be exercised in conformity with the Administrative Agencies Uniform Practice Act, chapter 28-32 North Dakota Revised Code of 1943, and amendments thereto, in order to protect the public health, welfare, and safety:

1. To cancel, revoke, or suspend the certificate and registration of any registered pharmacist, or registered assistant pharmacist, who:
   a. Is addicted to any drug habit;

b. Uses any advertising statements of a character tending to deceive or mislead the public, or uses any advertising in which reference is made to any price, cost, charge or fee for prescription services or prescription materials, elements, or compounds;
c. Is a chronic or persistent inebriate;
d. Permits or engages in the unauthorized sale of narcotic drugs;
e. Permits or engages an unauthorized person to practice pharmacy;
f. Is mentally or physically incompetent to handle his pharmaceutical duties;
g. Is guilty of fraud, deception, or misrepresentation in passing his pharmacist examination;
h. Willfully and repeatedly violates any of the provisions of the laws regulating pharmacists or the rules and regulations established by the board;

2. To prescribe rules and regulations not inconsistent with this chapter governing the cancellation or suspension of a certificate of registration;
3. To examine and register as pharmacist and assistant pharmacist any applicant found entitled to such registration;
4. To prescribe rules and regulations for the guidance of its members, officers, and employees, and to ensure the proper and orderly dispatch of its business;
5. To employ and pay such persons as it may deem necessary to inspect pharmacies in this state, investigate pharmacies for the information of the board, procure evidence in any proceeding pending before the board, or procure evidence in aid of any prosecution or action in any court commenced or about to be commenced by or against the board in relation to any matter in which the board has any duty to perform;
6. To employ and pay counsel to advise the board, or to prosecute or defend any action or proceeding commenced by or against the board or pending before it;
7. To grant permits and renewals thereof for the establishment and operation of pharmacies;
8. Only for good cause to cancel, revoke, or suspend permits and renewals thereof for the establishment and operation of pharmacies;
9. To prescribe reasonable and nondiscriminatory rules and regulations in regard to granting, renewing, canceling, revoking, or suspending permits and renewals for establishing and operating pharmacies;

10. Action by the board canceling, revoking, suspending or refusing to renew a permit to establish or operate a pharmacy shall not be enforced for thirty days after notice has been given aggrieved party by the board, nor during the time that an appeal by such aggrieved party is pending and until such appeal is finally determined.

§ 7. Amendment.) Section 43-1514 of the North Dakota Revised Code of 1943 as amended is hereby amended and reenacted to read as follows:

43-1514. Drugs, Poisons, Medicines, Chemicals; Who May Sell.) No drug, poison, medicine, or chemical, except patent or proprietary preparations shall be manufactured, compounded, sold, or dispensed in this state for medicinal use by any person other than a registered pharmacist, assistant registered pharmacist, pharmacy intern enrolled in a school of pharmacy after the freshman year as provided in subsection 4 of section 43-1515 of the North Dakota Revised Code of 1943, as amended, or regularly licensed physician, nor shall any person except a registered pharmacist, assistant registered pharmacist, or a regularly licensed physician, or pharmacy intern enrolled in a school of pharmacy after the freshman year as provided in subsection 4 of section 43-1515 of the North Dakota Revised Code of 1943 as amended, dispense or compound a prescription of a medical practitioner except as provided in this chapter.

§ 8. Amendment.) Section 43-1515 of the North Dakota Revised Code of 1943 as amended in the 1957 Supplement is hereby amended and reenacted to read as follows:

43-1515. Qualifications of Registered Pharmacist.) Every applicant for registration as a pharmacist in this state shall have the following qualifications:

1. Be at least twenty-one years of age;
2. Be of good moral character;
3. Be a graduate of a school or college of pharmacy recognized by the board as an approved school;
4. Before a certificate will be granted by the North Dakota board of pharmacy, the applicant must have at least one year of practical experience in a retail pharmacy under the supervision of a registered pharmacist, which experience shall be predominantly work directly relating to selling drugs and poisons, compounding of pharmaceutical preparations and physicians' prescriptions, keeping records, and making reports required under the state and federal statutes.

The board may determine what is to be considered an approved school or college of pharmacy but to be approved the school or college shall maintain standards equivalent to the require-

ments for membership in the American association of colleges of pharmacy. The applicant must file with the board satisfactory evidence of the educational requirement and the requirement as to experience.

§ 9. Amendment.) Section 43-1518 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1518. Registration of Pharmacy Intern.) To register in this state a pharmacy intern must have a common school diploma and must be employed by a registered pharmacist. At the date of entering into his internship, he shall file with the secretary of the board the following certificates accompanied by a fee of one dollar:

1. A certificate stating he has entered into an internship and giving his age, name, and educational qualifications;
2. A certificate from his employer stating that the applicant has been employed by him as a pharmacy intern, that to his knowledge the applicant possesses the education and qualifications necessary to obtain a common school diploma.

The secretary of the board shall file the certificates and register the applicant as a pharmacy intern.

§ 10. Amendment.) Section 43-1525 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1525. Term of Certificate; Renewal; Fee; Where Displayed.) The certificate issued by the board to a pharmacist or assistant pharmacist under the provisions of this chapter, and the registration thereof, shall entitle the holder to act in the capacity therein stated for one year unless duly canceled, suspended, or revoked. Every registrant who desires to retain his registration, on or before the first day of March in each year, shall pay to the secretary of the board a renewal fee in an amount to be fixed by the board not to exceed five dollars. Upon the payment of the fee, a renewal certificate shall be issued. The certificate and renewal shall be displayed in a conspicuous place in the pharmacy and drug store where the holder is employed. After a registrant has held certificates duly issued over a period of fifty consecutive years, the secretary of the board may issue such registrant a lifetime certificate which will entitle the registrant to act in the capacity of pharmacist thereafter without further payment unless such certificate is canceled, revoked, or suspended.

§ 11. Amendment.) Section 43-1530 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

43-1530. Registered Pharmacist Member of North Dakota Pharmaceutical Association.) Registration as a pharmacist by the board entitles the person so registered to a one-year membership in the North Dakota pharmaceutical association.

§ 12. Sale by Vending Machines Prohibited; Evidence; Destruction.) The offering for sale, distribution or other disposition by means of a vending machine or other automatic machine of drugs, medicines or devices for the prevention of disease is expressly prohibited. Possession of such machines by a person, firm, or corporation in his place of business shall be prima facie evidence of sale. Any such machine shall be destroyed on order of a magistrate when found in violation hereof, and the possessor shall be guilty of a misdemeanor.

§ 13. Construction.) Section 12 of this Act shall be construed as being part of and additions to chapter 43-15 of the North Dakota Revised Code of 1943 as amended.

Approved March 12, 1959.

OFFICES AND OFFICERS

CHAPTER 323

S. B. No. 125
(Ringsak and O'Brien)

PERSONAL INTERESTS IN CONTRACTS BY PUBLIC OFFICERS

AN ACT

To amend and reenact section 15-4902 of the North Dakota Revised Code of 1943, and sections 12-1006 and 40-1305 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to personal interests in contracts by public officers.

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

§ 1. Amendment.) Section 15-4902 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4902. Personal Interest in School District Contracts Prohibited; Exceptions.) No member of the board of education or 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.

§ 2. Amendment.) Section 12-1006 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-1006. Personal Interest in Contract by Public Officer; Punishment; Exception.) Every public officer authorized to sell or lease any property, or make any contract in his official capacity, who contrary to law voluntarily becomes interested individually in such sale, lease, or contract, directly or indirectly, is guilty of a misdemeanor. Provided, however, that contracts of purchase or employment, by a township, a municipality having a population of not more than ten thousand, according to the last official census, a school district or a park district, may be entered into with an officer of such township,

municipality, school district, or park district, if such contracts are unanimously approved by the other members of the governing body of the township, municipality, school district, or park district and declared, by a finding unanimously adopted by such other members and entered in the official minutes of the governing body, to be necessary for the reason that the services or property obtained is not otherwise available at equal cost.

§ 3. Amendment.) Section 40-1305 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1305. Officers Not To Be Interested in Contracts or Work of Municipality.) Except as otherwise provided by law, no municipal officer, in a municipality having a population of 10,000 or more according to the last federal decennial census, shall be directly or indirectly interested in:

1. Any contract, work, or business of the municipality;
2. The sale of any article the expense, price, or consideration of which is paid from the municipal treasury or by any assessment levied by any act or ordinance; or
3. The purchase of any real estate or other property belonging to the municipality or which shall be sold for taxes or assessments or by virtue of any process issued in any suit brought by the municipality.

Approved March 10, 1959.

CHAPTER 324

H. B. No. 627
(Stockman)

EXPENSES OF CERTAIN STATE OFFICERS

AN ACT

To amend and reenact section 44-0804 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to expenses of certain state officers.

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

§ 1. Amendment.) Section 44-0804 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

44-0804. Expense Account: Amount Allowed.) No elective officer other than the governor and members of the legislature,

nor any appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, shall make claim upon any public fund for any sum in excess of ten dollars for any one day for actual expenses of meals and lodging while engaged in the discharge of a public duty and while upon a public expense account within the state, or in excess of six dollars for any one day for meals, and in addition thereto actual lodging expense, while so engaged without this state. In no event shall any such elective or appointive officer, employee, representative, or agent make claim upon such public expense account for an amount in excess of that actually paid for expenses while engaged in the public service.

Approved March 11, 1959.

CHAPTER 325

H. B. No. 767
(Saugstad and Johnston)

MILEAGE OF STATE AND TOWNSHIP OFFICIALS

AN ACT

To amend and reenact sections 54-0609, 58-0602, and 58-0701 of the 1957 Supplement to the North Dakota Revised Code of 1943 and section 23-1410 of the North Dakota Revised Code of 1943, relating to the mileage to be paid to state and township officials.

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

§ 1. **Amendment.)** Section 54-0609 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-0609. Mileage and Travel Expense of State Officers and Employees.) State officials, whether elective or appointive, and their deputies, assistants, and clerks, or other state employees, entitled by law to be reimbursed for mileage or travel expense, shall be allowed and paid for mileage and travel expense the following amounts:

1. The sum of eight and one-half cents per mile for each mile actually and necessarily traveled within this state in the performance of official duty when such travel is by motor vehicle or by private airplane, but when any such motor vehicle or airplane is owned by the state or by any department or political subdivision thereof, no allowance shall be made or paid for such mileage;

2. When travel is by rail or other common carrier, including regularly scheduled flights by airlines, the amount actually and necessarily expended therefor in the performance of official duties.

Before any allowance for any such mileage or travel expenses shall be made, the official, deputy, assistant, clerk, or other employee shall file with the state auditor an itemized statement showing the mileage traveled, the days when and how traveled and the purpose thereof, verified by his affidavit. The statement shall be submitted to the state auditing board for approval and shall be paid only when approved by said board.

§ 2. Amendment.) Section 58-0602 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

58-0602. Compensation of Supervisors.) A township supervisor shall receive as compensation for his services six dollars a day for each day necessarily devoted to the work of his office, but his compensation shall not exceed one hundred dollars in any one year. He shall receive as reimbursement for expenses eight and one-half cents per mile for each mile actually and necessarily traveled in the performance of his duties.

§ 3. Amendment.) Section 58-0701 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

58-0701. Compensation and Fees of Clerk.) The township clerk shall receive as compensation for his services six dollars a day for each day necessarily devoted to the work of his office. He shall receive as reimbursement for expenses eight and one-half cents per mile for each mile actually and necessarily traveled in the performance of his duties. He shall be paid fees and not per diem for the following services:

1. For serving notices of election upon township officers, twenty-five cents each;
2. For filing any papers required to be filed in his office, ten cents each;
3. For posting notices required by law, twenty-five cents each;
4. For recording any order, instrument, or writing authorized by law, ten cents for each one hundred words; and
5. For copying any record or instrument on file in his office and certifying the same, ten cents for each one hundred words to be paid by the person applying for the same.

§ 4. Amendment.) Section 23-1410 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

23-1410. Salary and Compensation.) The salary of the district health officer shall be fixed by the district board of health. Such compensation shall not be reduced during the term for which he is appointed. The district board of health shall determine the compensation of such technical and clerical help as may be allowed by the district board of health to the district full-time health officer, and the district board of health also shall determine the amount of mileage to be paid for the necessary travel of the district full-time health officer and his assistants, not to exceed eight and one-half cents a mile.

Approved March 17, 1959.

PARTNERSHIPS

CHAPTER 326

S. B. No. 40
(Gefreh, Brooks, Erickstad, Holand)
(From LRC study)

PARTNERSHIP AND LIMITED PARTNERSHIP ACT

AN ACT

Relating to partnerships, adopting the Uniform Partnership Act and the Uniform Limited Partnership Act as a part of Title 45 of the Code, and repealing chapters 45-01, 45-02, 45-03, and 45-04 of the North Dakota Revised Code of 1943, as amended.

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

Chapter 45-05

Partnerships Generally

45-0501. Definition of Terms.) In this Act:

1. "Court" includes every court and judge having jurisdiction in the case;
2. "Business" includes every trade, occupation, or profession;
3. "Person" includes individuals, partnerships, corporations, and other associations;
4. "Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvency act;
5. "Conveyance" includes every assignment, lease, mortgage, or encumbrance;
6. "Real property" includes land and any interest or estate in land.

45-0502. Interpretation of Knowledge and Notice.) A person has "knowledge" of a fact within the meaning of this Act not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith.

A person has "notice" of a fact within the meaning of this Act when the person who claims the benefit of the notice:

(1) States the fact to such person, or
(2) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

45-0503. Rules of Construction.) (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this Act.

(2) The law of estoppel shall apply under this Act.

(3) The law of agency shall apply under this Act.

(4) This Act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(5) This Act shall not be construed so as to impair the obligations of any contract existing when the Act goes into effect, nor to affect any action or proceedings begun or right accrued before this Act takes effect.

45-0504. Rules for Cases Not Provided for in This Act.) In any case not provided for in this Act the rules of law and equity, including the law merchant, shall govern.

45-0505. Partnership Defined.) (1) A partnership is an association of two or more persons to carry on as co-owners a business for profit.

(2) But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this Act, unless such association would have been a partnership in this state prior to the adoption of this Act; but this Act shall apply to limited or special partnerships except insofar as the statutes relating to such partnerships are inconsistent herewith.

45-0506. Rules for Determining the Existence of a Partnership.) In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by section 45-0608 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the

business, but no such inference shall be drawn if such profits were received in payment:

(a) As a debt by installments or otherwise,
(b) As wages of an employee or rent to a landlord,
(c) As an annuity to a widow or representative of a deceased partner,
(d) As interest on a loan, though the amount of payment vary with the profits of the business,
(e) As the consideration for the sale of a goodwill of a business or other property by installments or otherwise.

45-0507. Partnership Property.) (1) All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership, is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

Chapter 45-06

Relations of Partners to Others

45-0601. Partner Agent of Partnership as to Partnership Business.) (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:

(a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,
(b) Dispose of the goodwill of the business,

(c) Do any other act which would make it impossible to carry on the ordinary business of the partnership,
(d) Confess a judgment,
(e) Submit a partnership claim or liability to arbitration or reference,
(f) To dispose of the whole of the partnership property at once unless it consists entirely of merchandise.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction.

45-0602. Conveyance of Real Property of the Partnership.) (1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of subsection (1) of section 45-0601, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (1) of section 45-0601.

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of subsection (1) of section 45-0601, unless the purchaser or his assignee, is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (1) of section 45-0601.

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property.

45-0603. Partnership Bound by Admission of Partner.) An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this Act is evidence against the partnership.

45-0604. Partnership Charged With Knowledge of or Notice to Partner.) Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

45-0605. Partnership Bound by Partner's Wrongful Act.) Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his co-partners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

45-0606. Partnership Bound by Partner's Breach of Trust.) The partnership is bound to make good the loss:

(a) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

(b) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.

45-0607. Nature of Partner's Liability.) All partners are liable

(a) Jointly and severally for everything chargeable to the partnership under sections 45-0605 and 45-0606;

(b) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

45-0608. Partner by Estoppel.) (1) When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made.

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership.
(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

45-0609. Liability of Incoming Partner.) A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

Chapter 45-07
Relations of Partners to One Another

45-0701. Rules Determining Rights and Duties of Partners.) The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(a) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.
(b) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.
(c) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.
(d) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(e) All partners have equal rights in the management and conduct of the partnership business.
(f) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.
(g) No person can become a member of a partnership without the consent of all the partners.
(h) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

45-0702. Partnership Books.) The partnership books shall be kept, subject to any agreement between partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them.

45-0703. Duty of Partners to Render Information.) Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability.

45-0704. Partner Accountable as a Fiduciary.)

(1) Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

(2) This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner.

45-0705. Right to an Account.) Any partner shall have the right to a formal account as to partnership affairs:

(a) If he is wrongfully excluded from the partnership business or possession of its property by his co-partners.
(b) If the right exists under the terms of any agreement,
(c) As provided by section 45-0704,
(d) Whenever other circumstances render it just and reasonable.

45-0706. Continuation of Partnership Beyond Fixed Term.) (1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or par-

ticular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

Chapter 45-08

Property Rights of a Partner

45-0801. Extent of Property Rights of a Partner.) The property rights of a partner are

(1) His rights in specific partnership property,
(2) His interest in the partnership, and
(3) His right to participate in the management.

45-0802. Nature of a Partner's Right in Specific Partnership Property.)

(1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this Act and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the decedent was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next to kin.

45-0803. Nature of Partner's Interest in the Partnership.) A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property.

45-0804. Assignment of Partner's Interest.)

(1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners.

45-0805. Partner's Interest Subject to Charging Order.)

(1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners, or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in this Act shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership.

Chapter 45-09
Dissolution and Winding Up

45-0901. Dissolution Defined.) The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business.

45-0902. Partnership Not Terminated by Dissolution. On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

45-0903. Causes of Dissolution.) Dissolution is caused:

(1) Without violation of the agreement between the partners,

(a) By the termination of the definite term or particular undertaking specified in the agreement,

(b) By the express will of any partner when no definite term or particular undertaking is specified,

(c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking,

(d) By the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;

(2) In contravention of the agreement between partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) By the death of any partner;

(5) By the bankruptcy of any partner or the partnership;

(6) By decree of court under section 45-0904.

45-0904. Dissolution by Decree of Court.)

(1) On application by or for a partner the court shall decree a dissolution whenever:

(a) A partner has been declared mentally incompetent in any judicial proceeding or is shown to be of unsound mind,

(b) A partner becomes in any other way incapable of performing his part of the partnership contract,

(c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business,

(d) A partner willfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,

(e) The business of the partnership can only be carried on at a loss,

(f) Other circumstances render a dissolution equitable.

(2) On the application of the purchaser of a partner's interest under section 45-0804 and 45-0805:

(a) After the termination of the specified term or particular undertaking,

(b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

45-0905. General Effect of Dissolution on Authority of Partner.) Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership,

(1) With respect to the partners,

(a) When the dissolution is not by the act, bankruptcy or death of a partner; or

(b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where section 45-0906 so requires.

(2) With respect to persons not partners, as declared in section 45-0907.

45-0906. Right of Partner to Contribution From Co-partners After Dissolution.) Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless

(a) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution, or

(b) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

45-0907. Power of Partner to Bind Partnership to Third Persons After Dissolution.) (1) After dissolution a partner can bind the partnership except as provided in subsection (3):

(a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution;

(b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction

(I) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or

(II) Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place, or in each place if more than one, at which the partnership business was regularly carried on.

(2) The liability of a partner under paragraph (1b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution

(a) Unknown as a partner to the person with whom the contract is made; and

(b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution:

(a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs; or

(b) Where the partner has become bankrupt; or

(c) Where the partner has no authority to wind up partnership affairs; except by a transaction with one who

(I) Had an extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or

(II) Had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in paragraph (1bII).

(4) Nothing in this section shall affect the liability under section 45-0608 of any person who after dissolution represents

himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

45-0908. Effect of Dissolution on Partner's Existing Liability.)

(1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts.

45-0909. Right to Wind Up.) Unless otherwise agreed the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs; provided, however, that any partner, his legal representative or his assignee, upon cause shown, may obtain winding up by the court.

45-0910. Rights of Partners to Application of Partnership Property.) (1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his co-partners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under subsection (2) of section 45-0908, he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have,

(I) All the rights specified in subsection (1) of this section, and

(II) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under clause (2aII) of this section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

(I) If the business is not continued under the provisions of paragraph (2b) all the rights of a partner under subsection (1), subject to clause (2aII), of this section,

(II) If the business is continued under paragraph (2b) of this section the right as against his co-partners and all claiming through them in respect of their interests in the partnership, to have the value of his interest in the partnership, less any damages caused to his co-partners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the goodwill of the business shall not be considered.

45-0911. Rights Where Partnership is Dissolved for Fraud or Misrepresentation.) Where a partnership contract is rescinded on the ground of the fraud, menace, duress, undue influence or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled,

(a) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the

partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him; and

(b) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and

(c) To be indemnified by the person guilty of the fraud, menace, duress, or undue influence or making the representation against all debts and liabilities of the partnership.

45-0912. Rules for Distribution.) In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary;

(1) The assets of the partnership are

(a) The partnership property,

(b) The contributions of the partners necessary for the payment of all the liabilities specified in subsection (2) of this section.

(2) The liabilities of the partnership shall rank in order of payment, as follows

(a) Those owing to creditors other than partners,

(b) Those owing to partners other than for capital and profits,

(c) Those owing to partners in respect of capital,

(d) Those owing to partners in respect of profits.

(3) The assets shall be applied in the order of their declaration in subsection (1) of this section to the satisfaction of the liabilities.

(4) The partners shall contribute, as provided by subsection (a) of section 45-0701 the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in subsection (4) of this section.

(6) Any partner or his legal representative shall have the right to enforce the contributions specified in subsection (4) of this section, to the extent of the amount which he has paid in excess of his share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in subsection (4) of this section.

(8) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(9) Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

(a) Those owing to separate creditors,
(b) Those owing to partnership creditors,
(c) Those owing to partners by way of contribution.

45-0913. Liability of Persons Continuing the Business in Certain Cases.) (1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in subsections (1) and (2) of this section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of subsection (2b) of section 45-0910, either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

45-0914. Rights of Retiring or Estate of Deceased Partner When the Business is Continued.) When any partner retires or dies, and the business is continued under any of the conditions set forth in subsections (1), (2), (3), (5), or (6) of section 45-0913, or subsection (2b) of section 45-0910, without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnership may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; provided that the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section, as provided by subsection (8) of section 45-0913.

45-0915. Accrual of Actions.) The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.

Chapter 45-10
Uniform Limited Partnership Act

45-1001. Limited Partnership Defined.) A limited partnership is a partnership formed by two or more persons under the provisions of section 45-1002, having as members one or more general partners and one or more limited partners. The limited partners as such shall not be bound by the obligations of the partnership.

45-1002. Formation.) (1) Two or more persons desiring to form a limited partnership shall

(a) Sign and swear to a certificate, which shall state

I. The name of the partnership,

II. The character of the business,

III. The location of the principal place of business,

IV. The name and place of residence of each member; general and limited partners being respectively designated,

V. The term for which the partnership is to exist,

VI. The amount of cash and a description of and the agreed value of the other property contributed by each limited partner,

VII. The additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they shall be made,

VIII. The time, if agreed upon, when the contribution of each limited partner is to be returned,

IX. The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of his contribution,

X. The right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution,

XI. The right, if given, of the partners to admit additional limited partners,

XII. The right, if given, of one or more of the limited partners to priority over other limited

partners, as to contributions or as to compensation by way of income, and the nature of such priority,

XIII. The right, if given, of the remaining general partner or partners to continue the business on the death, retirement or insanity of a general partner, and

XIV. The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution.

(b) File the certificate in the office of the clerk of the district court wherein the principal place of business of the partnership is located, and file a certified copy thereof in the office of the secretary of state.

(2) A limited partnership is formed if there has been substantial compliance in good faith with the requirements of subsection (1).

45-1003. Business Which May Be Carried On.) A limited partnership may carry on any business which a partnership without limited partners may carry on, except banking or insurance.

45-1004. Character of Limited Partner's Contribution.) The contributions of a limited partner may be cash or other property, but not services.

45-1005. A Name Not to Contain Surname of Limited Partner Exceptions.)

(1) The surname of a limited partner shall not appear in the partnership name, unless

(a) It is also the surname of a general partner, or

(b) Prior to the time when the limited partner became such the business had been carried on under a name in which his surname appeared.

(2) A limited partner whose name appears in a partnership name contrary to the provisions of subsection (1) is liable as a general partner to partnership creditors who extend credit to the partnership without actual knowledge that he is not a general partner.

45-1006. Liability for False Statements in Certificate.) If the certificate contains a false statement, one who suffers loss by reliance on such statement may hold liable any party to the certificate who knew the statement to be false,

(a) At the time he signed the certificate, or

(b) Subsequently, but within a sufficient time before the statement was relied upon to enable him to

cancel or amend the certificate, or to file a petition for its cancellation or amendment as provided in subsection (3) of section 45-1025.

45-1007. Limited Partner Not Liable to Creditors.) A limited partner shall not become liable as a general partner unless, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business.

45-1008. Admission of Additional Limited Partners.) After the formation of a limited partnership, additional limited partners may be admitted upon filing an amendment to the original certificate in accordance with the requirements of section 45-1025.

45-1009. Rights, Powers and Liabilities of a General Partner.)

(1) A general partner shall have all the rights and powers and be subject to all the restrictions and liabilities of a partner in a partnership without limited partners, except that without the written consent or ratification of the specific act by all the limited partners, a general partner or all of the general partners have no authority to

(a) Do any act in contravention of the certificate,

(b) Do any act which would make it impossible to carry on the ordinary business of the partnership,

(c) Confess a judgment against the partnership,

(d) Possess partnership property, or assign their rights in specific partnership property, for other than a partnership purpose,

(e) Admit a person as a general partner,

(f) Admit a person as a limited partner, unless the right so to do is given in the certificate,

(g) Continue the business with partnership property on the death, retirement or insanity of a general partner, unless the right so to do is given in the certificate.

45-1010. Rights of a Limited Partner.) (1) A limited partner shall have the same rights as a general partner to

(a) Have the partnership books kept at the principal place of business of the partnership, and at all times to inspect and copy any of them,

(b) Have on demand true and full information of all things affecting the partnership, and a formal account of partnership affairs whenever circumstances render it just and reasonable, and

(c) Have dissolution and winding up by decree of court.

(2) A limited partner shall have the right to receive a share of the profits or other compensation by way of income, and to the return of his contribution as provided in sections 45-1015 and 45-1016.

45-1011. Status of Person Erroneously Believing Himself a Limited Partner.) A person who has contributed to the capital of a business conducted by a person or partnership erroneously believing that he has become a limited partner in a limited partnership, is not, by reason of his exercise of the rights of a limited partner, a general partner with the person or in the partnership carrying on the business, or bound by the obligations of such person or partnership; provided that on ascertaining the mistake he promptly renounces his interest in the profits of the business, or other compensation by way of income

45-1012. One Person Both General and Limited Partner.) (1)A person may be a general partner and a limited partner in the same partnership at the same time.

(2) A person who is a general, and also at the same time a limited partner, shall have all the rights and powers and be subject to all the restrictions of a general partner; except that, in respect to his contribution, he shall have the rights against the other members which he would have had if he were not also a general partner.

45-1013. Loans and Other Business Transactions With Limited Partner.) (1) A limited partner also may loan money to and transact other business with the partnership, and, unless he is also a general partner, receive on account of resulting claims against the partnership, with general creditors, a pro rata share of the assets. No limited partner shall in respect to any such claim

(a) Receive or hold as collateral security any partnership property, or

(b) Receive from a general partner or the partnership any payment, conveyance, or release from liability, if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons not claiming as general or limited partners,

(2) The receiving of collateral security, or a payment, conveyance, or release in violation of the provisions of subsection (1) is a fraud on the creditors of the partnership.

45-1014. Relation of Limited Partners Inter Se.) Where there are several limited partners the members may agree that one or more of the limited partners shall have a priority over other limited partners as to the return of their contributions, as to their compensation by way of income, or as to any other

matter. If such an agreement is made it shall be stated in the certificate, and in the absence of such a statement all the limited partners shall stand upon equal footing.

45-1015. Compensation of Limited Partner.) A limited partner may receive from the partnership the share of the profits or the compensation by way of income stipulated for in the certificate; provided, that after such payment is made, whether from the property of the partnership or that of a general partner, the partnership assets are in excess of all liabilities of the partnership except liabilities to limited partners on account of their contributions and to general partners.

45-1016. Withdrawal or Reduction of Limited Partner's Contribution.) (1) A limited partner shall not receive from a general partner or out of partnership property any part of his contribution until

(a) All liabilities of the partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains property of the partnership sufficient to pay them,

(b) The consent of all members is had, unless the return of the contribution may be rightfully demanded under the provisions of subsection (2), and

(c) The certificate is canceled or so amended as to set forth the withdrawal or reduction.

(2) Subject to the provisions of subsection (1) a limited partner may rightfully demand the return of his contribution

(a) On the dissolution of a partnership, or

(b) When the date specified in the certificate for its return has arrived, or

(c) After he has given six months' notice in writing to all other members, if no time is specified in the certificate either for the return of the contribution or for the dissolution of the partnership.

(3) In the absence of any statement in the certificate to the contrary or the consent of all members, a limited partner, irrespective of the nature of his contribution, has only the right to demand and receive cash in return for his contribution.

(4) A limited partner may have the partnership dissolved and its affairs wound up when

(a) He rightfully but unsuccessfully demands the return of his contribution, or

(b) The other liabilities of the partnership have not been paid, or the partnership property is insufficient for their payment as required by subdivision (1a) and the limited partner would otherwise be entitled to the return of his contribution.

45-1017. Liability of Limited Partner to Partnership.) (1) A limited partner is liable to the partnership

(a) For the difference between his contribution as actually made and that stated in the certificate as having been made, and

(b) For any unpaid contribution which he agreed in the certificate to make in the future at the time and on the conditions stated in the certificate.

(2) A limited partner holds as trustee for the partnership

(a) Specific property stated in the certificate as contributed by him, but which was not contributed or which has been wrongfully returned, and

(b) Money or other property wrongfully paid or conveyed to him on account of his contribution.

(3) The liabilities of a limited partner as set forth in this section can be waived or compromised only by the consent of all members; but a waiver or compromise shall not affect the right of a creditor of a partnership, who extended credit or whose claim arose after the filing and before a cancellation or amendment of the certificate, to enforce such liabilities.

(4) When a contributor has rightfully received the return in whole or in part of the capital of his contribution, he is nevertheless liable to the partnership for any sum, not in excess of such return with interest, necessary to discharge its liabilities to all creditors who extended credit or whose claims arose before such return.

45-1018. Nature of Limited Partner's Interest in Partnership.) A limited partner's interest in the partnership is personal property.

45-1019. Assignment of Limited Partner's Interest.) (1) A limited partner's interest is assignable.

(2) A substituted limited partner is a person admitted to all the rights of a limited partner who has died or has assigned his interest in a partnership.

(3) An assignee, who does not become a substituted limited partner, has no right to require any information or account of the partnership transactions or to inspect the partnership books; he is only entitled to receive the share of the profits or other compensation by way of income, or the return of his contribution, to which his assignor would otherwise be entitled.

(4) An assignee shall have the right to become a substituted limited partner if all the members (except the assignor) consent thereto or if the assignor, being thereunto empowered by the certificate, gives the assignee that right.

(5) An assignee becomes a substituted limited partner when the certificate is appropriately amended in accordance with section 45-1025.

(6) The substituted limited partner has all the rights and powers, and is subject to all the restrictions and liabilities of his assignor, except those liabilities of which he was ignorant at the time he became a limited partner and which could not be ascertained from the certificate.

(7) The substitution of the assignee as a limited partner does not release the assignor from liability to the partnership under sections 45-1006 and 45-1017.

45-1020. Effect of Retirement, Death or Mental Incompetency of a General Partner.) The retirement, death or mental incompetence of a general partner dissolves the partnership, unless the business is continued by the remaining general partners

(a) Under a right so to do stated in the certificate, or
(b) With the consent of all members,

45-1021. Death of Limited Partner.) (1) On the death of a limited partner his executor or administrator shall have all the rights of a limited partner for the purpose of settling his estate, and such power as the deceased had to constitute his assignee a substituted limited partner.

(2) The estate of a deceased limited partner shall be liable for all his liabilities as a limited partner.

45-1022. Rights of Creditors of Limited Partner.) (1) On due application to a court of competent jurisdiction by any creditor of a limited partner, the court may charge the interest of the indebted limited partner with payment of the unsatisfied amount of such claim; and may appoint a receiver, and make all other orders, directions, and inquiries which the circumstances of the case may require.

(2) The interest may be redeemed with the separate property of any general partner, but may not be redeemed with partnership property.

(3) The remedies conferred by subsection (1) shall not be deemed exclusive of others which may exist.

(4) Nothing in this Act shall be held to deprive a limited partner of his statutory exemption.

45-1023. Distribution of Assets.) (1) In settling accounts after dissolution the liabilities of the partnership shall be entitled to payment in the following order:

(a) Those to creditors, in the order of priority as provided by law, except those to limited partners on account of their contributions, and to general partners,

(b) Those to limited partners in respect to their share of the profits and other compensation by way of income on their contributions,
(c) Those to limited partners in respect to the capital of their contributions,
(d) Those to general partners other than for capital and profits,
(e) Those to general partners in respect to profits,
(f) Those to general partners in respect to capital.

(2) Subject to any statement in the certificate or to subsequent agreement, limited partners share in the partnership assets in respect to their claims for capital, and in respect to their claims for profits or for compensation by way of income on their contributions respectively, in proportion to the respective amounts of such claims.

45-1024. When Certificate Shall Be Canceled or Amended.) (1) The certificate shall be canceled when the partnership is dissolved or all limited partners cease to be such.

(2) A certificate shall be amended when
(a) There is a change in the name of the partnership or in the amount or character of the contribution of any limited partner,
(b) A person is substituted as a limited partner,
(c) An additional limited partner is admitted,
(d) A person is admitted as a general partner,
(e) A general partner retires, dies or becomes mentally incompetent, and the business is continued under section 45-1020.
(f) There is a change in the character of the business of the partnership,
(g) There is a false or erroneous statement in the certificate,
(h) There is a change in the time as stated in the certificate for the dissolution of the partnership or for the return of a contribution,
(i) A time is fixed for the dissolution of the partnership, or the return of a contribution, no time having been specified in the certificate, or
(j) The members desire to make a change in any other statement in the certificate in order that it shall accurately represent the agreement between them.

45-1025. Requirements for Amendment and for Cancellation of Certificate.) (1) The writing to amend a certificate shall
(a) Conform to the requirements of subsection (1a) of section 45-1002 as far as necessary to set forth clearly the change in the certificate which it is desired to make, and

(b) Be signed and sworn to by all members, and an amendment substituting a limited partner or adding a limited or general partner shall be signed also by the member to be substituted or added, and when a limited partner is to be substituted, the amendment shall also be signed by the assigning limited partner.

(2) The writing to cancel a certificate shall be signed by all members.

(3) A person desiring the cancellation or amendment of a certificate, if any person designated in subsections (1) and (2) as a person who must execute the writing refuses to do so, may petition the district court wherein the certificate is filed to direct a cancellation or amendment thereof.

(4) If the court finds that the petitioner has a right to have the writing executed by a person who refuses to do so, it shall order the clerk of the district court in the office where the certificate is filed to file the cancellation or amendment of the certificate; and where the certificate is to be amended, the court shall also cause to be filed in said office a certified copy of its order setting forth the amendment.

(5) A certificate is amended or canceled when there is filed in the office of the clerk of the district court wherein the certificate has been previously filed and when there is filed in the office of the secretary of state:

(a) A writing in accordance with the provisions of subsection (1), or (2) or

(b) A certified copy of the order of court in accordance with the provisions of subsection (4).

(6) After the certificate is duly amended in accordance with this section, the amended certificate shall thereafter be for all purposes the certificate provided for by this Act.

45-1026. Parties to Actions.) A contributor, unless he is a general partner, is not a proper party to proceedings by or against a partnership, except where the object is to enforce a limited partner's right against or liability to the partnership.

Chapter 45-11
Fictitious Partnership Name

45-1101. Use of Fictitious Partnership Name; Certificate; Filing; Publication.) Except as otherwise provided in section 45-1103, every partnership transacting business in this state under a fictitious name, or a designation not showing the names of the persons interested as partners in such business, must file with the clerk of the district court of the county in which its principal place of business is situated a certificate stating the names in full of all the members of such partner-

ship and their places of residence, and must publish the same once in a newspaper published in the county, if there is one, and if there is none in such county, then in a newspaper published in an adjoining county.

45-1102. How Certificate Executed.) A certificate filed with the clerk of the district court as provided in section 45-1101 must be signed by the partners and acknowledged before some officer authorized to take acknowledgments of conveyances or real property.

45-1103. Foreign Partnership Permitted to Use Fictitious Name.) A commercial partnership established and transacting business in a place without the United States may use in this state the partnership name used by it there, without filing the certificate or making the publication prescribed in section 45-1101, although it is fictitious or does not show the names of the persons interested as partners in such business.

45-1104. Penalty for Unlawful Use of Fictitious Name.) Persons doing business as partners contrary to the provisions of section 45-1101 shall not maintain an action on, or an account of, any contracts made or transactions had in their partnership name in any court of this state until they have filed the certificate and made the publication required by section 45-1101. If such partners shall comply with such provisions at any time, they thereupon shall have the right to maintain an action on all such partnership contracts and transactions entered into prior to, as well as after, such compliance.

45-1105. New Certificate Required When Members Changed.) Whenever there is a change in the members of a partnership transacting business in this state under a fictitious name, or in a designation which does not show the names of the persons interested as partners in the business, except in a case mentioned in section 45-1103, a new certificate must be filed with the clerk of the district court and a new publication made as required by this chapter upon the formation of such partnership.

45-1106. Duty of Clerk Regarding Certificates of Partnership.) Every clerk of the district court must keep a register of the names of firms and persons mentioned in the certificates filed with him pursuant to this chapter, entering in alphabetical order the name of every such partnership and of each partner therein.

45-1107. Certified Copy Used as Evidence.) A copy of the entry of the clerk of the district court relating to a partnership certificate, made as directed in section 45-1101, when certified by him, and an affidavit of publication made as prescribed

in the title Judicial Proof, is presumptive evidence of the facts stated therein.

45-1108. Unlawful Use of Fictitious Partnership Name.) Every person transacting business in the name of a person as a partner who is not interested in his firm, or transacting business under a firm name in which the designation "and company" or "& Co." is used without representing an actual partner, except in the cases in which the continued use of a copartnership name is authorized by law, is guilty of a misdemeanor.

Chapter 45-12
Application of Law

45-1201. Provisions for Existing Limited Partnerships.) (1) A limited or special partnership formed under any statute of this state prior to July 1, 1959, may become a limited partnership under this Act by complying with the provisions of section 45-1002; provided the certificate sets forth

(a) The amount of the original contribution of each limited partner, and the time when the contribution was made, and

(b) That the property of the partnership exceeds the amount sufficient to discharge its liabilities to persons not claiming as general or limited partners by an amount greater than the sum of the contributions of its limited partners.

(2) A limited or special partnership formed under any statute of this state prior to the adoption of this Act, until or unless it becomes a limited partnership under this Act, shall continue to be governed by the provisions of chapter 45-03 of the Code, except that such partnership shall not be renewed unless so provided in the original agreement.

45-1202. Provisions for Other Existing Partnerships.) A general partnership formed under any statute of this state prior to July 1, 1959, including the general partners of a special or limited partnership formed prior to July 1, 1959, are governed by the provisions of this Act, from and after July 1, 1959.

45-1203. Repeal.) Except as affecting existing limited or special partnerships to the extent set forth in section 45-1201, chapters 45-01, 45-02, 45-03, and 45-04 are hereby repealed.

45-1204. Construction and Citation.) Chapters 45-05 through 45-09 of this Act may be cited as the "Uniform Partnership Act", and chapter 45-10 of this Act may be cited as the "Uniform Limited Partnership Act". The provisions of the Act shall be interpreted and construed as additional chapters and sections of Title 45 of the North Dakota Revised Code of 1943.

Approved March 4, 1959.

PRINTING LAWS

CHAPTER 327

S. B. No. 52
(Erickstad, Hernett, Holand, Wenstrom)
(From LRC Study)

LEGISLATIVE PRINTING

AN ACT

To amend and reenact sections 46-0204 and 46-0305 of the 1957 Supplement to the North Dakota Revised Code of 1943, and sections 46-0412, 46-0413, 46-0414, and 46-0415 of the North Dakota Revised Code of 1943, relating to legislative bills, journals, and resolutions, and to repeal sections 46-0307 of the 1957 Supplement to the North Dakota Revised Code of 1943 and section 46-0308 of the North Dakota Revised Code of 1943.

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

§ 1. Amendment.) Section 46-0204 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***46-0204. Classes of Printing; Contracts.)** The printing of the state hereby is divided into classes as follows:

1. The printing of bills, resolutions, and documents for the use of and incident to the legislative assembly shall constitute the first class;
2. The printing and binding of the journals of the senate and house of representatives shall constitute the second class;
3. The printing and binding of the executive and public documents and reports to be printed in pamphlet and volume form, as prescribed by section 46-0302 shall constitute the third class;
4. The printing and binding of the volumes of laws, with such legislative resolutions as shall be included in said volumes shall constitute the fourth class;
5. The printing of the publicity pamphlet shall constitute the fifth class; and
6. All printing not included in the foregoing classes, shall constitute the sixth class.

Separate contracts for classes 3, 4, and 5 shall be let by the commission under competitive bidding in accordance with the provisions of this title and at a cost and price not in excess

*__Note:__ Section 46-0204 was also amended by chapter 372, section 54.

of the cost and price as provided for in the Franklin Printing Catalogue. Contracts for classes 1 and 2 shall be let by competitive bidding by the commission in accordance with the rules of the senate and house of representatives of the state of North Dakota of the previous legislative session, but at a cost and price not in excess of the cost and price as provided for in the Franklin Printing Catalogue.

§ 2. Amendment.) Section 46-0305 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0305. Bills, Resolutions, and Journals; Printing.) The printing or reproduction of legislative bills, resolutions, and journals shall be in accordance with the rules of the senate and house of representatives of the state of North Dakota.

§ 3. Amendment.) Section 46-0412 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0412. Distribution of Journals.) Copies of the permanent journal shall be distributed in accordance with the rules of the senate and house of representatives of the state of North Dakota.

§ 4. Amendment.) Section 46-0413 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0413. Secretary of State to Furnish Documents to State and United States Officials.) The secretary of state shall deliver one copy of each executive document to the following officers and institutions:

1. Governor;
2. State auditor;
3. State treasurer;
4. Attorney general;
5. Adjutant general;
6. Public service commissioners;
7. Commissioner of insurance;
8. Commissioner of agriculture and labor;
9. Clerk of the supreme court;
10. Supreme court reporter;
11. Superintendent of public instruction;
12. Public institutions;
13. United States circuit judge;
14. United States district judge;
15. Clerk of each of the United States courts;
16. United States attorney for North Dakota;
17. United States marshal;

18. Each state and each of the departments and territories of the United States and the general government of the United States; and
19. State tax commissioner.

He also shall furnish the state law library with ten copies of such publications.

§ 5. Amendment.) Section 46-0414 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0414. Secretary of State to Forward Laws and Documents to Counties.) As soon as the laws of each session of the legislative assembly and the executive documents required to be printed are printed and ready for distribution, the secretary of state shall forward those to which each county is entitled to the county auditor of the county.

§ 6. Amendment.) Section 46-0415 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0415. Delivery of Laws and Documents by County Auditor When.) The county auditor shall deliver such publications to such persons and institutions as are entitled to receive them, when requested so to do, and shall take receipts therefor and file the same in his office subject to inspection.

§ 7. Repeal.) Section 46-0307 of the 1957 Supplement to the North Dakota Revised Code of 1943 and section 46-0308 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved February 3, 1959.

CHAPTER 328

H. B. No. 692
(Doherty)

OFFICIAL COUNTY NEWSPAPER

AN ACT

To amend and reenact section 46-0603 of the North Dakota Revised Code of 1943, relating to the time when a newspaper can make application to place its name on ballot at a primary election for nomination as the official county newspaper.

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

§ 1. Amendment.) Section 46-0603 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0603. Application to Place Name on Ballot at Primary Election.) The county auditor shall place the name of a newspaper upon the primary election ballot if the newspaper is qualified to serve as the official newspaper within the county and if, not more than sixty days nor less than forty days and before four o'clock p. m. of the fortieth day prior to the primary election, an application asking that the name of the newspaper be placed upon the ballot to be voted upon for nomination as official newspaper of the county is filed with the county auditor by a person, partnership, or corporation owning or operating the newspaper. The county auditor shall endorse upon the application the name of the newspaper and the date upon which the application is presented to his office.

Approved March 4, 1959.

PROPERTY

CHAPTER 329

S. B. No. 215
(Gefreh)

TRADE NAME REGISTRATION

AN ACT

To provide for the registration of trade names with the secretary of state for business which is transacted in this state.

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

§ 1. Trade Name Defined; Registration.) Every name under which any person shall hereafter do or transact any business in this state, other than the true name of such person, is hereby declared to be a "trade name" if such name is registered under the provisions of this Act, and any person who has registered a trade name hereunder may institute a civil suit prohibiting any other person from using such name. The provisions of this Act shall not prohibit any person engaged in business under a trade name prior to July 1, 1959, from continuing business under such name.

§ 2. Trade Name; Registration; Statement; Contents; Change of Registration.) Any person who engages in business in this state under a trade name after July 1, 1959, may register with the secretary of state for purposes of registering a trade name, a verified statement upon blanks furnished by the secretary of state, setting forth: (1) the trade name to be registered and all persons concerned in the business, (2) the name or names and residences of each and every person interested in or owning any part of the business, and (3) the nature of the business in detail. If, however, the interest of any person or persons engaged in business under a trade name shall change or cease to exist, or any other person shall become interested therein, such change shall be registered within ninety days after any change shall take place in the ownership of the business or any part thereof in the same manner as an original registration.

§ 3. Trade Name; Nature.) No trade name registered shall be the same as, or deceptively similar to the name of any other trade name registered in the office of the secretary of state.

§ 4. Trade Names; Registration; Fee; Renewal; Notice.) For the registration of each trade name as provided for in this Act, there shall be paid to the secretary of state a fee of twenty dollars for an original registration, and a fee of two dollars for a change in the original registration as provided in this Act. Any registration shall remain in force for a period of ten years from the date of the original registration, and may be renewed by re-registering in the same manner as an original registration, if renewed within thirty days before the expiration date. The secretary of state shall notify the registrant by registered or certified mail at least ninety days before the expiration of such registrations.

§ 5. Certificate of Registration; Publication.) Every certificate of the registration of a trade name, within thirty days from the time of the registration of such trade name shall be indexed in the office of the secretary of state and a copy of the certificate shall be given to the registrant.

Approved March 2, 1959.

CHAPTER 330

S. B. No. 156
(Wartner and Holand)

ACCUMULATION OF INCOME, REPEAL

AN ACT

To repeal sections 47-0304 and 47-0305 of the North Dakota Revised Code of 1943, relating to the accumulation of income.

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

§ 1. Repeal.) Sections 47-0304 and 47-0305 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 19, 1959.

CHAPTER 331

H. B. No. 757
(Wheeler)

MARKETABLE RECORD TITLE EXCEPTIONS

AN ACT

To amend and reenact subdivision d of subsection 1 of section 47-19A11 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to marketable record title and providing for a limitation upon the nonapplication of said chapter to conditions subsequent; and providing for an effective date.

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

§ 1. Amendment.) Subdivision d of subsection 1 of section 47-19A11 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

d. A mere possibility not coupled with an interest nor a mere right of reentry or repossession for breach of a condition subsequent created by a conveyance of record less than forty years; nor

§ 2. Effective Date.) This Act shall become effective January 1, 1960.

Approved March 12, 1959.

CHAPTER 332

H. B. No. 762
(Wheeler)

WHEN INSTRUMENTS DEEMED RECORDED

AN ACT

To amend and reenact section 47-1908 of the North Dakota Revised Code of 1943, relating to when an instrument shall be deemed recorded.

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

§ 1. Amendment.) Section 47-1908 of the North Dakota Revised Code of 1943 is amended and reenacted to read as follows:

47-1908. When Instrument is Deemed Recorded.) An instrument is deemed to be recorded when, whether entitled to record or not, it is deposited with the proper officer for record, if such instrument is subsequently recorded.

Approved March 11, 1959.

CHAPTER 333

H. B. No. 761
(Wheeler)

EFFECT OF RECORDING INSTRUMENTS

AN ACT

To amend and reenact section 47-1919 of the North Dakota Revised Code of 1943, relating to notice and effect of recorded instruments.

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

§ 1. Amendment.) Section 47-1919 of the North Dakota Revised Code of 1943 is amended and reenacted to read as follows:

47-1919. Effect of Recording.) The record of any instrument shall be notice of the contents of the instrument, as it appears of record, as to all persons.

Approved March 11, 1959.

CHAPTER 334

H. B. No. 763
(Wheeler)

UNRECORDED CONVEYANCES

AN ACT

To amend and reenact section 47-1941 of the North Dakota Revised Code of 1943, relating to record title, effect of unrecorded conveyance, and priority of first deposited, accepted and recorded conveyance; and to provide for legal notice to persons claiming under unrecorded instruments, for limitation of actions, defenses and counterclaims, and for validation of the record of instruments not entitled to be recorded.

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

§ 1. Amendment.) Section 47-1941 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-1941. Effect of Not Recording: Priority of First Record; Constructive Notice.) Every conveyance of real estate not recorded shall be void as against any subsequent purchaser in good faith, and for a valuable consideration, of the same real estate, or any part or portion thereof, whose conveyance, whether in the form of a warranty deed, or deed of bargain and sale, or deed of quitclaim and release, of the form in common use or otherwise, first is deposited with the proper officer for record and subsequently recorded, whether entitled to record or not, or as against an attachment levied thereon or any judgment lawfully obtained, at the suit of any party, against the person in whose name the title to such land appears of record, prior to the recording of such conveyance. The fact that such first deposited and recorded conveyance of such subsequent purchaser for a valuable consideration is in the form, or contains the terms, of a deed of quitclaim and release aforesaid, shall not affect the question of good faith of the subsequent purchaser, or be of itself notice to him of any unrecorded conveyance of the same real estate or any part thereof.

§ 2. Legal Notice Given.) This Act shall be legal notice to all who claim under unrecorded instruments that prior recording of later instruments not entitled to be recorded may nullify their right, title, interest or lien, to, in or upon affected real property.

§ 3. Limitation.) From and after January 1, 1960 no action affecting any right, title, interest or lien, to, in or upon real property shall be commenced or maintained or defense or counterclaim asserted or recognized in court on the ground that a recorded instrument was not entitled to be recorded.

§ 4. Record Validated.) From and after January 1, 1960 the record of all instruments whether or not the same were entitled to be recorded shall be deemed valid and sufficient as the legal record thereof.

Approved March 11, 1959.

CHAPTER 335

H. B. No. 759
(Wheeler)

CONSTRUCTIVE NOTICE AND ADMISSIBILITY IN EVIDENCE OF EXECUTION OF RECORDED INSTRUMENTS

AN ACT

To amend and reenact section 47-1945 of the North Dakota Revised Code of 1943, relative to constructive notice of execution of recorded instruments and admissibility in evidence without further proof.

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

§ 1. Amendment.) Section 47-1945 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-1945. Record: Constructive Notice of Execution; Instruments Recorded Admissible in Evidence Without Further Proof.) The depositing with the proper officer for record of any instrument shall be constructive notice of the execution of such instrument to all purchasers and encumbrancers subsequent to such depositing, if such instrument is subsequently recorded. All instruments entitled to record, the record of all instruments, or a duly certified copy of such record, shall be admissible in evidence in all the courts of this state and may be read in evidence in all of the courts of this state without further proof.

Approved March 11, 1959.

CHAPTER 336

S. B. No. 245
(Longmire)
(By request)

MUSIC OR DRAMATICO-MUSICAL COMPOSITIONS

AN ACT

To amend and reenact sections 47-2102, 47-2103, 47-2104, 47-2105, 47-2106, 47-2107, and 47-2108 of the North Dakota Revised Code of 1943, relating to the tax levied on the selling and licensing of performing rights of music or dramatico-musical compositions, and to provide for transfer of records.

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

§ 1. Amendment.) Section 47-2102 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-2102. Music or Dramatico-Musical Compositions: Disposing of Performing Rights; Prerequisites.) No person shall sell, license the use of, or in any manner whatsoever dispose of the performing rights in or to any musical composition or dramatico-musical composition which has been copyrighted, and is the subject of a valid and existing copyright under the laws of the United States, nor collect any compensation on account of any such sale, license, or other disposition unless such person shall:

1. File with the state treasurer a list in triplicate describing each such musical composition and dramatico-musical composition, the performing rights in which said person intends to sell, license, or otherwise dispose of in this state. This description shall include the following:
   a. The name and title of the copyrighted composition;
   b. The number or other identifying symbol given thereto in the United States copyright office;
   c. The name of the author;
   d. The name of the publisher;
   e. The name of the present owner of the copyright to said composition; and
   f. The name of the present owner of the performing rights thereto.

   Additional lists of such copyrighted compositions may be filed by any such person from time to time and shall be subject to all the provisions of this chapter. No payment or filing fee shall be required by the state treasurer for filing any list under this chapter.

2. File simultaneously an affidavit which shall describe the performance rights to be sold, licensed, or otherwise disposed of, and shall state:
   a. That the compositions so listed are copyrighted under the laws of the United States;
   b. That the facts contained in the list to which said affidavit relates are true;
   c. That affiant has full authority to sell, license, or otherwise dispose of the performing rights in such compositions;
   d. The name, age, occupation, and residence of the affiant; and
   e. If the affiant is an agent, the name, occupation, and residence of his principal.

§ 2. Amendment.) Section 47-2103 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-2103. Copies of Performing Rights: To Be Secured From State Treasurer.) The list provided for in section 47-2102 shall be made available by the state treasurer to all persons for examination and taking copies in order that any user of such compositions in this state may be advised fully concerning the performing rights therein, avoid being overreached by false claims of ownership of said performing rights, and avoid committing innocent infringements of said works. A duplicate of any list so filed by any person, at his request, shall be certified by the state treasurer at the expense of the person making such request. The state treasurer shall give or deliver the duplicate to such person, who shall exhibit the same on demand of anyone to whom he seeks to sell, license, or otherwise dispose of said performing rights.

§ 3. Amendment.) Section 47-2104 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-2104. Owners Combining to Issue Blanket License for Public Performance; Legality.) It shall be unlawful for two or more owners of the copyrights of musical compositions or dramatico-musical compositions to associate or combine together in any manner, directly or indirectly, for the purpose of issuing blanket licenses for the public performance for profit of their compositions upon a blanket royalty or fee covering more than one, or all, of such compositions owned or controlled by the members of such association unless each individual copyright owner included in such association, or such association in behalf of each individual copyright owner, also shall make available to each user of such compositions

within the state, at the option of the user, the right to perform publicly for profit, each such copyrighted musical composition owned by him or it at a price established for each separate performance of each such composition. To this end, there shall be filed with the state treasurer, either as a part of the list required by section 47-2102, or as a separate document by such copyright owner, or by such association in behalf of such owner, a schedule of prices for the performing rights to each separate performance for profit of each such composition contained in such list, together with an affidavit of the copyright owner of such compositions that the price so stated has been determined by such copyright owner acting for himself and not either directly or indirectly in concert or by agreement with the owner or owners of any other copyrights. Such schedule of prices may contain reasonable classifications determined by use and function, or either of the users of said compositions, with separate price for each classification, if there is equal treatment of all persons within each classification and if there is no unreasonable discrimination between classifications. Any copyright owner, or such association acting in his behalf, at his election may fix one price which shall be applicable to each rendition of each of such compositions owned by him except to the extent that he elects to name specific compositions and to fix other prices for each rendition thereof. Said prices shall remain in force and effect until a new schedule of prices with respect to the performing rights to such compositions similarly has been filed in the office of the state treasurer, at any time, at the election of such owner or such association acting in his behalf, changes in prices to become effective seven days from the date of filing thereof. It shall be unlawful for any person selling, licensing the use of, or in any manner whatsoever disposing of, or contracting to dispose of, in this state, the performing rights in or to any musical composition or dramatico-musical composition, to make any charge, or to contract for or collect, any compensation as a condition of using said performing rights, based in whole or in part, on any program not containing any such composition. Any such charge or contract for compensation shall be valid and enforcible only to the extent that it is based and computed upon a program in which such composition is rendered. The schedule of prices provided for herein shall be made available by the state treasurer to all persons for examination and the taking of copies.

§ 4. Amendment.) Section 47-2105 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-2105. Blanket License: File Copy and Affidavit With State Treasurer.) Any person issuing a blanket license for

performance rights of any copyrighted musical or dramatico-musical composition shall file with the state treasurer, within thirty days from the date of such blanket license is issued, a true and complete copy of each such license issued or sold with respect to performance within this state, together with the affidavit of such person that such copy is a true and complete copy of the original, and that it sets forth each and every agreement between the parties thereto with respect to performing rights.

§ 5. Amendment.) Section 47-2106 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-2106. Service of Process on State Treasurer: Authorization by Owner of Performing Rights.) At the time of filing the information required in sections 47-2102 and 47-2103, the owner of the performing rights affected shall execute and deliver to the state treasurer, on a form to be furnished by the state treasurer, an authorization empowering the state treasurer to accept service of process on such person in any action or proceeding, whether cognizable at law or in equity, arising under this chapter and designating the address of such person until the same shall be changed by a new form similarly filed. Service of process may be effected thereafter in this state on such person in any such action or proceeding by serving the state treasurer with duplicate copies of such process. Immediately upon receipt of such process, the state treasurer shall mail one of the duplicate copies by registered mail to the address of such person as stated on the authorization last filed by him.

§ 6. Amendment.) Section 47-2107 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-2107. Persons Entitled to Maintain Action: Evidence Admissible.) No person shall be entitled to commence or maintain any action or proceeding in any court with respect to the performing rights of any copyrighted musical or dramatico-musical composition nor to collect any compensation on account of any sale, license, or other disposition of such performing rights, in this state, except upon pleading and proving compliance with the provisions of this chapter. Copies, certified by the state treasurer as such, of each or all of the lists, license agreements, affidavits, and other documents filed with the state treasurer pursuant to the requirements of this chapter shall be furnished by the state treasurer at the direction and at the expense of any person requesting the same. Such certified copies shall be admitted in evidence in any action or proceeding in any court to the same extent as the original thereof.

§ 7. Amendment.) Section 47-2108 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-2108. Tax Levied on Selling and Licensing Performing Rights of Music or Dramatico-Musical Compositions: Payable to State Treasurer.) A tax shall be levied and collected for the act or privilege of selling, licensing, or otherwise disposing of performing rights in music or dramatico-musical compositions in this state, in an amount equal to five percent of the gross receipts of all such sales, licenses, or other disposition of performing rights in this state, payable to the state treasurer for the benefit of the general fund of the state, on or before the fifteenth day of March of each year, with respect to the gross receipts of the preceding calendar year. The state treasurer shall adopt and publish rules and regulations not in conflict herewith, as well as a form of return and any other forms necessary to carry out the provisions of this section.

§ 8. Transfer of Records.) All records that are in the possession of the secretary of state relating to the administration of the provisions of chapter 47-21 of the North Dakota Revised Code of 1943 shall be transferred to the state treasurer.

Approved March 17, 1959.

PUBLIC BUILDINGS

CHAPTER 337

S. B. No. 54
(Holand, Roen, Johnson, Gefreh, Wenstrom, Krause)
(From LRC Study)

ADDITIONAL STATE OFFICE SPACE

AN ACT

Authorizing the board of administration to obtain additional office space outside the state capitol for state departments, agencies, and boards, which office space shall be considered to be a part of the state capitol.

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

§ 1. Additional Office Space May Be Obtained Outside State Capitol.) In the event that office space in the state capitol building becomes insufficient to accommodate the various state departments, agencies and boards, the board of administration may contract for and obtain such additional office space outside the state capitol in the city of Bismarck or in the Bismarck area as is necessary in order to provide accommodations for all state departments, agencies and boards. When office space is obtained in this manner, any department, agency or board which occupies such office space shall be deemed to be located at the state capitol for purposes of statutes which require that a department, agency or board must be maintained at the state capitol.

Approved February 11, 1959.

CHAPTER 338

H. B. No. 831
(Fossum, Hilleboe, Karabensh)

CONTRACTORS BONDS

AN ACT

To amend and reenact section 48-0102 of the North Dakota Revised Code of 1943, relating to contractors bonds.

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

§ 1. Amendment.) Section 48-0102 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

48-0102. Payment of Premium on Bonds; Suspension of License of Noncompliance.) Every bond furnished by a contractor, as required by this chapter, shall be furnished by a surety company organized or authorized to transact business in this state, and the premium thereon shall be paid by the contractor. No surety company shall furnish a bond to any contractor unless the governing body certifies to such surety company that the contract to be awarded has been developed, advertised, and bid in accordance with all the provisions of chapter 48-02 relative to such construction. Violation of this provision shall be cause for temporary or permanent suspension of the surety company's license to do business in this state. Any taxpayer, a contractor who has bid upon such project, the attorney general, or a member of the governing board acting upon such bid may bring such action or initiate proceedings as may be required to prevent the award of the contract, provided such action or proceeding is commenced within a period of ten days from the date of the opening of said bids.

Approved March 11, 1959.

CHAPTER 339

S. B. No. 102
(Garaas, Vendsel, Murphy)

CONSTRUCTION OF PUBLIC BUILDINGS; INDUSTRIAL COMMISSION

AN ACT

To amend and reenact section 48-0201 of the North Dakota Revised Code of 1943, relating to the construction of public buildings.

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

§ 1. Amendment.) Section 48-0201 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

48-0201. Definition of Governing Board.) In this chapter, unless the context or subject matter otherwise requires, the term "governing board" shall mean the governing board of any public institution of the state including the industrial commission and the North Dakota mill and elevator association, and the governing body of any county, city, park district, village, school district, or other political subdivision of the state.

Approved March 10, 1959.

CHAPTER 340

S. B. No. 168
(Ringsak, Krause, Mutch, Brooks, Kee)

PUBLIC BUILDINGS; DRAWINGS AND SPECIFICATIONS BY ARCHITECT

AN ACT

To amend and reenact section 48-0202 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the procurement of plans, drawings, and specifications from a licensed architect 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 48-0202 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

48-0202. Building and Repair by Contract: Prerequisite to.) 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.

Approved March 10, 1959.

CHAPTER 341

H. B. No. 832
(Neukircher, Wheeler, Vinje)

PUBLIC CONSTRUCTION ESTIMATES, PAYMENTS

AN ACT

To amend and reenact section 48-0207 of the North Dakota Revised Code of 1943, relating to allowance and payment of estimates upon public construction; and providing for the repeal of section 48-0214 of the North Dakota Revised Code of 1943.

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

§ 1. Amendment.) Section 48-0207 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

48-0207. Allowance and Payment of Estimates.) At least once in each calendar month during the continuance of work upon any public building or erection begun and carried on under the provisions of this chapter, the governing board, or a committee thereof duly authorized by the board for that purpose, shall meet and receive and consider estimates furnished by the supervising architect or the superintendent of construction of such building or erection, and shall allow such estimates in an amount of the estimated value of the labor then performed upon such building or erection, and of the material then upon the ground for use in the construction thereof, subject to retentions as follows: ten percent of each

estimate presented until such time as the project is fifty percent completed, with the privilege and option of the board to withhold ten percent of further estimates so presented until the project has reached ninety-five percent of completion, when fifty percent of the entire amount retained may be paid to the contractor. The remaining amount retained shall be paid to the contractor in such amounts and at such times as are approved by the supervising architect or superintendent of construction, with final payment of all moneys due to the contractor to be made immediately following completion and acceptance of the project. If no supervising architect and no superintendent of construction is employed upon such contract, the contractor, at the end of each calendar month during the continuance of work under any such contract, may furnish to such board or public body in charge of such work like estimates which shall be allowed in such manner. Said board or committee thereof, immediately after considering and allowing any such estimate, shall verify and forward the same to the state auditor, county auditor, city auditor, or other official having the power to draw warrants, who forthwith shall draw his warrant upon the proper fund and transmit the same promptly to the contractor entitled thereto.

§ 2. Repeal.) Section 48-0214 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 12, 1959.

PUBLIC UTILITIES

CHAPTER 342

H. B. No. 833
(Burk, Powell, Glaspey, Bloom)

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, PIPELINES

AN ACT

To amend and reenact section 49-0301 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to provision of services by public utilities, the obtaining of certificates of public convenience and necessity, and the extension of pipeline gathering systems to oil and gas fields.

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

§ 1. Amendment.) Section 49-0301 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-0301. Certificate of Public Convenience and Necessity; Secured by Public Utility.) No public utility henceforth shall begin in the construction or operation of a public utility plant or system or extension thereof, without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction and operation. This section shall not be construed to require any such public utility to secure such certificate for:

1. An extension within any municipality or district within which it has lawfully commenced operations;
2. An extension within or to territory already served by it necessary in the ordinary course of its business; or
3. An extension into territory contiguous to that already occupied by it and not receiving similar service from another utility, or electric cooperative corporation or if no certificate of public convenience and necessity has been issued to any other public utility.

The provisions of the paragraphs numbered one, two and three of this section shall not be construed to exempt a public utility, operating an oil or gas pipeline gathering system for the purpose of collecting oil or gas at the well producing the oil or gas and transporting such products to another destination, from obtaining a certificate of public convenience and necessity from the public service commission prior to extending such

pipelines to provide service to any wells in an oil or gas field not presently served, unless such oil or gas field borders within three miles of an oil or gas field presently being served. If any public utility in constructing or extending its line, plant, or system, unreasonably interferes with or is about to interfere unreasonably with the service or system of any other public utility, or any electric cooperative corporation, the commission on complaint of the public utility or the electric cooperative corporation claiming to be injuriously affected, after notice and hearing as provided in this title, may make such order enforcing this section with respect to such public utility and prescribe such terms and conditions as are just and reasonable.

Approved March 14, 1959.

CHAPTER 343

S. B. No. 107
(Murphy, Krause, Vendsel, Lautenschlager)

PUBLIC UTILITY REGULATION

AN ACT

To amend and reenact section 49-0506 of the North Dakota Revised Code of 1943, relating to the filing by public utilities of rates, fares, schedules, classifications, contracts, rules, and regulations, with the public service commission, and the investigation thereof by the commission.

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

§ **1. Amendment.)** Section 49-0506 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-0506. Hearing by Commission on Proposed Change of Rates.) Whenever a notice or any schedule stating an individual or joint rate, classification, contract, practice, rule, or regulation, increasing or decreasing, or resulting in an increase or decrease in any rate, shall be filed with the commission, the commission may suspend by motion such rate, classification, contract, practice, rule or regulation, but the period of suspension thereof shall not extend more than eleven months beyond the time when it otherwise would go into effect upon complaint or upon its own initiative without complaint, the commission may order a hearing, upon due notice, concerning the propriety of such rate, classification, contract, practice, rule, or regulation, and pending the hearing and decision thereon.

On such hearing, the commission shall establish the rates, classifications, contracts, practices, rules, or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. At any such hearing, the burden to show that the increased rate or proposed change of rate, classification, regulation, rule or practice is just and reasonable shall be upon the public utility making application therefor. All such rates, classifications, contracts, practices, rules, or regulations not so suspended, on the expiration of thirty days from the time of filing the same with the commission, or of such lesser time as the commission may grant, shall go into effect and be the established and effective rates,classifications, contracts, practices, rules, and regulations, subject to the power of the commission, after a hearing had on its own motion or upon complaint, to alter or modify the same.

Approved March 10, 1959.

CHAPTER 344

S. B. No. 94
(Luick, Wadeson, Livingston, George, Johnson, Foss,)
(Kee, Gilbertson, Kisse, Baeverstad)

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 March 17, 1959.

PUBLIC WELFARE

CHAPTER 345

S. B. No. 290
(Committee on Delayed Bills)
(By request)

NURSING HOMES AND HOMES FOR AGED

AN ACT

Establishing a revolving fund for the purpose of making loans to nonprofit corporations for the construction of nursing homes and homes for the aged, providing for the administration of such loan program, and making an appropriation.

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

§ 1. **Establishment of Revolving Loan Fund.)** There is hereby established a revolving loan fund for the purpose of making loans to nonprofit corporations to be used in the construction or reconstruction of nursing homes, homes for the aged and infirm, or combination nursing homes and homes for the aged and infirm. All funds transferred into this fund, interest upon moneys in the fund, and collections of interest and principal on loans made from this fund are hereby appropriated for the purpose of providing loans in accordance with the provisions of this Act.

§ 2. **Administration of Revolving Fund.)** The revolving fund created in section 1 of this Act and loans made therefrom shall be supervised and administered by the Bank of North Dakota. All applications for loans under the provisions of this Act for the construction of nursing homes or combination nursing homes and homes for the aged and infirm shall be made to the state health department, which department shall be authorized, subject to the approval of the North Dakota health council, to promulgate such rules and regulations as may be necessary to carry out the provisions of this Act. All applications for the construction of homes for the aged and infirm shall be made to the state public welfare board, which board shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act. Applications approved by the state health department and the North Dakota health council or the public welfare board, as the case may be, shall be forwarded to the Bank of North Dakota. Upon approval of such application by the manager of the Bank of North

Dakota, loans shall be granted by the Bank of North Dakota from the revolving fund in accordance with the provisions of this Act.

§ 3. Amount of Loan; Terms and Conditions.) Loans in an amount not exceeding one-third 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 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 Act 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 the government of the United States or 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.

§ 4. Standards; Administration Procedure.) The state health department, subject to the approval of the state health council, shall establish standards of construction which shall be followed by all applicants receiving loans of funds for the construction of nursing homes or combination nursing homes and homes for the aged and infirm. The public welfare board shall establish standards of construction which shall be followed by all applicants for loans for the construction of homes for the aged and infirm. The health council, in the case of the construction of nursing homes or combination nursing homes and homes for the aged and infirm, and the public welfare board in the case of the construction of homes for the infirm and aged, shall approve all building plans and specifications for any facilities to be constructed in whole or in part with loans of funds provided under the provisions of this Act prior

to the disbursement of any such funds. Administrative procedures established by the health department with the approval of the health council and by the public welfare board, shall, except to construction standards, be in general in accordance with the procedures established for the administration of the federal grant-in-aid program for similar purposes under the Hill-Burton Act, or federal acts supplemental thereto.

§ 5. Powers of Bank of North Dakota.) The Bank of North Dakota shall be authorized to do all acts or things necessary to negotiate said loans which shall specifically include the power to take such security as prescribed herein, and to bring suit against any nonprofit corporation in order to collect interest and principal due the revolving fund under contracts and notes executed to obtain loans under the provisions of this Act. In the event the applicant's plan for financing the construction or reconstruction of the facilities provides for a loan of funds from sources other than the state of North Dakota, then the state of North Dakota shall take a second mortgage upon the facilities constructed or reconstructed from the proceeds of the loan.

§ 6. Appropriation.) There is hereby appropriated out of any moneys in the public welfare fund, not otherwise appropriated, the sum of one million dollars to be transferred to the revolving fund created in section 1 of this Act for the construction of nursing homes and homes for the aged as provided in this Act.

Approved March 17, 1959.

CHAPTER 346

S. B. No. 279
(Longmire)
(By request)

COUNTY WELFARE BOARD

AN ACT

To amend and reenact section 50-0108 of the 1957 Supplement to the North Dakota Revised Code of 1943, providing for members of county welfare board; term of office; oath; compensation.

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

§ 1. Amendment.) Section 50-0108 of the 1957 Supplement of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

50-0108. Members of County Welfare Board; Term of Office; Oath; Compensation.) The members of the county welfare board shall serve for a term of three years or until their successors have duly qualified. Their terms of office shall be arranged so that the term of office of one of the members shall expire in one year, the term of one-half of the remaining members the next year, and the term of the remaining members the third year. Each member of the board shall qualify by taking the oath provided for civil officers. Such oath shall be filed with the county auditor. The members of the county welfare board shall receive, in addition to any salaries they may receive from any other source, from the state or county or any municipality, the sum of ten dollars per day for time actually spent in transacting the business of the board not exceeding a maximum of twenty-five days a year. Members shall be reimbursed by the county for expenses actually incurred in the performance of their official duties and shall be paid legal mileage for necessary travel. In counties having a population in excess of thirty thousand, members of the county welfare board shall receive, in addition to any salaries they may receive from any other source, from the state or county or any municipality, the sum of ten dollars per day for time actually spent in transacting the business of the board not to exceed a maximum of thirty-five days a year. Members shall be reimbursed by the county for expenses actually incurred in the performance of their official duties and shall be paid legal mileage for necessary travel.

Approved March 17, 1959.

CHAPTER 347

S. B. No. 286
(O'Brien and Morgan)
(By request)

COMPENSATION OF MEMBERS OF PUBLIC WELFARE BOARD

AN ACT

To amend and reenact section 50-0604 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the compensation of members of the public welfare board of North Dakota.

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

§ 1. Amendment.) Section 50-0604 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

50-0604. Members of Board; Compensation.) The members of the public welfare board shall receive fifteen dollars per day, not to exceed seventy-five days in ony one year, and their necessary expenses for travel while attending meetings, or in the performance of such special duties as the board may direct. Such per diem and expenses shall be audited and paid in the manner 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 board who receives a salary or other compensation from the state, or any of its political subdivisions, or any institution or industry operated by the state in excess of two hundred fifty dollars a month.

Approved March 2, 1959.

CHAPTER 348

S. B. No. 152
(Longmire and O'Brien)

PROPERTY OF OLD AGE ASSISTANCE APPLICANTS

AN ACT

To amend and reenact section 50-0705 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to ownership of property by applicants for old age assistance.

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

§ 1. Amendment.) Section 50-0705 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

50-0705. Ownership of Property or Insurance Policy Does Not Preclude Granting of Assistance: Transferred in Trust.) The ownership of real or personal property by an applicant for old age assistance 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 old age assistance if the applicant is without funds for his support. But if the applicant is the owner of real property, other than a homestead, of a life insurance policy having a cash surrender value of more than three hundred dollars, or of personal property other than household goods, wearing apparel and personal effects including money, of a value in excess of three hundred dollars, then the applicant, as a condition to the grant of assistance, shall be required to transfer such property in trust by appropriate instrument, except property selected by the applicant

having a value of not more than three hundred dollars, as security for such old age assistance payments as the applicant thereafter may receive, unless the Congress of the United States shall enact legislation prohibiting the taking of security on either real or personal property belonging to the old age assistance applicant.

Approved March 17, 1959.

CHAPTER 349

H. B. No. 823
(Haugland, Fossum, Loewen, Sjaastad, Poling,)
(Stockman, Thompson of McLean, Hjelle)

COUNTY LIABILITY FOR AID TO DEPENDENT CHILDREN

AN ACT

To amend and reenact section 50-0921 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to amount the county is liable for payments for aid to dependent children and providing for reimbursement by the county.

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

§ 1. Amendment.) Section 50-0921 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

50-0921. Amount County Liable for: Reimbursement by County.) Each county shall reimburse the state agency, upon claim being made therefor by the state agency, for one-fourth of the amount expended for aid to dependent children in such county, in excess of the amount provided by the federal government for assistance payments to dependent children.

Approved March 14, 1959.

SALES AND EXCHANGE

CHAPTER 350

H. B. No. 539
(Brown, Neukircher, Fitch)
(From LRC Study)

REVOLVING CHARGE ACCOUNTS

AN ACT

To provide for the regulation of revolving charge account agreements.

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. "Retail buyer" or "buyer" means a person who buys personal property from a retail seller pursuant to a revolving charge agreement;
2. "Retail seller" or "seller" means a person who agrees to sell or sells goods or services pursuant to a revolving charge agreement;
3. "Credit service charge" means the amount, however expressed, which the retail buyer contracts to pay or pays the retail seller in excess of the cash sale price of personal property, representing the total charges by the retail seller incident to investigating and making a retail installment sale under a revolving charge agreement and for extending to the retail buyer the privilege of paying in installments therefor;
4. "Revolving charge agreement" means a written instrument, defining the terms of retail installment sales made from time to time pursuant thereto, pursuant to which the buyer's total unpaid balance thereunder, whenever incurred, is payable in installments over a period of time and under the terms of which a credit service charge is to be computed in relation to the buyer's unpaid balance from time to time.

§ 2. Contents of Revolving Charge Agreements; Requirements for Delivery of Monthly Statements.) Every revolving charge agreement shall be in writing and shall be signed by the retail buyer. A copy of any such agreement shall be delivered or mailed to the retail buyer by the retail seller prior to the date on which the first payment is due thereunder. All

agreements executed on or after the effective date of this Act shall state the amount and rate of the credit service charge to be charged and paid pursuant thereto. Such credit service charge shall be set forth in such revolving charge agreement in terms of a monthly percentage rate to be applied to the balance outstanding from time to time thereunder, as of the beginning or end of each billing period. The retail seller under a revolving charge agreement shall promptly supply the retail buyer under such agreement with a statement as of the end of each monthly period or other regular period agreed upon by the retail seller and the retail buyer, in which there is any unpaid balance thereunder. Such statement shall recite the following:

(1) The unpaid balance under the revolving charge agreement at the beginning or end of the period.

(2) An identification of the goods or services purchased, the cash purchase price and the date of each purchase, unless otherwise furnished by the retail seller to the retail buyer by sales slip, memorandum, or otherwise.

(3) The payments made by the retail buyer to the retail seller and any other credits to the retail buyer during the period.

(4) The amount of the credit service charge, if any, and also the percentage annual simple interest equivalent of such amount.

(5) A legend to the effect that the retail buyer may at any time pay his total indebtedness.

The items need not be stated in the sequence or order set forth above. Additional items may be included to explain the computations made in determining the amount to be paid by the retail buyer.

§ 3. Limitation of Credit Service Charge.) A seller may, in a revolving charge agreement, contract for and, if so contracted for, the seller or holder thereof may charge, receive and collect the service charge authorized by this section. The service charge shall not exceed one and one-half percent per month computed on the outstanding indebtedness from month to month. In the event any payment by a buyer is insufficient to pay both the credit service charge and that portion of the outstanding indebtedness then due, such payments shall first be applied to the credit service charge then due.

§ 4. Scope of Act; Effective Date.) The service charge allowed in section 3 of this Act shall be allowed to a seller or holder only:

a. If the seller enters into an agreement subject to the provisions of this Act with any buyer on or after July 1, 1959; or

b. In the case of any buyer who had entered into an agreement with a seller prior to July 1, 1959, if the seller or holder delivers or mails to the buyer a copy of a retail installment credit agreement in conformity with this Act duly executed on behalf of the seller and the seller or holder thereafter complies with all the other provisions of this Act.

Nothing in this section contained shall be construed to affect the validity or invalidity of any agreement or alleged agreement made prior to July 1, 1959.

§ 5. Penalty.) Any person who shall violate any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. Any revolving charge account or any act in the making or collection of any revolving charge account which violates the provisions of this Act shall result in the forfeiture of all credit service charges that have been paid or that may become due or payable thereunder, and in the event that such violation is willful, the retail seller shall have no right to collect, receive, or retain any principal, credit service charge, interest, or other charge whatsoever.

Approved March 5, 1959.

CHAPTER 351

S. B. No. 85
(Longmire)

SALE OF CONTRACEPTIVES THROUGH VENDING MACHINES

AN ACT

To prohibit the sale of contraceptives through vending machines, and providing a penalty.

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

§ 1. Contraceptives; Sale Through Vending Machines Prohibited.) No person, firm or corporation shall purchase, rent or have in his or its possession or under his or its control, any vending machine, or other mechanism or means so designed and constructed as to contain and hold any contraceptive and to release the same upon the deposit therein of a coin or other thing of value. As used in this section the word "contraceptive"

means any article or device of any nature intended for or having special utility for preventing pregnancy or venereal disease.

§ 2. Penalty.) Any person violating the provisions of this statute shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than thirty days or by a fine of not more than one hundred dollars or by both such fine and imprisonment.

Approved March 4, 1959.

CHAPTER 352

H. B. No. 538
(Brown, Neukircher, Fitch)
(From LRC Study)

INSTALLMENT AND CONDITIONAL SALES CONTRACTS

AN ACT

To amend and reenact chapter 51-13 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to installment and conditional sales contracts.

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

§ 1. Amendment.) Chapter 51-13 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

51-1301. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Retail buyer" or "buyer" means a person who buys personal property from a retail seller and who executes a retail installment contract in connection therewith;
2. "Retail seller" or "seller" means a person who sells personal property to a retail buyer under or subject to a retail installment contract;
3. "Retail installment sale" or "sale" means a sale, other than for the purpose of resale, of personal property by a retail seller to a retail buyer for a time sale price payable in one or more installments, payment of which is secured by a retail installment contract;
4. "Retail installment contract" or "contract" means an agreement, entered into in this state, pursuant to which the title to, the property in or a lien upon personal property, which is the subject matter of a retail installment

sale, is retained or taken by a retail seller from a retail buyer as security, in whole or in part, for the buyer's obligation. The term includes a chattel mortgage, a conditional sales contract and a contract for the bailment or leasing of personal property by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the personal property upon full compliance with the terms of the contract;

5. "Cash sale price" means the cash sale price stated in a retail installment contract for which the seller would sell to the buyer, and the buyer would buy from the seller, the personal property which is the subject matter of the contract if the sale were a sale for cash instead of a retail installment sale. The cash sale price may include any taxes, registration, license and other fees and charges for accessories and their installation and for delivering, servicing or improving the personal property;
6. "Time sale price" means the sum of the cash sale price, the amount if any included for insurance and other benefits, official fees, and the credit service charge;
7. "Official fees" means the filing or other fees required by law to be paid to a public officer to perfect the interest or lien retained or taken by a seller under the retail installment contract, and to file or record a release, satisfaction or discharge of the contract;
8. "Credit service charge" means that part of the time sale price by which it exceeds the aggregate of the cash sale price and the amount, if any, included in a retail installment sale for insurance and other benefits and official fees;
9. "Financing agency" means a person engaged in whole or in part, in the business of purchasing retail installment contracts from one or more retail sellers. The term includes but is not limited to a bank, trust company, finance company or investment company, if so engaged. The term also includes a retail seller engaged, in whole or in part, in the business of holding retail installment contracts acquired from retail buyers. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon;
10. The "holder" of a retail installment contract means the seller of the personal property under or subject to the contract, or, if the contract is purchased by a financing agency or other assignee, the financing agency or other assignee;

11. "Person" means an individual, partnership, corporation, association or other group, however organized;
12. "Motor vehicle, new and used", as used in this Act, shall include automobiles, motor trucks, motorcycles, house trailers, trailer-coaches, cabin trailers, semi-trailers, trailers, road tractors, farm tractors, farm machinery mounted upon, drawn by, or attached to farm tractors, and all vehicles with any power, other than muscular power, except, however, any vehicles which run only on rails.

51-1302. Requirements as to Retail Installment Contracts.)

1. A retail installment contract shall be in writing, shall be dated, shall contain all the agreements of the parties and shall be signed by the buyer and the seller.
2. The printed portion of the contract shall be in at least eight-point type. The contract shall contain printed or written in a size equal to at least ten-point bold type:
   a. Both at the top of the contract and directly above the space reserved for the signature of the buyer, the words "RETAIL INSTALLMENT CONTRACT";
   b. A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case; and
   c. The following notice: "NOTICE TO THE BUYER: 1. Do not sign this contract before you read it or if it contains any blank space. 2. You are entitled to a completely filled in copy of this contract when you sign it. 3. Under the law, you have the following rights, among others: (a) to pay off in advance the full amount due and to obtain a partial refund of the credit service charge; (b) to redeem the property if repossessed for a default within the time provided by law; (c) to require, under certain conditions, a resale of the property if repossessed."
3. The seller shall deliver to the buyer, or mail to him at his address shown on the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the personal property shall have an unconditional right to cancel the contract and to receive immediate refund of all payments made and redelivery of all goods traded-in to the seller on account of or in contemplation of the contract. Any acknowledgment by the buyer of delivery of a copy of the contract shall be printed or written in a size equal to at least ten-point bold type and, if contained in the contract, shall also appear directly above the legend required above the buyer's signature by subsection 2(a) of this section.

4. The contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the personal property including its make, year model, model and identification numbers or marks, if any.
5. The contract shall contain the following items:
   a. The cash sale price of the personal property which is the subject matter of the retail installment sale;
   b. The amount of the buyer's down payment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded-in;
   c. The difference between items a and b;
   d. The amount, if any, included for insurance and other benefits, specifying the coverages and benefits and the cost of each type of coverage or benefit, except that motor vehicle material damage premiums need not be separately specified;
   e. The amount of official fees, as defined in section 1;
   f. The principal balance, which is the sum of items c, d, and e;
   g. The amount of the credit service charge;
   h. The time balance, which is the sum of items f and g, payable in installments by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars and the due date or period thereof;
   i. The time sale price;
   j. If any installment substantially exceeds in amount any prior installment other than the down payment, the following legend printed in at least ten-point bold type or typewritten: "THIS CONTRACT IS NOT PAYABLE IN INSTALLMENTS OF EQUAL AMOUNTS", followed, if there be but one larger installment, by: "AN INSTALLMENT OF $..... WILL BE DUE ON.....", or, if there be more than one larger installment, by: "LARGER INSTALLMENTS WILL BE DUE AS FOLLOWS:..... .....", in such latter case inserting the amount of every larger installment and its due date."

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the calculations involved in determining the stated time balance to be paid by the buyer.

The amount of the credit service charge may be expressed as a simple interest charge not exceeding seven percent per

year computed on the principal balance unpaid from time to time; if so expressed, the time balance and the time sale price need not be set forth.

6. The amount, if any, included for insurance, shall not exceed the premiums chargeable in accordance with rate filings made with the insurance commissioner for similar insurance. The seller or financing agency, if insurance on the personal property is included in a retail installment contract, shall within thirty days after execution of the retail installment contract send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state and sold by a licensed insurance agent, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance. The buyer of personal property under a retail installment contract shall have the privilege of purchasing such insurance from an agent or broker of his own selection and of selecting an insurance company acceptable to the seller; provided, however that the inclusion of the insurance premium in the retail installment contract when the buyer selects the agent, broker or company, shall be optional with the seller and in such case the seller or financing agency shall have no obligation to send, or cause to be sent, to the buyer the policy or certificate of insurance. Nothing contained in this subsection however shall be deemed to modify, limit or in anyway contravene the provisions of Title 26, Insurance, in the Code.

   If any such policy or certificate is canceled, the unearned insurance premium refund received by the holder of the contract shall be credited to the final maturing installments of the retail installment contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and holder of the contract or either of them.
7. A contract or obligation may provide for the payment by the buyer of a delinquency and collection charge on each installment in default when such default continues for a period of more than ten days in an amount not in excess of five percent of each installment or five dollars, whichever is less, provided that only one such delinquency and collection charge may be collected on any such installment regardless of the period during which it remains in default.
8. No retail installment contract shall be signed by any party thereto when it contains blank spaces to be filled

in after it has been signed except that, if delivery of the personal property is not made at the time of the execution of the contract, the identifying numbers or marks of the property or similar information and the due date of the first installment may be inserted in the contract after its execution. The buyer's written acknowledgment, conforming to the requirements of subsection 3 of this section, of delivery of a copy of a contract shall be conclusive proof of such delivery and of compliance with this subsection in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the contract.

9. Notwithstanding any contrary provision of the personal property law, lien law, banking law or other law:
   a. A financing agency may purchase a retail installment contract from a seller on such terms and conditions and for such price as may be mutually agreed upon; and
   b. No filing of the assignment, no notice to the buyer of the assignment, and no requirement that the seller be deprived of dominion over payments upon the contract or over the personal property if repossessed by the seller, shall be necessary to the validity of a written assignment of a retail installment contract as against creditors, subsequent purchasers, pledgees, mortgagees or encumbrancers of the seller.
10. Unless the buyer has notice of actual or intended assignment of a retail installment contract, payment thereunder made by the buyer to the last known holder of such contract shall be binding upon all subsequent holders or assignees.
11. Upon written request from the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made in cash.
12. No provision in a retail installment contract by which, in the absence of the buyer's default, the holder may, arbitrarily and without reasonable cause, accelerate the maturity of any part or all of the time balance shall be enforceable.
13. No provision in a retail installment contract for confession of judgment, power of attorney therefor, or wage assignment shall be enforceable in this state.
14. No provision in a retail installment contract which authorizes a seller or holder of the contract or other person acting on his behalf to enter upon the buyer's premises

unlawfully, or to commit any breach of the peace in the repossession of personal property shall be enforceable.

15. No provision in a retail installment contract by which the buyer waives any right of action against the seller or holder of the contract, or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or in the repossession of the personal property shall be enforceable.
16. No provision in a retail installment contract for the subsequent inclusion of title to or a lien upon any goods, other than the personal property which is the subject matter of the retail installment sale, or accessories therefor or special or auxiliary equipment used in connection therewith, or in substitution, in whole or in part, for any thereof, as security for payment of the time sale price, shall be enforceable.
17. No provision in a retail installment contract by which the buyer executes a power of attorney appointing the seller or holder of the contract, or other person acting on his behalf, as the buyer's agent in collection of payments under the contract or in the repossession of the personal property shall be enforceable.
18. No provision in a retail installment contract relieving the seller from liability for any legal remedies which the buyer may have had against the seller under the contract, or any separate instrument executed in connection therewith, shall be enforceable.

51-1303. Credit Service Charge Limitation.)

1. A retail seller may contract for in a retail installment contract and charge, receive and collect the credit service charge computed on the principal balance of the contract or obligation from the date thereof to and including the date when the final installment is payable, at not exceeding the following rates:

   A. As to motor vehicles

   Class 1. Any motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made, not more than seven dollars per one hundred dollars.

   Class 2. Any motor vehicle not in Class 1 designated by the manufacturer by a year model of not more than four years prior to the year in which the sale is made, not more than ten dollars per one hundred dollars.

   Class 3. Any motor vehicle not in Class 1 or 2, not more than thirteen dollars per one hundred dollars.

B. As to goods other than motor vehicles, ten dollars per one hundred dollars per annum.

2. Such credit service charge shall be computed on the principal balance as determined under subsection 5 of section 51-1302 on contracts payable in successive monthly installments substantially equal in amount extending for a period of one year. On contracts providing for installments extending for a period less than or greater than one year, the credit service charge shall be computed proportionately.
3. When a retail installment contract provides for unequal or irregular installments, the credit service charge shall be at the effective rate provided in subsection 1, having due regard for the schedule of installments.
4. The credit service charge shall be inclusive of all charges incident to investigating and making the contract, and for the extension of the credit provided for in the contract and no fee, expense or other charge whatsoever shall be taken, received, reserved or contracted for except as provided in this section and in subsection 7 of section 51-1302 and in section 51-1306 and for those items expressly provided for in the retail installment contract as set forth in subsection 5 of section 51-1302.

51-1304. Cancellation of Contract.) After the payment of all sums for which the buyer is obligated under a retail installment contract, and upon written demand made by the buyer, the holder of such contract shall mail to the buyer at his last known address, good and sufficient instruments to indicate payment in full and to release all security in the personal property.

51-1305. Credit Upon Anticipation of Payments.) Notwithstanding the provisions of any retail installment contract to the contrary, any buyer may pay in full at any time before maturity the debt of any retail installment contract and in so paying such debt shall receive a refund credit thereon for such anticipation. The amount of such refund credit shall represent at least as great a proportion of the credit service charge after first deducting from such credit service charge an acquisition cost of fifteen dollars, as the sum of the periodic time balances after the month in which prepayment is made, bears to the sum of all the periodic time balances under the schedule of installments in the original contract. Where the amount of the credit for anticipation of payment is less than one dollar, no refund need be made.

51-1306. Refinancing Retail Installment Contracts.) The holder of a retail installment contract may, upon agreement with the buyer, extend the scheduled due date, or defer the

scheduled payment of all or part of any installment or installments, or renew the balance of such contract. In any such case, the holder may restate the amount of the installments and the time schedule therefor, and collect as a refinance charge for such extension, deferment or renewal, a flat service fee not to exceed five dollars and a total additional charge not exceeding an amount equal to one percent per month simple interest on the respective descending balances computed from the date of such agreement of extension, deferment or renewal. Such agreement may also provide for the payment by the buyer of the additional cost to the holder of the contract or obligation of premiums for continuing in force, until the end of such period of extension or deferral, any insurance coverages provided for in the contract or obligation, subject to the provisions of subsection 6 of section 51-1302.

51-1307. Penalties.) Any person who shall willfully and intentionally violate any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than one year or a fine not exceeding five hundred dollars, or by both such fine and imprisonment. A willful violation of sections 51-1302 or 51-1303 by any person shall bar his recovery of any credit service charge, delinquency or collection charge or refinancing charge on the retail installment contract involved.

51-1308. Waiver.) Any waiver of the provisions of this chapter shall be unenforceable and void.

51-1309. Short Title.) This chapter may be cited as the "Retail Installment Sales Act".

Approved March 16, 1959.

SOCIAL SECURITY

CHAPTER 353

S. B. No. 157
(Hernett, Kee, George)
(By request)

UNEMPLOYMENT COMPENSATION CONTRIBUTIONS

AN ACT

To amend and reenact subsection 2 of section 52-0101 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to definitions; section 52-0405 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to standard rate of contributions; reduction of rates; section 52-0406 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to variations in standard rate of contributions; how determined; section 52-0409 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to classification of employers to determine contributions; regulations governing; and section 52-0411 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to unpaid contributions to bear interest; interest collected paid into unemployment compensation fund.

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

§ 1. Amendment.) Subsection 2 of section 52-0101 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. "Average annual pay roll" means the average of the annual pay rolls of an employer for the last three completed calendar years except that, for an employer who had no pay roll in the first of the last three completed calendar years, the average annual pay roll shall be the average of the annual pay rolls of such employer for the last two completed calendar years and, for an employer who had no pay roll in the first two of the last three completed calendar years, the average annual pay roll shall be the aggregate of the annual pay roll of such employer for the last completed calendar year.

§ 2. Amendment.) Section 52-0405 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0405. Standard Rate of Contributions; Reduction of Rates.) The standard rate of contributions payable by each employer shall be three and seven-tenths percent. No em-

ployer's rate shall be reduced below the standard rate for any succeeding 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 of not less than three percent 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 if he has an employer reserve ratio of at least five percent.

§ 3. Amendment.) Section 52-0406 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0406. 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 five percent, the schedule of rates at column II will be in effect;
   c. Five percent but less than six percent, the schedule of rates at column III will be in effect;
   d. Six 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.

For the calendar year 1960, the schedule of rates to be in effect will not be more than the schedule of rates at column V. 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 pay roll 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 whose account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December thirty-first of the preceding calendar year will be the rate of contribution on the line in the schedule of rates opposite his reserve ratio as established for that year.

(See next page for "Schedule of Rates-Fund Reserve Ratio")

Schedule of Rates—Fund Reserve Ratio

EMPLOYERS' RESERVE RATIO	Col. I— Less Than 3%	Col. II— 3% But Less Than 5%	Col. III— 5% But Less Than 6%	Col. IV— 6% 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	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%	3.7%
0% but less than 1%	3.0%	3.0%	3.0%	3.0%	3.0%	2.7%	2.7%	2.7%
1% but less than 2%	3.0%	3.0%	3.0%	3.0%	2.7%	2.7%	2.7%	2.5%
2% but less than 3%	3.0%	3.0%	3.0%	2.7%	2.7%	2.7%	2.5%	2.3%
3% but less than 4%	3.0%	3.0%	2.7%	2.7%	2.7%	2.5%	2.3%	2.1%
4% but less than 5%	3.0%	2.7%	2.7%	2.7%	2.7%	2.3%	2.1%	1.9%
5% but less than 6%	2.7%	2.7%	2.7%	2.7%	2.5%	2.1%	1.9%	1.7%
6% but less than 7%	2.7%	2.7%	2.7%	2.7%	2.3%	1.9%	1.7%	1.5%
7% but less than 8%	2.7%	2.7%	2.7%	2.5%	2.1%	1.7%	1.5%	1.3%
8% but less than 9%	2.7%	2.7%	2.7%	2.3%	1.9%	1.5%	1.3%	1.1%
9% but less than 10%	2.7%	2.7%	2.5%	2.1%	1.7%	1.3%	1.1%	0.9%
10% but less than 11%	2.7%	2.7%	2.3%	1.9%	1.5%	1.1%	0.9%	0.7%
11% but less than 12%	2.7%	2.5%	2.1%	1.7%	1.3%	0.9%	0.7%	0.5%
12% but less than 13%	2.7%	2.3%	1.9%	1.5%	1.1%	0.7%	0.5%	0.3%
13% but less than 14%	2.7%	2.1%	1.7%	1.3%	0.9%	0.5%	0.3%	0.3%
14% but less than 15%	2.7%	1.9%	1.5%	1.1%	0.7%	0.3%	0.3%	0.3%
15% and less than 16%	2.7%	1.7%	1.3%	0.9%	0.5%	0.3%	0.3%	0.3%
16% and over	2.7%	1.5%	1.1%	0.7%	0.3%	0.3%	0.3%	0.3%

2. Any employer may voluntarily pay into the unemployment compensation fund an amount in excess of the contributions required to be paid under the provisions of this section and such amount shall be credited to his separate account. His rate of contribution shall be computed or recomputed with such amount included in the calculation. Such contributions voluntarily paid shall not be refunded or used as a credit in the payment of contributions in whole or in part. In no event shall any such amount be included in the computation or recomputation for any year unless it is paid within one hundred twenty days after the beginning of such year.
3. If the total benefits chargeable against an employer's account for all periods prior to January first of such calendar year, including benefits paid on or before January first, with respect to weeks of unemployment compensated prior to January first, exceed the total contributions paid by such employer for the same period, including contributions paid on or before January thirty-first with respect to wages paid prior to January first of the same year, his contribution rate for the ensuing calendar year shall be the standard rate;
4. The rate of an employer who has had pay roll subject to contributions in each of the three years preceding the computation date shall not be reduced unless the pay roll in each such year is equal to at least twenty percent of the highest pay roll in such three year period. The rate of an employer who has been subject to the law for two but less than three years shall not be reduced unless the pay roll in each of the two years immediately preceding the computation date is equal to at least twenty percent of the highest annual pay roll in such two-year period. This requirement shall not apply to an employer who has been subject to the law for less than two years ending on the computation date.

§ 4. Amendment.) Section 52-0409 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0409. Classification of Employers to Determine Contributions; Regulations Governing.) For the year 1942 and for each calendar year thereafter, the bureau shall classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such benefit experience. Each employer's rate for any calendar year shall be determined on the basis of his record as of January first of that calendar year. If as of the date such classification of employers is made, the bureau

finds that any employing unit has failed to file any report required in connection therewith, or has filed a report which the bureau finds incorrect or insufficient, the bureau shall make an estimate of the information required from such employing unit on the basis of the best evidence reasonably available to the bureau at the time, and shall notify the employing unit thereof by registered mail addressed to its last known address. Unless such employing unit shall file the report, or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of such notice, his rate may not be less than the standard rate for the ensuing calendar year.

§ 5. **Amendment.)** Section 52-0411 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0411. Unpaid Contributions to Bear Interest; Interest Collected Paid Into Unemployment Compensation Fund.) Contributions unpaid on the date on which they are due and payable as prescribed by the bureau shall bear interest at the rate of one-half of one percent per month plus $10.00 from and after such date until the payment plus the accrued interest is received by the bureau; except that in case of willful failure to file the reports and pay the contributions required by this chapter, there shall be added in addition to the interest, five percentum of the contributions if the failure is for not more than sixty days with an additional five percentum for each additional sixty days or fraction thereof during which such failure continues but not exceeding twenty-five per centum in the aggregate, exclusive of interest. The amount added pursuant to the provisions of this section shall be collected at the same time and in the same manner and as a part of the contributions and shall be paid into the unemployment trust fund.

Approved March 17, 1959.

CHAPTER 354

H. B. No. 725
(Wheeler, Vinje, Larson)
(By request)

UNEMPLOYMENT COMPENSATION FUNDS

AN ACT

To amend and reenact section 52-0307 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to administrative use; regulations governing; and section 52-0308 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to advances from the federal unemployment account; regulations governing.

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

§ 1. Amendment.) Section 52-0307 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0307. Administrative Use; Regulations Governing.)

1. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this law pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:
   a. Specified the purposes for which money is appropriated and the amounts appropriated therefor,
   b. Limits the period within which such money may be expended to a period ending not more than two years after the date of the enactment of the appropriation law, and
   c. Limits the amount which may be used during a 12-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which
      (1) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, during the same 12-month period and the four preceding 12-month period exceeds,

(2) the aggregate of the amounts used pursuant to this section and charged against the amounts credited to the account of this state during any of such five 12-month periods. For the purposes of this section, amounts used during any such 12-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount used for administration during any such 12-month period may be charged against any amount credited during such a 12-month period earlier than the fourth preceding such period.

2. For the purpose of the provisions set forth at section 52-0406 any amount credited to this state's account under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund shall be excluded from the unemployment fund balance.
3. Money credited to the account of this state pursuant to section 903 of the Social Security Act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of sections 52-0209, 52-0301, 52-0304, 52-0307, and 52-0308 and of public employment offices pursuant to this section.
4. Money requisitioned for the payment of expenses of administration pursuant to this section shall be deposited in the unemployment compensation administration fund, but, until expended, shall remain a part of the unemployment compensation fund. The bureau shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is, for any reason, not to be expended for the purpose for which it was appropriated, or, if it remains unexpended at the end of the period specified by the law appropriating such money, it shall be withdrawn and returned to the secretary of the treasury of the United States for credit to this state's account in the unemployment trust fund.

§ 2. Amendment.) Section 52-0308 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0308. Advances From the Federal Unemployment Account; Regulations Governing.) The governor of this state is authorized and directed to apply for an advance to the state unemployment fund from the federal unemployment account

in the unemployment trust fund and to accept the responsibility for the repayment of such advance in accordance with the conditions specified in Title XII of the Social Security Act, as amended, in order to secure to this state and its citizens the advantage available under the provisions of such title.

Approved March 12, 1959.

CHAPTER 355

H. B. No. 810
(Vinje, Anderson of McHenry, Magnuson, Fossum)
(By request)

UNEMPLOYMENT COMPENSATION COVERAGE

AN ACT

To amend and reenact section 52-0503 of the North Dakota Revised Code of 1943, relating to employment not included within title may be deemed subject to the provisions of this title when.

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

§ 1. Amendment.) Section 52-0503 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0503. Employment Not Included Within Title May Be Deemed Subject to Provisions of Title When.) Any employing unit for which services are performed that do not constitute employment as defined in this title may file with the bureau a written election that all such services with respect to which payments are not required under an employment security law of any other state or of the federal government, and which are performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this title for not less than two calendar years. Upon the written approval of such election by the bureau, such services shall be deemed to constitute employment subject to the provisions of this title from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if during January of such year such employing unit has filed with the bureau a written notice to that effect. The bureau in its discretion may on its own motion terminate any election agreement under this section upon thirty days notice to the employer. The rate of contri-

bution for employment covered by an election under this section shall be seven percent of the wages paid after 1959, unless the employer qualifies for a rate of contribution of less than the standard rate, as provided in chapter 52-04.

Approved March 12, 1959.

CHAPTER 356

H. B. No. 589
(Dahl, Dick, Idso, Magnuson, Hilleboe,)
(Lindberg, Loewen, Stockman)

UNEMPLOYMENT COMPENSATION CONTRIBUTIONS

AN ACT

To amend and reenact section 52-0413 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the lien of a judgment obtained in an action brought for the recovery of delinquent or defaulted unemployment compensation contributions and restricting the priority of such judgment lien to the same priority held by other judgments.

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

§ 1. Amendment.) Section 52-0413 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0413. Priority Rights to Contributions Upon Legal Dissolutions or Distributions.) In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for the benefits of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than two hundred and fifty dollars to each claimant, earned within four months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in section 64a of that Act, United States Code Title II, section 104b, as amended. In any action for the recovery of delinquent and defaulted contributions, the remedies of garnishment or attachment, or both, shall be available. No exemptions except absolute exemptions shall be allowed against any levy under execution pursuant to judgment recovered in such action.

Approved March 11, 1959.

CHAPTER 357

S. B. No. 158
(Hernett, Kee, George)
(By request)

SOCIAL SECURITY BENEFITS

AN ACT

To create and enact subsection 9 of section 52-0602, North Dakota Revised Code of 1943, relating to disqualification for benefits; and to amend and reenact section 52-0603 of the North Dakota Revised Code of 1943, relating to benefits payable when; section 52-0604 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to schedule of benefits, qualifying wages and definitions; section 52-0605 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to maximum potential benefits.

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

§ 1.) Subsection 9 of section 52-0602 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

52-0602. Disqualification for Benefits.)

9. For any week for which such individual is receiving or has claimed and will receive retirement payments under a retirement plan to whose financing any employing unit has substantially contributed or under any retirement system supported in whole or in part by public contributions or under both. If the retirement payment referred to is less than the benefits which would otherwise be due, claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such retirement payment raised to the next higher multiple of one dollar.

§ 2. Amendment.) Section 52-0603 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0603. Benefits Payable When.) Beginning twenty-four months after the date when contributions first accrued under this title, benefits shall become payable from the fund. Benefits shall be paid through public employment offices in accordance with such regulations as the bureau may prescribe.

§ 3. Amendment.) Section 52-0604 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0604. Schedule of Benefits; Qualifying Wage; Definitions.)

1. **Schedule of Benefits.** 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 - and over	32	1248

2. **Qualifying Wage.** 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 any 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.

3. **Definitions.** 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 requirement of this chapter.

§ 4. Amendment.) Section 52-0605 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0605. Maximum Potential Benefits.) The maximum potential benefits for any insured worker in a benefit year shall be equal to twenty-four times his weekly benefit amount.

Approved March 17, 1959.

CHAPTER 358

S. B. No. 135
(Vendsel, Klefstad, O'Brien)

WEEKLY BENEFITS FOR UNEMPLOYMENT

AN ACT

To amend and reenact section 52-0606 of the North Dakota Revised Code of 1943, relating to weekly benefits for unemployment.

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

§ 1. Amendment.) Section 52-0606 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0606. Weekly Benefit for Unemployment.) Each eligible individual who is unemployed with respect to any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages, if any, payable to him with respect to such week which is in excess of one-half of his weekly benefit amount. Such benefit, if not a multiple of one dollar, shall be computed to the next higher multiple of one dollar.

Approved March 16, 1959.

CHAPTER 359

S. B. No. 195
(Baeverstad, Nesvig, Wenstrom)
(By request)

OLD AGE AND SURVIVOR INSURANCE AND SOCIAL SECURITY

AN ACT

To amend and reenact section 52-0907 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to purposes for which fund may be used; section 52-0908 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to default in taxes; interest; action to collect; levy of tax by political subdivisions; section 52-0909 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to rate of contribution; section 52-0915 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to deductions from and additions to benefits; subsection A. of section 52-0920 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to definitions; to enact subsection d. of section 52-1004 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to contributions by employees of the state and of political subdivisions; to amend and reenact subsection d. of section 52-1005 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to plans for coverage of employees of political subdivisions and to amend and reenact section 52-1009 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to studies and reports, and declaring an emergency.

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

§ 1. Amendment.) Section 52-0907 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0907. Purposes for Which Fund May Be Used.) All moneys which are paid or deposited into this fund are hereby appropriated and made available to the bureau to be used only for the purposes herein provided.

A. To be used by the bureau for the payment of claims for benefits under this chapter. From and after the execution date of the agreement with the United States pursuant to chapter 306, 1955 Session Laws extending social security coverage to services covered by this chapter, no benefits shall be paid under this chapter except to:

1. Persons who are receiving benefit payments or are entitled to benefit payments, under section 52-0914, by virtue of death or retirement occurring before such agreement execution date, and to dependents and survivors of such fully insured persons when-

ever entitled and eligible. After such agreement execution date, no quarters of coverage within the meaning of section 52-0920 (F) as amended, may be accrued.

2. Persons not entitled to benefits from any other public retirement plan but who would have been eligible under section 52-0914 before 1960, and dependents and survivors of such fully insured persons whenever entitled and eligible.

Notwithstanding subsection A and subdivision 1 of subsection A of this section, the effective date referred to for policeman's and fireman's positions shall be on and after the day preceding the execution date of the agreement with the United States pursuant to chapter 306 of the North Dakota Session Laws of 1955 extending social security coverage to services covered by this chapter.

B. 1. To be used by the bureau to pay refunds provided for in section 52-0910, and to pay a prior service refund to any person who is not receiving any other payment under this chapter, who is employed on the date of the federal-state agreement covering services performed under this chapter and executed pursuant to chapter 306 of the North Dakota Session Laws of 1955, or who was eligible to vote in the public employees' referendum held on December 20, 1956, pursuant to authorization of chapter 306, or to any employee or his survivor who has nineteen or more quarters of coverage on the date of such federal-state agreement in an amount equal to the employee's individual contribution made between the dates July 1, 1947 and December 31, 1954, after such person makes written application therefor to the bureau.

2. No refund will be paid if the application was received after 1959. No contribution will be refunded if the wages are used to determine benefit eligibility. If such wages were used for a benefit determination the person must repay the amount of the refund or the bureau may deduct the amount from any benefit payment due to the person.

C. Contributions may be paid for employers and employees to the United States pursuant to chapter 306 of the North Dakota Session Laws of 1955, and pursuant to any federal-state agreement executed thereunder, and to provide coverage under federal social security retroactive to December 31, 1954 and up to July 1, 1957 for employees subject to that agreement. Such amounts are to be transferred and paid into the social security

contribution fund established by chapter 306 of the North Dakota Session Laws of 1955.

D. For the purposes of making payments under this section, if the balance in the old age survivors' fund becomes insufficient to pay current obligations, the bureau is authorized to borrow necessary amounts from the Bank of North Dakota and to repay such loans from the employer tax set forth in section 52-0909 as amended.

§ 2. Amendment.) Section 52-0908 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0908. Default in Taxes; Interest; Action to Collect; Levy of Tax by Political Subdivisions.) Taxes unpaid on the date on which they are due and payable as prescribed by the bureau, shall bear interest at the rate of one-half of one percentum per month from and after such date until payment plus accrued interest is received by the bureau, provided that the bureau may prescribe fair and reasonable regulations pursuant to which such interest shall not accrue with respect to taxes required. In no case shall the amount of interest imposed hereby be less than five dollars. Interest collected pursuant to this section shall be paid into the old age and survivors' fund.

A. If within thirty days after due notice, the employer defaults in payment of taxes or interest thereon, the amount due shall be collected by civil action in the name of the bureau and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect taxes or interest thereon shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions.

B. The employer shall pay its tax or contribution from funds available and is directed to pay same from tax money or from any other income of the political subdivision.

C. The political subdivision is hereby authorized and directed to levy a tax sufficient to meet its obligations under the provisions of this chapter, over and above any levy-limitations now prescribed by law for such political subdivisions.

§ 3. Amendment.) Section 52-0909 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0909. Rate of Contribution.) In addition to all other taxes there is hereby levied upon each employer, as defined in section 52-0920, and also upon each employee, as defined in

section 52-0920, a tax, equal to one and one-half percentum of the wages paid before July 1, 1955, and two percentum of the wages paid after June, 1955, up to July 1, 1957, to be paid by each employer and each employee. The above tax imposed by this chapter shall be collected by the employer from the employee by deducting the amount of the tax from the wages as and when paid. From and after July 1, 1957, and until July 1, 1959, the tax upon each employer shall be equal to four percent of the wages paid to each employee, and after June 30, 1959 such tax shall be equal to three and one-half precent. After June 30, 1957 there shall be no tax hereunder upon the employee.

§ 4. **Amendment.)** Section 52-0915 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0915. Deductions From and Additions to Benefits.)

A. Whenever the total of benefits under section 52-0914, payable for a month with respect to an individual's wage, is more than $20 and exceeds (1) $150.00, or (2) an amount equal to 80 percentum of his average monthly wage as defined in section 52-0920 (E), whichever of such amounts is least, such total of benefits shall, prior to any deductions under subsection (D) be reduced to such least amount or to $20 whichever is the greater.

B. Whenever the benefit or total of benefits under section 14 (52-0914), payable for a month with respect to an individual's wages, is less than $10 such benefit or total of benefits shall, prior to any deductions under subsection (D) be increased to $10.

C. Whenever a decrease or increase of the total of benefits for a month is made under subsection (A) or (B) of this section, each benefit, except the primary benefit, shall be proportionately decreased or increased as the case may be.

D. Deductions, in such amounts and at such time or times as the bureau shall determine, shall be made from any payment or payments under this chapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits for any month in which:

(1) a child under eighteen and over sixteen years of age, failed to attend school regularly and the bureau finds that attendance was feasible; or

(2) a widow entitled to a widow's current insurance benefit did not have in her care a child of her deceased husband entitled to receive a child's insurance benefit;

(3) such individual rendered services for the state of North Dakota or any of its political subdivisions or instrumentalities for wages of more than one hundred dollars.

E. If more than one event occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefits shall be deducted.

F. Any individual in receipt of benefits subject to deduction under subsection (D) (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event enumerated therein, shall report such occurrence to the bureau prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred. Any such individual having knowledge thereof, who fails to report any such occurrence, shall suffer an additional deduction equal to that imposed under subsection (D).

G. A wife or child entitled to a wife's or child's insurance benefit will not be entitled to a benefit for any month in which the individual, with respect to whose wages such benefit was payable, rendered services for the state of North Dakota or any of its political subdivisions or instrumentalities, for wages of more than one hundred dollars.

H. The above deductions shall not apply to individuals who are seventy-two years of age or over.

§ **5. Amendment.)** Subsection A. of section 52-0920 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-0920. Definitions.) When used in this chapter:

A. The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include

(1) That part of the remuneration which, after remuneration equal to $4,800 has been paid to an individual with respect to employment during any calendar year after 1946, is paid to such individual with respect to employment during such calendar year.

§ **6.)** Subsection d. of section 52-1004 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

52-1004. Contributions by Employees of the State and of Political Subdivisions.)

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 52-1006, contributions, with respect to wages as defined in section 52-1002, 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 administration of this chapter.

§ 7. Amendment.) Subsection d. of section 52-1005 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-1005. Plans for Coverage of Employees of Political Subdivisions.)

d. Delinquent payments due under paragraph 1 subsection (c) shall bear interest at the rate of six percentum per annum and may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state. In no case shall the interest imposed hereby be less than $5.

§ 8. Amendment.) Section 52-1009 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

52-1009. Studies and Reports.) The state agency shall submit a report to the governor and the legislative assembly at the beginning of each regular session, covering the administration and operation of this chapter, including such recommendations for amendments to this chapter as it considers proper.

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

Approved March 4, 1959.

CHAPTER 360

H. B. No. 726
(Aamoth, Baldwin, Stockman)

REFUND OF OASIS PAYMENTS

AN ACT

To create and enact a subsection to section 52-0921 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to and providing for a refund of contributions made to the old age and survivor insurance system and federal social security program in excess of maximum payments, which excess payments resulted by the transfer from old age and survivor insurance system to the federal social security program, and setting a time limitation when application for refund must be submitted to administrator of old age and survivor insurance system fund.

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

*Individual teachers, who contributed to both the old age and survivor insurance system fund under chapter 52-09 of the 1957 Supplement to the North Dakota Revised Code of 1943 on a nonteaching position and to the social security administration on a teaching position under an agreement negotiated in accordance with chapter 306 of the 1955 Session Laws, shall upon submitting a written application to the administrator of the old age and survivor insurance system fund be entitled to a refund of the individual's contribution in excess of the maximum payment required under the Federal Social Security Act for each calendar year on the wages from January 1, 1955, through December 31, 1957, where the old age and survivor insurance system fund received credit from the social security administration for such excess payments as a result of the transfer from the old age and survivor insurance system to the federal social security program, provided that such application be received by the administrator of the old age and survivor insurance system fund before 1960.

Approved March 17, 1959.

*__Note:__ Section 52-0921 was also amended by chapter 361, by creating a new subsection.

CHAPTER 361

H. B. No. 635
(Wheeler)
(By request)

REFUND TO POLICEMEN AND FIREMEN

AN ACT

To create and enact subsection C. of section 52-0921 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to refunds.

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

***§ 1. Amendment.)** Subsection C. of section 52-0921 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

C. Any policeman or fireman covered by a policeman's or fireman's city pension plan and who was also covered under this chapter, shall be paid a refund, for such employment, upon application before 1960, of his individual contribution, without interest, for the period January 1, 1955 to July 1, 1957. No refund will be paid where the policeman's or fireman's wages were transferred to Federal Social Security.

Approved March 12, 1959.

CHAPTER 362

H. B. No. 793
(Lowe and Stockman)

PUBLIC EMPLOYEES UNDER SOCIAL SECURITY

AN ACT

To amend and reenact section 52-1003 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to public employees under Federal Social Security.

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

§ 1. Amendment.) Section 52-1003 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

*__Note:__ Section 52-0921 was also amended by chapter 360, by creating a new subsection.

52-1003. 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 Act, 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 2 of this Act. 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 2 of this Act, 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 first day of the calendar 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 2 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 2 and are performed in the employ of

any municipality except elected officials, shall be covered by the agreement, notwithstanding the provisions of section 5, which provides for plans for coverage of employees;

5. All services which (A) constitute employment as defined in section 2, (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 5, shall be covered by the agreement;
6. The agreement shall include all services described in either paragraph (4) or paragraph (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 paragraph (4) or paragraph (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 section 7 (b) of this Act.

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 section 4 (a) 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 Act.

Approved March 11, 1959.

SPORTS AND AMUSEMENTS

CHAPTER 363

H. B. No. 731
(Burk)

MINORS IN POOL HALLS

AN ACT

To amend and reenact section 53-0508 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to minors in certain places and providing a penalty.

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

§ **1. Amendment.)** Section 53-0508 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

53-0508. Minors Not Allowed in Certain Public Places; Penalty.) It shall be unlawful for the owner of any pool or billiard hall or any place where public games of pool, billiards, or cards are played, to allow any person under the age of eighteen years or any person attending a local high school to play any of the games mentioned or to be allowed to visit any of said places, unless accompanied by parent or guardian.

Any person found guilty of violating this section shall be punished by a fine of not less than ten dollars ($10.00), nor more than one hundred dollars ($100.00), or by imprisonment in the county jail not to exceed thirty days, or by both such fine and imprisonment.

Approved March 11, 1959.

STATE GOVERNMENT

CHAPTER 364

H. B. No. 691
(Van Sickle, Kelly, Stockman)

DEPARTMENT OF CIVIL AIR PATROL

AN ACT

Creating a department of civil air patrol, providing for its organization, defining its duties, and making an appropriation.

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

§ 1. Creation of Department of Civil Air Patrol.) There is hereby created a North Dakota department of civil air patrol, the head of which shall be the commanding officer of the civil air patrol, North Dakota Wing, as appointed by the national executive board of the civil air patrol, incorporated, a federally chartered nonprofit corporation, in accordance with Public Law 476 of the 79th Congress. The appointment of such department head shall be subject to approval by the governor and the department head may be removed by the governor for cause.

§ 2.) The department of civil air patrol is hereby authorized to fully cooperate with any department or agency of the state of North Dakota, or with the United States government or any department or agency thereof, for the purpose of providing communications, rescue work, mercy missions, aerial observation, cadet training, or other related functions within the scope of the activity of the civil air patrol with the exception of law enforcement.

§ 3.) The commanding officer, North Dakota Wing, civil air patrol is hereby authorized to issue vouchers covering all expenditures of funds of the department, and the state auditor shall issue his warrant therefor in the same manner as other state funds are expended.

§ 4.) There shall be expended from the moneys appropriated to the department only such sums as shall be needed to purchase adequate communications systems, the upkeep of said communications system, maintenance of aircraft and vehicles owned by civil air patrol and provided that only such sums shall be expended for procurement of equipment or replacement not otherwise obtainable by grant or gift from any

other source. No funds shall be expended for uniforms or personal equipment of any member of the civil air patrol or for the purchase of aircraft or motor vehicles, nor shall any money be paid out of appropriated funds for any salaries.

§ 5.) There is hereby appropriated, out of the general fund in the state treasury not otherwise appropriated the sum of $36,200.00 or so much thereof as may be necessary for the biennium beginning July 1, 1959 and ending June 30, 1961.

Approved March 19, 1959.

CHAPTER 365

S. B. No. 209
(Wartner)

DISPOSAL OF OBSOLETE LAWS

AN ACT

Authorizing the disposal of volumes containing obsolete laws.

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

§ 1. Destruction of Volumes Containing Obsolete Laws.) The secretary of state shall be authorized to dispose of all volumes of the 1947 and 1953 Supplements to the North Dakota Revised Code of 1943 in his possession except ten volumes of each which he shall keep for historical purposes.

Approved March 16, 1959.

CHAPTER 366

H. B. No. 660

(Baldwin, Menz, Leet, Kelly, Maixner, Fries,)
(Streibel, Doherty, Saugstad, Tescher, Gress, Fitch,)
(Mosal, Trom, Anderson of McHenry, Frank, Thompson of McLean,)
(Scott, Renfrow, Tweten, Bassingthwaite, Graving, Hauf,)
(Klinger, Meyer, Poling, Nicolson)

NORTH DAKOTA NATIONAL STATUARY HALL COMMISSION

AN ACT

Creating a National Statuary Hall Commission in North Dakota for the purpose of determining a candidate whose statue shall be placed in the National Statuary Hall in Washington, D.C., and making an appropriation.

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

§ 1. North Dakota National Statuary Hall Commission.) There is hereby established a North Dakota Statuary Hall Commission which shall consist of ten members appointed by the governor from the citizens of North Dakota who shall serve until the duties prescribed in this Act have been completed. The members shall elect from their number a chairman who shall preside at all meetings of commission. The members of the commission shall receive no compensation for their services on such commission but they shall receive mileage and actual expenses for their services in the same manner as other state officials receive mileage and expenses. It shall be the duty of the North Dakota Statuary Hall Commission to select a deserving person from the state of North Dakota whose statue shall be placed, along with other great Americans, as the representative of the state of North Dakota in the National Statuary Hall in the United States Capitol building in Washington, D. C. The state historical society shall assist the commission in carrying out the provisions of this Act if called upon to do so by the commission. The commission shall report its recommendations to the Thirty-seventh Legislative Assembly.

§ 2. Appropriation.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of two thousand dollars, or so much thereof as may be necessary to the North Dakota Statuary Hall Commission for the purpose of paying expenses to the members of the commission as provided for in this Act.

Approved March 11, 1959.

CHAPTER 367

H. B. No. 818
(Kelly, Overbo, Leet)

STATE FLAG

AN ACT

To amend and reenact section 54-0202 of the North Dakota Revised Code of 1943, relating to the state flag.

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

§ 1. Amendment.) Section 54-0202 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-0202. State Flag.) The flag of North Dakota shall consist of a field of blue silk or material which will withstand the elements four feet four inches on the pike and five feet six inches on the fly, with a border of knotted yellow fringe two and one-half inches wide. On each side of said flag in the center thereof, shall be embroidered or stamped an eagle with outspread wings and with opened beak. The eagle shall be three feet four inches from tip to tip of wing, and one foot ten inches from top of head to bottom of olive branch hereinafter described. The left foot of the eagle shall grasp a sheaf of arrows, the right foot shall grasp an olive branch showing three red berries. On the breast of the eagle shall be displayed a shield, the lower part showing seven red and six white stripes placed alternately. Through the open beak of the eagle shall pass a scroll bearing the words "E Pluribus Unum". Beneath the eagle there shall be a scroll on which shall be borne the words "North Dakota". Over the scroll carried through the eagle's beak shall be shown thirteen five-pointed stars, the whole device being surmounted by a sunburst. The flag shall conform in all respects as to color, form, size, and device with the regimental flag carried by the First North Dakota Infantry in the Spanish American War and Philippine Insurrection, except in the words shown on the scroll below the eagle.

Approved March 14, 1959.

CHAPTER 368

H. B. No. 707
(Loewen and Doherty)

LEGISLATORS' LIVING EXPENSE

AN ACT

To amend and reenact section 54-0320 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to living expense allowances for members of the legislative assembly.

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

§ 1. Amendment.) Section 54-0320 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-0320. Allowance for Living Expenses of Members of Legislative Assembly.) Each member of the legislative assembly of the state of North Dakota shall be entitled to, and shall receive the sum of twelve hundred dollars as reimbursement for his living expenses, including meals, lodging and uncompensated travel, and other necessary expense during the legislative session and for expenses incurred in the execution of his public duties during the remainder of his term or each two years thereof, which sum of twelve hundred dollars shall be payable as follows: One-half of said sum payable at the end of the thirtieth day of the session and the remaining one-half thereof to be paid at the close of the legislative session. Attendance at the biennial session of the legislative assembly by any member thereof shall be a conclusive presumption of the expenditure of such expense allowance for the purposes set forth in this section and shall be excluded for gross income for income tax purposes. Said sum shall be paid in the same manner as the regular per diem of the members of the legislative assembly is paid.

Approved March 19, 1959.

CHAPTER 369

S. B. No. 55
(Holand, Johnson, Wenstrom, Gefreh,)
(Krause, Roen)
(From LRC Study)

PURCHASE OF BISMARCK JUNIOR COLLEGE BUILDING

AN ACT

Relating to purchase of a building for highway maintenance offices, providing for its maintenance and management, for transfer of certain land incident thereto, and making an appropriation, and amending section 54-2118 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ 1. Appropriations.) There is hereby appropriated out of any moneys in the state highway construction fund the sum of $220,000, and out of the permanent state capitol building fund the additional sum of $310,000, for an aggregate appropriated amount of $530,000, for the purchase of the Bismarck Junior College building adjacent to the capitol grounds, from Bismarck Special School District No. 1, to be used to house the state highway department or parts thereof, the state highway patrol, and the office of the motor vehicle registrar, or such offices as the governor may determine. There is hereby also appropriated the additional sum of $30,000, out of any moneys in the state highway construction fund for the purpose of remodeling said building for highway department use.

§ 2. Transfer of Land.) The state board of administration shall purchase the land which was heretofore conveyed to the Bismarck Special School District No. 1 pursuant to chapter 307 of the North Dakota Session Laws of 1951, to-wit:

The south fifteen acres on the west side of Highway No. 83 of that fractional part of the northeast quarter of section 33, township 139 north, range 80 west bounded by and lying within the following described traverse:

Beginning at a point on the north section line of said section 33, a distance of 596.7 feet from the northeast corner thereof; thence south zero degrees 34 minutes east, a distance of 2150.66 feet; thence south 89 degrees 31 minutes west, a distance of 300.0 feet; thence south zero degrees 34 minutes east, a distance of 352.7 feet; thence north 89 degrees 26 minutes 30 seconds west, a distance of 600.38 feet; thence north zero degrees 34 minutes west, a distance of 2490.56 feet; thence north 89 de-

grees 24 minutes east, a distance of 900.3 feet to the place of beginning, excepting all that portion lying within the right-of-way of U. S. Highway No. 83, and within 33 feet of the section line; in consideration for the transfer from the state board of administration to the Bismarck Special School District No. 1 of the following described property, to-wit:

That portion of the northwest quarter of section 2, township 138 north, range 80 west, comprising 34 acres more or less, lying within and bounded by the following generally described area: commencing at a point which is 544.2 feet south and 33 feet east of the northwest corner of said section 2 which is the point of beginning; thence due east at an angle of 90 degrees to the north-south section line, a distance of 364 feet to a point; thence due south at an angle of 90 degrees, a distance of 723.5 feet to the north right-of-way boundary of the city of Bismarck's open drainage ditch; thence in an easterly direction along the north right-of-way boundary of said ditch a distance of 1020 feet to a point; thence north approximately 1400 feet to a point 33 feet south of the north line of section 2; thence west aproximately 1360 feet to a point 33 feet south and 33 feet east of the northwest corner of said section 2; thence south 544.2 feet to the point of beginning.

The necessary deed to the Bismarck School District shall be executed by the governor and attested by the secretary of state, provided that the deed shall specify that if at any time the land conveyed is not used for school purposes, the title thereto shall revert to the state; provided further that the consideration appropriated in section 1 as well as the transfer of land herein shall be executed and delivered on or before July 10, 1959, but the Bismarck School District shall remain in occupancy and possession of the Junior College building until January 31, 1961 without further consideration therefor, and the state board of administration shall be permitted to lease that portion of the land herein transferred which is not currently used for school purposes, annually, without cost to the state, for grazing or pasture purposes.

§ 3. Custody of Land to State Board of Armory Supervisors.) The custody and control of the following property is hereby transferred from the state board of administration to the state board of armory supervisors;

A plot of land lying in the northwest quarter of section 2, township 138, range 80 west, Burleigh County, North Dakota, described as follows:

Commencing at a point which is 544.2 feet south and 33 feet east of the northwest corner of said section 2 which is the point of beginning: thence due east at an angle of 90 degrees to the north-south section line, a distance of 364 feet to a point;

thence due south at an angle of 90 degrees, a distance of 723.5 feet to the north right-of-way boundary of the city of Bismarck's open drainage ditch; thence west along the 1 degree 24 minute curve of the north right-of-way boundary of said ditch a distance of 127 feet to the point of curvature of said right-of-way boundary; thence due west along the north right-of-way boundary of said ditch, a distance of 237 feet to a point, which is 33 feet east of the west section line of said section 2; thence north, parallel and 33 feet east of the west line of said section 2, a distance of 721.9 feet to the point of beginning. Said tract contains 6.03 acres more or less.

§ 4. Custody of Office Building: Considered Part of Capitol Building.) The state board of administration shall control, manage and maintain the aforesaid state office building. The building shall be considered a part of the state capitol building within the meaning of statutes relating to the custody, maintenance and control of the state capitol building and grounds, and within the meaning of statutes requiring state departments or agencies to maintain their offices in the state capitol building.

§ 5. Amendment.) Section 54-2118 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2118. Board Has Control of Public Property.) The board shall have charge and control of the executive mansion and the capitol and the park and public grounds connected therewith.

Approved March 9, 1959.

CHAPTER 370

H. B. No. 554
(Menz)

MEMBERSHIP OF INDIAN AFFAIRS COMMISSION

AN ACT

To amend and reenact section 54-3601 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to membership on the North Dakota Indian Affairs Commission.

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

§ 1. Amendment.) Section 54-3601 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-3601. Commission: Created; Members; Officers; Expenses of Certain Members.) There is hereby created a North Dakota Indian affairs commission which shall consist of the governor, commissioner of agriculture and labor, superintendent of public instruction, 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. In addition the tribal chairmen of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian Reservations shall serve on the commission. The governor 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.

Approved February 5, 1959.

CHAPTER 371

H. B. No. 864
(Delayed Bills Committee)

KOREAN CONFLICT ADJUSTED COMPENSATION BONDS

AN ACT

To amend and reenact section 54-3902 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to Korean Conflict Adjusted Compensation Bonds, purpose of issue and use of proceeds.

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

§ 1. Amendment.) Section 54-3902 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-3902. Authority for Issuing Bonds of North Dakota Korean Conflict Adjusted Compensation Series; Purpose of Issue, Use of Proceeds.) An issue of not to exceed nine million dollars general obligation bonds of the state of North Dakota is hereby authorized and directed under the conditions, in the manner and for the purpose stated in the amendment to the Constitution of North Dakota, adopted by the Thirty-fourth Legislative Assembly of the state of North Dakota as House

Concurrent Resolution "D" and approved by the people at the primary election held in June, 1956, and the generally applicable provisions of the Constitution and the statutes of the state of North Dakota. The preparation, handling, issuance, sale and delivery of such issue of bonds shall be under the supervision and control of the industrial commission of North Dakota, which commission is hereby authorized and directed to negotiate a satisfactory sale of such issue of bonds as soon after the effective date of this Act (chapter) as may be necessary to provide funds for the payment of adjusted compensation to veterans of the Korean conflict. Such issue of bonds is authorized for the sole purpose of providing funds to be used in payment of adjusted compensation to North Dakota veterans of the Korean conflict and such funds are hereby appropriated for such purpose. When the purpose of such appropriation has been satisfied all remaining moneys shall be transferred to the sinking fund for such issue of bonds.

Approved March 14, 1959.

CHAPTER 372

S. B. No. 43
(Gefreh, Longmire, Luick, Meidinger,)
(Vendsel, Wartner)
(From LRC Study)

GOVERNMENTAL REORGANIZATION AND DEPARTMENT OF ACCOUNTS AND PURCHASES

AN ACT

To create and enact chapter 54-44 and section 54-23411 of the North Dakota Revised Code of 1943, relating to the establishment of a department of accounts and purchases and the setting forth of the powers and duties of such a department and to the examination and payment of monthly purchases by this department of accounts and purchases; to amend and reenact sections 4-0114, 6-0917, 12-4906, subsection 4 of section 15-3916, sections 15-3932, 15-4006, 15-4402, 15-4403, 18-0303, 18-0304, 18-0305, 18-0307, 18-0512, 19-0509, 19-0510, 26-2209, 32-1203, 32-1204, 37-0602, 37-0603, 37-0606, 37-1513, 46-0101, 46-0102, 46-0201, 46-0203, 46-0210, 46-0211, 46-0212, 46-0214, 50-0607, 50-0614, 54-0606, 54-0608, 54-1001, 54-1002, 54-1003, 54-1004, 54-1101, 54-1102, 54-1103, 54-1207, 54-1401, 54-1402, 54-1505, 54-1506, 54-1508, 54-1509, 54-1608, 54-1609, 54-2119, 54-2306, 54-2330, 54-2331, 54-2333, 54-2334, 54-2335, 54-2336, 54-2337, 54-2338, 54-2340, 54-2614, 54-2703, 54-2704, 54-2705, 54-2706, 54-2707, 54-2709, 54-2711, 54-2714, 54-2715, 54-3016, 55-0104, 55-0107, 57-4508, and 61-0213 of the North Dakota Revised Code of 1943 and sections 6-01214, 15-3921, 15-4020, 15-4021, 18-0308, 18-0402, 18-0403, 18-0405, 18-0406, 18-0513, 19-0508, 20-1307, 20-1408, 24-0212, 24-0213, 24-0216, 24-0217, 24-0237, 24-0312, 24-0313, 24-0314, 36-2209, 37-1515, 39-0308, 44-0801, 46-0204, 46-0205, 46-0206, 46-0207, 46-0209, 46-0213, 54-1504, 54-1513, 54-1814, 54-2341, 54-2708, 54-27151, 57-27154 and 57-3724, of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the reorganization of certain departments and agencies of the state government, abolishing and consolidating certain departments; reorganizing fiscal, administrative, and purchasing procedures; transferring certain duties of the state auditor to a department of accounts and purchases; vesting the state auditor with the responsibility of conducting a true post audit; transferring authority to purchase for the various state departments and agencies from the board of administration to a department of accounts and purchases; and transferring certain tax collecting functions from the state treasurer to the state tax commissioner; and to repeal chapter 54-22 and sections 12-4907, 46-0103, 54-1005, 54-1006, 54-1007, 54-1008, 54-1009, 54-1011, 54-2115, 54-2116, 54-2332 and 65-0210 of the North Dakota Revised Code of 1943 and sections 6-0121, 54-1512, 54-1513, 54-1514, and 54-27152 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to state fiscal, administrative, and purchasing procedures, the director of state budget board, board of auditors, state purchasing agent, state printer and printing commission, and to provide for an effective date of July 1, 1960.

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

§ 1.) Chapter 54-44 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

54-4401. Declaration of Legislative Intent.) It is the intent of the legislative assembly to establish a department of accounts and purchases which together with the auditing board will be a central authority, vested with the control and supervision of the fiscal administration of the executive branch of the government, and which will be directly responsible to the governor. It is further the intent of the legislative assembly to endow the office of the state auditor with the primary responsibility of conducting a true independent post audit of all the executive departments and agencies. In addition it is the intent of this body to consolidate and vest in the office of the state tax commissioner the responsibility of collecting additional taxes.

Therefore, the provisions of this Act shall be liberally construed in a manner which will implement the intent of the legislative assembly herein declared.

54-4402. State Department of Accounts and Purchases.) There is hereby created a department of accounts and purchases which shall be vested with the duties, powers, and responsibilities necessary to supervise and administer the fiscal transactions of the various state departments, agencies, boards and commissions.

54-4403. Director of Department of Accounts and Purchases.) There shall be a director of the department of accounts and purchases who shall be appointed by and serve at the will of the governor. The salary of the director shall be set by the governor within the limits of the appropriation made therefor by the legislative assembly, and the director and other employees of the department shall be reimbursed for expenses incurred in carrying out the duties of their office at the same rate and in the same manner as other state officials. The director shall be empowered to prescribe regulations, not inconsistent with law or rules established by the governor, for the administration of the department of accounts and purchases, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of the records, documents, and property pertaining thereto. He shall be empowered to set up such divisions or other internal organization within the department that he shall deem necessary in order to efficiently carry out the duties, powers, and responsibilities of the department.

The director of the department of accounts and purchases shall execute an official bond in the sum of one hundred thousand dollars.

54-4404. Powers and Duties of the Director of Accounts and Purchases.) The director of the department of accounts and purchases, or such subordinate officer as he shall designate:

1. Shall be vested with the duties, powers and responsibilities involved in securing budget estimates and work programs from the several departments and agencies of the state government;
2. Shall be vested with the duties, powers and responsibilities involved in the preparation of revenue and fixed expense estimates;
3. Shall, as director of the state budget board, review appropriation requests, and aid the budget board in the preparation of a complete and coordinated biennial budget, balancing anticipated revenues and recommended appropriations, for submission to the legislative assembly, except that in such review neither he nor the budget board shall alter budget requests of the legislative and judicial branches of the government or their officers or agencies. This budget shall be available to legislative committees and individual legislators by the first day of December of the year preceding the session, and at the same time that the budget is submitted to the legislative assembly the director shall transmit to the legislative assembly all statements, estimates, and requests, or copies thereof, which were filed with the department of accounts and purchases by officers, boards, and commissions;
4. Shall exercise continual control over the execution of the budget affecting the departments and agencies of the executive branch of the state government, involving approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and control of the rate of expenditures through a system of semi-annual, quarterly or monthly allotments;
5. Shall examine the budget affecting the legislative and judicial branches of the state government, but only for the purpose of determining the sufficiency of funds to meet the contemplated expenditures of these branches of state government or their officers or agencies;
6. Shall conduct a constant study of the requirements and plans of the several departments and agencies;
7. Shall have the authority to procure from the various departments, agencies, and employees such information as may be necessary for the preparation and execution of the budget;
8. Shall keep the general accounts, reflecting for each fund the resources, obligations, reserves, and surpluses, together with current revenues and expenditures;
9. Shall as secretary of the auditing board process all claims for submittal to such board, which board shall

conduct the pre-audit of all claims from the executive branch of the government before payment and the director shall conduct the current audit of all revenues, which shall include the supervision of the collection of all moneys due the state;

10. Shall record all regular purchase orders and other encumbrance documents as encumbrances against available appropriations and allotments and certify as to availability of funds before issuance to vendors;
11. Except as otherwise provided by law shall prepare warrants on the state treasurer for signature by the state auditor for payment of all claims from the executive branch of the government when approved by the auditing board and all other claims from the judicial and legislative branches of the government;
12. Shall be vested with the duties, powers, and responsibilities involved in the development and installation of financial records and procedures for all state departments and agencies;
13. Shall conduct such interval audits of accounts in the several departments of the state as he shall deem necessary;
14. Shall issue current reports to administrative officials concerning the status of revenue, expenditures and appropriation accounts, and shall make periodic financial reports to the governor, administrative officials, the legislative assembly and the public;
15. Shall report to the governor on or before the fifteenth day of November next preceding each regular session of the legislative assembly a statement of the funds of the state, the revenues of the state, and public expenditures during the two preceding fiscal years;
16. Shall accompany his biennial report with tabular statements showing the amount of each appropriation for the two preceding fiscal years, the amount expended, and the balance, if any, and also the amount of revenue chargeable to each county for such years, the amount paid, and the amount unpaid or due therefrom;
17. Shall, when requested, give information in writing to either house of the legislative assembly relating to the fiscal affairs of the state or to the administration of his office;
18. Shall submit to the governor at the close of each business day, or at such times as the governor may request. a report showing the current condition of each fund and appropriation;
19. Shall keep an account with each organized county of the state in which each county shall be charged with

the amount of delinquent taxes due to the state, and with all sums levied in such county for state purposes, and shall be credited with all sums paid into the state treasury on account of such taxes;

20. Shall keep an account between the state and state treasurer, and charge the state treasurer therein with the balance in the treasury when he came into office, and with all moneys received by the state treasurer, and credit him with all warrants drawn on and paid by him,
21. Shall be vested with the duties, powers, and responsibilities involved in the operation of a centralized purchasing service. This purchasing service shall include the purchase of all equipment, furniture, fixtures, printing, materials, supplies and other commodities for all state departments, institutions, offices, and agencies, excluding land, buildings, or space, or the rental thereof, and excepting emergency purchases that are impossible of execution by the department of accounts and purchases within the required time, highly specialized equipment which can be better purchased by the department, institution or office which is to utilize such equipment, and such specific items and minor purchases as the director may exempt;
22. Shall maintain and operate such supply rooms as may be found desirable to supply the several departments with office supplies and other commonly used commodities, however this subsection shall not be construed as authorizing the establishment of a warehousing system;
23. Shall establish and operate a central duplicating service and central mechanical or electronic data processing facilities; and
24. Shall perform such other duties as are or may be prescribed by law.

54-4405. Warrants; Numbered; Show Funds on Which Drawn; Not Drawn Unless Authorized.) Warrants drawn by the department of accounts and purchases and signed by the state auditor on the state treasurer shall be numbered consecutively in the order in which they are drawn. Every warrant shall be drawn upon the fund out of which it is payable and shall specify for what it is drawn and when the liability occurred. A warrant shall not be drawn by the department of accounts and purchases and signed by the state auditor unless authorized by law, and unless there are funds in the treasury applicable to the payment thereof to meet the same. In case of an emergency, and in anticipation of taxes already levied and in the process of collection, the department of accounts and purchases may prepare warrants to be signed by the

state auditor in payment of duly authorized vouchers even though funds at such time do not exist to honor the warrants. Warrants so issued shall be payable by the state treasurer out of any funds in his hands other than sinking funds, or funds dedicated by the Constitution of this state for other purposes.

54-4406. Duties as to School Fund.) The department of accounts and purchases shall keep a separate account of the school fund and of the interest and income thereof, together with such moneys as may be raised by special tax or otherwise for school purposes. The department shall perform such duties with reference to the apportionment of such fund as are described in the title Education.

54-4407. Department to Set Up Account Against Person Who Fails to Render Account.) Whenever any person has received moneys or has moneys or other personal property which belongs to the state by escheat or otherwise, or has been entrusted with the collection, management, or disbursement of any moneys, bonds, or interest accruing therefrom, belonging to or held in trust by the state, and fails to render an account thereof to and make settlement with the department of accounts and purchases within the time prescribed by law, or when no particular time is specified, fails to render such account and make such settlement, or fails, within twenty days after request by the department of accounts and purchases to pay into the state treasury any money belonging to the state, the department of accounts and purchases must state an account with such person, charging interest at the rate of twelve percent per annum from the time of the failure. A copy of such account shall be prima facie evidence in any suit of the things therein stated. If the department of accounts and purchases, for want of information, cannot state an account, that fact may be alleged and the amount of money or other property which is due or which belongs to the state may be stated generally.

54-4408. Director to Institute Suits in Name of State.) The director of the department of accounts and purchases shall institute suit in the name of the state against:

1. Officials for all official delinquencies in relation to the assessment, collection, and payment of the revenue;
2. Persons who by any means have become possessed of public moneys or property and who fail or neglect to pay for or deliver the same; and
3. All persons indebted to the state.

54-4409. Supplies for Institutions Under Control of the Department of Accounts and Purchases.) The department of accounts and purchases shall make all purchases of goods and

materials on behalf of the various state institutions, departments and agencies in accordance with the standards and specifications of the United States Bureau of Standards.

54-4410. Legislative Inspection of Books of Department of Accounts and Purchases.) Whenever required the department of accounts and purchases shall submit its books, accounts, and vouchers to the inspection of the legislative assembly, or any committee thereof authorized to request such documents.

§ 2.) Section 54-23411 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

54-23411. Examination of Monthly Purchases; Payment.) When the monthly statement of purchases has been examined and approved by the department of accounts and purchases, the department shall prepare a warrant or warrants for signature of the state auditor for the amount thereof and shall deliver the same to the proper officer of the institution, to be paid out in conformity with such rules as the department of accounts and purchases may prescribe.

§ 3. Amendment.) Section 4-0114 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-0114. Expenses To Be Paid by State.) The expenses incurred in procuring and furnishing the necessary blanks, stationery, and postage and in compiling and publishing the statistical information required in this chapter, shall be paid by the state treasurer on warrants prepared and issued by the department of accounts and purchases and signed by the state auditor, which shall be issued on the presentation of the account of the state statistician duly verified, when approved by the state auditing board.

§ 4. Amendment.) Section 6-01214 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-01214. Examination in Case of Irregularity or Embezzlement.) It shall not be the duty of the state examiner or his staff to make examinations of any political subdivision, funds, commissions, associations, and bureaus, for the reason of severance from the service of such political subdivisions, funds, commissions, associations, and bureaus of any officer, clerk, deputy, cashier, or other employee unless the head of such state office or department, or the board administering any other of the agencies named herein shall request such examination in writing, and state that there is reason to believe that there is irregularity in handling funds or embezzlement involved.

§ 5. Amendment.) Section 6-0917 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0917. Department of Accounts and Purchases to Issue Warrants Against Transferred Funds.) The department of accounts and purchases shall prepare and issue warrants signed by the state auditor against money transferred by the Bank of North Dakota to other departments, institutions, utilities, industries, enterprises, or projects of the state in the manner provided for the transfer of funds derived from the payment of taxes or otherwise.

§ 6. Amendment.) Section 12-4906 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

12-4906. Cash Payments: Department of Accounts and Purchases Authorized to Draw Warrants.) The department of accounts and purchases may prepare its warrant on the state treasurer, signed by the state auditor, payable to the treasurer of the penitentiary, for the payment of sight drafts, freight bills, or any item or thing purchased which has been or must be paid for in cash before delivery. The department's warrant shall be issued upon the written application signed by the officer of the penitentiary who is authorized to sign the expense lists and orders for the institution, and upon an affidavit filed with the department of accounts and purchases showing which items were so paid for in cash or which items must be paid for on delivery and stating to what accounts the sums shall be credited by the treasurer of the penitentiary.

§ 7. Amendment.) Subsection 4 of section 15-3916 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4. The department of accounts and purchases shall retain the amounts of the assessments provided in this chapter from the monthly salary of the superintendent of public instruction, his deputies, and assistants, and from the monthly salary of each state school inspector or supervisor subject to the provisions of this chapter;

§ 8. Amendment.) Section 15-3921 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-3921. Moneys Derived From Assessments and Contributions To Be Transmitted to State Treasurer.) Between July fifteenth and August first of each year, the county treasurer, the secretary or disbursing officer of each state institution, the department of accounts and purchases, the state board of

higher education, and the board of directors of the North Dakota education association shall transmit to the state treasurer the assessments deducted and retained as provided in this chapter and which have been received by such officer or board under the provisions of this chapter, and in addition thereto, contributions to the fund in an amount equal to such assessments shall be set aside from funds available for the payment of the salary of the teachers, except that no contribution paid by any school district, association, board, office or institution, as determined by a teacher's contribution, shall exceed four percent of the teacher's salary or the maximum contribution as specified in section 15-3914 of this chapter. Such contributions shall be transmitted to the state treasurer. The transmitting officer shall certify to the board under oath the amount of moneys received and transmitted as assessments for and contributions to the fund, and if the transmitting officer is other than a county treasurer, he shall furnish to the board a statement showing the name and monthly salary of each teacher from whom assessments have been collected by him, the total salary of such teacher, the number of months in which such teacher was employed during the year for which the statement is made, the total amount withheld from the salary of each teacher and contributed by each state institution, the state, the state board of higher education, and the North Dakota education association, in accordance with the provisions of this chapter, the total amount withheld from the salaries of all teachers included in the statement, and the total number of years each teacher listed in the statement has been a teacher in the state.

§ 9. Amendment.) Section 15-3932 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-3932. Annuities Payable Quarterly.) The state treasurer shall pay the annuities quarterly, in September, December, March, and June of each year, upon the warrants prepared and issued by the department of accounts and purchases and signed by the state auditor upon the certificates of the president or the secretary of the board.

§ 10. Amendment.) Section 15-4006 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4006. Expenditure of Emergency Fund: Certificate of Needy Schools to Department of Accounts and Purchases.) From the information obtained in the manner set forth in section 15-4005, the superintendent of public instruction shall certify monthly to the department of accounts and purchases a list of school districts which are unable to pay the minimum

amount as determined in the manner set forth in said section for the operation of their schools after having made the maximum financial effort to do so, together with a statement of the amount of money required by such districts to meet such minimum standards.

§ 11. Amendment.) Section 15-4020 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***15-4020. Distribution of Payments to County Tuition Funds and County High School 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 tuition funds and county high school equalization funds in the state together with a statement of the payments due each fund. The department of accounts and purchases shall pay to each such fund from the state equalization fund the sum found to be due under the provisions of this chapter upon warrants prepared and issued by the department and signed by the state auditor.

§ 12. Amendment.) Section 15-4021 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

****15-4021. Method of Making Payment From Fund; Duty of Department of Accounts and Purchases; Use of Moneys Restricted.)** The department of accounts and purchases shall make the payments provided for in this chapter for high school correspondence work, for vocational education in agriculture, home economics, and distributive occupations, and for occupational information and guidance, upon the receipt of the certificates therefor from the state board of public school education, except that until January 1, 1957, such certificates for high school correspondence work shall be submitted by the state board of higher education, and the department shall make the payments from the emergency fund on the basis of need, the high school tuition payments, and the payments to county tuition funds and county high school equalization funds upon receipt of the certificates therefor from the superintendent of public instruction. Such payments shall be by warrants prepared and issued by the department of accounts and purchases and signed by the state auditor, drawn upon the fund and made payable to the respective school districts, schools or county auditors, as the case may be, or to the county superintendent of schools, as directed by the superintendent of public instruction. If such warrants are sent to the county

*__Note:__ Section 15-4020 was also amended by chapter 170, section 7.
**__Note:__ Section 15-4021 was also amended by chapter 170, section 8.

superintendents they shall deliver them to the school districts, schools, or county auditors within their respective counties. Each clerk, secretary or other official shall make a record of each such warrant received by him and shall deliver such warrant to the treasurer. Such payments shall be deposited to the general fund of the school district or to the county tuition fund or county high school equalization fund as the case may be.

§ 13. Amendment.) Section 15-4402 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4402. Reports of County Treasurer.) The county treasurer shall receive from the proper officers the net proceeds of fines for violation of state laws, and all moneys arising from leasing of school lands within the county, and shall forward a detailed statement of moneys so collected, specifying the amount received from each source, to the department of accounts and purchases, at the time of making reports of other moneys to the department of accounts and purchases.

§ 14. Amendment.) Section 15-4403 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-4403. Certificate by Department of Accounts and Purchases; Apportionment by Superintendent of Public Instruction; Warrant; Notice to County Treasurers.) The department of accounts and purchases on or before the third Monday in February, May, August, and November in each year, shall certify to the superintendent of public instruction the amount of the state tuition fund. The superintendent shall apportion such fund immediately among the several counties of the state in proportion to the number of children of school age residing in each as shown by the last enumeration provided for by law, and shall certify to the department of accounts and purchases, state treasurer, and to the county treasurer and county superintendent of schools of each county, the amount apportioned to the respective counties. Immediately upon receipt of the apportionment from the superintendent of public instruction, the department of accounts and purchases shall prepare and issue a warrant, signed by the state auditor, upon the state treasurer for the full amount of the state tuition fund apportioned to the several counties and shall deliver the same to the state treasurer, taking his receipt therefor. The department of accounts and purchases shall notify the several county treasurers of the amount due their respective counties and that the warrant has been issued therefor. The state treasurer, upon such warrant, shall pay the amount due the several counties to the respective county treasurers.

§ 15. Amendment.) Section 18-0303 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0303. Secretary to Report to Department of Accounts and Purchases Time and Place of School and Name of Treasurer.) At least thirty days prior to the date of holding any such school, the secretary of the North Dakota firemen's association shall forward to the department of accounts and purchases the name of the place where, and the date when, each regional fire school will be held. The secretary also shall furnish to the department of accounts and purchases the name and address of the treasurer of the association.

§ 16. Amendment.) Section 18-0304 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0304. Association to Furnish Bond.) The North Dakota firemen's association shall file with the director of the department of accounts and purchases a good and sufficient bond in the penal sum of two thousand dollars conditioned for the faithful disposition of the funds appropriated by the legislative assembly for the use of the association in conducting regional fire schools.

§ 17. Amendment.) Section 18-0305 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0305. Statement of Desired Appropriation Submitted to Budget Board.) Not later than August first of each year next preceding a regular session of the legislative assembly, the department of accounts and purchases shall send to the secretary of the North Dakota firemen's association a suitable blank form to be filled out by such secretary with an itemized statement of the amount of money he considers necessary to promote the efficiency and growth of the different fire departments of the association, and to conduct the regional fire schools to be held during the succeeding biennium under the direction of the association. The secretary shall return the blanks properly filled out as provided in section 54-1505. The director of the department of accounts and purchases shall submit such statement to the state budget board.

§ 18. Amendment.) Section 18-0307 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0307. Department of Accounts and Purchases to Pay Sum Appropriated to Association Treasurer.) Not later than the first day of August of each year, the department of accounts

and purchases, by warrants prepared and issued by the department and signed by the state auditor, shall pay to the treasurer of the North Dakota firemen's association the sum appropriated by the legislative assembly for that year. Such sum, however, shall not be paid until the treasurer of the association has filed the bond required in section 18-0304.

§ 19. Amendment.) Section 18-0308 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0308. Report of Use of Money.) On or before the first day of July of each year, the president, secretary, and treasurer of the North Dakota firemen's association shall make to the department of accounts and purchases a full and complete report, duly verified by the secretary, of the disposition of all moneys received; and the state auditor shall examine the books of the said association annually, the cost of said audit to be borne by the firemen's association.

§ 20. Amendment.) Section 18-0402 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0402. City Auditor, Village Clerk or Secretary of Rural Fire Department to File Certificate With Department of Accounts and Purchases and Commissioner of Insurance.) On or before the thirty-first day of October in each year, the auditor, clerk or secretary of any city, village or rural fire department which has an organized fire department shall make and file with the department of accounts and purchases and with the commissioner of insurance his certificate stating the existence of the fire department, the date of its organization, the number of steam, hand, or other fire engines, hook and ladder trucks, and hose cars in actual use, the number of organized companies in the department, the number of members in each company, and the system of water supply in use by the department, together with such other facts as the department of accounts and purchases or commissioner may require.

§ 21. Amendment.) Section 18-0403 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0403. Failure to File Certificate Deemed Waiver; Exception.) If the certificate required by section 18-0402 is not filed with the department of accounts and purchases and commissioner of insurance on or before the thirty-first day of October, the city, village or rural fire department failing to file the same shall be deemed to have waived and relinquished its

rights for such year to the benefits of this chapter. If, however, the city, village or rural fire department has filed its certificate for three successive years and has drawn money thereunder for such time, the certificate may be filed at any time up to and including March first of the succeeding year without waiving the right to the benefits provided in this chapter.

§ 22. Amendment.) Section 18-0405 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0405. Amount Due Cities; Villages or Rural Fire Departments; Certificate of Commissioner of Insurance to Department of Accounts and Purchases.) The amount due to a city or village to benefit under the provisions of this chapter shall be two and one-fourth percent of the premium received by insurance companies on fire insurance policies issued on property in such cities or villages. The commissioner of insurance shall compute the amounts due to the several cities or villages and shall certify such amounts to the department of accounts and purchases on or before June first in each year. The commissioner of insurance shall certify to the department of accounts and purchases on or before June first of each year an additional one hundred dollars to be paid to each city or village fire department performing service outside of its incorporated limits. For each rural fire department organized within the provisions of this chapter, the amount of two hundred dollars per year shall be certified to the department of accounts and purchases. There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, as a standing and continuing appropriation, such sums as may be necessary to make payments as provided in this section.

§ 23.) Section 18-0406 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0406. Department of Accounts and Purchases to Issue Warrants on State Treasurer for Benefits.) On or before the first day of June of each year, the department of accounts and purchases shall deliver to the treasurer of each municipality having an organized fire department and to each treasurer of a rural fire department entitled to the benefits of this chapter, a warrant upon the state treasurer prepared and issued by the department and signed by the state auditor for the amount certified by the commissioner of insurance. Such warrants shall be numbered consecutively and shall specify the date of their issuance and to whom payable. The warrants shall be paid by the state treasurer to the municipal treasurer or the treasurer of the rural fire department upon presentation.

§ 24. Amendment.) Section 18-0512 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0512. Secretary and Treasurer of Firemen's Relief Association to Prepare Report; Contents; Filing.) The secretary and treasurer of every firemen's relief association shall prepare annually a report of all the receipts and expenditures of the association for the previous year showing the source of all receipts and for what purpose and to whom any money was paid and expended. Such report shall be filed in the office of the city auditor or village clerk of the municipality wherein the association is situated, and a duplicate of the report shall be filed with the department of accounts and purchases before any money shall be paid to any such relief association.

§ 25.) Section 18-0513 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

18-0513. State Examiner to Examine Books of Relief Association; Report of Unauthorized Spending to Governor; Duty of Governor.) The state examiner, annually shall examine the books and accounts of the secretary and treasurer of each firemen's relief association receiving funds under the provisions of this chapter. If he finds that the money, or any part of it, has been or is being expended for unauthorized purposes, he shall report the facts to the governor. Thereupon, the governor shall direct the department of accounts and purchases not to prepare any warrants for the benefits of the fire department or relief association of the municipality in which such association is organized until it shall be made to appear to the state examiner who shall report the fact to the governor, that all moneys wrongfully expended have been replaced. The governor may take such further action as the emergency may demand. Each firemen's relief association shall pay into the state treasury fees for such annual examinations at the same rate as fixed by section 6-01212 of the North Dakota Revised Code of 1943 as amended, for the examination of the books and accounts of city auditors and city treasurers.

§ 26. Amendment.) Section 19-0508 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0508. Tax on Oleomargarine; Containers for Sale; Tax Stamps To Be Affixed.) The state treasurer shall collect a tax of ten cents per pound upon all oleomargarine sold to consumers in this state. An additional tax of ten cents per pound

shall be collected upon all oleomargarine which is yellow in color sold to consumers in this state. Oleomargarine shall not be sold in this state in packages containing less than one pound nor more than thirty pounds. Before a box, carton or other container of oleomargarine is sold or distributed by a wholesaler he shall attach to each package a stamp denoting the payment of the tax upon the oleomargarine therein contained. Such stamps shall be canceled in the manner required by the state treasurer. The state auditor will cause destruction of returned canceled stamps at the time of the annual audit and a note of such destruction will be part of the audit. Canceled stamps will be destroyed by burning after audit by the state auditor. All wholesalers selling or distributing oleomargarine in the state shall make such reports to the state treasurer as he may prescribe. Oleomargarine shall be held to be yellow in color when it has a tint or shade containing more than one and six-tenths degree of yellow or of yellow and red collectively but an excess of yellow over red, measured in the terms of the lovibond tintometer scale or its equivalent.

§ 27. **Amendment.)** Section 19-0509 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0509. Treasurer to Supply Stamps; Tax Deposited in General Fund.) The state treasurer shall prepare and purchase suitable stamps denoting the payment of the tax for use on each kind of package described in this chapter. The state treasurer shall keep an accurate record of all stamps coming into and leaving his hands. The moneys received from the sale of the stamps shall be turned into the general fund of the state. Such stamps shall be of the type that contains adhesive qualities so that once they are applied to carton or package they will so remain. Stamps that have been removed from oleomargarine packages that have been shipped from dealers within North Dakota back to wholesalers or jobbers may be forwarded to the state treasurer with an affidavit signed by a person in authority with the wholesalers or jobbers.

§ 28. **Amendment.)** Section 19-0510 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0510. Treasurer to Redeem Stamps: Unlawful for Dealer to Sell or Dispose of Stamps.) The state treasurer, upon request, shall redeem and make repayment for unused stamps. No dealer, wholesaler or jobber shall sell or dispose of any stamps received by him under the provisions of this chapter to another dealer or to any other person. If a person owns or operates more than one place of sale, stamps may be distrib-

uted to the various places of sale by the main office, but each such place of sale shall have a separate license and cancellation stamp.

§ 29. Amendment.) Section 20-1307 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1307. Payment of Certificates by Commissioner; Record of Warrants Issued.) The commissioner, when a certificate issued by virtue of the provisions of this chapter is presented or forwarded for payment, shall:

Give the person owning such certificate a warrant drawn on the fund appropriated for that purpose by the legislative assembly, prepared and issued by the department of accounts and purchases and signed by the state auditor upon a voucher submitted by the commissioner based on the certificate. Such warrant shall be in the amount required to compensate, at the bounty price provided for in this chapter, for the number of skins mentioned in the certificate.

The commissioner shall keep an account of all warrants so issued and paid.

§ 30. Amendment.) Section 20-1408 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

20-1408. Payment of Certificates by Commissioner; Record of Warrants.) The commissioner, when a certificate issued by virtue of the provisions of this chapter is presented or forwarded for payment, shall give the person owning such certificate a warrant drawn on the fund appropriated for that purpose by the legislative assembly, prepared and issued by the department of accounts and purchases and signed by the state auditor upon a voucher submitted by the commissioner based upon the certificate. Such warrant shall be in the amount required to compensate, at the bounty prices provided for in this chapter, for the number of birds mentioned in the certificate. The commissioner shall keep an account of all warrants so issued and paid.

§ 31. Amendment.) Section 24-0212 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0212. Auditing and Payment of Payrolls.) Payroll vouchers prepared on forms adopted in accordance with section 24-0234, shall be certified and approved by the commissioner and the same shall be presented to the department of accounts and purchases which shall prepare and issue a warrant signed

by the state auditor for each person named thereon without submitting such payroll voucher to the state auditing board for its examination and approval.

§ 32. Amendment.) Section 24-0213 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0213. Payment of Estimates on Contract.) Whenever any estimate or allowance for payment, except a final estimate or payment subsequent to a final estimate, is allowed, or granted, on a contract entered into by the department, and the same is vouchered by the department for presentation to the department of accounts and purchases, or the county auditor, as the case may be, instead of submitting the same to the contractor for certification by him, the chief engineer of said department shall make the following certificate, in lieu of the certificate otherwise required by law, which shall be printed on the said voucher or claim:

Estimate Certificate. I hereby certify that the within estimate or claim is just and true, that the contractor herein named has rendered the services and furnished the material herein charged, that they are of the value claimed, that no part thereof has been paid, and that the foregoing estimate or claim is supported by a proper contract and bond on file in the department.

.....

Chief Engineer, State Highway Department

After a certified estimate has been approved for payment by the commissioner, the same shall be presented to the department of accounts and purchases or county auditor, as the case may be, for payment. The department of accounts and purchases thereupon shall prepare and issue a warrant therefor signed by the state auditor without submitting such voucher or claim to the state auditing board for examination and allowance. The foregoing procedure shall not apply to the final estimate or allowance to a contractor, nor to any estimate or allowance subsequent or supplemental to such final estimate, but such final estimate, or supplemental allowance, shall conform to the provisions of law relative to the certification and approval of any other claim or demand.

§ 33. Amendment.) Section 24-0216 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0216. Basis of Contracts for Construction Work.) The commissioner may request bids and award contracts for construction work requiring the contractor to furnish all equip-

ment, labor, materials, and supplies for each particular contract or project, or requiring the commissioner to furnish and provide the said contractor with such materials and supplies as he may elect. In the event that the commissioner shall elect to provide materials and supplies for any project or construction work, such election shall be made at the time of the adoption of the construction program, and the commissioner shall notify the department of accounts and purchases of the fact that the commissioner has elected to furnish the materials and supplies. The department of accounts and purchases may either exempt the purchase and allow the commissioner to request and let bids, and make the purchase, or it may handle the bidding and purchasing through its central purchasing agency. Either the department of accounts and purchases or the commissioner shall request proposals or bids for the total and aggregate of such materials and supplies for any and all such projects or construction work according to the class, type, and nature of such materials and supplies, and may proceed to award a contract or contracts therefor upon such basis as is deemed efficient and economical, whether upon the basis of delivery to the construction project directly or to a central storehouse or storehouses maintained by the state. Such materials and supplies so purchased by the department of accounts and purchases or the highway department may be delivered to the project or construction work without expense to the contractor doing such construction work, or may be sold to him at cost and made to constitute a part of such construction cost, as the commissioner may elect.

§ 34. Amendment.) Section 24-0217 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***24-0217. Contracts; Bids.)** Whenever the cost of any construction improvement shall exceed the sum of five 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 five 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.

§ 35. Amendment.) Section 24-0237 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

*__Note:__ Section 24-0217 was also amended by chapter 231, section 1.

24-0237. State Highway Fund; How Expended.) The state highway fund, created by law and not otherwise appropriated and allocated, shall be applied and used for the purposes herein named and in the following order of priority:

1. The estimated annual cost of maintaining and keeping in repair all improved parts of the state highway system, constructed and improved in part with federal aid, and to be maintained in accordance with the requirements upon which federal aid was granted.
2. The cost of construction and reconstruction of highways in an amount equal to the state's share of the amount necessary to equal the sum of federal aid granted to this state annually by the United States government for road purposes in North Dakota; and
3. Any portion of the highway fund not allocated as provided in subsection 1 and 2 may be expended for the construction of state highways without federal aid but with county aid to the extent of not less than twenty-five percent of the cost of the project, or may be expended in the purchase of machinery, tools, supplies, materials, the hire of teams or labor, or the rental of machinery, in the construction, improvement, or maintenance of such state highways.

All funds heretofore appropriated or hereafter appropriated or transferred to the department, whether earmarked or designated for special projects or special purposes or not, shall be placed or transferred into a single state highway fund in the office of the state treasurer and any claims for money expended by the department upon warrants prepared and issued by the department of accounts and purchases and signed by the state auditor under the provisions of this title shall be paid out of the state highway fund by the state treasurer; provided however that the commissioner shall keep and maintain complete and accurate records showing that all expenditures have been made in accordance with legislative appropriations and authorizations.

§ 36. Amendment.) Section 24-0312 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0312. Authority to Acquire Equipment.) The department of accounts and purchases, acting as a central purchasing agency of the state, shall have authority to purchase, lease or acquire all road material, road machinery, tools, equipment and supplies necessary for use in constructing, maintaining, controlling and administering the state highway system. However, the department of accounts and purchases may delegate such authority to the commissioner, and in such instances

the commissioner shall have the authority to purchase, lease or acquire, as he deems necessary, all road material, road machinery, tools, equipment and supplies necessary for the construction, maintenance and control of the state highway system.

§ 37. Amendment.) Section 24-0314 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0314. Authority to Acquire Buildings for Equipment.) The department of accounts and purchases shall have the authority to acquire buildings for equipment under its purchasing powers, however, the department of accounts and purchases may delegate such authority to the commissioner, and in such instances the commissioner shall have authority to construct, rent, or purchase for the state the necessary land and buildings for the storage and housing of road materials, road machinery, equipment and tools.

§ 38. Amendment.) Section 24-0313 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0313. Equipment and Materials May Be Purchased Without Advertising for Bids.) The department of accounts and purchases or the commissioner, when the authority to purchase is delegated to him, may, in its discretion, purchase equipment, materials, supplies or other personal property useful to the department, from the United States government, or any of its officers, agents, agencies, or corporations, without compliance with the provisions of section 24-0217.

§ 39. Amendment.) Section 26-2209 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2209. Loans May Be Made to Replenish State Hail Insurance Fund.) Whenever the moneys in the state hail insurance fund are insufficient to pay warrants drawn, or about to be drawn, upon such fund in payment of hail losses, the commissioner of insurance, with the approval and assistance of the industrial commission, may negotiate a loan upon the best terms possible. The proceeds of such loan shall be turned over to the state treasurer and by him placed in the state hail insurance fund for disbursement pursuant to the provisions of this chapter. In order to negotiate such loan, the commissioner, with the assistance and approval of the industrial commission, may issue warrants, debentures, or certificates of indebtedness in such amounts and payable at such times as is deemed advisable. Such warrants, debentures, or certificates

of indebtedness shall be drawn upon the state treasurer and shall be payable out of the state hail insurance fund. All warrants, debentures, or certificates of indebtedness so issued shall be countersigned by the department of accounts and purchases and the state auditor and entered by the department upon its records as obligations issued against and payable out of the state hail insurance fund. If bonds are used as security by the state hail insurance department when a loan is obtained, it shall not be mandatory to issue certificates of indebtedness based on anticipated collections of hail taxes. The state treasurer shall pay all such warrants, debentures, certificates of indebtedness, or contracted debts out of any moneys in the state hail insurance fund properly applicable thereto.

§ 40. Amendment.) Section 32-1203 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

32-1203. Claim Presented and Refused Before Action Brought.) No action upon a claim arising upon contract for the recovery of money only can be maintained against the state until the claim has been presented to the department of accounts and purchases for allowance and allowance thereof refused. The neglect or refusal of the department to act on such claim for a period of ten days after its presentation for allowance shall be deemed a refusal to allow the claim.

§ 41. Amendment.) Section 32-1204 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

32-1204. How Judgment Collected.) No execution shall issue against the state on any judgment, but whenever a final judgment against the state shall have been obtained in any action, the clerk shall make and furnish to the department of accounts and purchases a duly certified copy of such judgment. Upon approval by the auditing board, if funds have been appropriated therefor, the department in due course shall prepare and issue, and the state auditor shall sign, a warrant upon the state treasurer for the amount of such judgment and deliver the same to the person entitled thereto.

§ 42. Amendment.) Section 36-2209 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-2209. State Auditor to Examine Records and Accounts of the Association; Report.) It shall be the duty of the state auditor to examine the records and accounts of said North Dakota Stockmen's Association and to report thereon to the governor.

§ 43. Amendment.) Section 37-0602 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-0602. Paymaster General to Keep Record of Transactions; Inspection of; State Auditor to Examine.) The paymaster general shall keep a full and complete record of all transactions involving the payment of state funds, which shall show clearly the amount paid, the payee, the services or supplies involved, the allotments made, and the balances remaining to his credit. Such record shall be open for inspection at all times by the adjutant general or his duly designated assistant or by a duly appointed representative of the governor as commander in chief. The state auditor shall examine the books and accounts of the paymaster general at least once each year, and upon said examination shall deliver to the paymaster general a certificate as to the correctness of the same. The auditor at the same time shall forward a copy of said certificate to the adjutant general.

§ 44. Amendment.) Section 37-0603 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-0603. Paymaster General Requisitioning Money for National Guard; Procedure.) The paymaster general, from time to time, shall file with the department of accounts and purchases a written requisition, approved by the adjutant general, for such amount of money standing to the credit of the national guard on the books of the department of accounts and purchases or state treasurer as it may be deemed necessary to draw in order to pay indebtedness incurred or about to be incurred. Immediately upon the filing in its office of such requisition the department of accounts and purchases shall prepare and issue, and the state auditor shall sign, a warrant on the state treasurer for the amount named in the requisition and shall forward the same to the paymaster general.

§ 45. Amendment.) Section 37-0606 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-0606. Funds Appropriated for National Guard; Expending; Statement of Receipts and Disbursements Filed.) No funds appropriated by the legislative assembly for the maintenance of the national guard of this state shall be drawn except upon the requisition of the paymaster general. He shall file at least quarterly with the department of accounts and purchases receipts signed by the parties receiving payment for all state funds paid out by him, and shall file with the adjutant general an annual financial report showing all receipts and disbursements.

§ 46. Amendment.) Section 37-1513 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-1513. Department of Accounts and Purchases to Receive and Deposit Federal Aid Money With State Treasurer; Disbursement of Money.) The department of accounts and purchases shall receive and receipt for all money which may become payable to this state by reason of the acceptance of the acts of Congress as provided in section 37-1512. He shall deposit such money with the state treasurer for the use and benefit of the soldiers' home, and it shall be disbursed and accounted for in the same manner as other money appropriated out of the state treasury for such home.

§ 47. Amendment.) Section 37-1515 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-1515. 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 soliders' 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. This monthly statement shall be audited by an auditor, appointed by the board of trustees of the soldiers' home. 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.

§ 48. Amendment.) Section 39-0308 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

39-0308. Manner of Paying Salaries, Wages, and Expenses of Highway Patrol.) All salaries, wages, and other expenses of the highway patrol shall be paid by the department of accounts and purchases and state treasurer out of the patrol fund, upon vouchers required by law for the payment of all state expenses, duly approved by the superintendent, and audited and allowed by the state auditing board.

§ 49. Amendment.) Section 44-0801 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

44-0801. Preference to North Dakota Bidders and Sellers.) The department of accounts and purchases, or any board, commission, city council, board of city commissioners, board of education, board of park commissioners, school board, board of village trustees, or any other governing body of any political subdivision of the state, or of any state institution, in purchasing any goods, merchandise, supplies, or equipment of any kind, shall give preference to bidders or sellers resident in North Dakota. In specifying or purchasing goods, merchandise, supplies, or equipment to be purchased, such board shall not specify any trademarked 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 percent higher than that of a low bidder or seller who is not a resident of this state.

§ 50. Amendment.) Section 46-0101 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0101. Department of Accounts and Purchases to Purchase Printing.) The authority to purchase and supervise all printing for the various state departments and agencies shall be vested in the state department of accounts and purchases.

§ 51. Amendment.) Section 46-0102 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0102. Printing Duties of Department of Accounts and Purchases.) The department of accounts and purchases shall:

1. Draw up and examine all advertising and let all contracts;
2. Examine all work and supplies for the purpose of ascertaining whether the same conform to the contract;
3. Examine all accounts for public printing for the purpose of determining whether the charges contained in such accounts are correct;
4. Figure any legal notice or publication when requested by any county auditor or board of county commissioners,

and its decision as to be the proper fee for such publication shall be binding and final, subject to review by the courts; and

5. Perform such other duties in relation to printing affairs as may be required by law.

§ 52. Amendment.) Section 46-0201 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0201. Printing and Binding: Duties of Department of Accounts and Purchases.) The department of accounts and purchases shall:

1. Have charge of all the printing and binding required to be done for the several departments of the state government except as otherwise provided by section 46-0209;
2. Receive the proper orders for the same and have the same properly executed according to law;
3. Keep a record of all work ordered from the several contractors according to law and of all printing and binding for departments of the state government;
4. Examine and supervise the work of printing in progress and see that it is executed with due economy to the state;
5. Make or authorize to be made the necessary indexes for the volumes of all the executive documents and reports;
6. Examine all accounts for printing and binding that may be presented; and
7. Adjust all accounts for printing and binding that are presented according to the terms of the contract and in accordance with law and such rulings as may be determined by the department.

No printing required by any state officer as provided in this chapter shall be paid for unless the same first shall have been authorized by the legislative assembly or by the department of accounts and purchases.

§ 53. Amendment.) Section 46-0203 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0203. Paper: Quality.) All paper used for printing and binding of whatever nature shall be of standard weights and grades and approved by the department of accounts and purchases.

§ 54. Amendment.) Section 46-0204 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***46-0204. Classes of Printing; Contracts.)** The printing of the state hereby is divided into classes as follows:

1. The printing of bills, resolutions and documents for the use of and incident to the legislative assembly shall constitute the first class;
2. The printing and binding of the journals of the senate and house of representatives shall constitute the second class;
3. The printing and binding of the executive and public documents and reports to be printed in pamphlet and volume form, as prescribed by section 46-0302 shall constitute the third class;
4. The printing and binding of the volumes of laws, with such legislative resolutions as shall be included in said volumes shall constitute the fourth class;
5. The printing of the publicity pamphlet shall constitute the fifth class; and
6. All printing not included in the foregoing classes, shall constitute the sixth class.

Separate contracts for each classes 1, 2, 3, 4, and 5 shall be let by the department of accounts and purchases under competitive bidding in accordance with the provisions of this title and at a cost and price not in excess of the cost and price as provided for in the Franklin Printing Catalogue.

§ 55. Amendment.) Section 46-0205 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0205. Proposals for Printing; Classifications 1, 2, 3, 4, and 5.) The department of accounts and purchases, at least six months immediately preceding each regular session of the legislative assembly, shall advertise for four weeks successively in two daily papers in the state, one of which shall be published at the seat of government, inviting sealed proposals for doing all printing and binding constituting each of classifications 1, 2, 3, 4, and 5, required by the legislative assembly and by the several state departments for the two succeeding years commencing with the first day of January next following the date of the contract. Such bids shall specify the price and cost for which the said work will be performed and the stock furnished.

§ 56. Amendment.) Section 46-0206 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0206. Opening of Bids: Awards.) The department of accounts and purchases, within two days after the date for

***Note:** Section 46-0204 was also amended by chapter 327, section 1.

receiving proposals as aforesaid, and not later than the first Tuesday after the first Monday in August, shall proceed to open in public all such proposals received by it, and to award the contract for each class of printing to the lowest bidder therefor, subject to the provisions of this title. If two or more persons bid the same and the lowest price for any class of printing, the department of accounts and purchases shall award the contract to such one or more of them as in its opinion will best subserve the interests of the state.

§ 57. Amendment.) Section 46-0207 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0207. Proposals; How Made; Bond Required.) Each proposal for each class of state printing let under competitive bids shall be in writing, sealed and addressed to the director of the department of accounts and purchases, shall be accompanied by a bond executed in due form by the bidder, approved by the attorney general and satisfactory to the director of accounts and purchases, in the penal sum of four thousand dollars conditioned for the faithful performance according to law of the class of the state printing if awarded to him and for the payment, as liquidated damages, by such bidder to the state, of any excess of cost over the bid of such bidder which the state may be obligated to pay for such work by reason of the failure of such bidder to complete his contract. No bid unaccompanied by such bond shall be considered. The department of accounts and purchases may reject any bid made by anyone other than a regularly established and thoroughly competent printer and also may reject any or all bids if in its judgment the best interests of the state would be subserved thereby.

§ 58. Amendment.) Section 46-0209 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0209. Proposals for Printing; Classification 6; Subletting Prohibited.) Each department and office of the government may let the printing of all matters coming within classification 6 to such newspaper or job printing shop in this state as may be equipped to handle, perform and take proper care of the work required and to furnish the stock necessary. No newspaper or job printing shop awarded printing under this class shall be permitted to sublet the same. Before letting or submitting such order for printing or miscellaneous job work to such newspaper or job printing shop, the department or state office shall submit such order or requisition for printing to the department of accounts and purchases, which shall

determine and fix the reasonable maximum cost or price for such printing work and the stock required. The price fixed and determined by the department of accounts and purchases, shall be the maximum cost of such printing work and material and the price paid by such department or office for the work and printing so ordered and the material furnished shall not exceed the maximum cost and price so determined. Such maximum cost and price so fixed shall not exceed the price and cost as provided for in the Franklin Printing Catalogue and shall be determined and fixed by the department of accounts and purchases according to the kind and quality of material required and the kind of work necessary. Upon the determination and fixing of such maximum cost and price to be charged for the work required and material furnished, the state department or office may have such work and printing done and the material furnished by such newspaper or job printing shop in this state as the said state department or office shall select.

§ 59. Amendment.) Section 46-0210 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0210. Printing and Binding Done Without Unnecessary Delay: Time Within Which Laws and Public Documents Must Be Delivered; How Extension Granted.) Each contractor under the provisions of this chapter, promptly and without unnecessary delay, shall execute all orders issued to him by the legislative assembly, or either branch thereof, or by the department of accounts and purchases on behalf of the executive officers of the state. The laws and volumes of public documents shall be delivered to the secretary of state within seventy days and the journals of the two houses of the legislative assembly within sixty days after the index shall have been made out and delivered to the contractor. The department of accounts and purchases, for good cause shown, may extend the time not exceeding twenty days for the execution of any contract.

§ 60. Amendment.) Section 46-0211 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0211. Contractor: Failure on Contract; Cancellation of Contract; Penalty.) If from death or any unforeseen cause there shall be a failure on the part of any successful bidder to execute his contract, the department of accounts and purchases may enter into a contract with the next lowest bidder. If any contractor, after commencing upon his contract, fails to execute the work embraced therein with reasonable expedition and in a suitable manner, the department of accounts and purchases may notify him for reasons it may specify

that his contract is canceled and it may contract with some other person to do the work at the lowest practicable rate. The department may give written notice to any contractor who unreasonably is delaying the execution of the work that the same must be completed within a specified time. For failure to complete the contract within the time specified, the contractor shall suffer a penalty of one-quarter of one percent of the contract price for every twenty-four hours of delay, thereafter to be deducted from the net amount of the printing so delayed.

§ 61. Amendment.) Section 46-0212 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0212. Department of Accounts and Purchases May Reject Inferior Printing and Work.) The department of accounts and purchases may reject any and all printing that is not done in a workmanlike manner or with good material and with ordinary promptness. It may require contractors to present specimen pages of type they propose to use, and may reject the same in its discretion and require new material. Its ruling and determination shall be final and conclusive on the contractor. Only good, clean, and satisfactory work shall be accepted, and it must be done within a reasonable time. If by reason of the cancellation of any contract, as is provided in section 46-0211, the cost of having any such work done is greater than the original contract price, the excess shall be charged to and collected from the original contractor or shall be made payable by and collected from the bondsmen of such original contractor. The action of the department in this matter shall be final and conclusive upon such contractor and his sureties.

§ 62. Amendment.) Section 46-0213 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0213. Printing Accounts; How Certified and Paid.) When the account of any contractor under this chapter shall have been adjusted, the department of accounts and purchases shall certify the same to the state auditing board to be approved, and, upon its approval, the department of accounts and purchases shall prepare a warrant, signed by the state auditor, upon the state treasurer for the amount thereof, charging the appropriate fund or appropriation item. In the current execution of such contracts, the department of accounts and purchases may deliver to such contractor a certificate for an amount not exceeding seventy-five percent of completed work upon the filing with the department by the contractor of a statement of the amount of work done.

§ 63. Amendment.) Section 46-0214 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

46-0214. Copies of Documents to Accompany Bills for Printing; Contents of Bill.) Every person doing public printing pursuant to the provisions of this chapter shall file and preserve one copy of each document or other matter printed by him for the state which he shall deliver to the department of accounts and purchases at the time the completed work is delivered, together with a memorandum bill of the same. In the account submitted for the payment of the work, the contractor at the same time shall submit his order for the work and shall state specifically:

1. The nature of the work performed;
2. The number of copies;
3. The number of ems of composition;
4. The extra charge, if any, for rule or figure, and rule and figure work;
5. The number of impressions of press work;
6. The cost of folding and binding;
7. Any other charges for which he claims payment; and
8. If there is a charge for any alterations or changes from copy, the proofs of original composition and changes must be presented.

§ 64. Amendment.) Section 50-0607 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

50-0607. Office and Office Equipment.) The public welfare board shall be provided with suitable offices in the state capitol. It may purchase through the department of accounts and purchases, out of the funds appropriated such necessary furniture, office and filing equipment, office supplies, stationery, and postage as may be needed for the efficient conduct of its business.

§ 65. Amendment.) Section 50-0614 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

50-0614. State Public Welfare Fund.) All moneys received from appropriations by the legislative assembly to carry out the provisions of this chapter shall be kept by the state treasurer in a fund known as the "state public welfare fund" and all expenditures made under the provisions of this chapter shall be upon warrants prepared by the department of accounts and purchases and signed by the state auditor, such expenditures to be supported by itemized vouchers to be signed by the executive director of the board or by such other officer

or assistant as the board may designate and certify to the department of accounts and purchases. Any fund received from federal agencies shall be deposited and disbursed in the manner provided by act of Congress or by the regulations of the federal agencies from which the funds were received.

§ 66. Amendment.) Section 54-0606 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-0606. Salaries of State Officers Payable Monthly.) Unless otherwise provided by law the department of accounts and purchases is directed to prepare, and state auditor to sign, warrants for the salaries of the various state officers monthly as the same become due.

§ 67. Amendment.) Section 54-0608 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-0608. Record of Fees Kept by State Officers; Report to State Treasurer; Penalty.) Every state officer or deputy state officer required by the Constitution of this state, or by any provision of the laws of this state, to cover into the state treasury all fees and profits arising from such office, shall keep a record of all such fees or profits in a book kept for that purpose. Such book shall be the property of the state. Each officer shall report to the state treasurer monthly the amount of fees or profits received, verified by oath, and at the same time shall pay the amount of such fees or profits to the treasurer, taking duplicate receipts therefor. One of the receipts shall be filed with the department of accounts and purchases forthwith. The department of accounts and purchases shall charge the state treasurer with the amount thereof. Any person violating the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars.

§ 68. Amendment.) Section 54-1001 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1001. Powers and Duties of State Auditor.) The state auditor shall:

1. Be vested with the duties, powers, and responsibilities involved in performing the post audit of all financial transactions of the state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts;

2. Be vested with the duties, powers, and responsibilities involved in making a complete examination of the books and records of any and all state agencies and in examining and appraising the accounting methods and internal control procedures as to adequacy and adaptability to auditing requirements;
3. Be responsible for the above functions and shall report thereon after the close of each fiscal year directly to the legislative assembly and to the governor or more often as circumstances may require; and
4. Perform such other duties as are or may be prescribed by law.

§ 69. Amendment.) Section 54-1002 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1002. Auditor to Have Access to All State Offices.) The state auditor shall have access to all state offices during business hours for the purpose of inspecting such books, papers, and accounts therein as may concern his duties.

§ 70. Amendment.) Section 54-1003 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1003. Official Bond.) The state auditor must execute an official bond in the sum of twenty thousand dollars.

§ 71. Amendment.) Section 54-1004 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1004. Legislative Assembly to Provide for Audit of State Auditor's Office.) The legislative assembly shall provide for the employment by contract of a public accountant or accounts to conduct a post audit of the office of the state auditor. A copy of such audit report shall be filed with the governor and with each house of the legislative assembly.

§ 72. Amendment.) Section 54-1101 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1101. Duties of State Treasurer.) The state treasurer shall:

1. Receive and keep all the moneys belonging to the state not required to be received and kept by some other person;
2. Register the orders or certificates of the department of accounts and purchases delivered to him when moneys are paid or to be paid into the treasury;

3. Deliver to each person paying money into the treasury and to the department of accounts and purchases, a duplicate receipt showing the amount, the source from which the money accrued, and the funds into which it is paid, such receipts to be numbered in order beginning with number one at the commencement of each fiscal year;
4. Pay warrants drawn by the department of accounts and purchases and signed by the state auditor out of the funds upon which they are drawn, and in the order in which they are presented;
5. Upon the payment of any warrant, take upon the back thereof the receipt of the person to whom it is paid, and file and preserve the same;
6. Keep an account of all moneys received and disbursed;
7. Keep separate accounts of the different funds;
8. Receive in payment of public dues the warrants drawn by the department of accounts and purchases and signed by the state auditor in conformity with law;
9. Redeem warrants drawn by the department of accounts and purchases and signed by the state auditor in conformity with law, if there is money in the treasury appropriated for that purpose;
10. Report to the department of accounts and purchases on the last day of each month the amount disbursed for the redemption of bonds and the payment of warrants during the month, such reports to show:
    a. The date and number of each bond and warrant;
    b. The fund out of which each was paid; and
    c. The balance in cash on hand in the treasury to the credit of each fund;
11. At the request of either house of the legislative assembly, or of any committee thereof, give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office;
12. Report to the governor, on or before the twentieth day of November each year, the exact balance in the treasury to the credit of the state. The report shall show in detail the receipts and disbursements, together with a summary thereof, the balances in the various funds at the beginning and ending of the fiscal year, and also shall show where the funds of the state are deposited. It shall be certified by the state treasurer and approved by the governor;
13. Authenticate with his official seal all writings and papers issued from his office;
14. Keep a book in which he must enter all warrants paid, giving the name of the owner and the number and amount of each warrant;

15. Keep and disburse all moneys belonging to the state in the manner provided by law;
16. Keep his books open at all times for the inspection of the governor, the state auditor, the state examiner, the department of accounts and purchases, and any committee appointed to examine them by either house of the legislative assembly; and
17. Perform such other duties as are prescribed by law.

§ 73. Amendment.) Section 54-1102 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1102. Monthly Warrants Turned Over to Department of Accounts and Purchases.) On the first day of each month the state treasurer shall turn over to the department of accounts and purchases all vouchers for payments made by him, taking the department's receipt for the same.

§ 74. Amendment.) Section 54-1103 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1103. Warrants; Redemption of; Duty of Treasurer.) When the state treasurer redeems any warrant drawn by the department of accounts and purchases and signed by the state auditor in conformity with law or receives any warrant in payment for public dues, he shall cause the person presenting the warrant to endorse the same. The treasurer shall write or stamp on the face of such warrant, "redeemed", and shall enter in his book in separate columns:

1. The number of the warrant;
2. The date of the warrant;
3. The amount of the warrant;
4. The name of the person to whom payable;
5. The date of payment; and
6. The amount of interest, if any, paid thereon.

§ 75. Amendment.) Section 54-1207 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1207. Salary of Assistant Attorneys General.) The annual salary of the assistant attorneys general shall be as provided by the legislative assembly from time to time and shall be payable monthly on warrants prepared by the department of accounts and purchases and signed by the state auditor.

§ 76. Amendment.) Section 54-1401 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1401. State Auditing Board: Members; Secretary; Duties; Quorum.) The secretary of state, attorney general, and the director of the department of accounts and purchases shall constitute the state auditing board. The director of the department of accounts and purchases shall act as secretary of the board, and shall receive and file for the consideration of the board, all accounts, claims, or demands against the state, except those of state-owned utilities, enterprises, and business projects, and such others as are specifically exempt by law. Any two members of the board shall constitute a quorum for the transaction of business.

§ 77. Amendment.) Section 54-1402 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1402. Meetings of Board.) The state auditing board shall hold its meetings at the office of the director of the department of accounts and purchases or at such other place as the board may decide. Meetings shall be had at least monthly and at such other time as the board may deem necessary or advisable.

§ 78. Amendment.) Section 54-1504 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1504. Budget Board Organization Meeting: Chairman; Secretary; Records.) The state budget board shall meet and organize in the governor's office at the state capitol at the call of the governor within thirty days after the close of each regular session of the legislature, and at such other times and places as the governor, or a majority of the board, may from time to time determine. The governor shall be chairman of the board and the director of the department of accounts and purchases or such other member of that department as may be designated by him shall be its secretary. The secretary shall keep the minutes of the board and shall record them in a suitable book to be kept for that purpose. The minutes of the board shall be a public record and at all times shall be open to public inspection.

§ 79. Amendment.) Section 54-1505 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1505. Budget Forms: Return; Submitted to Budget Board.) Not later than August first of each year next preceding the session of the legislative assembly, the director of the department of accounts and purchases shall send to the head of each department of the state government, and to each officer,

board, or commission in charge of any educational, charitable, penal, or other institution or undertaking supported wholly or in part by appropriations from the state treasury, a suitable blank form to be filled out by the head of each state department and by each officer, board, or commission, with an itemized statement of the amount of money which he considers necessary, during the two fiscal years next ensuing, for the proper maintenance, extension, or improvement of the department, institution, or undertaking in his charge. Such head of a state department, officer, board, or commission, shall return the blanks, properly filled out, on or before the first day of October of each year next preceding the session of the legislative assembly or at such earlier date as the director of the department of accounts and purchases shall require, to the director of the department of accounts and purchases, together with such data and statements as may be necessary fully and clearly to explain the purposes and need of any appropriation which is requested. The director of the department of accounts and purchases shall submit the reports to the state budget board.

§ 80. Amendment.) Section 54-1506 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1506. Meetings of Board to Prepare Estimates.) The state budget board shall meet at the call of the governor during the year next preceding the meeting of the legislative assembly, at the state capitol. At such meeting the board shall proceed to prepare estimates for a state budget of the amounts required to be appropriated by the legislative assembly for the conduct of the business of the state in all its offices, institutions, departments, and undertakings for the two fiscal years next ensuing.

§ 81. Amendment.) Section 54-1508 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1508. Estimates Transmitted to the Legislative Assembly.) When the estimates for a state budget have been prepared by the state budget board, they shall be transmitted to each member of the legislative assembly together with the recommendations of the board not later than the first day of December of the year preceding the meeting of the legislative assembly, together with such recommendations, reasons, and explanations with regard to the estimates as shall be deemed necessary by the state budget board. The board, in such estimates, shall not alter the amount requested by the judicial and legislative branches of government and their officers and agencies. The board, at the same time, shall trans-

mit to the legislative assembly all statements, estimates, and requests, or copies thereof, which were filed with the director of the department of accounts and purchases by officers, boards, and commissions.

§ 82. Amendment.) Section 54-1509 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1509. State Budget Board to Estimate Money Necessary for Payment of Interest and Funded Debt.) In making up the estimates to be transmitted to the legislative assembly, the state budget board, in connection therewith and as a part thereof, shall make an estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest. The board also shall make an estimate of the sum of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state. The director of the department of accounts and purchases shall furnish the state budget board with a detailed statement of the moneys necessary for such purposes.

§ 83. Amendment.) Section 54-1513 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1513. Powers and Duties of the Director of the State Budget.) The director of the department of accounts and purchases or such member of that department as he shall designate, shall be the director of the budget and shall have the power and duty:

1. To investigate, examine and make an exhaustive study:
   a. Of the structure and operation of the entire state government and of every office and agency thereof;
   b. Of all the functions, duties, and services of all state offices, departments, institutions, industries, boards, bureaus and commissions;
   c. Of all the books, records and methods of accounting of each office or agency of the state to ascertain and determine whether their policies, practices and systems of accounting are sound, necessary, practical and efficient.
2. To examine and consider all of the actual revenue requirements and requests for appropriations made by each official and agency of the state government and to make such recommendations to the state budget board as he shall determine to be necessary and advisable to secure a greater degree of economy and efficiency in governmental expenditures.

3. To prepare and submit to the state budget board:
   a. Such reports of estimates or revenue requirements of all officials and agencies of the state as said board may require.
   b. To prepare and submit a biennial report to the state budget board at least sixty days prior to the commencement of the ensuing legislative session, which report shall contain definite and specific proposals and recommendations to accomplish the following purposes:
      1. To simplify the entire governmental structure of the state so as to render it more economical and efficient;
      2. To eliminate all obsolete and unnecessary offices, departments, institutions, boards, bureaus and commissions of the state;
      3. To consolidate the functions, services and activities of all state offices and agencies thereof so as to eliminate duplication of service and expense wherever it exists;
      4. To correlate the functions and services of the several offices and agencies of the state government;
      5. To eliminate obsolete methods, unnecessary functions and services carried on by the state government and to render those functions and services which are determined to be absolutely essential, more economical and efficient;
      6. To assist the state budget board and legislative assembly in the preparation of the budget and the formulation of the public policy in the administration of governmental affairs with the objective of establishing the highest degree of efficiency consistent with the maximum degree of economy, to assure the citizens of this state that they will receive the best governmental service at the minimum possible cost.

§ 84. Amendment.) Section 54-1608 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1608. State Contingency Fund.) There shall be maintained in the office of the state treasurer a fund to be known as the state contingency fund, consisting of such moneys as may be appropriated thereto by the legislative assembly. The department of accounts and purchases shall prepare, and the state auditor shall sign, warrants upon such fund at the direction of the emergency commission as provided in this chapter.

§ 84(a). Amendment.) Section 54-1609 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1609. Warrant on Contingency Fund; Requirements Before Drawn.) The state emergency commission, before directing the department of accounts and purchases to prepare any warrants upon the state contingency fund, shall require the department or institution for whose benefit such warrant is issued to file with the emergency commission and with the department of accounts and purchases a written and itemized statement of the material, services, purposes, or other considerations for which the warrant is required and the necessity therefor. The commission shall certify that the material, services, purposes, or other considerations therein named are necessary and proper materials to be paid from such fund, and that the appropriation for such purpose is insufficient. The department of accounts and purchases and commission shall file such statement and certificate as authority for issuing the warrant therein directed.

§ 85. Amendment.) Section 54-1814 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-1814. Annual Audit of Association.) The books, records, accounts, inventories, stocks of merchandise, supplies, equipment, and all affairs of the North Dakota mill and elevator association shall be audited and examined once in each year by the state auditor. The audit shall be made as soon as possible after the thirtieth day of June in each year. Said audit and the report thereof shall disclose fairly and accurately the actual condition of the North Dakota mill and elevator association as of the thirtieth day of June of that year. Profits and losses shall be computed only on such contracts and commitments, or parts thereof, as shall have been completed on said date, and no estimates of forecasts shall be made as to the probable loss or gain on transactions to be fulfilled after said date. Inventories of grains, supplies, and stocks on hand shall be computed at the market price on said date. The report may disclose the actual obligations and commitments of the association on existing unfulfilled contracts, and the consideration and prices fixed in said contracts, if, in the judgment of said state auditor, the same shall be necessary to a complete audit, but the report shall constitute a factual report of existing conditions, and, to the fullest extent possible, all estimates, forecasts, and probabilities shall be eliminated therefrom. Copies of such audit report upon completion shall be filed with the industrial commission, the manager of the mill and elevator, with the state auditor, and a consolidated balance sheet and operating statement shall be made public.

§ 86. **Amendment.)** Section 54-2119 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2119. Board of Administration to Furnish Supplies for Executive Mansion and Capitol; to Furnish Light and Fuel for State Offices.) The board shall, through the department of accounts and purchases, provide all necessary fuel and light for the state offices as well as all necessary furniture, fuel, lights, express, freight, drayage, and all other necessary supplies for the executive mansion and the public grounds and parks connected therewith, and shall make all necessary repairs upon the capitol building and executive mansion.

§ 87. **Amendment.)** Section 54-2306 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2306. Contingent Fund.) The board may permit a contingent fund, not to exceed, in any institution under its control, ten thousand dollars, to remain in the hands of the managing officer of such institution. Expenditures may be made from the contingent fund in case of actual emergency requiring immediate action to prevent loss or danger to the institution or the inmates thereof. A full, minute, and itemized statement of every expenditure made during the month from such fund shall be submitted by the proper officer of the institution to the board, under such rules and regulations as may be established by the board. If necessary, the board shall make proper requisition upon the department of accounts and purchases for a warrant to be signed by the state auditor on the state treasurer to secure the contingent fund for each institution.

§ 88. **Amendment.)** Section 54-2330 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2330. Estimate of Expenditures of Institutions Presented to Board and Department of Accounts and Purchases; Revision.) At the times and in the manner provided by the board, the superintendent, warden, or other officers designated by the board, shall cause to be prepared triplicate estimates of all expenditures required for the institution. Two of the said triplicate estimates shall be sent to the office of the board and the third shall be kept by the superintendent, warden, or other officer. The board may revise the estimates for supplies or other expenditures, and shall certify that it has carefully examined the same and that the articles contained in such estimates as approved, or revised by it, are, to its best knowledge and belief, actually required for the use of the institution. An approved copy containing any revisions of the esti-

mate by the board shall be forwarded by the board to the department of accounts and purchases which shall contract for the required purchases.

§ 89. Amendment.) Section 54-2331 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2331. Department of Accounts and Purchases to Advertise for Bids for Supplies: State Firm Given Preference.) The department of accounts and purchases, after estimates of all expenditures have been certified and revised by the board of administration as provided in section 54-2330, shall advertise for bids for such supplies and shall require samples in every possible case and in every case shall require the supplies purchased to be equal in value to the sample submitted by the successful bidder. Where samples are submitted and bids are the same, the firm in the state so bidding shall have the preference.

§ 90. Amendment.) Section 54-2333 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2333. Contract for Supplies Sent to Institution.) When the estimates for supplies for the institutions under the control of the board have been certified and revised by the board and bids for the supplies enumerated and described therein have been received and contracts for furnishing the supplies have been let by the department of accounts and purchases, a copy of such revised estimates and the contract for furnishing the supplies enumerated and described in such revised estimates, duly certified, shall be sent to the institution and another copy shall be sent to the board of administration.

§ 91. Amendment.) Section 54-2334 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2334. Department of Accounts and Purchases May Purchase Supplies on Open Market.) Whenever in the judgment of the department of accounts and purchases the interests of the state can best be served thereby, it may purchase in the open market such supplies as are necessary.

§ 92. Amendment.) Section 54-2335 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2335. Purchase of Supplies by Officer of Institution.) Contracts may be entered into under the direction of the board of administration and the department of accounts and pur-

chases by the proper officers of one or more of the institutions under the control of the board for staples and other articles of supplies as may be found feasible by the board and the department of accounts and purchases for the institutions to purchase in bulk for use or consumption for periods longer than thirty days. Such contracts, however, shall not be made except in conformity with the provisions of this chapter relating to estimates. If thought advisable, such contracts may be executed by the representatives of one institution, who may be designated by the board to act for other institutions.

§ 93. Amendment.) Section 54-2336 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2336. Bill Presented to Institution: Form of: Thirty Days Allowed to Pay for Supplies.) The supplies purchased for the institutions under the control of the board shall be purchased so as to permit at least thirty days' time to pay therefor. The officer of the institution designated by the board shall require itemized bills to be rendered by the person who furnishes supplies, in duplicate, for all purchases whether made upon contract or otherwise, which shall be in the form prescribed by the department of accounts and purchases and certified as required for other claims against the state.

§ 94. Amendment.) Section 54-2337 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2337. Department of Accounts and Purchases to Make Rules for Purchase of Supplies; Jobbers to File Address With Department or Institution.) The department of accounts and purchases shall make specific rules and regulations respecting the manner in which supplies shall be purchased and contracts made for the several institutions so as to insure the competition and publicity necessary to secure the economical management of each institution. Jobbers or others desirous of selling supplies to an institution, by filing with the chief executive officer of such institution, or with the department of accounts and purchases, a memorandum showing their address and business, shall be afforded an opportunity to compete for the furnishing of the supplies under such limitations and rules as the department of accounts and purchases may prescribe.

§ 95. Amendment.) Section 54-2338 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2338. Supplies of Institutions: Duty of Officers.) The officer of each institution who is designated by the board to

have charge of and to be accountable for all the supplies and stores of the institution shall be charged therewith at their invoice value, and shall:

1. Direct all purchases of such institution as may be ordered by the department of accounts and purchases under the estimates as provided in section 54-2330, in conjunction with the chief executive officer of each institution;
2. Issue all the supplies upon requisition approved by the superintendent or other officer designated by the board. The requisition shall be his voucher therefor;
3. Examine and register all goods delivered, according to their amount and quality, and if found to correspond with the samples and in good order and correct in charge, he shall certify the bills; and
4. Make a consolidated report of all purchases to the department of accounts and purchases and the board of administration and all other transactions of his department to the board at the close of the biennial period.

§ 96. Amendment.) Section 54-2340 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2340. Monthly Statement of Institutional Expenditures and Pay Roll to Board of Administration.) An officer designated by the board for each institution under its control shall prepare three monthly statements showing first the pay roll, second the expenditures of every kind during the preceding month, and third the purchases of every kind during the preceding month. Such statement shall be signed by the officer, approved by the chief executive officer of the institution, and filed with the board on a date fixed by the board for the examination and audit of the board. The statement of purchases for the preceding month shall be filed with the department of accounts and purchases. Attached thereto shall be the affidavit of the officer stating that the services therein specified were rendered and that the goods and other articles therein specified were purchased and received by him or under his direction at the institution and were purchased at a fair cash market price on credit not exceeding thirty days, that neither he nor any person in his behalf had any pecuniary or other interest in the purchases made, that he did not receive any pecuniary or other benefit therefrom, directly or indirectly, by commission, percentage, deductions, or in any other manner whatever, and that the articles contained in such bill conformed in all respects to the invoiced goods received and ordered by him or the samples from which the goods were purchased, both in quality and quantity. Such monthly statement shall be accompanied by the original invoices of all institu-

tional purchases and a complete itemized statement of each institutional expenditure. If any invoice or statement, or any part thereof, is found objectionable, the board or department of accounts and purchases, as the case may be, shall endorse its disapproval thereon with its reasons therefor, and shall return it to the management of the institution, and when the matter disapproved of is corrected, the statement and invoice shall be returned to the board or department of accounts and purchases.

§ **97. Amendment.)** Section 54-2341 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2341. Audit of Monthly Statements of Expenditures and Pay Roll; Abstracts of Statement; Payment.) When the monthly statement of expenditures and the pay roll of an institution have been audited by the board and found correct, the secretary of the board, under the seal of the board, shall prepare an abstract, in duplicate, showing the name, residence, and the amount due each claimant, and the institution and the fund thereof on account of which the payment shall be made. He shall deliver one copy thereof to the department of accounts and purchases and the other copy shall be retained in the office of the board. The department of accounts and purchases, upon receipt of the certified abstract, after approval by the auditing board, shall issue a warrant or warrants to be signed by the state auditor for the amount or amounts thereof and shall deliver the same to the board for delivery to the proper officer of the institution, to be paid out in conformity with such rules as the board may prescribe.

§ **98. Amendment.)** Section 54-2614 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2614. Costs of Printing; Paid by State.) All liabilities incurred for printing, postage, and transmission of returns under the provisions of this chapter, shall be paid out of the state treasury on warrant issued by department of accounts and purchases and signed by the state auditor, and shall be charged to such appropriation therefor as may have been made by the legislative assembly.

§ **99. Amendment.)** Section 54-2703 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2703. County Auditors to Furnish Department of Accounts and Purchases With Abstract of Tax List.) The department of accounts and purchases shall require each county

auditor to furnish him with an abstract of the tax lists of his county when the same is completed, on such blanks as he shall prescribe.

§ 100. Amendment.) Section 54-2704 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2704. County Treasurers to Furnish Department of Accounts and Purchases Monthly Statements of Taxes Collected.) The department of accounts and purchases shall require each county treasurer to furnish him with a statement, attested by the county auditor, on the fifteenth day of each month, showing the amount of state taxes collected during the preceding calendar month. The October statement shall be an abstract of the total receipts by the county treasurer for the preceding year.

§ 101. Amendment.) Section 54-2705 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2705. Department of Accounts and Purchases to Deliver to State Treasurer Order on County Treasurer for Taxes Collected.) The department of accounts and purchases immediately after receiving the statement provided for in section 54-2704, shall draw and deliver to the state treasurer an order on each county treasurer for the amount certified as collected for the state, and shall charge the state treasurer with the same, giving the county credit for the amount and sending to the county auditor of each county a duplicate of such order or draft.

§ 102. Amendment.) Section 54-2706 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2706. State Treasurer to Notify County Treasurer of Amount Due State for Taxes Collected; How State Paid.) The state treasurer shall notify each county treasurer of the amount of the draft or order given to him by the department of accounts and purchases. The state treasurer shall designate the manner in which the money shall be forwarded to him. Upon receipt of the money he shall forward such draft or order to the county treasurer with his endorsement, and such draft or order shall be the county treasurer's receipt for the amount stated.

§ 103. Amendment.) Section 54-2707 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2707. Apportionment of Moneys Belonging to Counties; How Made.) The apportionment of all moneys paid into the state treasury, any part of which is required by law to be paid to the several counties or to political subdivisions, shall be made by the department of accounts and purchases and state treasurer. The department of accounts and purchases and state treasurer shall keep an account with each county or political subdivision, crediting it with all such apportionments and charging it with all sums paid to it. The department of accounts and purchases shall draw an order on the state treasurer for the amount so credited, and shall forward the same to the county treasurer of such county or the clerk or auditor of such political subdivision, and at the same time shall send a written notice to the county auditor or the clerk or auditor of the political subdivision stating the amount so apportioned.

§ 104. Amendment.) Section 54-2708 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2708. How Moneys Paid From State Treasury; Warrants; When Not Necessary.) Except as otherwise provided, moneys shall be paid from the state treasury only upon the warrant or order prepared by the department of accounts and purchases drawn on the state treasurer. The state examiner shall recommend a form for order and warrant check of the state government which shall conform, so far as consistent with statutory requirements, to approved banking practice in order to facilitate handling of such instruments by banks and other depositories. When such order and warrant check is signed by the state auditor the state treasurer shall accept such order or warrant with his signature, making such order and warrant check negotiable. No warrant upon the treasurer shall be delivered or mailed to the payee or his agent or representative until such warrant has been signed by the treasurer and entered on the treasurer's books as a check drawn on a bank depository. Each warrant shall specify upon what fund or from what apportionment it is to be paid. The state treasurer may redeem outstanding bonds or pay interest on bonds when due without the warrant of the department of accounts and purchases, retaining such bond or interest coupon as his voucher for such payment until the next succeeding settlement.

§ 105. Amendment.) Section 54-2709 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2709. Department of Accounts and Purchases to Cancel Unexpended Appropriations; When They May Continue.) The

department of accounts and purchases, at the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn for the period of two years after the expiration of the biennial period during which they became available under the law. The governor, secretary of state, and attorney general may continue such appropriations or balances in force temporarily upon recommendation of the department of accounts and purchases.

§ 106. Amendment.) Section 54-2711 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-2711. Appropriation: Record Kept by Department of Accounts and Purchases and Treasurer; Duties and Limitations of Department of Accounts and Purchases and Treasurer as to Appropriation.) The department of accounts and purchases and state treasurer each shall keep a record in his office showing:

1. The total amount appropriated for maintenance for each state officer or agency, and of each separate item thereof;
2. The amount equal to seventy-five and twenty-five percent of the total appropriated and each separate item thereof; and
3. The amount disbursed and the balance on hand.

The department of accounts and purchases shall not issue any warrant during the first eighteen months of each biennium in excess of the seventy-five percent of any item appropriated for maintenance of any state official or state agency in the executive branch of government nor shall the state treasurer pay such warrant. The duties and limitations imposed upon the department of accounts and purchases and state treasurer shall apply only to the total amount appropriated for the biennium but not to separate items appropriated for maintenance for all institutions under the jurisdiction and supervision of the board of administration and the state board of higher education. Each board shall keep a record showing the amount, equal to seventy-five and twenty-five percent, respectively, of the total amount and of each separate item appropriated for maintenance for all such institutions under its control and shall be responsible for the enforcement of the restrictions upon the disbursement of all moneys appropriated to such institutions for maintenance purposes.

§ 107. Amendment.) Section 54-2714 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

*54-2714. Cancellation of Outstanding Warrants.) The department of accounts and purchases, at the beginning of each fiscal year, shall certify to the state treasurer each warrant more than five years old which remains outstanding and unpaid, and shall show the number and amount thereof, and the fund on which it was drawn. Upon receipt of the certificate, the state treasurer shall issue his receipt for the amount of the outstanding warrants and shall credit such amount to the canceled warrant fund. Upon receipt of the said state treasurer's receipt, the department of accounts and purchases shall charge the state treasurer with the amount of each warrant described in said certificate and shall cancel the same on its records.

§ 108. Amendment.) Section 54-2715 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**54-2715. Procedure When Canceled Warrant Presented for Payment.) If any canceled warrant subsequently should be presented for payment, the holder thereof shall execute a voucher for the amount, to which shall be attached the original warrant, or other satisfactory evidence of ownership of the warrant. The voucher when approved by the department of accounts and purchases and the state auditing board shall be paid by a warrant drawn on the canceled warrant fund by the department of accounts and purchases and signed by the state auditor.

§ 109. Amendment.) Section 54-27151 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-27151. State Treasurer's Checks: Cancellation: Deposit to General Fund.) The state treasurer, at the beginning of each fiscal year, shall prepare a list of the checks drawn on various depositories which are more than six years old which remain outstanding and unpaid and shall show the number, date, payee (with address of payee if available), amount, bank on which drawn and fund against which said check was drawn. A copy of such list shall then be used as an authority for writing a receipt of the total of such check or checks and shall credit such amount to the general fund. One copy of such receipt with list of checks affected shall be provided to the department of accounts and purchases.

§ 110. Amendment.) Section 54-27154 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

*Note: Section 54-2714 was also amended by chapter 214, section 7.
**Note: Section 54-2715 was also amended by chapter 214, section 8.

54-27154. Subsequent Payment.) In the event such check or checks is at any subsequent time presented for payment, the holder thereof shall execute a voucher for the amount, to which shall be attached the original check or other satisfactory evidence of ownership of such check. The voucher when approved by the state auditing board shall be paid by a warrant issued by the department of accounts and purchases signed by the state auditor and drawn on the general fund.

§ 111. Amendment.) Section 54-3016 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

54-3016. Payment of Interest or Principal on Bonds at Maturity; Where Made; Report of; Made From Real Estate Bond Payment Fund.) The state treasurer shall pay interest on bonds issued under the provisions of this chapter upon presentation to him of the coupon for such interest when due. He shall redeem the bonds upon their maturity by paying the principal thereof. All such payments shall be made from the proper fund, without a warrant. Each payment so made, in addition to other accounting as provided by law, shall be reported to the Bank of North Dakota. The department of accounts and purchases for the state of North Dakota and the governor may designate a bank or trust company as the fiscal agent of the state in the city of New York at which or to whom bond principal or interest may be payable. Such agent shall act for the state in the making of such payments under such rules and regulations as shall be made by the department of accounts and purchases and the governor. All moneys in the funds, except an administration fee of one-half of one percent required to be paid to the Bank of North Dakota, are appropriated for the payment of interest and principal of the bonds. This appropriation shall not be repealed, and no provisions made in the chapter for the payment of the bonds and interest shall be discontinued until the debt evidenced by the bonds, both principal and interest, shall have been paid.

§ 112. Amendment.) Section 55-0104 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

55-0104. Contributions for Relics or Sites Deposited With State Treasurer.) The money contributed for the purchase of historical relics or sites shall be placed in the hands of the state treasurer and shall be paid out for such purpose only on warrant of the department of accounts and purchases signed by the state auditor when approved by the board of directors of the state historical society or a majority of its members.

§ 113. Amendment.) Section 55-0107 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

55-0107. Claims Incurred by Society; How Paid.) All bills or claims against the state, arising by reason of expenditures authorized by the society for the purposes provided by law, shall be processed by the department of accounts and purchases and shall be examined and audited by the state auditing board in the same manner as other claims are examined, audited, and allowed or rejected.

§ 114. Amendment.) Section 57-3724 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3724. Collections 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 retain sixty-five percent thereof, which he shall deposit 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 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.

§ 115. Amendment.) Section 57-4508 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-4508. Consolidated Tax Account.) The department of accounts and purchases may carry on the records of its office an account called the consolidated tax account with each county of the state, in which shall be listed, in appropriate columns, the taxes due the state for the years in which there are unpaid taxes five years old or older. All taxes collected by the counties for the years included in such consolidated tax accounts shall be reported as collections for such accounts and shall be credited to the general fund of the state.

§ 116. Amendment.) Section 61-0213 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0213. Employment of Assistants, Fixing Compensation; Claims for Compensation and Expenses.) The commission may hire and employ all necessary aid, help, and assistants, including members of all the professions, for the efficient performance of its powers and duties, and shall fix their compensation and allowances for their actual expenses. In so doing, the commission shall be guided by the compensation and allowance for expenses permitted and paid by the federal government for the performance of similar services by federal employees and agencies. All claims for compensation and expenses made by the members, agents, and employees of the commission must be itemized as required by the laws of this state and must be presented to the department of purchases and accounts and allowed by the state auditing board for payment.

§ 117. Repeal.) Chapter 54-22 and sections 46-0103, 54-1005, 54-1006, 54-1007, 54-1008, 54-1009, 54-1011, 54-2115, 54-2116, 54-2332, and 65-0210 of the North Dakota Revised Code of 1943 and sections 6-0121, 54-1512, 54-1513, 54-1514 and 54-27152 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby repealed.

§ 118. Effective Date.) The provisions of this Act shall become effective July 1, 1961, except that all provisions of this Act relating to purchases, printing, the printing commission,

and state printer and the repeal of chapter 54-22 of the North Dakota Revised Code of 1943 shall be effective July 1, 1960.

Approved March 21, 1959.

CHAPTER 373

S. B. No. 48
(Gefreh, Longmire, Luick,)
(Meidinger, Vendsel, Wartner)
(From LRC Study)

TRANSFER OF PART OF STATE AUDITOR'S FUNCTIONS

AN ACT

To amend and reenact sections 19-0108, 25-0810, 25-0813, 25-0814, 25-0816, 25-0817, 25-0819, 25-0820, and 25-0821 of the North Dakota Revised Code of 1943, and sections 15-2102, 25-0811, 25-0815 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the transfer of a part of the functions of the state auditor to the department of accounts and purchases, and to repeal chapter 54-13 of the North Dakota Revised Code of 1943 and chapter 54-13 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the state board of auditors.

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

§ 1. **Amendment.)** Section 19-0108 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

19-0108. Expenses; How Paid.) Vouchers for all salaries and expenses incurred by the director, assistant director, and employees of the department in performing their respective duties, when approved by the commission, shall be forwarded to the state auditing board monthly for audit and approval. When the vouchers are audited and approved by such board, they shall be certified to the department of accounts and purchases, which shall prepare, and the state auditor shall sign, warrants upon the state treasurer for the salaries and expenses specifying that the warrants are to be paid from the general fund out of appropriations made for the department by the legislative assembly. The state treasurer shall pay the expenses in accordance with such direction.

§ 2. **Amendment.)** Section 25-0810 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0810. Superintendents to Certify Charges for Institutional Care to Department of Accounts and Purchases.) On

the first day of January, April, July, and October of each year, the superintendents of the state hospital, of the state school, and of the state sanatorium, shall certify to the department of accounts and purchases all amounts not previously certified due their respective institutions from the various counties for the maintenance of county patients or pupils, as the case may be, and the amounts due from the state for the maintenance of patients or pupils who are charges of the state at large.

§ 3. Amendment.) Section 25-0816 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0816. Department of Accounts and Purchases to Draw on Counties for Amounts Due for Institutional Care.) After the moneys collected through the stamp tax on liquors and through the wholesale liquor transaction tax have been allocated and credited to the several counties as provided in this chapter, the department of accounts and purchases shall draw its draft upon the county treasurer of each county for the amount due from such county for institutional care. Such draft shall show the total amount charged for the quarter to such county for the care of patients or pupils in the institution, the amount credited to such county from the collection of liquor taxes, and the balance due from the county on the draft. The county treasurer and the county auditor shall remit to the state treasurer for the amount specified in the department of accounts and purchases' draft as the amount due from the county for the quarter. If there is included as a part of the amount for which the draft is drawn any charge for any patient or pupil who has been or shall be declared by proper resolution of the board of county commissioners not to be a charge against the county, the amount of such disputed claim may be deducted in making remittance for the draft, and the claim shall be determined, adjusted, and paid thereafter in accordance with the provisions of this chapter. When a draft has been paid in full, it shall be stamped "paid" by the state treasurer and mailed to the county treasurer.

§ 4. Amendment.) Section 25-0817 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0817. Procedure When County Has Not Sufficient Funds to Pay Draft.) If moneys on hand in the county treasury are insufficient to remit the amount of the draft drawn by the department of accounts and purchases to the state treasurer, by a county treasurer's check, the county auditor shall issue immediately a registered warrant payable to the state treasurer for the amount of the department of accounts and purchases' draft. In such case, the state treasurer shall not issue

his regular receipt for the registered warrant accepted in payment of the charges represented by the draft but may stamp on the face of the draft "Payment of this draft accepted by registered county warrant No..... Regular receipt will be issued when this warrant is redeemed".

§ 5. Amendment.) Section 25-0821 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0821. Penalty Remitted When; Settlement of Disputed Charges.) The state treasurer may remit any penalty for nonpayment of county care charges when he is satisfied that the same has been charged improperly or that such penalty resulted from the negligence or error of any officer required to do any duty relative to the collection of such county care charges. The department of accounts and purchases, with the approval of the governor, the attorney general, and the state treasurer, may make a compromise settlement with a county in case of any dispute arising over improper charges.

§ 6. Amendment.) Section 15-2102 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

15-2102. Salary and Traveling Expenses.) The superintendent of public instruction shall receive an annual salary of seventy-two hundred dollars. He shall be allowed in addition thereto his necessary and actual expenses incurred in the discharge of his official duties, such expenses to be paid monthly on a warrant prepared by the department of accounts and purchases and signed by the state auditor, upon the filing of an itemized and verified statement of expenses.

§ 7. Amendment.) Section 25-0811 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0811. Institutional Support Funds.) There shall be maintained in the offices of the state treasurer and of the department of accounts and purchases special revolving funds known as:

1. The "charitable institutions revolving fund";
2. The "institutional support fund, state hospital";
3. The "institutional support fund, Grafton state school"; and
4. The "institutional support fund, tubercular".

§ 8. Amendment.) Section 25-0813 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0813. Appropriation to and Expenditure From Institutional Funds.) There are appropriated to the board all moneys collected and covered into the charitable institutions revolving fund under the provisions of this chapter during each biennium to pay the expenses of maintenance and operation of the state hospital, the state school, and the state sanatorium. Expenditures from the institutional support fund, insane, from the institutional support fund, Grafton state school, and from the institutional support fund, tubercular, shall be made by warrants prepared by the department of accounts and purchases and signed by the state auditor by similar authority and in the manner in which expenditures are made from other institutional funds.

§ 9. Amendment.) Section 25-0814 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0814. State Treasurer to Certify Credits to Charitable Institutions Revolving Fund to the Board and to the Department of Accounts and Purchases Quarterly.) The state treasurer, on March first, June first, September first, and December first, in each year, shall certify to the board the amount credited during the quarter to the charitable institutions revolving fund and available on the date of the certificate for distribution to the institutional support funds. A copy of each such certificate shall be delivered to the department of accounts and purchases.

§ 10. Amendment.) Section 25-0815 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0815. Allocation of Moneys in the Charitable Institutions Revolving Fund to Various Institutions; Basis for Allocation.) The board, on or before March thirty-first, June thirtieth, September thirtieth, and December thirty-first, in each year, shall certify to the state treasurer, to the department of accounts and purchases, and to the superintendent of the state hospital, the superintendent of the state school, and the superintendent of the state sanatorium the amount to be placed to the credit of the institutional support fund, state hospital, the institutional support fund, Grafton state school, and the institutional support fund, state sanatorium, respectively. The board shall credit to each county the proportion that the total quarterly charges against said county for the care of patients or pupils in the state hospital, in the state school, and in the state sanatorium bear to the total quarterly charges against all counties for the care of patients or pupils in such institutions, respectively, and shall allocate to each of the institu-

tional support funds the portion of the amounts so credited to the counties to which each such institution is entitled.

§ 11. Amendment.) Section 25-0819 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0819. Collections From Counties To Be Placed in Institutional Support Funds.) The state treasurer and the department of accounts and purchases shall credit to the institutional support fund of each institution mentioned in this chapter the full amount of all collections from counties for care in such institution.

§ 12. Amendment.) Section 25-0820 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

25-0820. Credit on Charges for State at Large Patients and Pupils.) The department of accounts and purchases quarterly shall certify to the state treasurer the amount due from the state to the state hospital, the state school, and the state sanatorium, respectively, for the care of patients or pupils in each such institution who are charges of the state at large, and the amounts so certified shall be credited by the treasurer to the institutional support funds out of the amounts appropriated by the legislative assembly for such purposes.

§ 13. Repeal.) Chapter 54-13 of the North Dakota Revised Code of 1943 and chapter 54-13 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby repealed.

§ 14. Effective Date.) The provisions of this Act shall become effective July 1, 1961.

Approved March 21, 1959.

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 374

S. B. No. 225
(Freed, Roen, Vendsel, Wenstrom,)
(Meidinger, Longmire, Garaas)

EASEMENT FOR FEDERAL PARK PURPOSES

AN ACT

Authorizing an easement over certain property now owned by the state of North Dakota to the United States of America, for park purposes and the reversion thereof in case of nonuse, declaring it an emergency.

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

§ 1.) Authorization is hereby granted for the conveyance of an easement over certain property of the state of North Dakota to the United States of America for the construction of a sewer and electric and telephone lines subject to the right of reversion in the grantor in case the easement granted is not used for national park purposes or is abandoned, which state-owned land is more specifically described as follows, to-wit:

A tract of land lying in the northeast quarter of section twenty-seven, township one hundred forty north, range one hundred two west, said tract being described as follows: Beginning at the northeast corner of section twenty-seven thence running west along the section line between said section twenty-seven and section twenty-two to a point where said section line crosses the right shore line of the Little Missouri River, thence in a southwesterly direction along said shore line to a point where said shore line crosses the north right-of-way boundary of United States Highway No. 10 as now located and constructed, thence in a southeasterly direction along said right-of-way line to a point where said line crosses the west boundary line of block eleven, village of Medora, thence north zero degrees twenty-seven minutes west to the southwest corner of block four, village of Medora, thence north eighty-nine degrees thirty-three minutes east for a distance of one hundred fifty feet to a point, thence north zero degrees twenty-seven minutes west for a distance of five hundred

ten feet to a point, said point being on the north boundary line of block 3, village of Medora, thence north eighty-nine degrees thirty-three minutes east to a point on the section line between said section twenty-seven and section twenty-six, thence north along said section line to the point of beginning.

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.

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

Approved March 10, 1959.

CHAPTER 375

S. B. No. 272
(Wenstrom)

HISTORICAL STUDY OF YELLOWSTONE AND MISSOURI RIVER CONFLUENCE

AN ACT

Establishing a commission to work jointly with the state of Montana and the national park service for the purpose of investigating the historical significance of the area in northwestern North Dakota and northeastern Montana at the confluence of the Yellowstone and Missouri Rivers for the purpose of determining the feasibility of preserving the historic sites of the area illustrative of the history of the United States and making an appropriation therefor.

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

§ 1. **Yellowstone-Missouri-Fort Union Commission.)** There is hereby created and established the Yellowstone-Missouri-Fort Union Commission, hereinafter referred to as the "commission" which is declared to be a governmental agency with the authority to exercise the powers specified herein, or which may be reasonably implied, composed of the governor as chairman, the president of the senate, the speaker of the house, the director of the state historical society, the director of the state economic development commission, all ex officio, and five citizens of the state to be appointed by the governor who shall serve without compensation for the purpose of investigating, in cooperation with the state of Montana and the national park service, the historical importance and sig-

nificance of the area and for formulating and executing plans for the preservation of the historic sites illustrative of the history of the United States.

§ 2. Organization of Commission: Powers and Duties.) Upon call of the governor, the commission shall meet and select from among its members a vice chairman and a secretary. All commission employees shall be entitled to be reimbursed for actual expenses incurred while attending meetings or otherwise engaged in the official business of the commission at the same rates as other state officers. The commission may establish such committees and subcommittees as it may deem desirable and necessary to carry out its purposes and adopt such rules and regulations as deemed appropriate. It may accept funds, property and services and other assistance, financial or otherwise, from federal, state, county, municipal, and other public or private sources for the purpose of assisting and promoting its functions. It shall enlist the aid of all departments of the state, and may call upon civic, patriotic, educational, fraternal, professional and religious bodies and organizations for assistance.

§ 3. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of one thousand dollars, or so much thereof as may be necessary to carry out the purposes of this Act, provided that any or all of the appropriated sum be committed, obligated or expended during any period of the biennium and notwithstanding any provisions of the law to the contrary.

Approved March 16, 1959.

CHAPTER 376

H. B. No. 698
(Christopher, Lowe, Einarson, Halcrow, Baldwin)

MUSEUM AT PEMBINA

AN ACT

Authorizing the establishment and construction of a state historical museum at or near the city of Pembina, North Dakota.

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

§ 1. State Historical Museum at Pembina.) The state historical society is hereby authorized to establish and construct a state historical museum to be located at or near the city

of Pembina, in the county of Pembina, which shall be supervised by the state historical society. The state historical society shall have custody of and preserve in the museum at Pembina, for the people of the state of North Dakota, objects of primitive Indian art and other articles of historical value to the state which are acquired for such purpose. The state historical society shall be authorized to accept gifts, donations or contributions to be used or expended in the construction of the historical museum. At such time as the amount of gifts, donations and contributions, when combined with the appropriation provided for this purpose, become sufficient to construct a building which can effectuate the purposes of this Act, the state historical society shall contract for and supervise the construction of the state historical museum. The state historical society may, after the construction of the museum has been completed, transfer the operation of the museum to the city of Pembina upon such terms and conditions as the state historical society may require. If, in the judgment of the state historical society, sufficient gifts, donations and contributions are not received for the construction of the museum by July 1, 1961, then the state historical society shall return all such gifts, donations and contributions to the individual or individuals giving the same, and in such event the appropriation provided for this purpose shall be returned to the general fund.

Approved March 12, 1959.

TAXATION

CHAPTER 377

H. B. No. 808
(Schmalenberger)

BILLBOARD ASSESSMENT

AN ACT

To assist in the assessment and collection of personal property taxes on billboards used for advertising purposes.

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

§ 1. **Name of Owner.)** No person, firm, corporation or association shall erect and rent or lease any billboard for advertising purposes upon any land or attached to any building, unless at the time of the erection of such billboard there shall be attached and firmly affixed thereto a plate or sign containing the name and address of the owner of such billboard, which plate or sign shall be kept and maintained thereon at all times.

§ 2. **Failure to Designate Owner.)** If the owner of such billboard fails to comply with the provisions of section 1 hereof within sixty days after the erection of such billboard such owner shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars.

§ 3.) On or before the 15th day of March of each year every person, firm, corporation or association subject to the provisions of this Act shall file with the county auditor of each county in which such person, firm, corporation or association has billboards containing advertisements, a report in writing under oath, containing a description of the property upon which each such billboard is located, such description to be sufficiently complete so that the lot, tract or parcel of land may be identified. Such report shall also list the full and true value in money of each such billboards. Whenever the county auditor shall discover that any of such billboards has been omitted in the assessment of any year, he shall assess such billboards in the manner provided for in chapter 57-14 of the North Dakota Revised Code of 1943.

Approved March 9, 1959.

CHAPTER 378

S. B. No. 249
(Fiedler)
(By request)

CONTRACTOR'S PERFORMANCE BONDS FOR PAYMENT OF USE TAX

AN ACT

Relating to contractors' performance bonds and providing for payment of all use taxes due the state of North Dakota.

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

§ 1.) For the purposes of this Act the term "surety" shall mean a bond or undertaking executed by a surety company authorized to do business in the state of North Dakota, and "surety company" means any person, firm, or corporation executing such surety.

§ 2.) 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 of the North Dakota Revised Code of 1943, as amended. Such liability on the part of the surety company shall be limited to two percent of the amount of the contract price.

§ 3.) 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.

§ 4.) This Act shall not be construed to modify or repeal in any way any of the provisions of sections 48-0105 and 48-0106 of the 1957 Supplement to the North Dakota Revised Code of 1943.

Approved March 17, 1959.

CHAPTER 379

H. B. No. 700
(Baldwin, Aamoth, Hilleboe)

SPECIAL ASSESSMENTS FOR WATER AND SEWER IMPROVEMENTS

AN ACT

Authorizing municipalities in certain cases to levy special assessments for water and sewer improvements upon benefited properties which were not assessed at the time of construction thereof, prescribing the procedure for and the limitations upon the levy of such assessments, and declaring an emergency.

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

§ 1. Authority to Levy Water and Sewer Assessments on Property Not Originally Assessed.) Any municipality which has heretofore paid or provided or may hereafter pay or provide for the payment of part or all of the cost of an improvement to its water or sewer system, from sources other than special assessments upon benefited property, may subsequently levy special assessments therefor upon properties benefited thereby in the cases and in accordance with the procedure and subject to the conditions set forth in this Act.

§ 2. Assessments on Property Within the Corporate Limits.) No subsequent assessment shall be levied for any improvement on any property which was within the corporate limits of the municipality on the date of the execution of the first contract for any part of such improvement, unless a special improvement district was originally created for such improvement, and the property on which the subsequent assessment is to be levied was not originally assessed therefor but is subsequently included within another improvement district created to finance a water or sewer main which will be connected directly or indirectly with the original improvement. In such event, said assessments may be included in a separate column in the special assessment list prepared for such water or sewer main improvement district, and levied upon the prop-

erties included therein at the same time and upon the same notices and hearings as provided by law for the water or sewer main assessments; provided that a resolution determining the necessity of the water or sewer main shall have been adopted in the manner prescribed by law, referring to the designation of the district created for the original improvement and stating that a portion of the cost thereof is proposed to be assessed upon property within the water or sewer improvement district.

§ 3. Assessments on Annexed Property.) Any property which was outside the corporate limits of the municipality at the time of contracting for a water or sewer improvement, which is benefited by such improvement and is subsequently annexed to the municipality, may thereafter be assessed therefor subject to the same conditions and by the same procedure as provided in section 2 of this Act. Any such property which is benefited may also be assessed for a water or sewer main which, at the time of contracting therefor, was outside the corporate limits, or for any water or sewer improvement, within or outside the corporate limits, which is determined by the governing body and the special assessment commission to benefit only property which was outside the corporate limits at the time of contracting therefor, whether or not an improvement district was previously created therefor, and whether or not the property assessed abuts on such main or other improvement or on a main to be connected thereto. For this purpose the governing body may create one or more improvement districts comprising such annexed territory or any part thereof, and may thereafter provide for the levy of special assessments upon such property in the manner provided in Title 40 of the North Dakota Revised Code of 1943, as amended, but may dispense with the requirements of said Code as to the adoption of a resolution of necessity and the advertisement and award of a contract for the improvement, and the assessment proceedings shall be valid notwithstanding any failure of the previous proceedings to comply with the provisions of law regarding improvements to be financed by special assessments.

§ 4. Equalization of Original Assessments.) In any assessment proceedings under this Act the governing body of the municipality shall have power to direct the cancellation of uncollected installments of special assessments previously levied for the same improvement, and the refund of installments prepaid, to the extent determined by it to be necessary to make the original assessments and the subsequent assessments bear as nearly as possible the same relation to the total benefits derived from the improvement by the respective properties assessed.

§ 5. Use of Collections of Subsequent Assessments.) All collections of special assessments levied pursuant to this Act shall be credited as received to the special fund maintained by the municipality for the payment of any outstanding special improvement warrants, refunding improvement bonds, general obligation bonds or revenue bonds which were issued to finance the improvement for which the assessments were levied, or, if no such obligations are outstanding, to such fund as the governing body may direct.

§ 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 11, 1959.

CHAPTER 380

H. B. No. 578
(Einarson and Halcrow)

SPECIAL ASSESSMENTS ON STATE PROPERTY

AN ACT

To provide for the levy of special assessments on certain state property.

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

§ 1. State Property Subject to Special Assessments.) Real estate within municipalities of this state owned by the state of North Dakota other than for highway right-of-way purposes, may be subjected to special assessments for special improvements when benefited by such improvement and the state agency or department having control thereof is hereby authorized to expend public funds in payment of such special assessments.

Approved March 14, 1959.

CHAPTER 381

H. B. No. 740
(Halcrow, Johnson, Goebel, Berntson,)
(Anderson of Richland)

SPECIAL FUELS TAX LEVY

AN ACT

Levying a special excise tax on the sale of special fuels sold for agricultural, heating or railroad purposes; providing that special fuel dealers be licensed, bonded, collect the tax, make returns and remit the tax to the state auditor; providing that the state auditor administer the tax; providing penalties; and providing for allocation and distribution of the tax among the counties for farm to market roads.

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

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

1. "Person" includes every natural person, fiduciary, association, or corporation. Whenever used in any case prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof;
2. "Farm to market roads" mean any road within the county which is not on the North Dakota state highway system, and which qualifies for federal aid matching funds;
3. "Special fuel", for the purposes of this Act, means and includes all combustible gases and liquids suitable for *(heating purposes or for the generation of power for), except that it does not include motor fuel as defined in section 57-4101 of the North Dakota Revised Code of 1943, as amended;
4. "Sale", for the purposes of this Act, means the receipt, delivery, or transfer of title to special fuels by a special fuel **("dealer to a special fuel") user to be used for agricultural, heating or railroad purposes;

*__Note:__ The language "heating purposes or for the generation of power for" through clerical error remains in the enrolled bill as signed by the governor. Such language should have been deleted (see House Journal, p. 618), and the words "the generation of power for propulsion of motor vehicles" should be inserted in lieu thereof (see House Journal, p. 618).

**__Note:__ It appears that the words "dealer to a special fuel" through clerical error have been deleted from the enrolled bill as signed by the governor, since neither the House nor Senate Journals show such language was deleted by amendment. Therefore such language should be inserted where the double asterisk appears.

5. "Special fuel dealer", for the purposes of this Act, means any person in the business of handling special fuel who delivers or sells any part thereof to a special fuel user;
6. "Special fuel user", for the purposes of this Act, means any person receiving or purchasing special fuel to be used for agricultural, heating or railroad purposes.

§ 2. Tax Levied.) There is hereby levied and imposed a special excise tax on all sales of special fuel which are exempted from the tax imposed under chapter 57-52 of the 1957 Supplement to the North Dakota Revised Code of 1943 as amended to a special fuel user at the rate of two percent of the sale price of such special fuels, provided, however, that discounts for any purposes allowed and taken on such sales shall *(not) be included as a part of the sale price.

§ 3. Collection and Payment of Tax.) The tax imposed by section 2 of this Act shall attach at the time of sale of any special fuel by any special fuel dealer to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state auditor as hereinafter provided.

§ 4. License, Fee and Bond.) It shall be unlawful for any person to act as a special fuel dealer in this state unless he shall or has complied with the provisions of the 1957 Supplement to the North Dakota Revised Code of 1943 set forth in section 57-5205, 57-5206 and 57-5207 and subject to the provisions of section 57-5208 of the 1957 Supplement to the North Dakota Revised Code of 1943.

§ 5. Records and Returns; Penalties and Interest; Powers of State Auditor.)

1. A special fuel dealer shall keep such records and shall make such monthly returns and payments of the tax to the state auditor, in the manner, at the time, and pursuant to similar procedures as are provided in sections 57-5209 and 57-5210 of the 1957 Supplement to the North Dakota Revised Code of 1943 insofar as those sections are not inconsistent with the provisions of this Act.
2. For failure or refusal to keep such records, file monthly returns and make payments of the tax to the state auditor as herein provided, a special fuel dealer shall be subject to the same penalties and interest as are provided for similar acts in sections 57-5212, 57-5213

*__Note:__ It appears that the word "not" has been deleted through clerical error from the enrolled bill as signed by the governor, since neither the House nor Senate Journals show the word "not" was deleted by amendment. Therefore the word "not" should be inserted where the asterisk appears.

and 57-5214 of the 1957 Supplement to the North Dakota Revised Code of 1943.

3. The state auditor, in his discretion, and for good cause shown, may waive the penalty for failure or refusal to file a return within the time required by this Act or grant a reasonable extension of time for filing such a return. The state auditor shall have power to revoke or cancel the license of any special fuel dealer under the conditions and after notice as provided in section 57-5208 of the 1957 Supplement to the North Dakota Revised Code of 1943; assess deficiencies in the tax; determine the tax when returns are not filed as required by this Act; permit credit for or authorize refund or erroneously or illegally collected taxes, penalties or interest imposed by this Act from undistributed funds received under this Act, all in the manner and to the same extent as provided in sections 57-5212, 57-5213, 57-5214 and 57-5215 of the 1957 Supplement to the North Dakota Revised Code of 1943, insofar as the provisions of those sections are consistent with this Act.
4. The state auditor shall enforce the provisions of this Act and may prescribe, adopt and enforce reasonable rules and regulations relating to the administration and enforcement of this Act for both the special fuel dealer and the special fuel user, and he may examine the records of special fuel dealers and special fuel users and make such investigations as he may deem necessary in the administration and enforcement of this Act.

§ 6. Presumption.) For the purpose of enforcing the provisions of this Act it shall be prima facie presumed that all special fuel received by a special fuel dealer and placed into storage or dispensing equipment normally designed to transfer and meter such fuel into fuel tanks for agricultural, heating or railroad purposes was in fact resold and delivered to special fuel users.

§ 7. Violations.) It shall be unlawful for any person to:

1. Refuse or knowingly or intentionally fail to make and file any statement required by this Act in the manner or within the time required;
2. Knowingly, or with intent to evade or aid in the evasion of the tax imposed herein, to make any false statement or conceal any material fact in any record, return, or affidavit provided for in this Act;
3. Conduct any activities requiring a license under this Act without a license or after such license has been surrendered, canceled, or revoked;
4. Assign or attempt to assign a license to act as a special fuel dealer;

5. Receive in this state into fuel tanks as a special fuel user for use for agriculture, heating or railroad purposes special fuel obtained from a person not holding a valid license as a special fuel dealer;
6. Fail to keep and maintain such books, records, or metering devices as may be required by this Act.

§ 8. Penalties.) Any person violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment of not more than thirty days, or by both such fine and imprisonment. Upon such conviction the state auditor may revoke for a period of not less than one year the special fuel dealer's license of any special fuel dealer convicted of violating this Act. The fine and imprisonment and revocation of license, provided for in this section, shall be in addition to any other penalty imposed by other provisions of this Act.

§ 9. Disposition of Funds.) All taxes, license fees, penalties and interest collected under this Act, except for the fines levied upon conviction for violation hereof, and except for license fees collected pursuant to chapter 57-5204 of the 1957 Supplement to the North Dakota Revised Code of 1943, shall be transferred to the state treasurer who shall allocate and distribute such funds among the counties of this state for farm to market roads in accordance with a formula that gives equal weight to the land area in each county in the state, to population in each county in the state according to the last official census, and to miles of rural roads in each county in the state exclusive of state highways. The state treasurer shall allocate and distribute such funds to the several counties on a calendar quarterly basis, and such allocation and distribution shall be made on or before the end of the first month following the calendar quarter for which such allocation and distribution is made.

Approved March 11, 1959.

CHAPTER 382

S. B. No. 91
(Meidinger, Wenstrom, Morgan, Wadeson, Klefstad)

CLOTHING, HOUSEHOLD GOODS AND MUSICAL INSTRUMENTS; EXEMPTION

AN ACT

To amend and reenact section 57-0208 of the North Dakota Revised Code of 1943, as amended, by creating and enacting an additional subsection relating to the exemption of clothing, household goods, and musical instruments of certain persons from personal property taxation.

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

§ 1. Amendment.) Section 57-0208 of the North Dakota Revised Code of 1943 is hereby amended by creating and enacting an additional subsection to read as follows:

21. All clothing, musical instruments, and household goods owned and personally used by blind persons, 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 and 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 10, 1959.

CHAPTER 383

H. B. No. 737
(Magnuson, Haugland, Johnston, Lindberg, Hilleboe)

PERSONAL PROPERTY EXEMPTION FOR THE BLIND

AN ACT

To amend and reenact section 57-0208 of the North Dakota Revised Code of 1943 by creating and enacting a subsection relating to the exemption of certain personal property from ad valorem taxes for blind persons.

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

§ 1. Amendment.) Section 57-0208 of the North Dakota Revised Code of 1943 is hereby amended by creating and enacting the following subsection to read as follows:

All or any part of fixtures, building and improvements upon any nonfarm land up to an assessed valuation of six thousand dollars, owned and occupied as a home by a blind person. For purposes of this section a blind person shall be defined as one who is totally blind, has visual acuity of not more than 20/200 in the better eye with correction, or whose vision is limited in field so that the widest diameter subtends an angle no greater than twenty degrees.

Approved March 12, 1959.

CHAPTER 384

H. B. No. 701
(Baldwin and Hilleboe)

BASIS FOR COMPUTATION OF TAXES

AN ACT

To amend and reenact section 57-0228 of the North Dakota Revised Code of 1943, relating to computation of property taxes, and declaring an emergency.

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

§ 1. Amendment.) Section 57-0228 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-0228. Basis for Computation of Tax.) The value of all property subject to a general property tax, not exempted by law nor subject to any gross sales or other lieu tax, to be used in the computation of the tax levied for the payment of any bonded or improvement warrant indebtedness shall be the full and true value thereof, but the net value of such property to be used in the computation of all other taxes levied thereon shall be fifty percent of the true and full value thereof. Assessors and boards of review shall assess and return all taxable property at its full and true value, and the county auditor, after equalization by the state board of equalization, shall make the computations necessary to ascertain said fifty percent value.

§ 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, 1959.

CHAPTER 385

H. B. No. 662
(Schuler, Dahl, Brown)

SALARY AND EXPENSE OF COUNTY VETERANS' SERVICE OFFICER

AN ACT

To amend and reenact section 57-15064 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the levy authorized for the payment of the salary and traveling expenses of the county veterans' service officer.

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

§ 1. Amendment.) Section 57-15064 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-15064. Levy Authorized for County Veterans' Service Officers' Salary and Traveling Expenses.) The county commissioners of each county are hereby authorized to levy annually a tax of not to exceed one-half mill on the dollar of the net assessed taxable valuation of the county, to provide a fund, for the payment of the salary and traveling expenses of the county veterans' service officer authorized to be appointed by section 37-1418 of the 1957 Supplement to the North Dakota Revised Code of 1943. Such levy shall in no manner be limited by the provisions of section 57-1506 of the 1957 Supplement to the North Dakota Revised Code of 1943.

Approved March 11, 1959.

CHAPTER 386

H. B. No. 549
(Link, Esterby, Streibel)
(From LRC Study)

EXCESS LEVIES IN SCHOOL DISTRICTS

AN ACT

To amend and reenact section 57-1605 of the North Dakota Revised Code of 1943, relating to the vote necessary to approve excess levies in school districts.

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

§ 1. Amendment.) Section 57-1605 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1605. Vote Necessary for Approval.) If the question submitted is for an increase of not to exceed twenty-five percent in the levy over the legal limit, a favorable vote upon such question by a majority of the electors voting shall be sufficient to authorize such excess levy. If the question submitted is for an increase of more than twenty-five percent and not to exceed seventy-five percent in the levy over the legal limit, a favorable vote upon such question by sixty percent of the electors voting on such question shall be sufficient to authorize such excess levy.

Approved March 10, 1959.

CHAPTER 387

S. B. No. 119
(Morgan, O'Brien, Fiedler, Wadeson)

PENALTY FOR DELINQUENT PERSONAL PROPERTY TAXES

AN ACT

To amend and reenact section 57-2001 of the North Dakota Revised Code of 1943, relating to the penalty for delinquent personal property taxes.

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

§ 1. Amendment.) Section 57-2001 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2001. Real and Personal Property Taxes; When Due and Delinquent; With Penalties.) All real and personal property taxes, hail insurance taxes, and yearly installments of special assessment taxes shall become due on the first day of January following the year for which such taxes were levied. The first installment of real estate taxes, all personal property taxes, hail insurance taxes, and yearly installments of special taxes shall become delinquent on the first day of March following and, if not paid on or before said date, shall be subject to a penalty of one percent, and on May first following an additional penalty of one percent, and on July first following an additional penalty of one percent, and an additional penalty of two percent on October fifteenth following. From and after January first of the year following the year in which the taxes become due and payable, simple interest at the rate of six percent per annum upon the principal of the unpaid taxes on personal property shall be charged until such taxes and penalties are paid, with such interest charges to be prorated to the nearest full month for a fractional year of delinquency. The second installment of real estate taxes shall become delinquent on October fifteenth, and, if not paid on or before that date shall become subject to a penalty of two percent.

Approved March 17, 1959.

CHAPTER 388

H. B. No. 702
(Sorlie and Burk)

TAX REDEMPTION CERTIFICATES

AN ACT

To amend and reenact section 57-2024 of the North Dakota Revised Code of 1943, relating to the method of payment of due tax redemption certificates, and the disposition of payments that are overdue and have not been claimed.

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

§ 1. Amendment.) Section 57-2024 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2024. Warrants To Be Drawn for Money Due Owners.) Upon application of the party entitled thereto, and the approval of the board of county commissioners that such claim is owing and that the person presenting the claim is the rightful holder

thereof, the county auditor shall give to such party his warrant upon the county treasurer for payment from the general fund for any money paid in for redemption of taxes which may be due to the purchaser at the sale, or his assignee. The certificate of sale shall be surrendered and canceled at the time of such payment, or if the redemption is for a part or undivided interest in the piece or parcel of land redeemed, the amount of such redemption and the proportion redeemed shall be endorsed on such certificate, which shall be a cancellation of such part of the certificate. If any holder of a tax sale certificate fails to present such tax sale certificate to the county auditor for payment within a period of ten years after notice, the board of county commissioners shall transfer the amount due on such tax sale certificate into the general fund of the county.

Approved March 12, 1959.

CHAPTER 389

S. B. No. 103
(Fiedler, O'Brien, Livingston, Larson, Morgan, Longmire, Schrock)

PUBLICATION AND RECORD OF DELINQUENT PERSONAL PROPERTY TAXES

AN ACT

To amend and reenact sections 57-2201 and 57-2202 of the North Dakota Revised Code of 1943, relating to collection of personal property taxes, and the publication of delinquent personal property taxes and maintaining a record of all such delinquent taxes.

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

§ 1. Amendment.) Section 57-2201 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2201. Treasurer to Give Notice.) The county treasurer, during the month of January preceding the time when personal property taxes shall become delinquent, shall give to each person, firm, or corporation from whom such a tax is due, a written notice stating the amount of the tax due, the date when the same shall become delinquent, a schedule of the penalties which will accrue after delinquency, 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 and that in January of the next year the list of unpaid delinquent personal property taxes will be published in the official newspaper in the county.

§ 2. **Amendment.)** Section 57-2202 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2202. Treasurer to Make List of Delinquent Taxes and Publish Notice of Delivery to Sheriff.) 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 publish notice in the official newspaper of the county that on the fifteenth day of October of that year all unpaid delinquent personal property taxes will be placed in the hands of the sheriff for collection.

§ 3. **County Auditor to Publish List and Maintain Record of Delinquent Personal Property Taxes.)** The county auditor, upon receiving a list of the delinquent personal property taxes as required by law, shall cause the same to be published in the official newspaper of the county and entered in individual accounts by taxpayers in a record to be kept in his office. Such record shall show the names of delinquent taxpayers alphabetically arranged, the amount of the tax of each, for what year or years, and all other information as shown on the original tax list. Subsequent payments shall be posted from duplicate copies of tax receipts transmitted by the treasurer and sheriff.

Approved March 3, 1959.

CHAPTER 390

H. B. No. 746
(Hilleboe, Aamoth, Stockman, Fitch, Idso)

ABATEMENT OR REFUND OF TAX ASSESSMENTS

AN ACT

To create and enact subsection 7 of section 57-2304 of the North Dakota Revised Code of 1943, relating to the abatement of assessments and refund of taxes.

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

§ 1. **Amendment.)** Section 57-2304 of the North Dakota Revised Code of 1943 is hereby amended by adding subsection 7 thereto to read as follows:

7. When any building, structure, or other improvement or tangible personal property has been destroyed or in-

jured by fire, flood, or tornado; provided that proper adjustment has not been made by the assessor pursuant to subsection 4 of section 57-0211. No abatement or refund shall be made under this subsection on account of damages covered by insurance or damages amounting to less than one hundred dollars, and the abatement or refund shall be granted only for that part of the year remaining after the property was damaged or destroyed.

Approved March 9, 1959.

CHAPTER 391

H. B. No. 826
(Burk)

COLLECTION OF TAXES ON LEASEHOLD INTERESTS

AN ACT

To amend chapter 57-24 of the North Dakota Revised Code of 1943 by adding thereto section 57-2431 relating to collection of real estate taxes imposed on leasehold interests in exempt real property.

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

§ 1.) Chapter 57-24 of the North Dakota Revised Code of 1943 is hereby amended by adding thereto section 57-2431 to read as follows:

57-2431. Collection of Real Estate Taxes on Leasehold Interests.) If any holder of a leasehold interest in exempt real property neglects or refuses to pay any real estate taxes legally assessed and levied thereon at such time as now is or may hereafter be required by law for the payment of real property taxes, such leasehold interest shall be sold in the manner provided by law for the sale of real property for delinquent taxes. Such taxes shall also constitute a personal charge against the holder of the lease from and after the day they become due, and all of the provisions of law with respect to the enforcement of collection of personal property taxes shall be applicable.

Approved March 5, 1959.

CHAPTER 392

H. B. No. 735
(Aamoth, Stockman, Bye, Halcrow,)
(Thompson of Richland, Lowe)

INCOME TAX CREDITS

AN ACT

To amend and reenact subsections 2 and 6 of section 57-3804 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to allocation of income of residents and providing a credit for income taxes paid to another state or foreign country; providing an effective date; providing for refunds; and declaring an emergency.

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

§ **1. Amendment.)** Subsection 2 of section 57-3804 of the 1957 Supplement to the North Dakota Revised Code of 1943 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 a foreign country 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 deduction 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 were excluded from the computation of the North Dakota income tax;

§ **2. Amendment.)** Subsection 6 of section 57-3804 of the 1957 Supplement to the North Dakota Revised Code of 1943 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 a foreign country 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 deduction 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 in 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 related thereto were excluded from the computation of the North Dakota income tax.

§ 3. **Effective Date.)** The provisions of sections 1 and 2 of this Act shall apply to all income years beginning after December 31, 1957.

§ 4. **Refunds Authorized.)** Refunds of income taxes paid to this state pursuant to subsections 2 and 6 of section 57-3804 of the 1957 Supplement to the North Dakota Revised Code of 1943 on income derived from sources outside of North Dakota are hereby authorized to the extent that such taxes paid by any taxpayer exceed the amount that would have been due had this Act been in effect; provided that any application for refund under this section be filed with the tax commissioner on or before 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 19, 1959.

CHAPTER 393

S. B. No. 186
(Baeverstad, Foss, Holand, Brooks, Wartner, Freed,)
(Longmire, Trenbeath, Luick, Miller,)
(Erickson, Becker)

INCOME OF INDIVIDUALS AND FIDUCIARIES

AN ACT

To amend and reenact sections 57-3807, 57-3821 and 57-3827 of the North Dakota Revised Code of 1943, and sections 57-3801, 57-3827 and 57-3831 of the 1957 Supplement to the North Dakota Revised Code of 1943, all relating to taxation of incomes of individuals and fiduciaries; to provide deductions from net income in computing taxable income of individuals and fiduciaries, and to simplify preparation of their income tax returns for income years commencing after December 31, 1958, and to repeal subsection 3 of section 57-3817 and subsection 9 of section 57-3822 of the North Dakota Revised Code of 1943, and subsection 5 of section 57-3817 and subsection 13 of section 57-3822 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ 1. Amendment.) Section 57-3801 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 20 to read as follows:

20. "Taxable income" or "income taxable" shall mean the net income as defined in this chapter less allowable deductions and exemptions in the case of individuals; with respect to fiduciaries, estates and trusts the quoted phrases shall mean the taxable income as computed for federal income tax purposes under the United States Internal Revenue Code of 1954 as amended, plus the federal personal exemption deduction, but with adjustments, deductions and exemptions under this Act and chapter.

§ 2. Amendment.) Section 57-3801 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 21 to read as follows:

21. The term "Internal Revenue Code of 1954 as amended", means Internal Revenue Code of 1954 as amended to and including December 31, 1958.

§ 3. Amendment.) Section 57-3807 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3807. Tax Imposed on Resident Fiduciaries: A Charge Against Estate or Trust.) The tax imposed by this chapter

shall apply to and become a charge against estates and trusts with respect to their taxable income as defined in this Act, and the rates shall be the same as those applicable to individuals. Adjustments, deductions and exemptions shall be according to the provisions of this Act and chapter. The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts, whether such income be taxable to the estate or trust or to the beneficiaries thereof. Fiduciaries required to make returns shall be subject to all of the provisions of this Act which apply to individuals.

§ 4. **Amendment.)** Section 57-3827 of the North Dakota Revised Code of 1943, as amended, is hereby amended and reenacted to read as follows:

57-3827. Exemption for Fiduciaries.) For the purpose of the tax on fiduciaries, there shall be deducted from the net income a personal exemption of six hundred dollars; provided that, as to net income received before death during the income year by any deceased individual who at the time of death was a resident and had made no return for the year of death, the allowable exemptions shall be the same as if decedent were living, and further provided that, as to net income for a resident insolvent or incompetent individual, whether or not accumulated, the allowable exemptions shall be the same as those to which the beneficiary would be entitled if his affairs were not in the complete charge of a fiduciary.

§ 5. **Amendment.)** Section 57-3821 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3821. Net Income Defined; Computation.) In the case of corporations the phrase "net income" means the gross income of corporations as defined in this chapter, less the allowable deductions; in the case of individuals, the phrase "net income" means the adjusted gross income as computed for federal income tax purposes under the United States Internal Revenue Code of 1954 as amended, with adjustments; in the case of estates or trusts the phrase "net income" means the taxable income as computed for federal income tax purposes, plus the federal personal exemption deduction, and with adjustments. Adjustments for individuals and estates or trusts shall be as follows:

1. Subtract interest and dividends from federal securities.
2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax, provided that interest upon obligations of the state of North Dakota or any political subdivision thereof shall not be added.

3. Where the adjusted gross income includes capital gains or losses, or gains or losses from property other than capital assets, and such gains or losses have been determined by using a basis established prior to January 1, 1919, an adjustment may be made under rules and regulations prescribed by the state tax commissioner to reflect the difference resulting from the use of a basis of cost or January 1, 1919, fair market value, less depreciation allowed or allowable, whichever is higher. Provided, however, that the basis shall be fair market value as of January 1, 1959, less depreciation allowed or allowable in case of property acquired prior to that date if use of a pre-1919 basis is declared to be invalid.
4. Where an individual is permitted to file as a corporation under the provisions of the Internal Revenue Code of 1954 as amended, such fictional status shall not be recognized and such individual's taxable income shall be computed as required under the provisions of the Internal Revenue Code of 1954 as amended, relating to individuals not filing as corporations, with the adjustments, deductions and exemptions allowed by this chapter.
5. Where the federal adjusted gross income includes gains from property dealings in an earlier year, on which gains a North Dakota income tax return was made for such earlier year, adjustments shall be made under rules and regulations of the tax commissioner where necessary to prevent multiple state taxation with respect to the taxable event.
6. Where the federal adjusted gross income has not been reduced by depreciation allowances available on state returns under prior law but exhausted on federal returns due to differences in depreciation plans or schedules, adjustments shall be made under rules and regulations of the tax commissioner to prevent inequitable state taxation.
7. Where the federal adjusted gross income has not been reduced by losses available on state returns under prior law previously exhausted on federal returns due to differences in carry-back and carry-over provisions, adjustments shall be made under rules and regulations of the tax commissioner to prevent inequitable state taxation.

The commissioner is hereby authorized to prescribe rules and regulations to implement this section to avoid injustice to taxpayers, to prevent duplication of deductions and to eliminate taxation of income not fairly and properly taxable under this Act and chapter.

§ 6. Repeal.) Subsection 9 of section 57-3822 and subsection 3 of section 57-3817 of the North Dakota Revised Code of 1943 and subsection 5 of section 57-3817 and subsection 13 of section 57-3822 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby repealed.

§ 7. Deductions.) In computing taxable income of individuals, there shall be deducted from net income the larger of the amounts defined as follows:

1. An optional standard deduction of five percentum of the net income after deduction of federal income taxes, but not social security and self employment taxes, not to exceed five hundred dollars, or
2. The total of contributions, interest, taxes, medical expense, child care expense, losses and miscellaneous expenses deductible for federal income tax purposes under the United States Internal Revenue Code of 1954 as amended, with adjustments as follows:
   a. Subtract from said total the deduction for North Dakota income taxes.
   b. Add to said total the amount of federal income taxes, but not social security and self employment taxes paid or accrued, as the case may be, during the applicable tax year, adjusted by any federal tax refunds. Provided, however, that where married persons who have filed a joint federal income tax return file separately, such total of deductions under this subsection shall be divided between them according to law; and provided further that where a taxpayer has used an optional standard deduction on his federal return, he shall use the optional standard deduction provided in this section.
   c. Add to said total 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 were received by the taxpayer as income during the income year if such corporation has reported the name and address of each person owning stock and the amount of dividends or income paid each such person during the year; 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 deducted.

3. Where married persons file separately, both must use the optional 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 optional standard deduction is not used, be permitted to deduct only such portion of the total referred to in subsection 2 of this section as is fairly and equitably allocable to North Dakota under rules and regulations prescribed by the state tax commissioner.

§ **8. Amendment.)** Section 57-3831 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 7 to read as follows:

7. The return shall be accompanied by a true copy of the federal income tax return of the taxpayer or by equivalent information on forms furnished and under regulations promulgated by the state tax commissioner.

§ **9. Application.)** This Act shall apply to income years commencing after December 31, 1958.

Approved March 19, 1959.

CHAPTER 394

H. B. No. 801
(Rolfsrud and Beede)

GAIN OR LOSS ON EXCHANGES OF PROPERTY

AN ACT

Relating to income taxation to create and enact section 57-38155 of the North Dakota Revised Code of 1943 to provide for retroactive and prospective nonrecognition of gain or loss on certain exchanges of property of a like kind, on certain exchanges by a corporation of its stock for property, on certain exchanges of property for the stock of a corporation, and on exchanges of the same kind of stock in the same corporation; and to create and enact subsection 7 of section 57-3818 of the North Dakota Revised Code of 1943 to provide that gross income shall not include certain stock dividends or stock rights already declared or to be declared.

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

§ **1.)** Section 57-38155 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

57-38155. Gain or Loss Not Recognized on Certain Exchanges.)

1. No gain or loss shall be recognized upon the exchange of property held for productive use in a trade or business, or for investment, solely for property of a like kind to be held either for productive use in a business or for investment, except that this provision shall not apply to stock in trade or other property held primarily for sale, nor to stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest. The term "like kind" as used in this subsection shall have the same meaning as is given to it under section 1031 of the Federal Internal Revenue Code of 1954, as amended, and the basis of the property acquired shall be determined in accordance with the provisions of that section. A gain from an exchange of property for property of a like kind and other property or money shall be recognized to the same extent that it is recognized under that section, but no loss from such an exchange shall be recognized. This subsection shall be otherwise construed and administered in accordance with the provisions of that section.
2. No gain or loss shall be recognized to a corporation on the receipt of money or other property in exchange for stock, including treasury stock of such corporation. The basis of the property acquired by the corporation shall be determined in accordance with the provisions of section 1032 of the Federal Internal Revenue Code of 1954, as amended, and this subsection shall be otherwise construed and administered in accordance with the provisions of that section.
3. No gain or loss shall be recognized if property of any kind is transferred to a corporation by one or more persons solely in exchange for stock or securities of the same corporation and if immediately after the exchange that person or persons then own stock representing at least 80% of the total combined voting power of all classes of stock of the corporation carrying the right to vote and at least 80% of the total number of shares of all other classes of stock of the corporation issued at the time of the exchange. The term "securities" as used in this subsection shall have the same meaning as is given to it under section 351 of the Federal Internal Revenue Code of 1954, as amended, and the basis of the property acquired by such person or persons shall be determined in accordance with the provisions of that section. A gain from a transfer of property to a corporation in exchange for stock of the corporation and other property or money shall be recognized to the same ex-

tent that it is recognized under that section, but no loss on such an exchange shall be recognized. This subsection shall be otherwise construed and administered in accordance with the provisions of that section.

4. No gain or loss shall be recognized upon the exchange of common stock solely for common stock of the same corporation or of preferred stock solely for preferred stock of the same corporation. A gain from an exchange of common stock for common stock in the same corporation and other property or money or from an exchange of preferred stock for preferred stock in the same corporation and other property or money shall be recognized to the same extent that it is recognized under section 1036 of the Federal Internal Revenue Code of 1954, as amended, but no loss on such an exchange shall be recognized. The basis of the property acquired in an exchange under this subsection shall be determined in accordance with the provisions of that section, and this subsection shall be otherwise construed and administered in accordance with that section.
5. This section shall apply to all such exchanges that have been heretofore or that may hereafter be made, except that in any case where such an exchange has been reported or treated for the purposes of this chapter in a manner different from that provided in this section the basis of the property acquired shall be adjusted pursuant to such reasonable rules or regulations as the tax commissioner may prescribe to prevent an unfair burden upon, or benefit to, the taxpayer.
6. For the purposes of this section the words "Federal Internal Revenue Code of 1954, as amended" shall mean the Federal Internal Revenue Code of 1954, as amended to December 31, 1958.

*§ 2.) Subsection 7 of section 57-3818 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

7. (a) Any distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock; except distributions in lieu of money (1) to the extent that the distribution is made in discharge of preference dividends for the income year of the corporation in which the distribution is made or for the preceding year or (2) a distribution in which any of the shareholders has the option to receive cash or other property. The basis of the new stock or stock rights excluded from gross income pursuant to this subsection and of the old stock with respect to which

*Note: Another subsection 7 of section 57-3818 was also created by chapter 395.

it was distributed shall, in the shareholder's hands, be determined by allocating between the old stock and the new stock or stock rights the adjusted basis of the old stock, except that as to stock rights excluded under this subsection the basis shall be zero if the fair market value of the stock rights is less than 15 percent of the fair market value of the old stock and if the shareholder does not elect to allocate the adjusted basis of the old stock between the old stock and the stock rights. Allocation of the adjusted basis of the old stock shall be made in the same manner as it is made under section 307 of the Federal Internal Revenue Code of 1954, as amended, and this subsection shall be otherwise construed and administered in accordance with that section and section 305 of the Federal Internal Revenue Code of 1954, as amended.

(b) This subsection shall apply to all such distributions that have been heretofore or that may hereafter be made, except that in any case where such a distribution has been reported or treated for the purposes of this chapter in a manner different from that provided in this subsection the basis of the stock or stock rights acquired shall be adjusted pursuant to such reasonable rules or regulations as the tax commissioner may prescribe to prevent an unfair burden upon, or benefit to, the taxpayer.

(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, 1958.

Approved March 19, 1959.

CHAPTER 395

S. B. No. 77
(Gronvold)

GROSS INCOME EXCLUSIONS

AN ACT

To amend and reenact section 57-3818 of the North Dakota Revised Code of 1943, as amended, relating to the exemption from the state income tax of all income accruing as federal social security benefit payments, or as North Dakota old age and survivors insurance system payments.

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

§ 1. Amendment.) Section 57-3818 of the North Dakota Revised Code of 1943, as amended, is hereby amended and reenacted to read as follows:

57-3818. Items Not Included in Gross Income.) The term "gross income" does not include the following items, which shall be exempt from taxation under this chapter:

1. Proceeds of life insurance policies and contracts paid upon the death of the insured to individual beneficiaries or to the estate of the insured;
2. The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts other than federal social security retirement contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract;
3. The value of property acquired by gift, bequest, devise, or descent, but the income from such property shall be included in gross income;
4. Interest upon obligations of the United States or its possessions or upon obligations of the state of North Dakota or any political subdivisions thereof except that interest upon non-tax-exempt securities at present or in the future shall be included in gross income and be subject to tax;
5. Any amount received through accident or health insurance or under workmen's compensation acts as compensation for personal injuries or sickness, plus the amount of damages received whether by suit or agreement on account of such injuries or sickness;

6. Wages received by each minor dependent of the taxpayer, provided the wages of such dependent are less than six hundred dollars during the taxpayer's income year;

*7. Any amount received as federal social security benefit payments or as North Dakota old age and survivors insurance system payments.

Approved March 19, 1959.

CHAPTER 396

S. B. No. 140
(Andre, Holand, Garaas)
(By request)

DEDUCTION OF ADDITIONAL DEPRECIATION ALLOWANCE

AN ACT

To amend section 57-3822 of the 1957 Supplement to the North Dakota Revised Code of 1943 by creating and enacting subsection 14 of this section to provide for deduction of an additional depreciation allowance; and declaring an emergency.

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

§ 1. Amendment.) Section 57-3822 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended by creating and enacting subsection 14 to read as follows:

14. An additional depreciation allowance of 20 percent of the cost of tangible personal property purchased for use in a trade or business or for the production of income to be deducted only in the first income year in which a regular depreciation deduction is allowable. The cost of property on which this additional depreciation allowance may be deducted shall not exceed $10,000.00 on a separate return and $20,000.00 on a joint return. Any taxpayer, except a trust, may elect to deduct this additional first-year depreciation and it may be deducted with respect to such property purchased after December 31, 1957 by any taxpayer, except a trust, whose income year ends after June 30, 1958; provided that the election shall be made at the time and in the manner that the similar election for federal income tax purposes is made and that the deduction shall be limited to the conditions under which the similar deduction for federal income tax purposes may be taken.

*__Note:__ Another subsection 7 of section 57-3818 was also created by chapter 394.

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

Approved March 19, 1959.

CHAPTER 397

H. B. No. 738
(Brown)
(By request)

INCOME TAX

AN ACT

To amend and reenact section 57-3849 and subsection 3 of section 57-3842 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to filing and recording income tax liens and relating to time for filing of returns of information at the source.

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

§ 1. Amendment.) Section 57-3849 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3849. Preservation of Lien.) In order to preserve the lien provided in section 57-3848 against subsequent mortgagees, purchasers or judgment creditors, for value and without notice of the lien, on any property situated in any county, the tax commissioner shall file with the register of deeds of the county in which said property is located, a notice of said lien. The register of deeds of each county shall prepare and keep in his office a book to be known as index of tax liens, so ruled as to show in appropriate columns the following data, under the names of taxpayers arranged alphabetically:

1. The name of the taxpayer;
2. The name "State of North Dakota" as claimant;
3. Time notice of lien was received;
4. Date of notice;
5. Amount of lien then due;
6. When satisfied.

The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and shall preserve the same, and forthwith shall index said notice in the index book and shall record the lien in the manner provided for recording real estate mortgages. Such lien shall be effective as against subsequent creditors, purchasers, and encumbrancers from the

time of the recording thereof. The 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.

§ 2. Amendment.) Subsection 3 of section 57-3842 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

3. All information returns required under subsection 1 of this section shall be made on the basis of a calendar year for payments made or accrued during the calendar year and shall be filed with the tax commissioner on or before April fifteenth of the year following the calendar year for which made. All partnership returns required under subsection 2 of this section shall be made on or before the fifteenth day of the fourth month following the close of the fiscal year of the partnership required to make the return, or if the return is made on the basis of a calendar year, then the return shall be made on or before the fifteenth day of April in the year following the calendar year for which such return is made.

Approved March 5, 1959.

CHAPTER 398

H. B. No. 791
(Finance and Taxation Committee)

IMPOSITION OF SALES TAX

AN ACT

To amend and reenact section 57-3902 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the imposing of a sales tax and the effective dates therefor.

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

§ 1. Amendment.) Section 57-3902 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-3902. Tax Imposed.) There is hereby imposed, beginning the first day of July, 1959, and ending the first day of July, 1961, 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; and 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. The tax herein levied shall be computed and collected as hereinafter provided.

Approved March 9, 1959.

CHAPTER 399

H. B. No. 745
(Balerud, Poling, Christopher)

OXYGEN SALES EXEMPT FROM SALES TAX

AN ACT

To amend and reenact section 57-3903 of the 1957 Supplement to the North Dakota Revised Code of 1943, by creating and enacting subsection 9 relating to the exemption from sales tax of gross receipts from the sale of oxygen used for medicinal purposes.

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

§ 1. Amendment.) Section 57-3903 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted by creating and enacting subsection 9 to read as follows:

9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for his own use for medical purposes.

Approved March 12, 1959.

CHAPTER 400

H. B. No. 857
(Committee on Delayed Bills)
(By request)

SALES AND USE TAX COLLECTION LIMITATION

AN ACT

To amend and reenact subsection 2 of section 57-3915 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the limitation of time within which collection of sales and use taxes may be enforced.

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

§ 1. Amendment.) Subsection 2 of section 57-3915 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. If any tax imposed by this chapter or by chapter 57-40 of the North Dakota Revised Code of 1943, as it may be amended, remains unpaid, a proceeding in court for the collection of such tax may be begun at any time within fifteen years after the due date of such tax; provided that no limitation of time to collect such tax shall apply if the failure to pay such tax was due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax.

Approved March 16, 1959.

CHAPTER 401

H. B. No. 607
(Berntson, Burk, Dahl, Guy, Sorlie,)
(Stockman, Van Sickle)

MOTOR FUEL TAX CREDIT TO RETAIL DEALERS

AN ACT

To create and enact section 57-4135 of the North Dakota Revised Code of 1943 providing that a credit of a percentage of the motor vehicle fuel tax be given to retail dealers purchasing from bulk dealers, and allowing a deduction of such credits from the amount of tax due the state.

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

§ 1.) Section 57-4135 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

57-4135. Sales of Motor Vehicle Fuels to Retail Dealers in Motor Vehicle Fuels.) Whenever a 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 and all other laws pertaining to the tax on motor vehicle fuel, 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.

Approved March 11, 1959.

CHAPTER 402

S. B. No. 228
(Mutch, Gronvold, Johnson)

PAYMENT OF MOTOR FUEL TAX

AN ACT

To amend and reenact section 57-4305 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to payment of tax.

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

§ 1. Amendment.) Section 57-4305 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-4305. Payment of Tax.) The tax collected upon motor vehicle fuel sold in any calendar month shall be remitted by the dealer to the state auditor not later than the twenty-fifth day of the calendar month following the month of sale, who shall receipt to the dealer therefor, and forthwith shall pay over all the money thus received to the state treasurer.

Approved March 10, 1959.

CHAPTER 403

S. B. No. 115
(Mutch, Johnson, Ringsak, Kee)

ASSIGNMENT OF REFUND CLAIMS ON MOTOR FUEL TAX

AN ACT

To amend and reenact section 57-5011 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the assignment of refund claims on motor fuel tax.

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

§ 1. Amendment.) Section 57-5011 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-5011. Assignment of Refund Claims.) Any person eligible for motor fuel tax refund under chapter 57-50 of this title, who has been sold such fuel by a seller on open account with the seller paying the refundable fuel tax, may assign to such seller his claim for such refund by attaching the assignment agreement to the refund claim form to be submitted by the claimant in accordance with section 57-5002 of the 1957 Supplement to the North Dakota Revised Code of 1943. Where such assignment of claim is made, and the claim is allowed under the provisions of chapter 57-50, the check or warrant issued therefor shall be made payable to both the claimant and his assignee hereunder. In addition, refund claims on motor fuel tax resulting from sales of motor fuel occurring during the period from the first day of April through the thirty-first day of August may be assigned to the seller of the fuel when any sales receipt for the purchase of motor fuel on which a tax refund is owing under chapter 57-50 of this title becomes thirty days or more old. The purchaser may assign to the seller his claim for refund by attaching the assignment agreement and sales receipts to the refund claim form to be submitted by claimant in accordance with section 57-5002 of the 1957 Supplement to the North Dakota Revised Code of 1943. Where such assignment is made the seller may forward it to the state auditor for credit on his fuel tax return in the amount of the refund owing on the assigned sales receipt. Any purchaser who shall assign his claim for refund under the provisions of this Act shall file an annual report with the state auditor. Such report forms shall be furnished by the state auditor in substantially the same form as is prescribed in section 57-5002 of the 1957 Supplement to the North Dakota Revised Code of 1943.

Approved March 3, 1959.

CHAPTER 404

H. B. No. 659
(Halcrow, Bratcher, Anderson of Richland,)
(Wolf, Trom, Hauf, Idso, Johnson)

SPECIAL FUEL TAX EXEMPTIONS

AN ACT

To amend and reenact subsections (5) and (7) of section 57-5203, section 57-5204 and section 57-5217 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the special fuel tax and exempting special fuel sold for heating, agricultural or railroad purposes and providing for the administration thereof.

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

§ 1. Amendment.) Subsections 5 and 7 of section 57-5203 of the 1957 Supplement to the North Dakota Revised Code of 1943 are hereby amended and reenacted to read as follows:

5. "Sale" means the receipt, delivery or transfer of title to special fuels by a special fuel dealer to a special fuel user except that it shall not include the receipt, delivery, or transfer of title to special fuels to be used for heating, agricultural and railroad purposes;
7. "Special fuel user" means any person receiving or purchasing special fuel except that it shall not include a person purchasing or receiving special fuels when such fuel is to be used for heating, agricultural or railroad purposes nor shall it include a special fuel dealer purchasing or receiving special fuel for resale.

§ 2. Amendment.) Section 57-5204 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-5204. Tax Imposed; Exemptions.) There is hereby levied and imposed an excise tax of six cents per gallon on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural or railroad purposes shall be exempt from the tax imposed by this chapter. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state auditor as hereinafter provided. The tax imposed herein shall be refundable when used for industrial or other nonhighway purposes, and the provisions and procedures of chapter 57-50 of the 1957 Supplement

to the North Dakota Revised Code of 1943 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter.

§ 3. Amendment.) Section 57-5217 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-5217. Rules and Regulations, Administration.) The state auditor shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules and regulations relating to the administration and enforcement thereof for both special fuel dealers and special fuel users. The state auditor may examine the records of special fuel dealers and special fuel users and make other such investigations as he may deem necessary in the administration and enforcement of this chapter.

Approved March 5, 1959.

TOWNSHIPS

CHAPTER 405

H. B. No. 634
(Scott, Dick, Davis, Mueller)

POWERS AND DUTIES OF TOWNSHIP BOARDS

AN ACT

To create and enact subsection 18 of section 58-0601 of the North Dakota Revised Code of 1943, relating to the general powers and duties of township boards, and declaring an emergency.

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

§ 1. Amendment.) Subsection 18 of section 58-0601 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

18. To pay all, or a part of the cost of electricity used in electrically lighting the streets of unincorporated villages located within the township.

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

Approved March 10, 1959.

WATERS

CHAPTER 406

H. B. No. 776
(Hjelle, Hauf, Skaar, Sjaastad,)
(Doherty, Bier, Loewen)

BOATING REGULATIONS

AN ACT

To adopt a uniform law on boating safety, operation, registration, equipment and enforcement and to provide a penalty and to repeal section 20-0126 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ 1. Declaration of Policy.) It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

§ 2. Definitions.) As used in this Act, unless the context clearly requires a different meaning:

1. "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
2. "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto.
3. "Owner" means a person, other than a lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.
4. "Waters of this state" means any waters within the territorial limits of this state.
5. "Person" means an individual, partnership, firm, corporation, association, or other entity.

6. "Operate" means to navigate or otherwise use a motorboat or a vessel.
7. "Department" means the state game and fish department.

§ 3. Operation of Unnumbered Motorboats Prohibited.) Every motorboat propelled by a motor having ten horsepower or more on the waters of this state shall be numbered. No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered in accordance with this Act, or in accordance with applicable federal law, or in accordance with a federally-approved numbering system of another state, and unless (1) the certificate of number awarded to such motorboat is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such motorboat.

§ 4. Identification Number.)

1. The owner of each motorboat requiring numbering by this state shall file an application for number with the department on forms approved by it. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of three dollars. Upon receipt of the application in approved form, the department shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner. The game and fish department shall pay all funds collected hereunder to the state treasurer who shall credit such funds thereof to the state game and fish fund to pay for the costs of administering this Act. The owner shall attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the department in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.
2. The owner of any motorboat already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally-approved numbering system of another state shall record the number prior to operating the motorboat on the waters of this state in excess of the ninety-day reciprocity period provided for in section 6 of this Act. Such recordation shall be in the manner and pursuant

to the procedure required for the award of a number under subsection 1 of this section, except that no additional or substitute number shall be issued.

3. Should the ownership of a motorboat change, a new application form with fee prorated on a yearly basis shall be filed with the department and a new certificate of number shall be awarded in the same manner as provided for in an original award of number.
4. In the event that an agency of the United States Government shall have in force an over-all system of identification numbering for motorboats within the United States, the numbering system employed pursuant to this Act by the department shall be in conformity therewith.
5. The department may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this Act and with any rules and regulations of the department, shall be valid as if awarded directly by the department.
6. All records of the department made or kept pursuant to this section shall be public records.
7. Every certificate of number awarded pursuant to this Act shall continue in full force and effect for a period of three years unless sooner terminated or discontinued in accordance with the provisions of this Act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same.
8. The department shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this Act.
9. The owner shall furnish the department notice of the transfer of all or any part of his interest other than the creation of a security interest in a motorboat numbered in this state pursuant to subsections 1 and 2 of this section or of the destruction or abandonment of such motorboat, within fifteen days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number for such motorboat except, that in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat, such transfer shall not terminate the certificate of number.

10. Any holder of a certificate of number shall notify the department within fifteen days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the department with his new address. The department may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.
11. No number other than the number awarded to a motorboat or granted reciprocity pursuant to this Act shall be painted, attached, or otherwise displayed on either side of the bow of such motorboat.

§ 5. Equipment.) Every vessel shall have aboard:

1. One life preserver, buoyant vest, ring buoy or buoyant cushion of the type approved by the department in good and serviceable condition for each person on board.
2. When in operation during hours of darkness, a light sufficient to make the motorboat's presence and location known to any and all other vessels within a reasonable distance.
3. If carrying or using any inflammable or toxic fluid in any enclosure for any purpose, and if not an entirely open motorboat, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during, the time such motorboat is occupied by any person.
4. Such additional equipment designed to promote the safety of navigation and of persons as the department may find to be appropriate and for which it has provided in its rules and regulations.
5. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

§ 6. Exemption From Numbering Provisions of This Act.) A motorboat shall not be required to be numbered under this Act if it is:

1. Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally-approved numbering system of another state: provided that such boat shall not have been within this state for a period in excess of ninety consecutive days.
2. A motorboat from a country other than the United States temporarily using the waters of this state.

3. A motorboat whose owner is the United States, a state or a subdivision thereof.
4. A ship's lifeboat.
5. A motorboat belonging to a class of boats which has been exempted from numbering by the department after said agency has found that the numbering of motorboats of such class will not materially aid in their identification; and, if an agency of the federal government has a numbering system applicable to the class of motorboats to which the motorboat in question belongs, after the department has further found that the motorboat would also be exempt from numbering if it were subject to the federal law.

§ 7. Prohibited Operation.) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana.

§ 8. Collisions, Accidents, and Casualties.) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident, or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars shall file with the department a full description of the collision, accident, or other casualty, including such information as said agency may, by regulation, require.

§ 9. Transmittal of Information.) In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the department pursuant to section 8 shall be transmitted to said official or agency of the United States.

§ 10. Water Skis and Surfboard.)

1. No person shall manipulate any water skis, surfboard or similar device without wearing a life preserver of a type approved by the department.
2. No person shall operate a vessel on any waters of this state towing a person or persons on water skis, a surfboard, or similar device, nor shall any person engage in water skiing, surfboarding, or similar activity at any time between the hours from one hour after sunset to one hour before sunrise.
3. The provisions of subsections 1 and 2 of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under section 11 of this Act.
4. No person shall operate or manipulate any vessel, tow rope or other device by which the direction or location of water skis, a surfboard, or similar device may be affected or controlled in such a way as to cause the water skis, surfboard, or similar device, or any person thereon to collide with or strike against any object or person.

§ 11. Regattas, Races, Marine Parades, Tournaments or Exhibitions.)

1. The department may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this state. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof, shall, at least ten days prior thereto, file an application with the department for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the department in writing.
2. The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation, but nothing contained herein shall be construed to require the securing of a state permit pursuant to this section if a permit therefor has been obtained from an authorized agency of the United States.

§ 12. Local Regulation Prohibited.)

1. The provisions of this Act, and of other applicable laws of this state shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this state, or when any activity regulated by this Act shall take place thereon; but nothing in this Act shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels the provisions of which are identical to the provisions of this Act, amendments thereto or regulations issued thereunder: Provided that such ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this Act, amendments thereto or regulations issued thereunder.
2. Any subdivision of this state may, at any time, but only after public notice, make formal application to the department for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate.
3. The department is hereby authorized to make special rules and regulations with reference to the operation of vessels on any waters within the territorial limits of any subdivision of this state.

§ 13. Owner's Civil Liability.) The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of the provisions of the statutes of this state, or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner shall not be liable, however, unless such vessel is being used with his or her express or implied consent. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner, if at the time of the injury or damage, it is under the control of his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. Nothing contained herein shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained herein shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

§ 14. Filing of Regulations.) Regulations may be adopted pursuant to this Act under the administrative practice act.

§ 15. Enforcement.) Every game warden, sheriff's officer or highway patrolman of this state shall have the authority

to enforce the provisions of this Act and in the exercise thereof shall have the authority to stop and board any vessel subject to this Act.

§ 16. Penalty.) Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

§ 17. Repeal.) Section 20-0126 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 16, 1959.

CHAPTER 407

S. B. No. 232
(Trenbeath and Luick)

DRAINAGE BENEFITS AND CONSOLIDATION

AN ACT

Relating to apportionment of benefits to a county, city, village or to any tract, piece or parcel of land benefited by an established drain and not included in the drainage area, or district, served by such drain when established, providing for the consolidation of established drains, and relating to power of board of drain commissioners to secure adequate outlets for such drains.

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

§ 1. Board of Drain Commissioners May Apportion Assessments for Benefits of an Established Drain Against a County, Village or City or Any Tract of Land Benefited by an Established Drain.) Whenever a board of drain commissioners discovers or ascertains that the county, a township, city or village therein, or that any tract, parcel or piece of land is being benefited by an established drain and that the county or such township, municipality, tract, piece or parcel of land was not included in the drainage area assessed for the cost of construction and maintenance of the drain when established, the board shall commence proceedings for reassessment of lands originally assessed for the cost of establishing and constructing such drain and shall apportion and assess the part of the balance remaining unpaid, if any, of the cost of such drain, and the expense of maintenance thereof, which such county, township, city or village and each tract of land found benefited thereby should bear.

Before making such reassessment or reapportionment of benefits, the board shall hold a hearing for the purpose of determining the benefits of the drain to the county, such township, city or village and to each tract, piece or parcel of land being benefited. At least ten days notice of such hearing shall be given by publication in a newspaper having general circulation in the county and by mailing notice thereof to each owner of land assessed for the cost of construction and maintenance when the drain was established, and by mailing such notice to the governing board of the county, township, municipality and to the owner of each tract, piece or parcel of land found to be benefited since the establishment of the drain, as determined by the records in the office of the register of deeds or county treasurer. The provisions of chapter 61-21 of the 1957 Supplement to the North Dakota Revised Code of 1943 governing the original determination of benefits and assessment of costs shall apply to the reassessment and assessment of benefits carried out under the provisions of this section.

§ 2. Drains Having a Common Outlet May Be Consolidated.) Whenever one or more drains which have from time to time been constructed, empty into a drain that supplies the outlet for waters flowing in all such drains, such drains may by resolution or order of the board of drain commissioners, if the cost of construction of such drains has been paid, be consolidated into one drain or drainage system and shall be renumbered and may be renamed.

§ 3. Outlets.) A board of drain commissioners may, if found necessary, by process of eminent domain acquire land needed for a sufficient outlet for any established drain.

Approved March 10, 1959.

CHAPTER 408

S. B. No. 227
(Ringsak, Trenbeath, Yunker)

CLEARANCE OF NONNAVIGABLE STREAMS

AN ACT

Relating to the clearance of nonnavigable streams and to repeal section 61-0115 of the North Dakota Revised Code of 1943, relating to responsibility of riparian owners to clear beds of streams.

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

§ 1. Removal of Obstructions in Channel of Nonnavigable Streams.) In order to remove obstructions, such as logs, fallen trees and brush from the channel or bed of a nonnavigable river or stream and thus prevent ice from gorging therein and to prevent flooding or pollution of such stream or river, the state water conservation commission, any board of county commissioners and any federal agency authorized to construct works for prevention of damage by floods or for abatement of stream pollution, may with the written consent of the occupant, to enter upon lands lying adjacent to such nonnavigable stream to remove, or cause to be removed from the bed channel or banks of such stream obstructions which prevent or hinder the free flow of water or passage of ice therein.

§ 2. Repeal.) Section 61-0115 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 2, 1959.

CHAPTER 409

S. B. No. 90
(Morgan, Garaas, Gronvold)

NOTICE OF ELECTION IN IRRIGATION DISTRICTS

AN ACT

To amend and reenact section 61-0610 of the North Dakota Revised Code of 1943, relating to notice of election in an irrigation district after district is organized and declaring an emergency.

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

§ 1. Amendment.) That section 61-0610 of the North Dakota Revised Code of 1943 be and is hereby amended and reenacted so as to read as follows:

61-0610. Notice of Election After District is Organized; Contents; Form; Failure to Give.) Not less than fifteen days before any election is held in an irrigation district under this chapter, subsequent to the election for the organization of the district, the secretary of the board of directors shall cause to be posted in at least three public places in each division of the district, a notice of election specifying when the polls will be open, when the polls will be closed, and the polling place or places. Such notice shall be in substantially the following form:

"NOTICE hereby is given that on the.....day of ....., 19....., an election will be held at .....(here designate the polling place) for the purpose of electing.....members of the board of directors and for the purpose of voting upon such questions as shall be submitted by the directors of the district. Polls will be opened at one o'clock p. m., and will be closed at five o'clock p. m. of that day."

Failure to give such notice shall not invalidate the election of a director elected at any regular election.

§ 2. Emergency.) An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1959.

CHAPTER 410

H. B. No. 664
(Belquist, Streibel, Knudsen,)
(Loftesnes, Mueller, Dick, Bopp,)
(Klinger, Guy, Vinje, Link)

INCLUSION AND EXCLUSION OF LAND IN IRRIGATION DISTRICTS

AN ACT

Relating to the inclusion of land in and exclusion of land from an irrigation district and repealing sections 61-1003, 61-1004, 61-1006, 61-1007, 61-1008, 61-1009, 61-1010, 61-1011, 61-1013, 61-1014, 61-1015, 61-1017, 61-1018, 61-1019, 61-1020, 61-1021 and 61-1023 of the North Dakota Revised Code of 1943, repealing all acts and parts of acts in conflict with the provisions of this Act.

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

§ 1. Notice of Filing of Petition and Hearing Thereof; Cost of Proceedings.) The secretary of the board of directors shall

cause notice of the filing of a petition for the inclusion of land in an irrigation district to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in which the lands proposed for inclusion lie. The notice shall state the name or names of petitioners, a description of lands mentioned in the petition, and the prayer of the petition. It shall notify all persons interested in or affected by the proposed inclusion of lands in the district, to appear at the time and place specified in the notice and to show cause in writing, if any they have, why the lands described in the petition, or any part thereof, should not be included in the irrigation district. The time specified in the notice of such hearing shall not be less than five days nor more than seven days after the last publication of such notice. The board may require the petitioners to advance to the secretary of the district sufficient money to pay the estimated cost incurred in the proceedings of the proposed inclusion of land.

§ 2. Hearing of Petition; Assent of Parties.) The board of directors of the district, at the time and place mentioned in the notice of hearing of the petition, or at such time to which the hearing of the petition may be adjourned, shall proceed to hear such petition and shall receive and consider all objections presented by any elector in the district to the inclusion therein of lands described in the petition or any part thereof. The secretary of the board shall take note of all objections and include the same in his minutes of the meeting. The failure of any elector in the district to appear and object at the hearing, or to file with the board his objection in writing before or at the hearing, shall be deemed to be an assent on his part to the inclusion of such lands.

§ 3. Board May Include Lands in District.) If the board of directors deems it not for the best interest of the district that a change in its boundaries be made so as to include the lands mentioned in the petition, or any part thereof, it shall reject the petition. If it deems it for the best interest of the district, the board shall grant the petition in whole or in part and by resolution direct the chairman and the secretary of the board to issue its order including all or any part of the lands mentioned in the petition in the district, unless electors who together own at least ten percent of the whole number of acres in the district subject to assessment for irrigation costs object in writing at or before the time of hearing to the inclusion of such lands. When lands are included in a district the order of the board of directors allowing inclusion shall be filed with the state engineer and with the county auditor of each county in which such lands are situated and shall be filed and recorded in the office of the register of deeds of each such county.

§ 4. Electors May Object to Inclusion of Lands; Board May Call an Election.) If electors who together own or hold ten percent or more of the whole number of acres in the district, subject to assessments for irrigation costs, at or before the hearing on the petition, object in writing to the inclusion of the lands therein mentioned, the board shall reject the petition; however, if the board shall deem it to the best interests of the district that the land described in the petition or any part thereof be included in the district, it shall adopt a resolution to that effect and, in such resolution, shall direct the secretary to call an election to determine whether or not the electors of the district approve the action of the board.

§ 5. Ordering of Election; Notice; Conduct Thereof.) The board shall fix the time when such election shall be held. Notice of such election shall be given as provided for a regular election of the district. Such election shall be held and conducted, the ballots counted and the results of the election determined and declared in the same manner as a regular election of the district. The ballots at such election shall contain substantially the following words: "For inclusion of lands in the district" and the words "against inclusion of lands in the district." The notice of such election shall describe the lands proposed for inclusion in the district. In case a contract obligating the district has been entered into between the district and the United States, or with any department or agency thereof, or with the state, or any department or political division thereof, no change shall be made in the area embraced within the district unless a duly authorized agent of the holder of any such contract has consented thereto in writing and until such consent has been filed with the board of directors.

§ 6. Result of Election; Duty of the Board and Secretary.) If a majority of the votes cast at the election shall be against the inclusion of the land described in the resolution of the board of directors, the board shall deny the petition and shall proceed no further in the matter. If, however, a majority of the votes cast at the election shall be in favor of including such lands in the district, the board shall issue its order setting forth the filing of the petition, the action of the board thereon, the result of the election and shall order such lands added to the district. The order shall describe the lands to be included in the district. A certified copy of the order of the board shall be filed with the state engineer and the county auditor of each county in which the included lands lie. A certified copy of such order shall also be filed and recorded in the office of the register of deeds in each such county.

§ 7. Redivision of District Into Divisions.) In case of inclusion of any land within an irrigation district, the board shall,

if such district will contain after inclusion of such lands ten thousand acres or more, at least thirty days prior to the next general election, make an order dividing or redividing such district into divisions in conformity with section 61-0513 of the North Dakota Revised Code of 1943 as amended. Such divisions shall be nearly equal in size as may be practicable and shall be numbered, and one director thereafter shall be elected by and from each division.

§ 8. Petition for Exclusion of Land From Irrigation District; Bond; Contents.) The owner or owners of a tract or tracts of land in an irrigation district may file with the board of directors of the district a petition praying that such tract or tracts of land be excluded from the district. Such petition shall be accompanied by a sufficient bond conditioned that the petitioner or petitioners will pay all costs incurred by the board in connection with the proceeding resulting from the filing of such petition. The petition must describe each tract of land sought to be excluded from the district. Such petition shall be recorded in the minutes of the board.

§ 9. Notice of Hearing of Petition.) The secretary of the board of directors shall cause notice of the filing and hearing of a petition for exclusion of lands from an irrigation district to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in which the lands sought to be excluded lie. The board of directors may at its discretion also cause such notice to be posted in conspicuous places in the district. The notice shall state (1) the names of petitioners, (2) the description of each tract of land mentioned in the petition, and (3) the prayer of the petition. The notice shall notify all persons interested in or affected by the proposed exclusion of lands from the district, to appear at the time and place specified therein and show cause in writing, if any they have, why the lands described in the petition should not be excluded. The time of such hearing specified in the notice thereof shall not be less than seven days nor more than ten days after the last publication of such notice.

§ 10. Board May Grant or Deny Petition for Exclusion of Lands.) If after the hearing and after considering objections, if any, to exclusion of the lands or parts thereof mentioned in the petition, the board deems it not for the best interest of the district to exclude the lands mentioned in the petition or any part thereof, it shall deny the petition. If, however, the board shall deem it for the best interests of the district to exclude such lands, or any part thereof, from the district, it shall grant the petition and by resolution direct the chairman and secretary of the board to issue an order excluding such lands from the district, unless the district has outstanding

bonds or improvement warrants or unless a contract obligating the district has been entered into with the United States or any department or agency thereof or with the state, or any department or political subdivision thereof.

§ 11. Outstanding Bonds or Improvement Warrants or Contractual Obligations; Order Excluding Lands; Assent to.) If the holders of outstanding bonds or improvement warrants, or of contracts obligating the district, consent in writing to exclusion of lands mentioned in the petition, the board of directors may by resolution direct the chairman and the secretary of the board to execute its order excluding such lands from the district. The assent in writing of holders of district bonds or improvement warrants, or of any one interested in a contract obligating the district, shall be filed with the secretary of the district and shall be copied in the minutes of the board, and such minutes or a certified copy thereof, shall be admissible in evidence with the same effect as the written assent. If such assent is not given, the board shall deny and dismiss the petition. When lands are excluded from the district a certified copy of the order of the board shall be filed in the offices of the state engineer and the county auditor of each county in which the excluded lands are situated, and filed and recorded in the office of the register of deeds of each such county.

§ 12. Election to Determine Exclusion of Land; Notice of Election; Form of Ballot; Conduct of Election.) If electors who together own at least ten percent of the whole number of acres in the district object in writing to the exclusion of such land, the board shall by resolution order an election to submit to the electors of the district the question whether or not the lands mentioned in the petition, or any part thereof, shall be excluded. The secretary of the board shall cause notice of such election to be published for two consecutive weeks in a newspaper of general circulation in each county in which territory of the district lies. Such election shall be held not more than ten days nor less than seven days after the final and last publication of such notice of election. The board of directors may, at its discretion, also cause such notices of election to be posted in conspicuous places in the district. The ballot at such election shall be substantially in the following form:

"Shall the tracts of land described in the notice of this election be excluded from the irrigation district?

Yes (for exclusion of lands).....☐

No (against exclusion of lands).....☐"

The election shall be conducted substantially as a general election of an irrigation district is conducted.

§ 13. Result of Election; Order Excluding Lands.) If at an election for exclusion of lands from an irrigation district, a majority of the votes cast shall be against exclusion, the board shall dismiss the petition and proceed no further in the matter, but if a majority of such votes shall be in favor of excluding such lands from the district, the board shall issue its order setting forth the filing of the petition, the action of the board thereon, the result of the election and shall order such lands excluded from the district. A certified copy of such order shall be filed in the offices of the state engineer and the county auditor of each county in which the excluded lands lie and shall be filed and recorded in the office of the register of deeds of each such county.

§ 14. Redivision of District.) When lands are excluded from an irrigation district, if the district is divided into divisions, the board of directors thereof shall issue an order dividing the district into divisions in conformity with section 61-0513 of the North Dakota Revised Code of 1943 as amended. Such divisions shall be nearly equal in size as practicable, shall be numbered and thereafter one director shall be elected from each such division.

§ 15. Repeal.) That sections 61-1003, 61-1004, 61-1006, 61-1007, 61-1008, 61-1009, 61-1010, 61-1011, 61-1013, 61-1014, 61-1015, 61-1017, 61-1018, 61-1019, 61-1020, 61-1021 and 61-1023 of the North Dakota Revised Code of 1943 and all acts and parts of acts in conflict with the provisions of this Act are hereby repealed.

Approved March 13, 1959.

CHAPTER 411

S. B. No. 122
(George)

DEPOSIT OF FUNDS OF WATER CONSERVATION AND FLOOD CONTROL DISTRICTS

AN ACT

To amend and reenact section 61-1614 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the deposit of funds of water conservation and flood control districts.

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

§ 1. Amendment.) Section 61-1614 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1614. County Treasurer to Collect and Remit Taxes to District Treasurer. Deposit of District Funds.) The treasurer of each county in which a water conservation and flood control district, or a part of such district, is situated shall collect all district taxes and special assessments together with penalty and interest thereon, if any, in the same manner as county taxes are collected, and shall within twenty days after the close of each month pay to the treasurer of the district taxes and assessments collected by him during the preceding month, and shall notify the secretary of the district of such payment. The district treasurer shall on or before the twentieth day of each month report to the chairman of the board the amount of money in the district treasury, the amount of receipts in the preceding month and items and amounts of expenditures. At each meeting of the board the treasurer shall submit to the board a statement of the district's finances.

All collections received by the treasurer of the district shall be deposited by him in the Bank of North Dakota or such other state or national bank in the state as the board shall direct to the credit of the district. No claim shall be paid by the treasurer until approved by the board of commissioners, and then only upon warrants signed by the chairman and countersigned by the treasurer of the board. All claims against the district shall be verified in the same manner as claims against a county.

Approved March 4, 1959.

CHAPTER 412

S. B. No. 154
(Morgan, Meidinger, Klefstad, Kee,)
(Wadeson, Vendsel, Gronvold)

GARRISON CONSERVANCY DISTRICT

AN ACT

Providing for the election and terms of office of directors of the Garrison Diversion Conservancy District, relating to powers and duties of its board of directors, amending sections 61-2405, 61-2408 and 61-2409 of the 1957 Supplement to the North Dakota Revised Code of 1943 and levying a tax of one-tenth of one mill for administrative purposes and declaring an emergency.

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

§ 1. Election of Directors of the Garrison Diversion Conservancy District.) In 1960 and thereafter a director of the

Garrison Diversion Conservancy District shall be nominated and elected in each county in the district. Any person who is a resident and qualified elector of the county who aspires to the office of director of the Garrison Diversion Conservancy District shall, not more than sixty days or less than forty days before four o'clock p. m. of the fortieth day prior to any primary election preceding a general election at which a director of the district is to be elected, present to the county auditor a petition giving his name, post office address, the title of the office "Director of the Garrison Diversion Conservancy District", and containing the signatures of not less than fifty or more than three hundred qualified electors of the county to which each signer has added his residence with street number, if any, and the date of signing.

The petition shall be accompanied by an affidavit substantially as follows:

STATE OF NORTH DAKOTA, }
} ss.
County of ..... }

I, ..., being duly sworn, depose and say that I reside in the county of.....and State of North Dakota; that I am a qualified voter therein; that I am a candidate for nomination to the office of director of the Garrison Diversion Conservancy District to be chosen at the primary election to be held on the.....day of ....., 19....., and I do hereby request that my name be printed upon the no-party primary election ballot as provided by law, as a candidate for said office.

.....

Subscribed and sworn to before me this.....day of ....., 19.....

.....

Notary Public, North Dakota

Upon receipt of the petition the county auditor shall without fee place the name of the aspirant on the no-party primary election ballot as a candidate for the aforesaid office of director. The two candidates receiving the highest number of votes if more than two are running shall be nominated.

The names of the candidates so nominated at the primary election shall be placed on the no-party ballot at the ensuing general election and the candidate receiving the highest number of votes shall be duly elected.

At the primary and general elections votes shall be canvassed, returned certified and certificates of nomination and election issued in the manner provided by law for the nomination and election of county officers.

§ 2. Amendment.) That section 61-2405 of the 1957 Supplement to the North Dakota Revised Code of 1943 be and the same is hereby amended and reenacted so as to read as follows:

61-2405. Term of Office of Directors; Oath of Office; Bonds.) Each member of the board of directors of the district shall hold office for a term of three years, and until the successor in office has been appointed and qualified, provided, that one-third of the board first appointed shall hold office for a term of three years, one-third for a term of two years, and the other directors shall hold office for a term of one year, from the first day of July next following the date of their appointment. The term of the directors first appointed shall be determined by lot when they meet to organize as provided in section 61-2403 hereof. Before assuming the duties of the office, each director shall take and subscribe the oath of office prescribed by law for civil officers. The district treasurer shall be bonded in such amount as the board may prescribe.

A member of the board of directors of the district elected in 1960 and thereafter shall hold office for a term of four years and until his successor has been duly elected and qualifies, but one-half of the directors elected at the general election in 1960 shall hold office for a term of two years, and one-half shall hold office for four years. Terms of office of directors elected at the first election shall be determined by lot. Directors elected after 1960 shall hold office for a term of four years. If the office of any director shall become vacant by reason of the failure of any director elected at any election to qualify or for any other reason, his successor shall be appointed to fill the vacancy by the board of county commissioners of the county in which the vacancy occurs. A director appointed to fill a vacancy shall hold office for the unexpired term of the director whose office has become vacant. A director shall, however, hold office until his successor has been elected and qualifies.

Members of the board of directors elected in 1960 shall assume office on the first Monday in January 1961 and shall replace all members of the board previously appointed. They shall meet at a time and place designated by the secretary of the replaced board of directors, and if he is unable to act, by the secretary of the state water conservation commission, and shall organize in the same manner as the first board of directors was organized. The secretary of the replaced board and any other person employed by that board shall continue in their positions until the new board shall otherwise provide.

§ 3. Amendment.) That section 61-2408 of the 1957 Supplement to the North Dakota Revised Code of 1943 be amended and reenacted so as to read as follows:

61-2408. Powers and Duties of the District Board of Directors.) The board of directors of the Garrison Diversion Conservancy District shall have the power:

1. To sue and be sued in the name of the district;
2. To exercise the power of eminent domain in the manner provided by the title Judicial Remedies for the purpose of acquiring and securing any right, title, interest, estate or easement necessary to carry out the duties imposed by this Act (chapter), and particularly to acquire the necessary rights in land for the construction of dams, reservoirs, canals, hydroplants, irrigation systems and any other device for the conservation, storage and use of water, and to secure the right of access to such works and the right of the public access to the waters impounded thereby or emanating therefrom;
3. To accept funds, property and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance and operation of the Garrison Diversion Unit, or any part thereof;
4. To cooperate and contract with the state water conservation commission and any political subdivision and municipality in promoting the establishment and construction of the Garrison Diversion Unit, or any part thereof;
5. To furnish assurances of cooperation and as principal and guarantor or either to enter into a contract, or contracts, with the United States of America, or any department or agency thereof, and with public corporations of North Dakota for the performance of obligations entered into with the United States for the construction, operation or maintenance of works of the Garrison Diversion Unit of the Missouri River Basin Project as defined by Act of Congress, approved December 22, 1944 (Stat. 887), and acts amendatory thereof or supplementary thereto;
6. To equip, maintain and operate an office and principal place of business for the district;
7. To appoint and fix the compensation of such employees as the board shall deem necessary to conduct the business and affairs of the district;
8. To appoint from their number an executive committee and vest the same with such powers and duties as the board may from time to time delegate thereto, in order to facilitate the duties and work of the board in connection with the business affairs involved in the development, construction, operation and maintenance of the Garrison Diversion Unit, or any part thereof;

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 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;
10. To enter into a contract or contracts for a supply of water from the United States and to sell, lease and otherwise contract to furnish any such water for beneficial use to irrigation districts, persons or other public and private corporations within the district;
11. To operate and maintain or to contract for the operation and maintenance of water supply and irrigation works serving lands and uses within the district, and in connection therewith, to maintain a reserve fund to meet major unforeseen costs of operation and maintenance; and
12. To accept, on behalf of the district, appointment of the district as fiscal agent of the United States and authorization to make collections of money for and on behalf of the United States in connection with the Garrison Diversion Unit.

§ 4. Amendment.) That section 61-2409 of the 1957 Supplement to the North Dakota Revised Code of 1943 be amended and reenacted so as to read as follows:

61-2409. District Budget; Determination of Amount To Be Levied; Adoption of Levy; Limitation; Levy of Taxes in 1959 and 1960.) Until organization of the board of directors of the Garrison Diversion Conservancy District elected at the general election in November, 1960, there shall be levied in 1959 and 1960 for administrative purposes of the district on all property subject to taxation therein one-tenth of one mill.

The board of directors of the district elected in 1960 shall at the time of the organization of the board, and in July an-

nually thereafter, estimate and itemize all the expenses and obligations of the district, including, but not limited to, expenses of directors, expenses of operating the office, debt service and retirement, and obligations and liabilities to the United States for which provision must be made. After the district shall have entered into any contract with the United States, the board of directors may include in such budget funds deemed necessary to create a reserve fund to meet future payments under such contract. Upon the completion and adoption of such budget, the board of directors shall make a tax levy in an amount sufficient to meet such budget. Such levy shall be in the form of a resolution, adopted by a majority vote of the members of the board of directors of the district. Such resolution shall levy in mills, but not exceeding one mill, sufficient to meet all the expenses, obligations and liabilities of the district as provided in the budget.

§ 5. **Emergency.)** An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1959.

WEEDS

CHAPTER 413

H. B. No. 695
(Vinje, Magnuson, Fossum, Anderson of McHenry,)
(Alme, Loftesnes, Davis)

LEAFY SPURGE AND PERENNIAL PEPPER GRASS

AN ACT

To create and enact section 63-0117 of the North Dakota Revised Code of 1943, relating to the establishment of emergency areas for the control of leafy spurge and perennial pepper grass, and declaring an emergency.

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

§ 1.) Section 63-0117 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

63-0117. Establishment of Leafy Spurge and Perennial Pepper Grass Emergency Areas; Control of Leafy Spurge and Perennial Pepper Grass; Assessment for Failure.) The county commissioners of any county in this state upon determining that any area in the county has a prevalence of leafy spurge and perennial pepper grass may declare such area to be an emergency leafy spurge and perennial pepper grass 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 pepper grass emergency area and that such owner, lessee or occupant is required to immediately take action to "control" the leafy spurge and perennial pepper grass 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 63-0208 of the 1957 Supplement to the North Dakota Revised Code of 1943. 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 pepper grass 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 pepper grass to be "controlled", and shall assess to each lot or parcel of land other than land owned by the state or a political subdivision, the cost of controlling such leafy spurge and perennial pepper grass, which shall be the actual cost not to exceed three hundred and twenty dollars ($320) per quarter section 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, 1959.

WEIGHTS, MEASURES AND GRADES

CHAPTER 414

H. B. No. 628
(Fitch)
(By request)

STANDARDS AND WEIGHTS OF LIQUEFIED PETROLEUM GAS

AN ACT

Relating to liquefied petroleum gas, establishing standards of weights and measures therefor, providing for the testing of weighing and measuring devices used in the retail sale thereof, and the condemnation of inaccurate devices, prescribing duties and the authority of the department of weights and measures as to liquefied petroleum gas, and providing penalties.

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

§ 1. **Restrictions Upon Sale of Liquefied Petroleum Gas.)** It shall be unlawful to sell or offer for sale, either at wholesale or retail, any liquefied petroleum gas, either in liquid or vapor form, except by avoirdupois weight, specified in pounds; liquid measure, specified in gallons; vapor measure, specified in cubic feet; or specified in such other units as may be approved by the department of weights and measures of the public service commission.

§ 2. **Authority of Department of Weights and Measures to Test and Condemn Weighing and Measuring Devices.)** The department of weights and measures shall be authorized to test all weighing and measuring devices used in the retail sale of liquefied petroleum gas, either in liquid or vapor form, and shall condemn all such devices which are found to be inaccurate or which do not clearly state the quantity of liquefied petroleum gas, either in liquid or vapor form, in pounds, gallons, cubic feet, or other units approved by the department of weights and measures. The department shall conspicuously mark all condemned devices, which mark shall not be removed or defaced except upon authorization of the said department of weights and measures or its authorized representative.

§ 3. **Specification of Liquid Gas Meters.)** All liquid gas meters shall be of a positive displacement type equipped with a vapor separator or provided with such other equipment which will positively eliminate all air and vapor from passing through

the meter with the liquid gas, and a differential pressure regulator and such meters shall be corrected, prior to use, to sixty degree Fahrenheit liquid gas temperature and all deliveries of liquid gas through such meters shall, at the time and place of such delivery, be temperature corrected to sixty degree Fahrenheit to the temperature of the liquid gas at the time and place of delivery and the customer shall be billed accordingly. It shall be unlawful to make retail sales to customers except where delivered through a fuel dispenser from any bulk delivery vehicle unless such bulk delivery vehicle is equipped with and dispenses said liquid petroleum gas through a liquid meter as herein provided. Liquid meters shall not be equipped with a by-pass around said liquid meter provided, however, that the prohibition of a by-pass is not intended to prohibit the use of an equalization line.

§ 4. **Department May Formulate Regulations; Tolerances.)** The public service commission is hereby authorized to promulgate and adopt such rules and regulations and establish tolerances within a maximum of two percent, plus or minus, which may be necessary for the enforcement of this Act.

§ 5. **Penalty.)** Any person who violates any of the provisions of this Act or fails to comply with its requirements or any of the rules and regulations issued hereunder, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment.

Approved March 12, 1959.

CHAPTER 415

H. B. No. 829
(Wheeler)

INSPECTION OF WEIGHING AND MEASURING DEVICES

AN ACT

To amend and reenact section 64-0210 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to fee schedule for inspection of weighing and measuring devices.

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

§ 1. **Amendment.)** Section 64-0210 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

64-0210. 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 measure	.50
For inspecting any other dry measure, each	.25
For inspecting any liquid measure or computing pump	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 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 correct such scale or measure and he shall collect for such service three dollars per hour for the actual time consumed in making such corrections, and shall receive reasonable compensation for any material used in such corrections.

Whenever a special inspection of any measuring device is required, in addition to the regularly scheduled annual inspection made by the department, a charge of ten cents per mile will be made in addition to the regular inspection fee to cover the costs of the additional travel by the inspector occasioned by such special inspection.

Approved March 11, 1959.

CHAPTER 416

H. B. No. 836
(Wheeler)

LICENSES FOR COIN-WEIGHING MACHINES, SCALES, AND PUBLIC GASOLINE PUMPS

AN ACT

To amend and reenact section 64-0218 of the North Dakota Revised Code of 1943, relating to form of license for coin-weighing machines, scales, and public gasoline pumps, license displayed, unlicensed machine confiscated, and penalty assessed in lieu thereof.

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

§ 1. Amendment.) Section 64-0218 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

64-0218. Form of License for Coin-weighing Machines, Scales, and Public Gasoline Pumps: License Displayed: Unlicensed Machine Confiscated and Penalty Assessed in Lieu Thereof.) The license shall be in the form of a metal plate bearing the words "Licensed by the state of North Dakota, No....." Plates shall be numbered consecutively and shall bear the year for which the license was granted. The license plate shall be displayed prominently on the coin-weighing machine or pump. Absence of the license plate shall be prima facie evidence that the weighing machine or device is being operated contrary to law. After September first of each year, the chief inspector or other employee of the de-

partment shall seize, confiscate, or seal all unlicensed coin-weighing machines and shall lock and seal any unlicensed gasoline pump. The chief inspector or other employee of the department may in lieu of seizing a coin-weighing machine, scale, or pump which is found unlicensed on September first in any year assess a penalty of ten cents per day for each day after September first for the entire licensing period or until such license is purchased and displayed as provided in this section.

Approved March 14, 1959.

WORKMEN'S COMPENSATION

CHAPTER 417

S. B. No. 82
(Gefreh and Trenbeath)

REIMBURSEMENT TO EMPLOYERS FOR CERTAIN JUDGMENTS

AN ACT

To provide for reimbursement to certain employers from the workmen's compensation fund for judgments rendered against them involving employee's injuries.

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

§ 1.) Any employer in the state of North Dakota who had paid the premiums for workmen's compensation insurance for the period during which an employee was injured and who has had to pay common law damages resulting from a judgment rendered against him by a court of competent jurisdiction, which judgment was rendered between July 1, 1956 and July 1, 1959, because the employer failed to conspicuously post notice that he had paid workmen's compensation insurance premiums as provided for in section 65-0429 of the North Dakota Revised Code of 1943, shall be reimbursed, upon application, for the full amount of such judgment from the workmen's compensation fund.

Approved March 10, 1959.

CHAPTER 418

H. B. No. 779
(Muggli)

UNLAWFUL EMPLOYMENT OF UNINSURED WORKERS

AN ACT

To amend and reenact section 65-0105 of the North Dakota Revised Code of 1943 and to create and enact section 65-04271 of the North Dakota Revised Code of 1943, relating to workmen's compensation insurance; unlawfully employing uninsured workers; penalty therefor; injunction to restrain unlawful employment of uninsured workers; injunction to restrain employment when premiums are delinquent; injunction to restrain employment for failure to comply with safety rules and regulations; application for injunction; procedure.

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

§ 1. Amendment.) Section 65-0105 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0105. Employment of Those Unprotected by Insurance Unlawful; Effect of Failure to Secure Compensation; Penalty; Injunction.) It shall be unlawful for any person, firm, or corporation to employ anyone, or to receive the fruits of the labor of any person, in a hazardous employment as defined in this title, without first making application for workmen's compensation insurance coverage for the protection of such employees by notice to the bureau of the intended employment, the nature thereof and the estimated pay roll expenditure for the coming twelve month period. Failure to secure workmen's compensation coverage for employees by application for workmen's compensation insurance shall constitute a misdemeanor, punishable by a fine of not more than five hundred dollars or imprisonment for not more than one year, or both. Where the employer is a corporation, the president, secretary and treasurer thereof shall be liable for the failure to secure workmen's compensation coverage under this section. In addition to the penalties prescribed above the bureau may, by injunction proceedings as provided for in this title, enjoin any employer from unlawfully employing uninsured workers.

§ 2.) Section 65-04271 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

65-04271. Injunction to Restrain Unlawful Employment of Uninsured Workers; to Enjoin Employment When Workmen's

Compensation Insurance Premium is Delinquent; to Enjoin Employment When There is Failure to Comply With Safety Rules and Regulations; Application; Procedure.)

1. To protect the lives, safety and well-being of wage workers, to insure fair and equitable contributions to the state workmen's compensation insurance fund between all employers, and to protect the workmen's compensation fund, the workmen's compensation bureau may institute injunction proceedings in the name of the state of North Dakota against certain employers to prohibit them from employing others in those employments defined as hazardous by this title in any of the following instances:
   a. When it has been brought to the attention of the bureau that the employer has unlawfully employed uninsured workers in violation of the provisions of section 65-0105; or
   b. When the employer defaults in the payment of insurance premiums into the state fund; or
   c. When the bureau, in exercise of the power and authority granted by section 65-0301, giving it full power and jurisdiction over and the supervision of, every employment and every place of employment for the purpose of issuing and enforcing all necessary and proper safety rules and regulations, finds that it is necessary to enjoin and restrain certain employers and employments in order to protect the lives and safety of the employees because of failure or refusal to comply with necessary and proper safety rules and regulations.

The courts of this state are vested with jurisdiction and power to grant such preventive relief in the instances herein set forth.

2. The provisions of chapter 32-06 of the North Dakota Revised Code of 1943 relating to injunction shall apply to proceedings instituted hereunder insofar as such provisions may be applicable.
3. In addition to the provisions of chapter 32-06, when the court has granted an immediate temporary injunction at the time of the commencement of the action the defendant employer shall be entitled to have a hearing by the court on the merits of the case without delay and upon three days written notice to the workmen's compensation bureau the court shall then proceed to hearing on the merits and render its decision.
4. In addition to the provisions of chapter 32-06, when the court has not granted an immediate temporary injunction at the time of the commencement of the action and the time for answer has expired either party shall

be entitled to have a hearing by the court on the merits of the case and upon ten days notice by either party to the other the court shall then proceed to hearing on the merits and render its decision.

Approved March 13, 1959.

CHAPTER 419

H. B. No. 590
(Dahl, Dick, Idso, Magnuson,)
(Hilleboe, Lindberg, Stockman,)
(Loewen)

REMEDIES AVAILABLE IN ACTION FOR DELINQUENT PREMIUMS

AN ACT

To amend and reenact section 65-0426 of the North Dakota Revised Code of 1943, relating to the lien of a judgment obtained in an action brought for recovery of delinquent or defaulted workmen's compensation premiums and restricting the priority of such judgment lien to the same priority held by other judgments.

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

§ 1. Amendment.) Section 65-0426 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0426. Remedies Available in Action for Delinquent premiums; Exemptions Restricted.) In any action brought for the recovery of delinquent or defaulted premiums, the remedies of garnishment or attachment, or both, shall be available. No exemptions except absolute exemptions shall be allowed against any levy under execution pursuant to judgment recovered in such action.

Approved March 12, 1959.

CHAPTER 420

S. B. No. 83
(Trenbeath and Gefreh)

NONHAZARDOUS EMPLOYMENT

AN ACT

To amend and reenact section 65-0429 of the North Dakota Revised Code of 1943 relating to employers carrying workmen's compensation insurance on nonhazardous employment.

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

§ 1. Amendment.) Section 65-0429 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0429. Employers Carrying on Nonhazardous Employment May Come Under Law; Employee's Option.) Any employer carrying on any employment not classed as hazardous under the definition of that term contained in section 65-0102 who complies with the provisions of this title and who shall pay into the fund the premiums provided for under this chapter shall be covered under the fund and shall not be liable to respond in damages at common law or by statute for injuries to or the death of any employee, wherever occurring, during the period covered by such premiums. Any employee who elects before injury not to come under workmen's compensation insurance may do so by notifying the workmen's compensation bureau and the employer of such election in writing.

Approved March 10, 1959.

CHAPTER 421

H. B. No. 612
(Lowe, Hilleboe, Schmalenberger)

WORKMEN'S COMPENSATION BENEFITS

AN ACT

To amend and reenact sections 65-0509, 65-0511, and 65-0517 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to maximum and minimum benefits to be paid for total disability, for temporary partial disability, and for death, under the Workmen's Compensation Act.

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

§ 1. Amendment.) Section 65-0509 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0509. 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 65-0511. 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-three 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 65-0511 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0511. Maximum and Minimum Compensation Allowances; Total and Partial Disability.) The weekly compensation for total disability shall not be more than thirty-eight dollars, except where an allowance for dependents is made in compliance with section 65-0509, nor less than fifteen dollars.

The weekly compensation for temporary partial disability with partial allowance for dependents shall not be more than thirty-eight dollars. If the injured person, at the time of the injury, was a minor or was employed in a learner's capacity, and was not physically or mentally defective, the bureau from time to time shall determine the probable increase in weekly earning capacity of such person if such injury had not occurred, and shall base its award for compensation upon such probable weekly-wage earning capacity.

§ 3. Amendment.) Section 65-0517 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0517. Weekly Compensation for Death.) If death results from an injury under the conditions specified in section 65-0516, the fund shall pay to the following persons, for the periods specified, a weekly compensation equal to the following percentages of the deceased employee's weekly wages which shall be considered to have been not more than fifty dollars and not less than thirty dollars:

1. To the widow, if there is no child, fifty percent, and such compensation shall be paid until her death or remarriage;
2. To the widower, if there is no child, fifty percent if he was wholly dependent upon the support of the deceased employee at the time of her death, and such compensation shall be paid until his death or remarriage;
3. To the widow or widower, if there is a child, the compensation payable under subsections 1 and 2, and in addition thereto, ten percent for each child. Such compensation, however, shall not exceed a total of eighty percent for the widow or widower and the children. The compensation payable on account of any child shall cease when such child dies, marries, or reaches the age of eighteen years, or, if over eighteen years of age and incapable of self-support, becomes capable of self-support;
4. To the children, if there is no widow or widower, thirty percent for one child and ten percent additional for each additional child, not exceeding, however, a total of eighty percent. The compensation hereunder shall not be for the specific children but shall be divided share and share alike. Compensation for each child shall be paid until such child dies, marries, or reaches the age of eighteen years, or if over eighteen years of age and incapable of self-support, becomes capable of self-support. Compensation for a child under legal age shall be paid to its guardian;

5. To the parent, if one is wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, twenty-five percent; if both are wholly dependent, twenty percent to each; if one or both are partially dependent, a proportionate amount in the discretion of the bureau. The foregoing percentages shall be paid only if there is no widow, widower, or child. If there is a widow, widower, or child, there shall be paid only such part of the foregoing percentages that, when added to the total of the percentages payable to the widow, widower, and children, the sum shall not exceed the total of eighty percent. The compensation of each such beneficiary may continue until such parent dies, remarries or ceases to be a dependent;
6. To a brother, sister, grandparent, or grandchild who is wholly dependent upon the deceased employee for support at the time of his death, twenty percent; if more than one are wholly dependent, thirty percent divided among such dependents, share and share alike; if none of them are wholly dependent but one or more are partly dependent, ten percent divided among such dependents, share and share alike. The foregoing percentages shall be paid only if there is no widow, widower, child or dependent parent. If there is a widow, widower, child or dependent parent, there shall be paid only such part of the foregoing percentages that, when added to the total percentage payable to the widow, widower, children, and dependent parents, the sum shall not exceed a total of eighty percent. The compensation of each such beneficiary shall be paid for a period of eight years from the time of the death of the employee unless before that time, he, if a grandparent, dies, remarries, or ceases to be dependent, or if a brother, a sister, or grandchild, dies, marries, or reaches the age of eighteen years, or if over eighteen years of age and incapable of self-support, becomes capable of self-support. The compensation of a brother, sister, or grandchild under legal age shall be paid to his guardian.

In addition to the awards made to a pensioner herein the commissioners shall make an award in the sum of three hundred dollars to the widow of the deceased and one hundred dollars to each dependent child, the total amount of such additional award not to exceed six hundred dollars, and such additional award shall be charged to the general fund.

Approved March 4, 1959.

CHAPTER 422

H. B. No. 778
(Muggli)

PAYMENT OF SUM DUE COMPENSATION CLAIMANT

AN ACT

To amend and reenact section 65-0527 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to payment without probate proceedings of sums due the estate of a deceased workmen's compensation claimant.

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

§ 1. Amendment.) Section 65-0527 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0527. Bureau Without Probate Proceedings May Pay Spouse of Deceased Claimant Sum Due Deceased.) If a compensation claimant dies and there is due to his or her estate any sum not exceeding three hundred dollars, the bureau, without probate proceedings, may pay to the spouse of such claimant, if living, or in the event of his or her death or incompetency, to any adult person who has assumed or paid the expenses of the last illness or funeral expense of the said claimant, the balance remaining due as hereinbefore limited.

Approved March 4, 1959.

CHAPTER 423

H. B. No. 838
(Wheeler and Sorlie)

VOLUNTEER FIREMEN AND CIVIL DEFENSE TRAINEES, COVERAGE

AN ACT

To amend and reenact sections 65-0601, 65-0602, 65-0603 and 65-0604 of the North Dakota Revised Code of 1943, and to create and enact section 65-06041 of the North Dakota Revised Code of 1943, relating to workmen's compensation for volunteer firemen and volunteer civil defense trainees, definitions, granting of protection and rights, termination of protection and rights of volunteer civil defense trainees, and reimbursement to fund by state for excess liabilities to volunteer civil defense trainees.

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

§ 1. Amendment.) Section 65-0601 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0601. Volunteer Firemen; Volunteer Civil Defense Trainees; in Training: Defined.) The term "volunteer fireman" shall mean any active member of an organized volunteer fire department of this state and any other person performing services as a volunteer fireman for a municipality at the request of the chief or other person in command of the fire department of such municipality or of any other officer of such municipality having authority to demand such service. Firemen who are paid a regular wage or stipend by the municipality as such, or whose entire time is devoted to such services for the municipality, for the purpose of this chapter, shall not be deemed volunteer firemen.

The term "volunteer civil defense trainee" shall mean any person serving without remuneration who is actively engaged in training to qualify as a civil defense worker in the event of an enemy attack on this country, and who is registered with the civil defense organization of a municipality, which has been officially recognized by the civil defense director for the state of North Dakota.

The term "in training" shall be limited to and shall mean only those periods of time, prior to an enemy attack on this country, during which such volunteer civil defense trainee is receiving instruction, or is engaged in exercises or operations, in preparation for qualification as a civil defense worker in the event of an enemy attack on this country.

The term "municipality" when used in reference to volunteer civil defense trainees shall mean state or district thereof, cities, counties, municipalities, or any other geographical entity of this state. This definition is not in any way intended to alter any interpretation or ruling in regard to the use of the term "municipality" when used in reference to volunteer firemen.

§ 2. Amendment.) Section 65-0602 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0602. Volunteer Firemen and Volunteer Civil Defense Trainees Declared Employees; Covered by Workmen's Compensation; Termination.) Volunteer firemen and volunteer civil defense trainees are employees of the municipalities which they serve and are entitled to the same protection and rights under the provisions of this title as are full-time paid employees of such municipalities, except, however, that the protection and rights granted to volunteer civil defense trainees by this section shall terminate and cease in the event of an enemy attack on this country, except as to rights to benefits that shall have vested prior to the time of such attack.

§ 3. **Amendment.)** Section 65-0603 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0603. Compensation Benefits; How Determined.) The basis of compensation and benefits to be paid to volunteer firemen and volunteer civil defense trainees under the terms of this chapter shall be established by the bureau by ascertaining the average weekly wage paid to full-time firemen by municipalities of this state maintaining paid departments. The amount of such weekly wage shall be the wage of a volunteer fireman and volunteer civil defense trainee, for the purpose of the allowance of compensation and benefits.

§ 4. **Amendment.)** Section 65-0604 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0604. Assessment of Premiums.) For the purpose of making assessments of premiums to be charged against municipalities for protection of volunteer firemen and volunteer civil defense trainees, the bureau shall make such survey as may seem advisable to ascertain the probable annual expenditures necessary to be paid out of the fund to carry out the provisions of this chapter, and shall fix the annual charges and assessments which shall be made against municipalities employing volunteer firemen and volunteer civil defense trainees. Such charge shall be a fixed sum for each one hundred of the population of the municipality involved, the same to be uniform as to all such municipalities but in proportion to the population thereof. The bureau may establish a minimum charge or assessment to be applicable to municipalities where the fixed rate or charge multiplied by the number of hundreds of the population thereof would amount to less than the amount of such minimum charge or assessment. The population of a municipality shall be that shown by the latest official North Dakota state or United States government census, whichever may be the later.

§ 5. **Creation.)** Section 65-06041 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

65-06041. Reimbursement by State for Liability in Excess of Premiums Collected.) Whenever liability on claims against the fund credited to the classification of volunteer civil defense trainees exceeds the amount of premiums paid into such fund, such excess liabilities shall be a general obligation of the state of North Dakota and be reimbursed to the workmen's compensation bureau for credit to that fund by legislative appropriation.

Approved March 12, 1959.

VETOED MEASURES

CHAPTER 424

H. B. No. 604
(Anderson of Stutsman)

OATH AND AUTHENTICATION BY ELECTION OFFICIALS

AN ACT

To amend and reenact sections 16-1013 and 16-1305 of the North Dakota Revised Code of 1943, relating to the oath of election officers and authentication of reports and poll lists.

Veto

Bismarck, March 5, 1959

Members of the House of Representatives
Thirty-sixth Legislative Assembly
House Chambers
Bismarck, North Dakota

Greetings:

I am herewith returning H. B. No. 604, an Act to amend and reenact sections 16-1013 and 16-1305 of the North Dakota Revised Code of 1943 relating to the oath of election officers and authentication of reports and poll lists, without my approval.

Upon examination of the existing law pertaining to the oath of election officers and authentication of reports and poll lists and the proposed amendments as contained in H. B. 604, I believe election safeguards would be lessened by having the inspector sign for the entire election board in preference to the signatures of the inspector and the two judges. Further, the present law provides that the oath be a part of the poll book, which in my opinion is more desirable than under the proposed law whereby the oaths are filed with the county judge.

Sincerely yours,
JOHN E. DAVIS
Governor

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

§ 1. Amendment.) Section 16-1013 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

16-1013. Oath of Election Officers.) Before the polls are open, the inspectors, judges, and clerks of election severally shall take and subscribe an oath in writing in the following form: "I do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge, or clerk (as the case may be) according to law and the best of my ability; and that I studiously will endeavor to prevent fraud, deceit, and abuse in conducting the same." Such oath may be taken before any officer authorized to administer oaths, and in case no such officer is present at the opening of the polls, the inspector or judges of election are authorized to administer such oath to each other and to the clerks of election. Such oaths shall be filed with the county judge.

§ **2. Amendment.)** Section 16-1305 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

16-1305. Authentication Upon Completion of Canvass; Contents.) At the conclusion of the canvass of the votes, the inspector of elections shall sign an authentication that the ballots have been counted and the votes canvassed as provided in this chapter, and that the returns as disclosed by the tally books of election kept by the clerks, and the duplicate reports, agree with the number of ballots cast and are true and correct of his own knowledge. Such authentication shall be filed with the county judge.

Disapproved March 5, 1959.

Filed March 9, 1959.

CHAPTER 425

S. B. No. 150
(Brooks, Livingston, Garaas, Longmire)

CITY LEVY FOR POLICE PENSIONS

AN ACT

To amend and reenact sections 40-4501, 40-4502, 40-4508, 40-4513 and 40-4516, of the 1957 Supplement to the North Dakota Revised Code of 1943, and section 40-4509 of the North Dakota Revised Code of 1943, relating to police pensions in cities.

Veto

March 21, 1959

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Transmitted herewith without my approval is Senate Bill 150, a bill relating to police pensions in cities.

This bill when introduced in the legislature was understood to be permissive legislation and, it was believed, primarily provided for an increase in the mill levy so that police pension benefits could be increased by city governing bodies. However, as passed by the legislature the bill is mandatory and city officials have no discretion in managing police pension plans. The testimony showed many city police pension plans are not actuarially sound today, and some cities are recommending social security for police as well as other city employees, with a supplemental police pension plan.

I recognize the need for a thorough review of police pension systems to provide increased benefits; therefore, this matter should be given further study and presented to the next legislature with all interested parties fully informed of the proposed legislation.

Sincerely yours,
JOHN E. DAVIS
Governor

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

§ 1. **Amendment.)** Section 40-4501 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4501. 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 or state census and having an organized and paid police department may levy an annual tax of not more than one and one-half mills for the purpose of creating and maintaining a policemen's pension fund.

§ 2. Amendment.) Section 40-4502 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4502. 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 40-4508 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4508. Membership Fees and Assessments.) Every member of the police department shall pay to the treasurer of the pension fund a membership fee to be fixed by the board of trustees in an amount not exceeding twenty-five dollars. Each member shall be assessed and required to pay annually an amount not less than three percent or more than five percent per annum as determined by the governing body of the municipality upon the amount of the annual salary paid to him. Such assessment shall be deducted and retained in equal monthly installments out of such salary. No assessment shall be made of any member after he has been employed for a period of twenty-two years.

§ 4. Amendment.) Section 40-4509 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4509. Who May Be Retired on Pension: Amount Paid to Retiring Members: Retiring Members 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 shall 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 40-4513 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4513. Payments to Widow, and 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 40-4514, as follows:

1. To the surviving widow, as long as she remains unmarried and of good moral character, a sum of 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 40-4516 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4516. 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 40-4502, 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;

2. Increase the mill levy provided for under section 40-4502 of this chapter to two mills until the pension system is a sound retirement system based upon actuarial tables.

Disapproved March 21, 1959.

Filed March 21, 1959.

CHAPTER 426

S. B. No. 239
(Vendsel)

COURT ADMINISTRATOR

AN ACT

To provide for a court administrator for the improvement of the judicial system.

Veto

March 21, 1959

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Transmitted herewith without my approval is Senate Bill 239, a bill to provide for a court administrator for the improvement of the judicial system.

In my opinion it is not proper for the executive committee of any organization to appoint state officers.

It is my understanding the judicial council under our present laws has authority to accomplish the objectives set forth in Senate Bill 239. The state bar association is represented on the judicial council. I am confident constructive recommendations for improvement of the judicial system would be favorably considered.

Therefore I disapprove Senate Bill 239.

Sincerely yours,
JOHN E. DAVIS
Governor

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

§ 1.) There shall be a state officer to be known as the administrator of the courts of the state of North Dakota, who

shall be appointed by the executive committee of the North Dakota state bar association and who shall hold office at the pleasure of the appointing power.

§ 2.) The administrator for the courts, herein provided for, shall under the supervision and direction of the North Dakota supreme court and the executive committee of the North Dakota state bar association:

(1) Examine the administrative methods and systems employed in the offices of the courts, and the clerks thereof, the probation officers and make recommendations for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the supreme court for the assignment of judges where courts are in need of assistance, and carry out the directions of the North Dakota supreme court in determining to which counties or districts assignments of additional judges should be made, and which courts are in need of assistance for the purpose of clearing dockets and keeping the work of courts up to date.

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the supreme court of North Dakota and the president of the North Dakota state bar association to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the North Dakota supreme court on cases and other judicial business in which action has been delayed beyond periods of time and specified by law or rules of court and make report thereof to the North Dakota supreme court and president of the North Dakota state bar association;

(8) Formulate and submit to the North Dakota Supreme Court recommendations of policies for the improvement of the judicial system; and

(9) Attend to such other matters as may be assigned by the North Dakota supreme court.

§ 3.) The judges of the courts and all other officers, state and local, shall comply with all requests made by the administrator or his assistants for information and statistical data bearing on the state of the dockets of such courts and such other information as may reflect the business transacted by them and the expenditure of public moneys for the maintenance and operation of the judicial system.

§ 4.) This Act shall apply to all of the district courts of the state of North Dakota in addition to the North Dakota supreme court.

§ 5.) This Act shall be known as the Court Administrator Act.

Disapproved March 21, 1959.

Filed March 21, 1959.

CHAPTER 427

H. B. No. 766
(Poling and Dick)

UNORGANIZED TOWNSHIP LEVY FOR ROADS AND BRIDGES

AN ACT

To amend and reenact sections 57-1522 and 57-15221 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to tax levy limitations in unorganized townships and provide for transfer of funds for special roads and bridges; and to repeal section 57-15191 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to levies for surfacing highways in unorganized townships.

Veto

March 21, 1959

Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Transmitted herewith without my approval is House Bill 766, a bill changing the tax levy for road purposes in unorganized townships. This bill sets forth a levy of 14 mills rather than the 6 mills now allowed by section 57-1522 of the 1957 Supplement of the North Dakota Revised Code of 1943.

In my opinion it is advisable to leave the road levy for unorganized townships as is now provided by law.

Adjustments in school levies as provided in House Bill 551 may in some instances increase tax levies in unorganized townships. The tax burden is now high, and any increases should be avoided.

Sincerely yours,

JOHN E. DAVIS
Governor

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

§ 1. Amendment.) Section 57-1522 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-1522. Tax Levy Limitations in Unorganized Townships.) Tax levies in unorganized townships shall be limited as follows:

1. 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 57-15221 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-15221. 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 57-1522 as amended 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 57-15191 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

Disapproved March 21, 1959.

Filed March 21, 1959.

INITIATED MEASURE, APPROVED

CHAPTER 428

STATE SCHOOL FOR THE BLIND

AN ACT

An initiated measure for an Act making an appropriation for the construction of facilities for a state school for the blind.

Be It Enacted by the People of the State of North Dakota:

§ 1. **Appropriation.)** There is hereby appropriated out of moneys in the general fund in the state treasury the sum of four hundred and fifty thousand dollars, or so much thereof as may be necessary, to be expended by the state board of administration, or any successor charged with the responsibility of supervision and operation of the state school for the blind, in the construction, equipping, and furnishing of a suitable building and facilities for use as a state school for the blind. Such school for the blind shall be constructed at or near the city of Grand Forks, North Dakota, upon the site selected by the state board of administration. The state board of administration or any successor charged with the supervision of the state school for the blind shall let contracts for the construction of facilities for the school for the blind not later than December 15, 1958.

Approved June 24, 1958. 86,920 to 44,020

Note: This measure was No. 3 on the primary election ballot.

INITIATED MEASURE, DISAPPROVED

CHAPTER 429

SCHOOL DISTRICT REORGANIZATION AND ANNEXATION

AN ACT

An initiated measure for the reorganization and annexation of any school district in this state which is not operating a high school within its school district.

Be It Enacted by the People of the State of North Dakota:

§ 1. School District Reorganization and Annexation.) Any school district in this state which is not operating a high school within its school district upon the effective date of this Act, and any school district which may cease to operate a high school within its school district after the effective date of this Act, shall become, through the process of reorganization or annexation, a part of a school district operating a high school. Such reorganization or annexation proceedings shall be in the manner provided by law and shall conform with the statewide plan for school district reorganization. Any school district not operating a high school within its district upon the effective date of this Act shall complete reorganization or annexation within three years from the effective date of this Act. Any school district which ceases to operate a high school within the district after the effective date of this Act shall complete reorganization or annexation within three years from the date the school district ceased to operate such high school.

Any school district affected by this Act which does not reorganize or annex itself to a high school district within the time limit prescribed in this Act, shall be reorganized by the county committee for the reorganization of school districts of the county or counties in which the school district lies, in accordance with chapter 15-53 of the 1957 Supplement to the North Dakota Revised Code of 1943, as it may be amended, except that such county committee shall not be required to submit such reorganization proposals to the voters of the districts affected for their approval.

Disapproved November 4, 1958. 79,924 to 109,902

Note: This measure was No. 5 on the general election ballot.

CONSTITUTIONAL AMENDMENTS APPROVED

CHAPTER 430

JURISDICTION OF UNITED STATES AND INDIAN LANDS

Senate Concurrent Resolution "Q", chapter 403, 1957 Session Laws, proposed by the 35th Legislative Assembly of the state of North Dakota to provide for the amendment of paragraph 2 of section 203 of the Constitution of the state of North Dakota, relating to state jurisdiction over lands of the United States and Indian lands by inserting the words "provided, however, 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;" so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

SECTION 203. Second. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States, provided, however, 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; that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by this state on lands or property therein, belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, a title thereto, by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any acts of Congress containing a provision exempting the lands thus granted from

taxation, which last mentioned lands shall be exempt from taxation so long, and to such an extent, as is, or may be provided in the act of Congress granting the same.

Approved June 24, 1958. 74,398 to 40,639

Note: This measure was No. 1 on the primary election ballot.

CHAPTER 431

ELECTIVE FRANCHISE

Senate Concurrent Resolution "B-B", chapter 402, 1957 Session Laws, proposed by the 35th Legislative Assembly of the state of North Dakota to provide for amendment of section 121 of article V of the Constitution of the state of North Dakota, as amended, relating to the elective franchise, is hereby amended by omitting the words "qualified elector" "," and "entitled to vote" and inserting the words "person of the age of twenty-one or upwards who is a citizen of the United States and", "and" and "qualified elector" so as to read as follows, and to repeal article 40 of the additions to and amendments of the Constitution of the state of North Dakota relating to the elective franchise:

Be It Enacted by the People of the State of North Dakota:

SECTION 121. Every person of the age of twenty-one or upwards who is a citizen of the United States and who shall have resided in the state one year and in the county ninety days and in the precinct thirty days next preceding any election shall be a qualified elector at such election. Provided that where a qualified elector moves from one precinct to another within the state he shall be entitled to vote in the precinct from which he moves until he establishes his residence in the precinct to which he moves.

Approved June 24, 1958. 99,749 to 25,296

Note: This measure was No. 2 on the primary election ballot.

CONSTITUTIONAL AMENDMENTS DISAPPROVED

CHAPTER 432

NAME CHANGE OF AGRICULTURAL COLLEGE

Submitted by initiative petition providing for the amendment of section 215, subsection 3, of the Constitution of the state of North Dakota relating to changing and establishing the name of the North Dakota Agricultural College by omitting the words "The Agricultural College at the city of Fargo in the county of Cass" and adding the words "The North Dakota State University of Agriculture and Applied Science at the city of Fargo, in the county of Cass." so as to read as follows:

An Act amending the North Dakota Constitution, section 215, subsection 3, relating to change of the name from the Agricultural College at the city of Fargo, in the county of Cass, to that of the North Dakota State University of Agriculture and Applied Science to be located at the city of Fargo, in the county of Cass.

Be It Enacted by the People of the State of North Dakota:

Third. The North Dakota State University of Agriculture and Applied Science at the City of Fargo, in the County of Cass.

Disapproved November 4, 1958. 86,719 to 111,043

Note: This measure was No. 4 on the general election ballot.

CHAPTER 433

ONE MILL LEVY FOR BUILDINGS AT INSTITUTIONS OF HIGHER LEARNING

House Concurrent Resolution "D-1", chapter 399, 1957 Session Laws, proposed by the 35th Legislative Assembly of the state of North Dakota, to provide for the amendment of the Constitution of the state of North Dakota relating to authorizing a levy of a tax of one mill for the purpose of creating a fund for the construction and improvement of buildings at state institutions of higher learning and the issuance of tax anticipation certificates, by adding thereto the following Article to the Amendments thereof:

Be It Enacted by the People of the State of North Dakota:

SECTION 1. In addition to the levies authorized by section 174 of the Constitution, there shall be levied annually upon all the taxable property in the state of North Dakota beginning

with the year 1959 and ending in the year 1973, a tax of one mill for the purpose of creating a fund, subject to appropriation by the legislative assembly, for the construction of, and for improvements and additions to, buildings of state higher educational institutions. The legislative assembly shall be authorized to irrevocably pledge such fund and future levies for the fund for the payment of higher education building certificates and interest thereon. Issuance and sale of such certificates may be authorized by the legislative assembly in a total principal and interest amount not exceeding eighty percent of the anticipated tax yield of the tax levy provided in this section.

Disapproved November 4, 1958. 81,214 to 115,392

Note: This measure was No. 1 on the general election ballot.

CHAPTER 434

INITIATIVE, REFERENDUM, CONSTITUTIONAL AMENDMENTS, PUBLICITY PAMPHLET

House Concurrent Resolution "R", Chapter 400, 1957 Session Laws, proposed by the 35th Legislative Assembly of the state of North Dakota to provide for the amendment of sections 25 and 202 of the Constitution of the state of North Dakota, relating to the powers of initiative and referendum, and future amendments to the Constitution, by omitting the following words in section 25: "Ten thousand electors at large", "Seven thousands electors at large", "All measures submitted to the electors shall be published by the state as follows: "The secretary of state shall cause to be printed and mailed to each elector a publicity pamphlet, containing a copy of each measure together with its ballot title, to be submitted at any election. Any citizen, or the officers of any organization, may submit to the secretary of state for publication in such pamphlet, arguments concerning any measure therein, upon first subscribing their names and addresses thereto and paying the fee therefor, which, until otherwise fixed by the legislature, shall be the sum of two hundred dollars per page." ", and adding the words "Ten percent of all the electors voting for the office of governor at the last preceding gubernatorial election", "Seven percent of all the electors voting for the office of governor at the last preceding gubernatorial election", and by omitting the following words in section 202: "twenty thousand electors at large" and adding the words "ten percent of all the electors voting for the office of governor at the last preceding gubernatorial election" so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

SECTION 25. The legislative power of this state shall be vested in a legislature consisting of a senate and a house of representatives. The people, however, reserve the power, first, to propose measures and to enact or reject the same at the

polls; second, to approve or reject at the polls any measure or any item, section, part or parts of any measure enacted by the legislature.

The first power reserved is the initiative. Ten percent of all the electors voting for the office of governor at the last preceding gubernatorial election may propose any measure by initiative petition. Every such petition shall contain the full text of the measure and shall be filed with the secretary of state not less than ninety days before the election at which it is to be voted upon.

The second power reserved is the referendum. Seven percent of all the electors voting for the office of governor at the last preceding gubernatorial election may, by referendum petition, suspend the operation of any measure enacted by the legislature, except an emergency measure. But the filing of a referendum petition against one or more items, sections or parts of any measure, shall not prevent the remainder from going into effect. Such petition shall be filed with the secretary of state not later than ninety days after the adjournment of the session of the legislature at which such measure was enacted.

Each measure initiated by or referred to the electors, shall be submitted by its ballot title, which shall be placed upon the ballot by the secretary of state and shall be voted upon at any statewide election designated in the petition, or at a special election called by the governor. The result of the vote upon any measure shall be canvassed and declared by the board of canvassers.

Any measure, except an emergency measure, submitted to the electors of the state, shall become a law when approved by a majority of the votes cast thereon. And such law shall go into effect on the 30th day after the election, unless otherwise specified in the measure.

If a referendum petition is filed against an emergency petition such measure shall be a law until voted upon by the electors. And if it is then rejected by a majority of the votes cast thereon, it shall be thereby repealed. Any such measure shall be submitted to the electors at a special election if so ordered by the governor, or if the referendum petition filed against it shall be signed by thirty thousand electors at large. Such special election shall be called by the governor, and shall be held not less than one hundred nor more than one hundred thirty days after the adjournment of the session of the legislature.

The secretary of state shall pass upon each petition, and if he finds it insufficient, he shall notify the "Committee for

the Petitioners" and allow twenty days for correction or amendment. All decisions of the secretary of state in regard to any such petition shall be subject to review by the supreme court. But if the sufficiency of such petition is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

No law shall be enacted limiting the number of copies of a petition which may be circulated. Such copies shall become a part of the original petition when filed or attached thereto. Nor shall any law be enacted prohibiting any person from giving or receiving compensation for circulating the petitions, nor in any manner interfering with the freedom in securing signatures to petitions.

Each petition shall have printed thereon a ballot title, which shall fairly represent the subject matter of the measure, and the names of at least five electors who shall constitute the "Committee for the Petitioners" and who shall represent and act for the petitioners.

The enacting clause of all measures initiated by the electors shall be: "Be it enacted by the people of the state of North Dakota". In submitting measures to the electors, the secretary of state and all other officials shall be guided by the election laws until additional legislation shall be provided.

If conflicting measures initiated by or referred to the electors shall be approved by a majority of the votes cast thereon, the one receiving the highest number of affirmative votes shall become the law.

The word "measure" as used herein shall include any law or amendment thereto, resolution, legislative proposal or enactment of any character.

The veto power of the governor shall not extend to the measures initiated by or referred to the electors. No measure enacted or approved by a vote of the electors shall be repealed or amended by the legislature except upon a yea and nay vote upon roll call of two-thirds of all the members elected to each house.

This section shall be self-executing and all of its provisions treated as mandatory. Laws may be enacted to facilitate its operation, but no laws shall be enacted to hamper, restrict or impair the exercise of the rights herein reserved to the people.

SECTION 202. Any amendment or amendments to the Constitution of the state may be proposed in either house of the

legislature, and if the same shall be agreed to upon roll call by a majority of the members elected to each house, it shall be submitted to the electors and if a majority of the votes cast thereon are affirmative, such amendment shall be a part of this Constitution.

Amendments to the Constitution of the state may also be proposed by an initiative petition of the electors; such petition shall be signed by ten percent of all the electors voting for the office of governor at the last preceding gubernatorial election and shall be filed with the secretary of state at least one hundred twenty days prior to the election at which they are to be voted upon, and any amendment, or amendments so proposed, shall be submitted to the electors and become a part of the Constitution, if a majority of the votes cast thereon are affirmative. All provisions of the Constitution relating to the submission and adoption of measures by initiative petition, and on referendum petition shall apply to the submission and adoption of amendments to the Constitution of the state.

Disapproved November 4, 1958. 47,814 to 127,290

Note: This measure was No. 2 on the general election ballot.

CHAPTER 435

TERMS OF STATE AND COUNTY OFFICERS

House concurrent resolution "Z", Chapter 401, 1957 Session Laws, proposed by the 35th Legislative Assembly of the state of North Dakota to provide for the amendment of sections 71, 82, 110 and 173 of the Constitution of the State of North Dakota relating to terms of offices by omitting the following word in section 71: "two" and "." and adding the words "four" and ", except that the governor elected in the November 1958 general election shall hold office for the term of two years and until his successor is elected and duly qualified." ; by omitting the following words in section 82: "three public service commissioners," , "; 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 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." and adding the words "At the first general election after the adoption of this amendment, and every four years thereafter," , "when elected in the year 1958, but for the term of four years when elected thereafter," , "." and "As each of the three public service commissioners now holding office completes his term, his successor shall be elected for a term of six years, who shall have attained the age of twenty-five years, shall have the qualifications of a state elector and shall hold office at the seat of government, and their respective successors shall be elected for like terms and under like conditions thereafter." ; by omitting the following word in section 110: "two" and "." and adding the words "four" and ", except that such county judges elected in the 1958 general election shall each have a two-year term of office." ; and omitting the following word in section 173: "two" and adding the words "four" and "a county superintendent of schools," so as to read as follows:

Be It Enacted by the People of the State of North Dakota:

SECTION 71. The executive power shall be vested in a governor, who shall reside at the seat of government and shall hold his office for the term of four years and until his successor is elected and duly qualified, except that the governor elected in the November 1958 general election shall hold office for the term of two years and until his successor is elected and duly qualified.

SECTION 82. At the first general election after the adoption of this amendment, and every four years thereafter, there shall be chosen by the qualified electors of the state at the times and

places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, an attorney general, a commissioner of agriculture and labor, and a tax commissioner, who shall have attained the age of twenty-five years and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government for the term of two years when elected in the year 1958, but for the term of four years when elected thereafter, and until their successors are elected and duly qualified; but no person shall be eligible for the office of treasurer for more than two consecutive terms.

The 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.

As each of the three public service commissioners now holding office completes his term, his successor shall be elected for a term of six years, who shall have attained the age of twenty-five years, shall have the qualifications of a state elector and shall hold office at the seat of government, and their respective successors shall be elected for like terms and under like conditions thereafter.

SECTION 110. There shall be established in each county a county court, which shall be a court of record open at all times and holden by one judge, elected by the electors of the county, and whose term of office shall be four years, except that such county judges elected in the 1958 general election shall each have a two-year term of office.

SECTION 173. At the first general election after the adoption of this amendment, and every four years thereafter, there shall be elected in each county, organized under the provisions of section 172 of the Constitution of the state of North Dakota, a county superintendent of schools, a register of deeds, county auditor, treasurer, sheriff, state's attorney, county judge and clerk of the district court, who shall be electors in the county in which they are elected and who shall hold office until their successors are elected and qualified; provided in counties having fifteen thousand population or less, the county judge shall also be clerk of the district court; provided further that in counties having a population of six thousand or less the register of deeds shall also be clerk of the district court and county judge. The legislative assembly shall enact appropriate legislation to make this amendment effective at their first session after its adoption.

Disapproved November 4, 1958. 54,546 to 125,828

Note: This measure was No. 3 on the general election ballot.

CONSTITUTIONAL AMENDMENTS PROPOSED

CHAPTER 436

HOUSE CONCURRENT RESOLUTION "J"

(Schmalenberger, Gress, Meyer, Karabensh,)
(Schmidt, Beede, Kitzmann, Poling, and Thompson of McLean)

SALE OF ORIGINAL GRANT SCHOOL LANDS

A concurrent resolution for 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.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the following proposed amendment to section 155 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 1960 in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

§ 1. Amendment.) Section 155 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

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.

Filed March 6, 1959.

CHAPTER 437

SENATE CONCURRENT RESOLUTION "A"

(Luick, Longmire, Fiedler)
(From LRC Study)

AUTHORIZATION FOR SEPARATE DEPARTMENT OF LABOR

A concurrent resolution for 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.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendments to sections 82, 83, and 84 of the Constitution of the state of North Dakota are agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election to be held in June, 1960, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. Amendment.) Section 82 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

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.

§ 2. Amendment.) Section 83 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

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.

§ 3. Amendment.) Section 84 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

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.

Filed March 2, 1959.

CHAPTER 438

SENATE CONCURRENT RESOLUTION "M"

(Hernett, Kee, Garaas and Baeverstad)

LEGISLATIVE REAPPORTIONMENT

A concurrent resolution for 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.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendments to sections 26, 29 and 35 of the Constitution of the state of North Dakota are agreed to and shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the primary election to be held in June, 1960, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. Amendment.) Section 26 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

SECTION 26. The senate shall be composed of forty-nine members.

§ 2. Amendment.) Section 29 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

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.

§ 3. Amendment.) Section 35 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

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 Consti-

tution, 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.

Filed March 6, 1959.

CHAPTER 439

SENATE CONCURRENT RESOLUTION "C-C"
(Erickson and Gronvold)

REVENUE FOR PUBLIC HIGHWAYS

A concurrent resolution providing for the amendment of article 56 of the amendments to the Constitution of the state of North Dakota.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the following proposed amendment to article 56 of the amendments to the Constitution of the state of North Dakota is agreed to and that the same be submitted to the qualified electors of the state of North Dakota at the next primary election for approval or rejection, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended:

§ 1. Amendment.) Article 56 of the amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Article 56

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.

Filed March 6, 1959.

HOUSE RESOLUTIONS

HOUSE RESOLUTION No. 1
(Wolf)

LAWS FOR COMMITTEE USE

A resolution providing copies of the 1957 Supplement to the North Dakota Revised Code of 1943 and the 1957 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-sixth Legislative Assembly of the State of North Dakota:

That the secretary of the state be authorized and directed to furnish twenty copies of the 1957 Supplement to the North Dakota Revised Code of 1943 and twenty copies of the 1957 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 March 6, 1959.

HOUSE RESOLUTION No. 2

(Fitch, Saugstad, Wolf, Streibel, Gress, Vinje)
(Dahlund, Sorlie, Doherty, Hilleboe)

JOINT LEGISLATIVE MEETING ON OIL AND GAS

A resolution inviting an appropriate committee of the Senate to hold a joint meeting with the House Committee on Industry and Business to consider matters relating to oil and gas.

WHEREAS, a number of matters affecting oil and gas regulation, production, markets, reserves and tax distribution may be considered by the Legislative Assembly during the current session; and

WHEREAS, any legislation upon such matters is of great interest and concern to the members of this Assembly, the people of the state, and the oil industry in North Dakota; and

WHEREAS, it is the opinion of the House of Representatives that a joint meeting of the House Committee on Industry and Business and an appropriate committee of the Senate appears desirable in order that members may become more fully informed upon these subjects and that consideration of matters in this field may be expedited;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That an invitation is hereby extended to the Senate of this state to designate an appropriate committee to hold a joint meeting with the committee on Industry and Business of the House of Representatives for the purpose of considering matters affecting oil and gas regulation, production, markets, reserves and tax distribution, such meeting to be held at the time and place as may be set by the chairmen of the respective committees.

Filed March 6, 1959.

HOUSE RESOLUTION No. 3

(Scott, Magnuson and Dick)

OFFICIAL PHOTOGRAPHER

A resolution to appoint an official photographer for the House of Representatives of the Thirty-sixth 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, LaLonde Photography of Bismarck, North Dakota, offers to make a large composite group picture of the members of the House of Representatives of the Thirty-sixth 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 twenty-five dollars and fifty cents.

Now, Therefore, Be It Resolved, that LaLonde Photography, Bismarck, North Dakota, be and is hereby appointed official photographer for the North Dakota House of Representatives of the Thirty-sixth Legislative Assembly.

Be It Further Resolved, that LaLonde Photography of Bismarck, North Dakota, be and is hereby awarded the sole privilege of photographing members of the House of the Thirty-sixth Legislative Assembly at a total cost of nine hundred twenty-five dollars and fifty cents, to be taken out of legislative expenses.

Filed March 6, 1959.

HOUSE RESOLUTION No. 4

(Hilleboe, Brown, Schuler, Lowe, Muggli, Aamoth,)
(Kitzmann, Fitch, Dahl, Thompson of Richland,)
(Halcrow, Neukircher, Trom, Knudsen of LaMoure)

REMOVAL OF EXCISE TAXES ON LOCAL AND LONG DISTANCE TELEPHONE SERVICE

A resolution memorializing the Congress to remove the wartime excise taxes upon local and long distance telephone service.

WHEREAS, a federal excise tax of ten percent upon the charges for local and long distance telephone service was passed in 1941 as an emergency wartime measure to provide needed funds to support the war effort and to discourage the use of telephone service during the war period; and

WHEREAS, telephone service is an essential part of our way of life and cannot under any circumstances be considered a luxury item to be taxed in the same manner as furs, jewelry, liquor and other luxury commodities; and

WHEREAS, other household and business necessities, including electricity, water and gas are not taxed in such a manner; and

WHEREAS, the placement of high excise taxes upon such a necessity of life as telephone service results in the taxation of those citizens who can least afford to pay in the same manner as those of unlimited financial means; and

WHEREAS, the wartime emergency requiring the special additional revenue and restriction of the use of telephone service has long since passed;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the Congress is urgently requested to remove the unfair and unequitable tax upon telephone service during the current session of Congress.

Be It Further Resolved, that copies of this resolution be forwarded without delay by the Chief Clerk of the House of Representatives to the President of the United States, the Vice President, the Speaker of the House of Representatives and each member of the North Dakota congressional delegation.

Filed January 30, 1959.

HOUSE RESOLUTION No. 5
(Hilleboe, Fitch, Kitzmann, Brown, Trom, Dahl,)
(Muggli, Knudsen of LaMoure, Vinje, Neukircher,)
(Halcrow, Schuler, Aamoth, Lowe)

MEMORIALIZING CONGRESS TO REFRAIN FROM ENACTING FURTHER INCREASES IN MOTOR FUEL TAXES

A resolution memorializing the Congress to refrain from enacting any further increases in motor fuel taxes.

WHEREAS, certain measures are presently pending before the Congress to increase federal taxes upon motor fuel by one and one-half cents per gallon; and

WHEREAS, motor fuel taxes have until recent years been a type of tax reserved for the states but in recent sessions of the Congress have been to a large extent pre-empted for federal revenue purposes, thereby handicapping the financial operations of the states; and

WHEREAS, present high motor fuel taxes place a substantial burden upon the operators of motor vehicles; and

WHEREAS, automobiles and motor trucks have become an essential part of our economy and our way of life and the motor fuel used in such vehicles can not under any circumstances be considered a luxury item deserving of high rates of taxation; and

WHEREAS, the high motor fuel taxes upon a necessity of life results in the taxation of those citizens who can least afford

to pay in the same manner as those of unlimited financial means through increased costs of transportation and the resulting higher prices of goods;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the Congress is urgently requested to refrain from further increasing the taxation of motor fuel; and

Be It Further Resolved, that copies of this resolution be forwarded by the Chief Clerk of the House of Representatives to the President of the United States, the Vice President, the Speaker of the House of Representatives, and each member of the North Dakota congressional delegation.

Filed February 3, 1959.

HOUSE RESOLUTION No. 6
(Committee on Delayed Bills)

MRS. JOSEPH MENZ

A resolution extending best wishes to the wife of Representative Joseph Menz in her time of illness.

WHEREAS, it has come to the attention of the House of Representatives that illness has entered the family of our colleague, Representative Joseph Menz, by reason of the illness of his beloved wife; and

WHEREAS, Representative Menz and Mrs. Menz are held in the highest esteem by the members of this body; and

WHEREAS, it is the wish of the House of Representatives that Mrs. Menz may be speedily restored to the comfort and companionship of her family in good health;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That we extend our sincerest sympathies to both Representative Menz and his wife and that we wish Mrs. Menz God's Blessing for a speedy recovery and return to good health; and

Be It Further Resolved, that a copy of this resolution be forwarded by the Chief Clerk of the House of Representatives to Mrs. Menz.

Filed March 6, 1959.

HOUSE RESOLUTION No. 7
(Link)

HISTORICAL UTILIZATION OF PRESENT GOVERNOR'S MANSION

A resolution relating to the present governor's mansion located at 320 Avenue B East in the City of Bismarck.

WHEREAS, the present governor's mansion located at 320 Avenue B East in the City of Bismarck, North Dakota is of historical significance; and

WHEREAS, it is the desire of the House of Representatives to make plans for the retention of such governor's mansion for suitable historical purposes;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the state historical society is directed to confer with the state board of administration to consider suitable historical purposes for which such governor's mansion may be utilized, and to make its recommendations thereon to the Thirty-seventh Legislative Assembly, and that copies of this resolution be forwarded to the state historical society and the state board of administration.

Filed March 6, 1959.

HOUSE RESOLUTION No. 8
(Introduced by Members of the 36th Legislative Assembly)

A resolution expressing appreciation to the city of Bismarck and its residents for courtesies extended during the Thirty-sixth Legislative Assembly.

WHEREAS, members of the House of Representatives have enjoyed the hospitality of the City of Bismarck and its residents during the Thirty-sixth Legislative Assembly; and

WHEREAS, it is the desire of the members of the House of Representatives to express their most sincere appreciation to the City of Bismarck in recognition of the many courtesies extended to them;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That the members express a sincere sense of appreciation for all of the individual and collective acts of the city and its residents in making their stay most productive and pleasurable during the Thirty-sixth Legislative Assembly.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTIONS

HOUSE CONCURRENT RESOLUTION "A"

(Strege, Breum, Winge, Bopp, Anderson of Stutsman,)
(Rolfsrud, Anderson of McHenry, Stallman)

SCHOOL LUNCH PROGRAM

A concurrent resolution memorializing the Secretary of Agriculture to utilize available funds for purchase of poultry, beef and pork products in school lunch program.

WHEREAS, the United States Department of Agriculture has been authorized to expend the sum of thirty-five million dollars in accordance with the provisions of section 32 of Public Law 320 of the 74th Congress for the purchase of foods as authorized in section 6 of the National School Lunch Act; and

WHEREAS, the department has seen fit to withhold the spending of fifteen million dollars of such funds; and

WHEREAS, it is the opinion of the North Dakota Legislative Assembly that the school lunch program is lacking in high protein foods;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the aforesaid fifteen million dollars be put to use immediately to purchase high protein foods such as stewing hens, eggs, and other poultry products, since such products are not under any price support program, and when market conditions are such that beef and pork may be purchased, that these meats also be regularly purchased; and

Be It Further Resolved, that Congress increase appropriations for the National School Lunch program in order that this program may provide an adequate noonday meal for every school child; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state, to the secretary of agriculture and each member of the North Dakota congressional delegation.

Filed February 6, 1959.

HOUSE CONCURRENT RESOLUTION "B"
(Committee on Employment)

APPOINTMENTS AND SALARIES OF LEGISLATIVE EMPLOYEES

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-sixth Legislative Assembly of the State of North Dakota, the Senate Concurring Therein:

That for and during this Thirty-sixth 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
Charles Swenson, assistant chief clerk	18.00
Ruth Smith, desk reporter	25.00
Leo Leidholm, bill clerk	15.00
Arthur Laske, sergeant-at-arms	12.00
C. W. Edwards, assistant sergeant-at-arms	10.00
Leo Bergeron, calendar clerk	15.00
Floyd Ettestad, superintendent of employees	20.00
Albert C. Strand, chief bill room clerk	11.00
Marvin Huckle, bill room clerk	11.00
Florence Nemer, secretary to speaker	15.00
Eleanor Vendt, chief steno and payroll clerk	20.00
Myrtle Sloan, assistant chief stenographer	16.00
Freda Rubbelke, stenographer	14.00
Marie Enders, stenographer	14.00
Marlene Miller, stenographer	14.00
Jeanne Dutt, appropriation com. steno	15.00
Jean Otteson, chief committee clerk	15.00
Roger McKinnon, clerk of judiciary committee	15.00
Gwendolyn White, committee clerk	14.00
Harriet McClelland, committee clerk	14.00
Eugenia Anderson, committee clerk	14.00
Norlyn Iszler, committee clerk	14.00
Joan Jaszkowiak, committee clerk	14.00
R. Jeanette Kosanda, enroll. and engr. clerk	15.00
John H. Formo, asst. enr. and engr. clerk	15.00
Patricia Higgins, chief page	13.00
Adeline Anderson, page	11.00
Sonja Kalberer, page	11.00
Donna Carufel, page	11.00
Enola Eck, proofreader	14.00

Maude Grambs, proofreader 14.00
Walter Sundquist, messenger to governor 11.00
George Schoewe, messenger to senate 11.00
Ica M. Saxvik, postmistress 12.00
Ernest Sondrol, assistant postmaster 10.00
Mrs. Walter Bubel, chart room clerk 12.00
Mrs. Fred Eckmann, telephone clerk 10.00
Mrs. Emma Small, assistant telephone clerk 10.00
Frank Kunnanz, floor clerk 11.00
Byron Brenno, floor clerk 11.00
Richard Dahl, floor clerk 11.00
Gary Reile, floor clerk 11.00
A. W. Suckut, mailing room clerk 10.00
Lloyd K. Mix, floor clerk 11.00
Oscar G. Olson, doorkeeper 10.00
George Hektner, doorkeeper 10.00
Metro Dolyniuk, doorkeeper 10.00
August Roemmick, doorkeeper 10.00
Albert Lindsey, cloak room attendant 10.00
August Kollmann, cloak room attendant 10.00
Emil Steinke, supt. of mailing room 13.00
A. W. Cook, address. mach. clerk 11.00
Ernest Renz, mailing room clerk 10.00
Fred Lundeby, mailing room clerk 10.00
Henry A. Becker, mailing room clerk 10.00
Jacob Huber, mailing room clerk 10.00
Emil A. Goetz, floor clerk 11.00
Frank Jahner, mailing room clerk 10.00
William Urlacher, mailing room clerk 10.00
Emanuel Schauer, mailing room clerk 10.00
Albin Haugen, mailing room clerk 10.00
Anton Brazda, mailing room clerk 10.00
Dominic Goetz, mailing room clerk 10.00
Michael Haas, mailing room clerk 10.00
N. F. McLeod, mailing room clerk 10.00
Louise Thompson, mailing room typist 10.00
Frank Nilep, parking lot attendant 12.00
Joe Davis, parking lot attendant 12.00
Fred Fisher, night watchman 10.00

SENATE

Victor L. Gilbreath, secretary of the senate 25.00
Arthur A. Herk, asst. secretary of the senate 18.00
Dagny Olson, desk reporter 25.00
Oswald Kruisk, sergeant-at-arms 12.00
Edward Leonard, asst. sergeant-at-arms 12.00
Kenneth J. Johnson, supervisor of personnel 20.00
Mrs. Genevieve Thompson, calendar clerk 15.00

Marjorie E. Daner, bill clerk 15.00
Della Erickson, secretary to the president 15.00
Mrs. Theodore Quanrud, chief steno. and payroll clerk 20.00
Agnes Ellwein, stenographer 14.00
Margaret Hofacre, stenographer 14.00
Blanche Bailey, stenographer 14.00
Dorothy Dick, steno-committee clerk 14.00
Constance Hamers, typist 14.00
Lois Scherr, committee clerk 14.00
Mrs. Robert Sand, steno-committee clerk 14.00
Mrs. Adam Heidt, committee clerk 14.00
Myrtle Steen, appropriations com. steno. 15.00
Janet Reager, committee clerk 14.00
Bernice Wolf, committee clerk 14.00
Phil Schaeffer, messenger 12.00
Iver Kval, parking lot attendant 12.00
Effie Hamry, postmistress 12.00
Mrs. L. G. Fowler, asst. postmistress and tel. attd 12.00
E. W. Willoughby, cloak room attendant 10.00
Martin Kilwein, bill room clerk 11.00
E. O. Hougen, bill room clerk 11.00
Mrs. Walter Moore, enroll. and engross. clerk 15.00
Vonny Mushik, enroll. and engross. clerk 15.00
Mrs. John Dalton, attendant, public inform. desk 12.00
Marjorie Torkelson, asst. pub. inform. attendant 10.00
Anna Marie Ray, proofreader 14.00
Robert Ellsworth, proofreader 14.00
Ronald O. Johnson, page and bill book clerk 11.00
William Campbell, page and bill book clerk 11.00
Martina Ganje, page and bill book clerk 11.00
Beverly Selby, page and bill book clerk 11.00
Edna Jones, bill book clerk 11.00
Julie Stromberg, bill book clerk 11.00
Edwin Fischer, bill book clerk 11.00
Victoria Stucke, bill book clerk 11.00
Bob Aune, bill book clerk 11.00
Claudia McCullough, bill book clerk 11.00
Jacob Hoffert, bill book clerk 11.00
Bill Besant, bill book clerk 11.00
Albert Homelvig, bill book clerk 11.00
Elmer M. Sundlie, chart room clerk 12.00
E. L. Christenson, chart room clerk 12.00
Jacob Albrecht, mail room, bill book and page clerk 11.00
Ed. Huenink, mail room, bill book and page clerk 11.00
George Anderson, mail room, bill book and page clerk 11.00
Hans Johnson, mail room, bill book and page clerk 11.00
Sven Haugsjaa, mail room, bill book and page clerk 11.00
Arvid Kjos, main doorkeeper 12.00

Fred Shipman, doorkeeper 12.00
Peter Silbernagel, doorkeeper 12.00
Dave Witteman, doorkeeper 12.00
Oscar Anstrom, doorkeeper 12.00
Frank Sievert, supply room attendant 10.00

Filed January 23, 1959.

HOUSE CONCURRENT RESOLUTION "C"

(Fries, Maixner, Breum, Tescher)

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, recurring floods on the North Fork of the Grand River in North Dakota, have caused heavy damage to agricultural lands and improvements thereon, and to livestock during the past 50 years; and

WHEREAS, such flood waters are vitally needed for beneficial purposes in the affected areas and should be stored and conserved for orderly use as and when needed; and

WHEREAS, the lignite resources of the basin, the uraniferous lignite resources and other mineral and agricultural resources of the North Fork, Grand River Basin, and current and potential industrial interest in developing such resources indicates potential population growth in the basin; and

WHEREAS, population studies made by the North Dakota state water conservation commission and Omaha District, corps of engineers, 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, the indicated 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 ground water resources of the basin are subject to overdraft at present rates of withdrawal; and

WHEREAS, geologic opinion indicates that complete development of the ground water resources will not provide an assured water supply of the quantity required for future municipal and industrial growth;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Thirty-sixth 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 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 of Engineers, the Omaha District engineer, and to Senators William Langer and Milton R. Young, and Representatives Quentin Burdick and Don L. Short.

Filed February 6, 1959.

HOUSE CONCURRENT RESOLUTION "E"
(Committee on Social Welfare)

ADDITIONAL FUNDS FOR CONSTRUCTION OF NURSING HOMES

A concurrent resolution memorializing Congress to provide additional funds for the construction of nursing homes.

WHEREAS, there is an existing backlog of unmet needs in the provision of nursing homes in the state of North Dakota and the nation; and

WHEREAS, the shortage will become more acute because of the aging population of this state and nation; and

WHEREAS, appropriations by Congress for this purpose have been limited and the rising costs in the construction of nursing homes has even further restricted the program of construction of such homes;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Congress be urged to increase appropriations for expenditure in accordance with the provisions of Public Law 482, 83rd Congress, 2nd Session, for the purpose of providing an expanded program of nursing home construction; and

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of State to members of the North Dakota congressional delegation, the President of the United States Senate, the Speaker of the United States House of Representatives, the Surgeon General of the department of the United States public health service, and the secretary of the department of Health, Education and Welfare.

Filed February 20, 1959.

HOUSE CONCURRENT RESOLUTION "F"

(Einarson, Leet, Halcrow, Berntson, Christopher, Renfrow)

REESTABLISHMENT OF LOCAL TESTING PROGRAM FOR GRAINS

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 has long been the practice of the Agricultural Stabilization Committee to permit local elevator operators to test grain for moisture content and 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 House of Representatives of the State of North Dakota, the Senate 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 for the purpose of approving processing and approving 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 each member of the North Dakota congressional delegation.

Filed February 18, 1959.

HOUSE CONCURRENT RESOLUTION "G"

(Christopher, Einarson, Olson, Halcrow,)
(Renfrow, Collette, Tollefson)

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;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Thirty-sixth Legislative Assembly of the state of North Dakota favors the early construction of the Pembilier 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 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 of Engineers, the St. Paul district engineer, and to Senators William Langer and Milton R. Young, and Representatives Don L. Short and Quentin Burdick.

Filed February 14, 1959.

HOUSE CONCURRENT RESOLUTION "H"

(Baldwin, Belquist, Nicolson, Stockman)

APPROVAL OF BUREAU OF RECLAMATION'S PROJECT PLAN REPORT ON THE GARRISON DIVERSION UNIT

A concurrent resolution endorsing and approving the Bureau of Reclamation project plan report on the Garrison Diversion Unit and supporting and urging early enactment of desirable and needed modifying and confirming legislation authorizing the construction thereof.

WHEREAS, the Garrison Diversion Unit, Garrison Division, Missouri River Basin Project, located in North Dakota (and a small segment in South Dakota) was in general authorized by the Flood Control Act of 1944, and when developed will:

1. Enhance the future economic welfare and prosperity of the people of the state, particularly those within the project area;
2. Provide for the eventual irrigation of over one million acres of land periodically subjected to drouth which will result in a more diversified and stabilized agriculture in a large region of North Dakota;
3. Replenish and restore the depleted waters of several lakes, rivers and streams and augment the levels and flows therein; and
4. Make available within affected areas water diverted from the Missouri River for irrigation, domestic, municipal and industrial needs, production of hydroelectric power, recreation, fish and wildlife and other public beneficial uses; and

WHEREAS, the construction of the Garrison Diversion Unit will result in a greatly expanded and more dependable agricultural and business economy in North Dakota, which will result in an accelerated population growth and increased prosperity in the area; and

WHEREAS, the investigations and studies by the Bureau of Reclamation indicate that the project is economically feasible and the Bureau advises that it is in a position to initiate

construction thereof as soon as appropriate modifying legislation now pending in Congress has been enacted and funds made available; and

WHEREAS, the farmers in the project areas and all North Dakotans have shown a definite interest in and demand for the early construction and development of the Garrison Diversion Unit;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Thirty-sixth Legislative Assembly of the state of North Dakota favors and approves the Garrison Diversion Unit, and respectfully urges the appropriate committees of Congress to schedule hearings at the earliest date possible on S. 147, H. R. 1891 and H. R. 1963 to make certain provisions in connection with the authorization and construction of said Unit, to the end that construction thereof may be undertaken as soon as possible; and

Be It Further Resolved, that copies hereof be mailed by the secretary of state to Honorable James E. Murray, Chairman, Senate Committee on Interior and Insular Affairs; Honorable Wayne N. Aspinall, Chairman, House Committee on Interior and Insular Affairs; Senators William Langer and Milton R. Young; Representatives Quentin N. Burdick and Don L. Short; Honorable Fred A. Seaton, Secretary of the Interior; Honorable Fred G. Aandahl, Assistant Secretary of the Interior; and Honorable W. A. Dexheimer, Commissioner, Bureau of Reclamation.

Filed February 25, 1959.

HOUSE CONCURRENT RESOLUTION "I"

(Trom, Hilleboe, Baldwin, Aamoth, Stockman, Guy,)
(Bye, Fitch, Wolf, Idso, Link, Tweten, Myhre, Lowe)

A RESOLUTION TO LYDIA LANGER

A resolution relating to the illness of Lydia Langer, commending her and wishing her a speedy recovery.

WHEREAS, Lydia Langer has been a loyal, conscientious, and gracious hostess to the people of North Dakota both while she was First Lady of the state of North Dakota and while her husband, William Langer, has been United States Senator;

WHEREAS, Lydia Langer is loved and appreciated by all who know her for her many acts of courtesy and kindness; and

WHEREAS, Lydia Langer is now ill in a hospital in Washington, D. C.;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That on behalf of the people of North Dakota, the Legislature commends, compliments and expresses gratitude to Lydia Langer for her admirable qualities which she has demonstrated on many occasions while she and her husband, William Langer, were serving the people of North Dakota;

Be It Further Resolved, that the Legislature on behalf of the people of North Dakota wishes Lydia Langer, God's Blessing for good health and for a speedy recovery, and

Be It Further Resolved, that a copy of this resolution be forwarded by the Chief Clerk of the House of Representatives to Lydia Langer.

Filed January 27, 1959.

HOUSE CONCURRENT RESOLUTION "K"

(Saugstad, Doherty, Tollefson and Van Sickle)

L.R.C. STUDY OF SCHOOL DISTRICT LAWS

A concurrent resolution directing the legislative research committee to make an interim study of the feasibility of providing a single set of laws to govern the school districts of the state.

WHEREAS, there are in existence in the state of North Dakota at the present time one thousand seven hundred and sixty-eight common school districts; two hundred and thirty-seven special school districts; and three independent school districts, located at Grand Forks, Fargo and Jamestown; and

WHEREAS, North Dakota now has three separate sets of laws applicable to the organization and operation of these districts; and

WHEREAS, the confusion resulting from three separate sets of laws governing school districts is detrimental to the efficient operation of the schools and causes complications in the school district organization programs.

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 urged to give reasonable priority to the completion of a study of the feasibility of providing a single set of school district laws to

govern all school districts within the state of North Dakota, and upon the completion of such study, to submit its report and recommendations to a subsequent session of the legislative assembly, together with bills to carry out such recommendations; and

Be It Further Resolved, that the legislative research committee shall be authorized to call on the department of public instruction for such aid, information and assistance as it may require to complete this assignment.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "N"
(Committee on Industry and Business)

EXAMINATION OF GOVERNMENTAL ACTIVITIES AFFECTING THE BUSINESS CLIMATE OF THE STATE

A concurrent resolution relating to governmental activities affecting the "business climate" of the state.

WHEREAS, business climate is the net result of all controllable conditions beyond management's direction which affects the cost and ease of operating a business in the state. Maintaining these conditions most favorably requires:

1. Fair and equitable treatment in general legislation and administrative regulation for all segments of North Dakota's economy.
2. A framework of government the support of which provides a favorable competitive advantage with other states of similar industrialization and favorable climate.
3. Equitable tax policies and restriction of the cost of government to reasonable levels in providing necessary services efficiently.
4. Fair treatment for all in legislation and administration to maintain harmonious labor-management relations and to protect the rights of individuals and property owners.
5. Fostering, in the public interest, an economic atmosphere which will enable North Dakota agriculture and industry to compete for out-of-state markets, remembering that wide marketing of North Dakota products brings wealth into the state, thereby raising the standard of living of all our people; and

WHEREAS, North Dakota's favorable business climate has been a major factor in encouraging expansions by established industries and the locating of new industries throughout the state; and

WHEREAS, for reasons hereinafter set forth, it will be critically important for North Dakota to continue to maintain and improve its business climate; and thereby foster the healthy expansion of existing business and the attraction of new industry; and

WHEREAS, the increasing displacement of our farm population magnifies the importance of providing more job opportunity in all North Dakota communities; and

WHEREAS, healthy industrialization broadens the tax base, thereby providing much needed revenues for community facilities and government services for all our people; and

WHEREAS, in this era of rapid industrial expansion and relocation throughout the United States, industries, selecting locations, are vitally concerned about the relative business climate among the states; and the preservation of North Dakota's good business climate is in the public interest and can be continued without discriminating against any other interest in North Dakota;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That this legislature henceforth shall examine all proposed legislation relating to business, industry, and agriculture in terms of its effect upon the business climate of the state, and shall determine whether such legislation may have any future discriminating or deterring effect upon the investment of capital and the creation of needed payrolls in North Dakota;

Be It Further Resolved, that the members of this Legislative Assembly hereby request the governor and the directors of each department in the state government to examine their own discretionary actions and orders in any way relating to business, industry, and agriculture in terms of the effect of such governmental action upon the business climate in North Dakota.

Filed March 4, 1959.

HOUSE CONCURRENT RESOLUTION "O"

(Anderson of McHenry, Hauf, Magnuson, Burk, Klinger,)
(Anderson of Stutsman, Rolfsrud, Tescher, Guy, Nicolson,)
(Winge, Knutson of Benson, Strand, Breum, Solberg and Larson)

LOANS TO RURAL ELECTRIC COOPERATIVES

A concurrent resolution urging Congress to retain the present two percent interest rate applying to loans made to rural electrical cooperative associations or corporations.

WHEREAS, a number of proposals were presented to the Eighty-fifth Congress proposing an increase in interest rates on loans to rural electrification associations; and

WHEREAS, the Congress, by enacting the Pace Act in 1944 and thereby fixing such interest rates at two percent, made a covenant with the rural electrical cooperatives to proceed with area coverage at reasonable retail rates; and

WHEREAS, the proposed increased interest rates would have a detrimental effect on rural electrical cooperative associations or corporations operating in sparsely settled areas; and

WHEREAS, we believe the continuance of the two percent interest rate is necessary to enable the rural electrical cooperative associations and corporations to complete the task of providing full, efficient and reasonably priced electrical service on an area coverage basis;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That we urge the Congress of the United States to vigorously oppose any change or proposed change in the law which would effect an increase in the interest rate on loans to rural electrical cooperative associations or corporations; and

Be It Further Resolved, that copies of this resolution be forwarded by the chief clerk of the House of Representatives to the president of the United States Senate and speaker of the United States House of Representatives and to each member of the North Dakota congressional delegation.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "Q"

(Lindberg, Wolf, Mueller,)
(Bye, Thompson of McLean and Vinje)

COMMENDING HIGHWAY DEPARTMENT

A concurrent resolution commending the North Dakota state highway department.

Be It Resolved by the House of Representatives of the State of North Dakota:

WHEREAS, the North Dakota state highway department has achieved a record in road modernization that is recognized as outstanding in the United States; and

WHEREAS, the development of the state's share in the national system of interstate highways has brought special recognition; and

WHEREAS, the completion of nine hundred twelve miles of improvement on our interstate, primary and secondary road systems last year brought us the greatest advance in our highway history; and

WHEREAS, this modernization program has linked many communities and areas with all-weather routes; has helped all segments of our economy, agriculture, business, industry and tourist travel and has contributed to public safety; and

WHEREAS, this has been accomplished on a "pay as you build" basis; and

WHEREAS, sound administration and careful planning has made possible this work and has put the state in a position to further benefit by continued highway progress;

Therefore Be It Resolved, by the House of Representatives, the Senate Concurring Therein:

That the North Dakota highway department be commended for its achievement on behalf the people of the state; and that this contribution to the general welfare be continued to the lasting benefit of the people of the commonwealth.

Be It Further Resolved, that a copy of this resolution be sent to the North Dakota highway department for the attention of all personnel.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "T"

(Tescher, Frank, Leet, Maixner, Fries, Mosal,)
(Kitzmann, Anderson of McHenry, Guy, Link, Doherty,)
(Schmalenberger, Poling, Berntson, Larson, Gress and Burk)

PRESERVATION OF MEDORA

A concurrent resolution memorializing the village of Medora to take all action possible to preserve and restore Medora as a pioneer cattle town.

WHEREAS, since its formation Medora has had an economy based on the cattle industry, and is perhaps the most typical "cow town" in the state; and

WHEREAS, historic events of the cowboy era—the trail herds from the south, the vigilantes, the stage coach, the roundups and the shipping of cattle, and even an infant packing plant operation—were here enacted; and

WHEREAS, persons historically important, such as Theodore Roosevelt, the Marquis de Mores, the Eaton Brothers, and others, here were active;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the village board of Medora and all its citizens be, and are hereby, respectfully urged to exert every effort to preserve and restore the community as a pioneer cattle town; and

Be It Further Resolved, that the village board of Medora and all its citizens be respectfully urged to work with such agencies as the state historical society and other responsible groups and individuals toward the development of the community as one of the outstanding tourist attractions of the West.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "U"

(Tescher, Leet, Frank, Maixner, Fries, Mosal, Kitzmann,)
(Anderson of McHenry, Schmalenberger, Berntson, Gress,)
(Doherty, Poling, Burk, Link, Guy, Larson)

RESTORATION OF MEDORA

A concurrent resolution urging the governor of the state of North Dakota to appoint a commission to work with the village of Medora in the formulation, development and completion of a plan aimed at restoring the pioneer cattle town, and authorizing and directing the state's schools of higher learning to assist in the development of the plan.

Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

WHEREAS, the village of Medora holds a proud and romantic history in the opening and building of the West; and

WHEREAS, Medora, a typical pioneer "cow town", is an area of state and national importance and interest; and

WHEREAS, the village board of Medora has respectfully requested state cooperation in a plan aimed at restoring the pioneer cattle town into a "living museum"; and

WHEREAS, the preservation of Medora is important to perpetuate our state's cultural heritage and would enhance the economy of our state through the development of the tourist industry; and

WHEREAS, the idea of restoring Medora into its historic appearance at the time of Theodore Roosevelt, the Marquis de Mores, the Eaton Brothers and others has attracted the attention and interest of citizens of our state and nation; and

WHEREAS, the preservation of Medora is contingent upon the formulation and execution of a plan involving an architectural and historic study;

Now, Therefore, Be It Resolved, that the governor of the state of North Dakota be, and he is hereby, respectfully urged to appoint a Medora Restoration Commission, consisting of the governor, as chairman, the superintendent of the state historical society, as vice chairman, the attorney general, the chairman of the village board of Medora, the chairman of the board of the Billings county commissioners, and ten citizens of North Dakota;

Be It Further Resolved, that members of the Medora Restoration Commission serve without additional salaries or expenses; and

Be It Further Resolved, that the Medora Restoration Commission be authorized and directed to cooperate with the village board of Medora in the development and execution of a plan to preserve the community; and

Be It Further Resolved, that the Medora Restoration Commission take all steps necessary to ensure the preservation of the historical paintings of the Badlands by the artist, Einar Olstead, and other paintings having a historical value and interest; and

Be It Further Resolved, that all public institutions, agencies, and departments of the state of North Dakota be authorized and directed to cooperate with the Medora Restoration Commission and the village board of Medora in the completion of this plan; and

Be It Further Resolved, that any of the state's schools of higher learning be authorized and directed, upon request of the Medora Restoration Commission, without cost to the state, to prepare plans and specifications to restore and preserve buildings for the benefit of posterity and to prepare a research project to assemble all appropriate facts on the history of Medora; and

Be It Further Resolved, that the Medora Restoration Commission as appointed by the governor be authorized to accept and receive any gifts, moneys, or donations and use such for the restoration, preservation and development of Medora to its historic status of a pioneer cattle town.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "W"

(Guy, Rolfsrud, Link, Anderson of Stutsman, Bopp, Maixner, Esterby,)
(Sjaastad, Powell, Belquist, Karabensh, Bassingthwaite, Knutson of)
(Benson, Anderson of McHenry, Smedshammer, Strege, Klinger,)
(Fries, Alme, Loftesnes, Myhre, Wilkie, Hauf, Witteman, Berntson,)
(Stallman, Bloom, Meyer, Kadlec, Nicolson, Gronhovd, Olson,)
(Hogenson, Winge, Magnuson, Collette, Graving, Westlind, Sears,)
(Hjelle, Glaspey, Skaar, Strand, Breum and Larson)

ORGANIZED LABOR DEVELOPMENT

A concurrent resolution lauding the sound development of organized labor in North Dakota, and memorializing Congress to vigorously legislate to stamp out racketeering in the labor and management fields, and to protect the democratic rights of member control within labor unions.

WHEREAS, the growth of organized labor in North Dakota has taken place on a sound and democratic basis; and

WHEREAS, the leadership of organized labor in North Dakota has conducted the affairs of their organizations in a commendable manner; and

WHEREAS, the cause of organized labor has suffered because of racketeering and nondemocratic procedures followed by some labor leaders and some management in areas outside of this state;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the cause of organized labor and of all citizens of North Dakota can best be served by a Federal Statute which would:

1. Prevent racketeering in the fields of organized labor, and management-labor relations.
2. Assure the positive control of any and all labor organizations to the individual members through guaranteed democratic processes.
3. Make management liable for any action to suppress democratic processes in labor organizations, or to encourage or abet in labor racketeering.

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 and to the members of the North Dakota congressional delegation.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "X"

(Finance and Taxation Committee)

L.R.C. STUDY OF TAX LAWS AND STRUCTURE

A concurrent resolution directing the legislative research committee with the aid and cooperation of the state tax department to make a study of the state tax laws and tax structure.

WHEREAS, no comprehensive survey of the entire tax structure and laws of this state has ever been made; and

WHEREAS, the agricultural college in the course of providing assistance to the legislative research committee in its study of assessments during the 1953-1957 bienniums has made a soil reconnaissance survey intended for use by the counties and state for tax equalization purposes, but which survey has never been placed in usable form because of lack of funds for proper mapping and application of economic data; and

WHEREAS, in order to modernize the tax laws of the state to provide for improved administration, a more equitable distribution of the tax load, and to promote the agricultural and industrial development of the state it is desirable that an extensive survey and study of the tax laws be carried on:

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 with the aid and cooperation of the state tax department to make a survey of the tax laws and tax structure of this state and to make its report and develop practical and acceptable recommendations together with any legislation necessary to carry out such recommendations to the Thirty-seventh Legislative Assembly; and

Be It Further Resolved, that the legislative research committee shall be authorized to call upon the North Dakota Agricultural College 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; and

Be It Further Resolved, that the respective appropriation committees of the Legislative Assembly are hereby directed to increase the regular appropriation of the legislative research committee in an amount not less than thirty thousand dollars to carry on the tax study provided for in this resolution.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "Y"

(Guy, Anderson of Stutsman, Bopp, Link, Rolfsrud, Maixner,)
(Esterby, Sjaastad, Powell, Smedshammer, Belquist, Strege,)
(Klinger, Bassingthwaite, Fries, Knutson of Benson, Loftesnes,)
(Witteman, Hauf, Alme, Anderson of McHenry, Karabensh,)
(Myhre, Wilkie, Berntson, Stallman, Bloom, Meyer, Kadlec,)
(Nicolson, Gronhovd, Olson, Hogenson, Winge, Magnuson,)
(Collette, Graving, Westlind, Sears, Hjelle, Larson, Skaar,)
(Strand, Glaspey, Breum)

COMMENDATION TO GOVERNOR DAVIS AND ELECTED STATE OFFICIALS FOR THEIR EXCELLENT ADMINISTRATION

A concurrent resolution recognizing the efficient operation of the fiscal affairs of the state of North Dakota and commending the governor and the administration for its excellent record during the past biennium and anticipated continued excellent record for the coming biennium.

WHEREAS, Governor John E. Davis and the elected officials of the state of North Dakota have made a commendable record in handling the affairs of the state of North Dakota, and

WHEREAS, the state of North Dakota is in the best financial and fiscal condition that it has ever been, and

WHEREAS, under the able direction of Governor John E. Davis and the elected state officials we will continue to show progress through their foresight during the coming biennium, and

WHEREAS, the Governor has proven to this legislative body and the people of North Dakota that there is no need for additional taxes, and

WHEREAS, the anticipated income from existing taxes is adequate for the operation of the state government for the coming biennium,

Therefore, Be It Resolved That the House of Representatives of the Thirty-sixth Legislative Assembly, the Senate Concurring Therein:

Commend and praise Governor John E. Davis and the elected officials for their excellent administration.

Filed February 10, 1959.

HOUSE CONCURRENT RESOLUTION "A-1"
(Guy, Link, Doherty, Sears, Strege, Anderson,)
(of McHenry and Knutson of Benson)

STATE PRINTING

A concurrent resolution urging state departments, agencies and institutions to employ the printing services of weekly newspaper publishers in the production of state printed matter.

WHEREAS, the weekly newspapers of North Dakota perform a valuable service to the state and their communities by providing local information to their subscribers; and

WHEREAS, many of North Dakota's weekly newspapers are properly equipped to handle job printing as often required by the state agencies, departments and institutions; and

WHEREAS, weekly newspapers need a certain volume of printing in order to maintain their publishing plants;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That state agencies, departments and institutions offer more printing to the weekly newspaper printing plants, and that state printing contracts be given to as many weekly newspaper printing plants as possible, and

Be It Further Resolved, that copies of this resolution be distributed to all state agencies, departments and instituions,

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "D-1"
(Hogenson)

ONE HUNDRED PERCENT PARITY ON FAMILY-TYPE FARMS

A concurrent resolution memorializing Congress to provide full one hundred percent parity for products produced on family-type farms.

WHEREAS, ninety percent of North Dakota's income comes from the soil;

WHEREAS, the very existence of the farm home and the family-sized farm is endangered by continuing economic trends; and

WHEREAS, the best interests and general welfare of the nation as a whole would suffer incalculable loss if the farm family home were to be replaced by large, commercial, manager-operated farms; and

WHEREAS, it is for the best interests and general welfare of the whole nation that those who toil on these family-sized farms to maintain their farm homes and receive for their labors a fair return, comparable with industry, so that these farm homes may not be replaced by large, managerial-type, commercially operated farms;

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 and urged to provide price supports for the products of these family-type farms at one hundred percent of parity.

Be It Further Resolved, that the secretary of state transmit copies of this resolution to United States Senator William Langer, United States Senator Milton R. Young, Representative Quentin N. Burdick, and Representative Don L. Short.

Filed February 20, 1959.

HOUSE CONCURRENT RESOLUTION "E-1"
(Hogenson, Westlind)

SCHOOL LUNCH PROGRAM

A concurrent resolution memorializing Congress to make an adequate appropriation for school lunch programs.

WHEREAS, the abundance of farm produce produced by the farmers of our nation should be used for the benefit of the citizens of our nation; and

WHEREAS, our children should be kept healthy in order to maintain a strong and healthy nation;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Congress of the United States be urged to appropriate a sufficient amount so as to adequately support the school lunch programs carried on in the public schools of this nation.

Be It Further Resolved, that the secretary of state transmit copies of this resolution to United States Senator William Langer, United States Senator Milton R. Young, Representative Quentin N. Burdick, and Representative Don L. Short.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "I-1"
(Brown)

COMMENDING STATE CAPITOL BUILDING COMMISSION

A concurrent resolution commending the North Dakota State Capitol Commission for the outstanding work and foresight in planning the state capitol building.

WHEREAS, the North Dakota state capitol building was the largest building for which a contract was let in the entire United States during 1932 when building costs were low and competition was keen; and

WHEREAS, as a result of the planning by the capitol commission, the state of North Dakota obtained for two million dollars a capitol building rivaling others which cost several times as much and one which is recognized in all quarters as one of the least expensive capitols in America as well as one of the finest; and

WHEREAS, because of the great foresight and exacting plans of the capitol commission the North Dakota state capitol building stands on its present site in all its great size and beauty;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the North Dakota State Capitol Commission is hereby highly commended for the outstanding work and foresight used in the planning and construction of the North Dakota state capitol building; and

Be It Further Resolved, that the secretary of state forward a copy of this resolution to the Honorable Fred L. Conklin, the only living member of the capitol commission, and to the closest living relative of the deceased members of the capitol commission, the Honorable George A. Bangs, and the Honorable G. Angus Fraser, and to the Honorable Frank L. Anders, the secretary of the capitol commission.

Filed March 4, 1959.

HOUSE CONCURRENT RESOLUTION "J-1"
(Lowe, Davis, Johnston, Brown, Sorlie, Link, Haugland,)
(Baldwin, Halcrow, Muggli, Mueller, Van Sickle, Fitch,)
(Beede, Doherty, Frank, Wheeler, Streibel, Tescher)

UNITED STATES MARITIME SERVICE

A concurrent resolution memorializing Congress to establish and maintain the United States Maritime Service as a uniformed service.

WHEREAS, the United States Maritime Service performs a highly valuable service to the United States in time of peace and is an integral part of our national defense in time of war; and

WHEREAS, a measure will be placed before Congress during its current session to recognize the status of the United States Maritime Service by making it one of the uniformed services of this country; and

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That Congress is respectfully urged to pass suitable legislation to establish and maintain the United States Maritime Service as one of the fully recognized uniformed services of this country, and that copies of this resolution be forwarded by the secretary of state to the secretary of commerce, and to each member of the North Dakota congressional delegation.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "O-1"
(Thompson of McLean, Saugstad)

SPEAR FISHING ON MISSOURI RIVER

A concurrent resolution requesting the governor to authorize by proclamation the taking of fish from the Missouri River by the use of spears.

WHEREAS, a large segment of the people of this state are desirous of engaging in the sport of spearing fish; and

WHEREAS, there are large stocks of fish in the waters of the Missouri River which will not be materially depleted if the people of the state are allowed to take fish with a spear; and

WHEREAS, the governor has the authority, by order or proclamation to establish fishing regulations within the state, including legal methods of taking fish; and

WHEREAS, present orders and proclamations of the governor make no mention of the taking of fish by use of spears;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the governor is hereby requested to include in his next order or proclamation concerning game and fish regulations a provision authorizing the taking of fish from the Missouri River at any specified time by the use of spears; and

Be It Further Resolved, that copies of this resolution be forwarded by the chief clerk of the House of Representatives to the governor and to the state game and fish commissioner.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "P-1"
(Dick, Baldwin, Hilleboe, Van Sickle, Hornstein,)
(Ostrem, Schuler and Brown)

FEDERAL INCOME TAX EXEMPTIONS

A concurrent resolution memorializing the Congress of the United States to increase the exemptions on federal income tax.

WHEREAS, present provisions of the federal income tax are causing hardships to many citizens of the nation; and

WHEREAS, an increase in income tax exemptions would increase spending power of consumers, who in turn would increase their purchases, thereby reducing food surpluses; and

WHEREAS, an increase in income tax exemptions would increase the amount of sales of all other commodities, which in turn would increase labor hours and thereby strengthen our nation's economy;

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 urged and requested to pass legislation increasing federal income tax exemptions as follows:

1. Increase exemptions of married persons to a total of two thousand dollars per year.
2. Increase exemptions of an unmarried person to one thousand dollars per year.
3. Increase exemptions for each dependent to eight hundred dollars per year.

Be It Further Resolved, that the secretary of state is hereby directed to mail copies of this resolution to each member of the North Dakota congressional delegation.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "Q-1"
(Leet)

ACTION TO IMPROVE LIGHTING IN LEGISLATIVE CHAMBERS

A concurrent resolution directing the board of administration to take immediate necessary action to improve the lighting in the legislative chambers.

WHEREAS, it is desirable and necessary for the legislators to have proper lighting for working at their desks during the legislative session; and

WHEREAS, the lighting in the legislative chambers is not adequate;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the board of administration is hereby directed to take necessary action to improve the lighting in the legislative chambers in order to bring the light intensity at each legislator's desk to a minimum of thirty foot candle power; and

Be It Further Resolved, that the board of administration immediately investigate and determine the expense involved

in improving the lighting of the legislative chambers in order that the necessary moneys may be appropriated by the present session of the legislature to provide necessary lighting improvements prior to the meeting of the Thirty-seventh Legislative Assembly.

Filed March 4, 1959.

HOUSE CONCURRENT RESOLUTION "T-1"

(Beede, Stockman, Poling, Burk, Streibel, Haugland,)
(Brown, Tollefson, Leet, Bye, Frank, Link, Wolf,)
(Einarson, Vinje and Berntson)

OFFICES OF THE LEGISLATIVE RESEARCH COMMITTEE

A concurrent resolution urging the state board of administration to provide adequate quarters for the offices of the legislative research committee at such time as additional space becomes available in the capitol building.

WHEREAS, the offices of the legislative research committee are so limited in size that the staff of such committee is extremely handicapped in performing their duties; and

WHEREAS, it is necessary that quarters be of sufficient size to permit a temporary expansion of the staff of the legislative research committee during periods prior to and during each legislative session in order to perform their duties for the Legislative Assembly; and

WHEREAS, it is essential that the offices of the legislative research committee be located upon the ground or first floor of the state capitol building in order to be reasonably accessible to 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 state board of administration is hereby urged and directed to make every effort to provide adequate office space upon the ground or first floor of the state capitol building for the offices of the legislative research committee when space becomes available through the transfer of other state offices to quarters outside the present state capitol building; and, in the event the office of the motor vehicle registrar should be moved to other quarters that the board of administration give preference to the legislative research committee in assigning to the committee a portion of the office space vacated by the office of the motor vehicle registrar, and, to take such action as may be necessary in altering or modifying any office space that may be assigned in order to make it suitable to meet the needs of the committee.

Filed March 4, 1959.

HOUSE CONCURRENT RESOLUTION "V-1"
(The Delayed Bills Committee)

MISSOURI RIVER BANK EROSION

A concurrent resolution requesting the Corps of U.S. Army Engineers to study and investigate the most feasible means of protecting from erosion the banks of the Missouri River in the reaches thereof between the Oahe Reservoir and Garrison Dam.

WHEREAS, a recent study was made by the North Dakota state water conservation commission relative to the bank erosion occurring in the reach of the Missouri River between the Oahe and Garrison Reservoirs; and

WHEREAS, it was determined that four hundred forty acres of valuable agricultural land was annually being destroyed through erosion; and

WHEREAS, the bottom land in this section of the river is the only sizable area lying adjacent to the Missouri River in North Dakota that has not been inundated by a federally constructed reservoir; and

WHEREAS, through the construction of the Garrison Reservoir the water now flowing in this reach of the river has silt carrying capacity only and no longer deposits silt to rebuild stream banks; and

WHEREAS, the lands adjacent to this entire part of the river will be subjected to total erosion unless remedies are undertaken to protect the banks from such erosion; and

WHEREAS, bank protection can be accomplished through the use of a series of low head dams, or through the use of the jetties and riprap;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the U. S. Corps of Army Engineers be requested to investigate the most feasible means of protecting the banks of such reach of the Missouri River through the fund proposed in the President's Budget for use in connection with a study of a low head dam in the vicinity of Bismarck.

Be It Further Resolved, That the secretary of state mail a copy of this resolution to each of our senators and representatives in Congress, to the Chief of Engineers, U. S. Corps of Army Engineers, Washington, D. C.; Major General Keith Barney, Missouri River Division Office, Omaha, Nebraska; Colonel L. W. Pine, District Engineer, Riverdale, North Dakota; and to the President of the United States.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "W-1"

(Committee on Delayed Bills)
(By Request of Committee on Education)

LEGISLATIVE POLICY REGARDING ATHLETIC EVENTS

A concurrent resolution expressing the policy of the legislative assembly in regard to the conduct of athletic events in public schools.

WHEREAS, a bill has been introduced in the Thirty-sixth Legislative Assembly that would have prevented the scheduling of athletic events in the public schools on Monday, Tuesday, Wednesday and Thursday of each school week except in the case of recognized district, regional and state tournaments; and

WHEREAS, in view of the difficulty of dealing with this subject by general legislation said bill has been withdrawn by the sponsor in favor of this resolution; and

WHEREAS, it is the desire of the legislative assembly to express its agreement with the principle and objectives of the bill and to urge compliance with its provisions, except in unusual circumstances;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That local school boards of this state are urged to establish a policy of preventing public school athletic contests on Monday, Tuesday, Wednesday and Thursday of each school week except in the case of district, regional and state tournaments or in the case of exceptional circumstances; and

Be It Further Resolved, that the superintendent of public instruction is hereby directed to provide each public school board, county superintendent of schools, and the superintendent of each public school in this state with a copy of this resolution, and to urge their compliance with its provisions.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "Z-1"

(Committee on Delayed Bills)
(By Request)

L.R.C. STUDY OF TRADE PRACTICES

A concurrent resolution directing the legislative research committee to study certain trade practices.

WHEREAS, a bill has been introduced in the House of Representatives during the Thirty-sixth Legislative Assembly which would prohibit any manufacturer, jobber or wholesaler from

selling any commodity or product in competition with their established dealers and agents; and

WHEREAS, the scope of this Act is so broad that the exact results in the various trades and industries of this state can not readily be determined in the time available during the present session of the Legislative Assembly; and

WHEREAS, the sale of such products in competition with retailers may be a serious, unfair trade practice that is injurious to the economy and general welfare of the citizens of this state;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee is hereby directed to study the practice of the sale of commodities by manufacturers, jobbers and wholesalers in competition with their retail dealers to determine the extent of such activities and their effect upon the various trades and industries of the state, and to determine whether such activities constitute unfair trade practices of a type that should be regulated by the state, and to make its report and recommendations to the Thirty-seventh Legislative Assembly, together with suitable legislation to carry out any recommendations it may make.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "A-2"
(Committee on Delayed Bills)

L.R.C. STUDY OF OIL AND GAS CONSERVATION AND PROPERTY LAWS

A concurrent resolution directing the legislative research committee to review the oil and gas conservation and property laws of the state.

WHEREAS, the laws of this state relating to the exploration, production and conservation of oil and gas were adopted following a study made by the legislative research committee in the 1951-1953 biennium shortly after oil was discovered in this state; and

WHEREAS, it was contemplated by the legislative research committee in making recommendations for the passage of the oil and gas conservation Act, and by the Legislative Assembly in passing such laws, that a review should be made of the laws of this state relating to oil and gas at some later date in the event the production of oil and gas should become a full-fledged industry in the state; and

WHEREAS, it appears that the time has now arrived when a review of the laws affecting the exploration, production, and conservation of oil and gas should be made; and

WHEREAS, a committee of the House of Representatives, after a joint hearing with a committee of the Senate, has recommended that the legislative research committee be directed to conduct a study of oil and gas conservation and property laws, with special attention being given to the protection of the correlative rights of landowners;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee is hereby directed to conduct a review and study of the laws of this state relating to the exploration, production, and conservation of oil and gas, including among other things the protection of the correlative rights of landowners; and that such committee is hereby authorized to employ such specialized personnel and hold such conferences, hearings or otherwise, as it may deem necessary to carry out this study, and to make its report and recommendations to the Thirty-seventh Legislative Assembly together with such legislation as may be necessary to carry out such recommendations.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "B-2"

(Delayed Bills Committee)
(By request of the Joint Committee on Employment)

RETENTION OF CERTAIN LEGISLATIVE EMPLOYEES

A concurrent resolution providing for the retaining of certain employees of the House of Representatives and Senate after the legislative session for the purpose of completing legislative work.

WHEREAS, after termination of the Thirty-sixth 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-sixth Legislative Assembly be retained after the close of session to complete legislative work:

Gerald L. Stair, chief clerk, be retained four days; Charles Swenson, assistant chief clerk, two days; Eleanor Vendt, chief stenographer and payroll clerk, three days; Emil Steinke, superintendent of the mailing room, five days; Louise Thompson, mailing room clerk, five days; Enola Eck, proofreader, four days; Patricia Higgins, chief page, three days; Roger McKinnon, judiciary committee clerk, three days; Jean Otteson, committee clerk, three days; Ica M. Saxvik, postmistress, two days; R. Jeanette Kosanda, enrolling and engrossing clerk, two days; John H. Formo, enrolling and engrossing clerk, two days; and Ruth Smith, desk reporter, three days; and

That the following employees from the Senate of the Thirty-sixth Legislative Assembly retained after the close of session to complete legislative work:

V. L. Gilbreath, secretary of the senate, be retained four days; Arthur A. Herk, assistant secretary, two days; Rebecca Quanrud, chief stenographer and payroll clerk, three days; Jacob Albrecht, mailing room clerk, five days; Anna Marie Ray, proofreader, four days; J. Philip Schaeffer, messenger, three days; Effie Hamry, postmistress, two days; Vonny Mushik, enrolling and engrossing clerk, two days; Mildred Moore, enrolling and engrossing clerk, two 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, four days @ twenty-five dollars per day; Charles Swenson, assistant chief clerk, two days @ eighteen dollars per day; Eleanor Vendt, chief stenographer and payroll clerk, three days @ twenty dollars per day; Emil Steinke, superintendent of the mailing room, five days @ thirteen dollars per day; Louise Thompson, mailing room clerk, five days @ ten dollars per day; Enola Eck, proofreader, four days @ fourteen dollars per day; Patricia Higgins, chief page, three days @ thirteen dollars per day; Roger McKinnon, judiciary committee clerk, three days @ fifteen dollars per day; Jean Otteson, committee clerk, three days @ fifteen dollars per day; Ica M. Saxvik, postmistress, two days @ twelve dollars per day; R. Jeanette Kosanda and John H. Formo, enrolling and engrossing clerks, two days each @ fifteen dollars per day; Ruth Smith, desk reporter, three days @ twenty-five dollars per day; V. L. Gilbreath, secretary of the senate, four days @ twenty-five dollars per day; Arthur A. Herk, assistant secretary, two days @ eighteen dollars per day; Rebecca Quanrud, chief stenographer and payroll clerk, three days @ twenty dollars per day; Jacob Albrecht, mailing room clerk, five days @ eleven dollars per day; Anna Marie Ray, proofreader, four days @ fourteen dollars per day; J. Philip Schaeffer, messenger, three days @ twelve dollars per day; Effie Hamry, postmistress,

two days @ twelve dollars per day; Vonny Mushik and Mildred Moore, enrolling and engrossing clerks, two days each @ fifteen dollars per day; and all of the above expenses are to be paid out of the per diem employees fund of the Thirty-sixth 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 6, 1959.

HOUSE CONCURRENT RESOLUTION "C-2"
(Delayed Bills Committee)
(Joint Committee on Employment)

COMPLETION OF LEGISLATIVE JOURNALS

A concurrent resolution providing for the completion of the legislative journals of the House and Senate.

WHEREAS, after termination of the Thirty-sixth 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, secretary 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-sixth Legislative Assembly, and the said V. L. Gilbreath, secretary 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 6, 1959.

HOUSE CONCURRENT RESOLUTION "D-2"
(Delayed Bills Committee)
(By request)

COMPILATION OF HOUSE AND SENATE BILLS

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, secretary in the Senate, be employed to prepare such compilation immediately, and a copy of same be mailed as speedily as possible to each member of the House and Senate at the home address thereof:

Be It Further Resolved, that the said Ruth Smith and 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 6, 1959.

HOUSE CONCURRENT RESOLUTION "E-2"
(Committee on Delayed Bills)

DRAMATIZATION OF GENERAL GEORGE CUSTER

A concurrent resolution endorsing the proposed dramatization of the story of General George Custer and his men who played such a large role in the history of the state of North Dakota.

WHEREAS, General George Custer and the men of the 7th Cavalry, who marched from old Fort Lincoln to meet the Sioux at Little Big Horn, played an outstanding role in the history of the state of North Dakota; and

WHEREAS, the Mandan Historical Development Association will produce "Trail West", the story of General Custer, his men, and old Fort Lincoln, to be shown to the public near the site

of old Fort Lincoln from July until Labor Day of this coming summer; and

WHEREAS, a similar dramatization of the early life of Theodore Roosevelt has enriched the state's history and focused national attention upon the state of North Dakota; and

WHEREAS, it is anticipated that the proposed production of "Trail West" will join "Old Four Eyes" in enhancing the history of this state to its people and to the nation as a whole;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That we heartily endorse to the people of this state, and to visitors to this state, the dramatization "Trail West" which will be produced during the coming summer by the Mandan Historical Development Association, and do urge the people of this state to support this production in its observance of a vital part of the history of this state.

Filed March 6, 1959.

HOUSE CONCURRENT RESOLUTION "G-2"
(Delayed Bills Committee)

STUDY OF LABOR LAWS

A concurrent resolution authorizing the governor to appoint a special committee to study labor laws.

WHEREAS, it is the desire of the Legislative Assembly to examine the labor laws of the state of North Dakota; and

WHEREAS, it is extremely difficult during a hurried sixty-day session to properly study and examine this field and to prepare comprehensive legislation upon this subject;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the governor is hereby authorized to appoint a special committee consisting of members of the Legislative Assembly, the general public, and such other persons as the governor may determine to study and examine the labor laws of the state of North Dakota during the 1959-61 biennium and to make its report and recommendations to the governor and to the Thirty-seventh Legislative Assembly.

Filed March 6, 1959.

HOUSE MEMORIAL RESOLUTIONS

HOUSE MEMORIAL RESOLUTION No. 1
(Education Committee)

COUNTY SUPERINTENDENT OF SCHOOLS RAY EARLE FEARING

In memory of the former Barnes County Superintendent of Schools Ray Earle Fearing.

WHEREAS, Almighty God in His infinite wisdom has called from our midst a friend and former county superintendent of schools from Barnes County; and

WHEREAS, the memory of Ray Earle Fearing will long remain in our hearts and minds as an efficient and able school official, a great humanitarian, and one who numbered as his friends all who knew him; and

WHEREAS, his many years of service both as a school official of Barnes County and to the Legislative Assembly in matters pertaining to education have won for him a place in the hearts of all that knew him that can never be refilled; and

WHEREAS, the passing of Ray Earle Fearing is a great loss, not only to Barnes 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 deepest appreciation for the valuable services in so many ways rendered by our beloved and distinguished citizen, and that we express our heartfelt sympathy to his widow, relatives, and intimate friends;

Be It Further Resolved, that this resolution be printed in the Journal of the House of Representatives and that a properly enrolled copy be forwarded by the chief clerk of the House of Representatives to his widow at Valley City, North Dakota;

Be It Further Resolved, that the House of Representatives do now stand at ease in his memory subject to the call of the Chair.

Filed January 22, 1959.

HOUSE MEMORIAL RESOLUTION No. 2
(Berntson and Kadlec)

REPRESENTATIVE WILFRED 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 28, 1959.

HOUSE MEMORIAL RESOLUTION No. 3
(Wolf, Link)

CONDOLENCE TO SENATOR R. E. MEIDINGER

A resolution of condolence to R. E. Meidinger in the loss of his wife.

WHEREAS, Almighty God in His infinite wisdom has called from our midst the wife of Senator R. E. Meidinger; and

WHEREAS, she was a devoted wife and mother and respected and loved by all who knew her, and her untimely passing is not only a great personal loss to her family, but to all her friends and acquaintances;

Now, Therefore, Be It Resolved by the House of Representatives of the Thirty-sixth Legislative Assembly of the State of North Dakota, assembled this 11th day of February, 1959, that we do hereby express and extend to the family of Senator R. E. Meidinger our deep sympathy and condolence in this hour of sorrow; and

Be It Further Resolved, that the chief clerk of the House of Representatives be instructed to prepare an enrolled copy of this resolution to be forwarded to Senator R. E. Meidinger and his family, at Jamestown, North Dakota, immediately by special delivery mail.

Filed February 12, 1959.

HOUSE MEMORIAL RESOLUTION No. 4
(House Committee on Memorial Resolutions)

MEMORIAL TO DECEASED MEMBERS OF HOUSE OF REPRESENTATIVES

A memorial resolution for deceased members 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 servants and our former colleagues:

Fred J. Traynor, who served in the eleventh legislative assembly, from the twenty-first legislative district, died January 17, 1957.

Lewis A. Leraas, who served in the nineteenth legislative assembly, from the forty-second legislative district, died January 21, 1959.

Bennie H. Olson, who served in the sixteenth legislative assembly, from the twenty-ninth legislative district, died December 23, 1955.

Oscar R. Nesvig, who served in the sixteenth legislative assembly, from the eighth legislative district, died March 28, 1955.

Josiah Crosby Blaisdell, Jr., who served in the twenty-fourth, twenty-fifth and twenty-sixth legislative assemblies, from the twenty-ninth legislative district, died February 28, 1958.

C. J. Hanson, who served in the twenty-first, twenty-second and twenty-third legislative assemblies, from the thirty-eighth legislative district, died June 29, 1958.

Henry Harris Hewitt, who served in the twenty-fourth legislative assembly, from the fourth legislative district, died December 15, 1957.

Otis Nelson, who served in the twenty-fifth, twenty-sixth and twenty-seventh legislative assemblies, from the tenth legislative district, died March 4, 1957.

Carl B. Olson, who served in the seventeenth legislative assembly, from the thirty-ninth legislative district, died October 4, 1957.

Winfield Mathew Smart, who served in the twenty-seventh, twenty-ninth, thirtieth, thirty-first and thirty-second legislative assemblies, from the twenty-ninth legislative district, died August 13, 1958.

Jesse Madison Still, who served in the twenty-ninth legislative assembly, from the thirty-ninth legislative district, died September 20, 1957.

Walter Bubel, who served in the twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second and thirty-third legislative assemblies, from the forty-eighth legislative district, died June 18, 1957.

Charles Vernon Freeman, who served in the nineteenth, twentieth, twenty-first and twenty-second legislative assemblies, from the sixth legislative district, died July 11, 1957.

George P. Homnes, who served in the eleventh, twelfth, and twenty-third legislative assemblies, from the forty-sixth legislative district, died July 23, 1957.

Charles O. Kell, who served in the sixteenth legislative assembly, from the twenty-seventh legislative district, died March 18, 1957.

Lewis Edward Lembcke, who served in the twenty-first legislative assembly, from the forty-sixth legislative district, died April 19, 1958.

John K. Olafson, who served in the seventeenth, eighteenth, nineteenth, twentieth, twenty-first, and twenty-second legislative assemblies, from the first legislative district, died October 11, 1957.

E. A. Lunde, who served in the twenty-second, twenty-sixth, twenty-seventh and twenty-eighth legislative assemblies, from the twenty-first legislative district, died October 7, 1958.

Howard R. Wood, who served in the fifteenth, sixteenth and seventeenth legislative assemblies, from the twenty-ninth legislative district, died August 5, 1958.

Charles P. Peterson, who served in the eighth and fifteenth legislative assemblies, from the twenty-second legislative district, died December 22, 1958.

Adolph Spitzer, who served in the thirty-fourth and thirty-fifth legislative assemblies, from the twenty-third legislative district, died January 25, 1959.

Albert Larson, who served in the thirty-second and thirty-third legislative assemblies, from the twenty-fifth legislative district, died July 6, 1958.

Fred G. Kneeland, who served in the eleventh, twenty-first and twenty-second legislative assemblies, from the twenty-third legislative district, died June 3, 1958.

C. H. Hofstrand, who served in the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth and thirty-fifth legislative assemblies, from the twentieth legislative district, died June 10, 1957.

Daniel N. Power, who served in the thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth and thirty-fifth legislative assemblies, from the eighteenth legislative district, died June 9, 1957.

Isaac Isakson, who served in the thirty-fourth and thirty-fifth legislative assemblies, from the third legislative district, died April 13, 1957.

H. W. McInnes, who served in the twenty-third, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third and thirty-fifth legislative assemblies, from the eighteenth legislative district, died June 14, 1957.

Ludvig H. Steen, who served in the eighteenth legislative assembly, from the twenty-fourth legislative district, died July 29, 1958.

Thomas Akan, who served in the twenty-second legislative assembly, from the forty-sixth legislative district, died April 26, 1958.

Peter A. Peterson, who served in the twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh and twenty-eighth legislative assemblies, from the twenty-eighth legislative district, died June 11, 1957.

Ole C. Dosseth, who served in the twelfth and thirteenth legislative assemblies, from the forty-fourth legislative district, died March 23, 1957.

John G. Plath, who served in the seventeenth, eighteenth, nineteenth, twentieth, twenty-first and twenty-third legislative assemblies, from the tenth legislative district, died January 9, 1959.

Frank Beaton, who served in the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth legislative assemblies, from the tenth legislative district, died March 30, 1957.

Oliver Bilden, who served in the twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth and thirty-fifth legislative assemblies, from the fifth legislative district, died March 24, 1958.

Luther Bratton, who served in the thirteenth and fourteenth legislative assemblies, from the forty-second legislative district, died February 3, 1957.

Martin Gackle, who served in the twenty-seventh, twenty-eighth and thirtieth legislative assemblies, from the twenty-fourth legislative district, died September 18, 1958.

Albert Bjerke, who served in the twenty-fourth legislative assembly, from the sixteenth legislative district, died September 27, 1954.

WHEREAS, today, we as members of the House of Representatives of the Thirty-sixth 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 fellowmen and their communities.

Now, Therefore, Be It Resolved by the House of Representatives of the Thirty-sixth 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 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 6, 1959.

HOUSE MEMORIAL RESOLUTION No. 5
(Lowe, Kelly, Kadlec, Collette, and Berntson)

CONDOLENCE TO SENATOR ROSAMUND O'BRIEN

A resolution of condolence to Senator Rosamund O'Brien upon the loss of her mother.

WHEREAS, Almighty God in His infinite wisdom has called from our midst Mrs. Halvor Thoe of Devils Lake, North Dakota, the mother of Senator Rosamund O'Brien; and

WHEREAS, Mrs. Thoe was a devoted mother and loved and respected by all who knew her, and her untimely passing is not only a great personal loss to her family, but to all her friends and acquaintances;

Now, Therefore, Be It Resolved by the House of Representatives of the Thirty-sixth Legislative Assembly of the State of North Dakota, assembled this 25th day of February, 1959, that we do hereby express and extend to Senator Rosamund O'Brien and her family our deep sympathy and condolence in this hour of sorrow; and

Be It Further Resolved, that the chief clerk of the House of Representatives be instructed to prepare an enrolled copy of this resolution to be forwarded to Senator Rosamund O'Brien.

Filed February 25, 1959.

SENATE RESOLUTIONS

SENATE RESOLUTION No. 1
(Holand)

DOLAN VS. LAUTENSCHLAGER ELECTION CONTEST

A resolution relating to the election contest in the Second Legislative District.

WHEREAS, Glenn R. Dolan of that part of Ward County constituting the Second Legislative District has filed with the secretary of state a notice of contest of election of Lester N. Lautenschlager of the Second Legislative District; and

WHEREAS, such notice of contest of election has been forwarded to the Senate; and

WHEREAS, the charges contained in said notice of contest should be investigated by the Senate;

Now, Therefore, Be It Resolved by the Senate of the Thirty-sixth Legislative Assembly:

That the President of the Senate appoint a special Senate Election Committee of five members for the purpose of conducting an investigation into the charges contained in the said notice of contest of election by the said Glenn R. Dolan;

Be It Further Resolved, that such committee shall have all power and authority necessary to investigate the charges contained in such notice of contest, which shall specifically include the following powers and authority:

1. Authority to subpoena witnesses;
2. Subpoena public and private records;
3. To administer oaths or affirmations to all witnesses;
4. To apply to the Senate for the punishment of any witnesses for contempt or for any disobedience of a subpoena, a refusal to be sworn, or to answer as a witness;
5. To reduce the testimony to writing as the committee deems it advisable;
6. To conduct such hearing at such place or places as the committee may deem necessary or convenient;
7. That the committee be authorized to employ such personnel or other assistance as they may deem necessary;

Be It Further Resolved, that the expenses of such investigation as are authorized by the committee be paid from legislative funds, including subpoena fees and the mileage and fees of subpoenaed witnesses at the rates provided for witnesses of the district courts.

Filed January 13, 1959.

SENATE RESOLUTION No. 2
(Kisse, Miller, Hystad)

APPOINTMENT OF OFFICIAL PHOTOGRAPHER FOR THE SENATE

A senate resolution to appoint an official photographer for the Senate of the Thirty-sixth 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, Campbell's Studio of Bismarck, North Dakota offers to make a composite group picture of the members of the 1959 North Dakota Senate size 30 x 40 inches, said picture to be framed and ready to hang, and fifty-five eleven by fourteen copies of said picture for each member and desk force of the Senate, and one five by seven inch print of each senator and the lieutenant governor for the state historical society, at a cost of four hundred and seventy-five dollars.

Now, Therefore, Be It Resolved, that Campbell's Studio, Bismarck, North Dakota, be, and is hereby appointed official photographer for the North Dakota Senate of the Thirty-sixth Legislative Assembly.

Be It Further Resolved, that the Campbell's Studio of Bismarck, North Dakota, be and is hereby awarded the sole privilege of photographing members of the Senate of the Thirty-sixth Legislative Assembly, at a cost price of four hundred and seventy-five dollars, to be taken out of legislative expenses.

Filed February 3, 1959.

SENATE RESOLUTION No. 3
(Vendsel)

REQUEST TO LENDING AGENCIES TO REFRAIN FROM DISCOUNTING HOME LOANS

WHEREAS, the Federal Government has recognized the need of assisting persons in the acquisition of homes and has enacted the Federal Housing Administration and Veteran's Administration Acts, and

WHEREAS, loans to home buyers are made and processed through lending institutions, both federal and state, and including the Bank of North Dakota, and

WHEREAS, such loans are guaranteed by the appropriate federal agencies and as such are made at no risk to the local lending institution and with an interest rate determined by the Federal Government to be fair and reasonable for both borrower and lender, and

WHEREAS, it has become common practice among some lending institutions to increase their return on such loans by charging a discount to the borrower, which results in a much higher return to the lending agency than was contemplated by the federal agencies involved and which places an unwarranted burden upon the borrower and home purchaser;

Now, Therefore, Be It Resolved by the Senate of the state of North Dakota that all lending agencies in the state of North Dakota, including the Bank of North Dakota, be and hereby are requested to refrain from the aforementioned loaning practices in order to make home loans more readily available for veterans and other persons residing in our state.

Filed February 19, 1959.

SENATE RESOLUTION No. 4
(O'Brien, Livingston)

CHAPLAINS' INVOCATIONS TO BE PRINTED IN THE SENATE JOURNAL

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 the invocations given by such chaplains in the Senate Journal.

Now, Therefore, Be It Resolved by the Senate of the Thirty-sixth Legislative Assembly 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 February 9, 1959.

SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION "B"
(Vendsel)

GARRISON DIVERSION UNIT

A concurrent resolution urging the President, director of the bureau of the budget and the secretary of the interior to make early transmittal to Congress of the project plan report on the Garrison Diversion Unit.

WHEREAS, the regional director, region 6, bureau of reclamation, on January 29, 1957 submitted to the commissioner, bureau of reclamation, a project plan report on the engineering and financial feasibility of the Garrison Diversion Unit, Garrison Diversion, North and South Dakota, Missouri River Basin Project, and recommended its approval; and

WHEREAS, the commissioner approved and transmitted the same to the secretary of the interior on April 19, 1957, which action gave hope to every interested North Dakotan that the report would go to the 85th Congress in time for hearings and action thereon; and

WHEREAS, after a further study and review thereof, the secretary on June 12, 1957 approved the report which was thereafter transmitted to the bureau of the budget where it still remains; and

WHEREAS, it is of the utmost importance that the report be sent to Congress as soon as possible so that hearings and action thereon may be scheduled and taken at the earliest practicable time during the First Session of the 86th Congress;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the President of the United States, the director of the bureau of the budget and the secretary of the department of the interior be, and they are hereby, respectfully urged to transmit to the First Session of the 86th Congress the project plan report on the Garrison Diversion Unit at the earliest practicable date.

Be It Further Resolved, that copies hereof be mailed by the secretary of state to the President of the United States, the director of the bureau of the budget, the secretary of the interior, to Senators William Langer and Milton R. Young, and to Representatives Quentin N. Burdick and Don L. Short.

Filed February 25, 1959.

SENATE CONCURRENT RESOLUTION "D"
(Becker, Hystad, Morgan, Krause, Lautenschlager)

DANCES IN MEMORIAL HALL

A concurrent resolution allowing use of the Memorial Hall for employees' dances.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, the employees of the Senate and the House of Representatives of the Thirty-sixth Legislative Session wish to hold dances in the Memorial Hall located in the state capitol building, and

WHEREAS, under the ruling of the board of administration, a concurrent resolution must be passed in order to obtain the use of said Memorial Hall,

Now, Therefore, Be It Resolved by the Senate of North Dakota, the House of Representatives Concurring, that the board of administration be hereby requested to give permission to the employees of the Senate and House of Representatives for the use of said state owned property;

Be It Further Resolved, that the secretary of the senate be requested to send one copy of this resolution to the secretary of the board of administration of the state of North Dakota.

Filed February 10, 1959.

SENATE CONCURRENT RESOLUTION "E"
(O'Brien, Holand, and Vendsel)

DESIGNATION OF NEWSPAPERMAN'S DAY

A senate concurrent resolution designating February 12, 1959, the anniversary of the birth of President Lincoln, as Newspaperman's Day at the state legislative assembly.

WHEREAS, it is customary for the legislative assembly of the state of North Dakota to observe the anniversary of the birth of President Abraham Lincoln by meeting in joint session of the Senate and the House of Representatives; and

WHEREAS, President Abraham Lincoln was a great exponent of basic constitutional liberties, especially of Article I of the Amendments to the Constitution of the United States which guarantees forever the freedom of the press in the United States; and

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 in keeping with the high ideals of freedom and constitutional liberties as expressed and lived by President Lincoln.

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Senate and the House of Representatives, individually and collectively, invite newspapermen of their respective districts to spend the day of February 12, 1959, the anniversary of the birth of President Lincoln, at the state capitol as our guests, to witness at firsthand the legislative processes.

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 four o'clock p. m. that day for a discussion of matters of mutual concern to the press, public officials and the public relating to the American tradition of freedom of information.

Be It Further Resolved, that the Senate and the House of Representatives join in the invitation to Turner Catledge, managing editor of the New York Times and director of the American Society of Newspaper Editors, to address the joint meeting of newspapermen and legislators.

Filed February 10, 1959.

SENATE CONCURRENT RESOLUTION "G"
(Larson and Meidinger)

L.R.C. STUDY OF SPECIAL EDUCATION

A concurrent resolution authorizing and directing the legislative research committee to study the need for special education within the state and the manner in which facilities for such special education can be best obtained.

WHEREAS, the legislative assembly of the state of North Dakota recognizes that there is a considerable need within the state for the development of special educational facilities in order to properly educate a considerable number of the children of the state; and

WHEREAS, the legislative assembly is vitally interested in providing all of the children of the state with the opportunity of receiving a proper and sound education; and

WHEREAS, at the present time the legislative assembly does not have at hand the information, data, statistics and other material necessary in order to properly evaluate the needs of a special education program and embark upon a program which will meet these needs.

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 problems involved in the establishment of an efficient program of special education, including a determination of the number of children in the state needing special education facilities and programs and the different types of special educational needs, the expense involved in providing such facilities; the possibility of consolidating present facilities; a method of defining fields in which the state government should carry on such activities, and those fields in which the various subdivisions should carry on the activities, as well as a determination of the extent to which the state can afford to participate in such a program; and to report its appraisals and recommendations to the Thirty-seventh Legislative Assembly, together with any proposed legislation which may be necessary to carry out such recommendations.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "H"

(Livingston, O'Brien, Meidinger)

EXAMINATION OF STANDARDS AND CURRICULA OF NORTH DAKOTA SCHOOL

A resolution urging the state board of public school education and the state board of higher education to examine the curricula, and standards of accomplishment, of the schools of this state.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

WHEREAS, education builds foundations for present and future achievements in all desirable areas of endeavor; and

WHEREAS, doubt has been expressed nationally by many responsible authorities as to the adequacy of curricula and standards of accomplishment in elementary, secondary and higher education in light of current scientific and global defense needs;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the state board of public school education and the state board of higher education be urged to examine the curricula and standards of accomplishment of the schools of this state, with special emphasis on strengthening the teaching of science, mathematics and languages.

Be It Further Resolved, that copies of this resolution be furnished to the state board of public school education and the state board of higher education.

Filed March 2, 1959.

SENATE CONCURRENT RESOLUTION "I"
(Garaas and Wenstrom)

NATIONAL PARK AT CONFLUENCE OF YELLOWSTONE AND MISSOURI RIVERS

A concurrent resolution memorializing the Congress to establish as a national park a suitable area of land lying at the confluence of the Yellowstone and Missouri Rivers in northwestern North Dakota and northeastern Montana to include the sites of Fort Buford, Fort Union, and Mondak, and to preserve and develop this area of national historical significance as a historical memorial.

WHEREAS, the area at the confluence of the Yellowstone and Missouri Rivers in northwestern North Dakota and northeastern Montana played a large and significant part in the opening of the Pacific Northwest; and

WHEREAS, the area at the confluence of the Yellowstone and Missouri Rivers was known to the governments of Spain, France and England before the 19th Century; and

WHEREAS, the area at the confluence of said rivers was a highlight in the exploration trip of Lewis and Clark and was by them designated as the place of rendezvous in the year 1806; and

WHEREAS, a trading post was established at the confluence of the Yellowstone and Missouri Rivers in the year 1822 by the Rocky Mountain Fur Company, with the support of William Ashley, later a United States Senator, Andrew Henry, Mike Fink, Jim Bridger and other early explorers; which trading post in the year 1828-1829 after acquisition by the American Fur Company, was developed by Kenneth McKenzie

into the greatest fur trading post on the North American Continent and played a preeminent part in the opening of the Pacific Northwest for more than two decades; and

WHEREAS, Fort Union became a port of call for many world famous personages, such as George Catlin in the year 1832, who arrived on the first steamer to reach the Yellowstone River; Prince Maximilian of Wied and party in the year 1833; John James Audubon in the summer of 1843; and the eminent frontier missionary Father Pierre Jean DeSmet in the year 1840; in addition to being a point of meeting for many years for bands of Indians from the Chippewa, Blackfeet, Crow, Sioux, Cree, Blood, Piegan, Assiniboine, Hidatsa, Mandan, Arikara, Cheyenne, Flathead and Snake Nations; and

WHEREAS, Fort Buford was similarly established at the confluence of the two rivers in the year 1866; and

WHEREAS, said fort played a large and significant part in the regulation of the fur trade with the Indians and in the subsequent Indian campaigns, culminating in the Battle of the Little Big Horn in 1876; and

WHEREAS, such Indian prisoners as Chief Joseph and members of his Nez Perce Tribe and Chief Gall passed through Fort Buford; and

WHEREAS, it was at Fort Buford in the year 1881 that Sitting Bull surrendered, together with the remnants of his followers; and

WHEREAS, this area situated at the confluence of the Yellowstone and Missouri Rivers is an area of great historical significance to the people of the United States; and

WHEREAS, its historical significance has been lost largely by reason of its nondevelopment;

Now, Therefore, Be It Resolved by the Senate of the Thirty-sixth Legislative Assembly 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 and establish sufficient of the area situated at the confluence of the Yellowstone and Missouri Rivers as a national park and that the sites of Fort Union, Fort Buford and the early frontier town of Mondak and other historical sites be renovated, preserved and maintained for the enjoyment and benefit of the people of the United States.

Be It Further Resolved, that the secretary of state of the state of North Dakota be authorized and he is hereby directed

to forward certified copies of this memorial to the President of the United States, the Senate and House of Representatives of the United States, to the Senators and Representatives representing this state, to the Governor of the state of Montana and to the Senate and House of Representatives of the state of Montana.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "K"
(Holand and Vendsel)

L.R.C. STUDY OF STATE MILL AND ELEVATOR

A concurrent resolution directing the legislative research committee to study the operation of the North Dakota state mill and elevator association and its present and future contributions to the welfare of the state.

WHEREAS, the North Dakota state mill and elevator association was created in the year 1919 for the purpose of encouraging and promoting agriculture, commerce and industry by engaging in the business of manufacturing and marketing farm products; and

WHEREAS, the passage of time has considerably changed the economic conditions and the future economic potential of the state of North Dakota; and

WHEREAS, as a result of these changed conditions it appears desirable to review the functions and activities of the North Dakota state mill and elevator association;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby authorized and directed to conduct a study into the accounting and business practices of the state mill and elevator association, the scope of its operations, the feasibility of expanding or restricting its services, and to make an appraisal of the potential contribution by the association to the welfare and economy of the state; and to make its report and recommendations in regard to these matters to the Thirty-seventh Legislative Assembly.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "O"
(Erickstad and Foss)

L.R.C. STUDY OF CIVIL DEFENSE

A concurrent resolution directing and authorizing the legislative research committee to conduct a comprehensive study of civil defense, government operations, both state and local, and laws relating thereto in order to determine their adequacy in providing the greatest possible protection for the lives and property of the people of this state in the event of natural disaster and foreign attack; and to present its findings and recommendations to the Thirty-seventh Legislative Assembly.

WHEREAS, the Thirty-sixth Legislative Assembly recognizes that one of the prime functions of state government is to protect the lives and property of the citizens of the state; and

WHEREAS, as the population of the state becomes more concentrated, natural disasters could be increasingly more destructive; and

WHEREAS, the continued international tension and the rapid development of technological and scientific capabilities of our possible enemies have made man-made disasters appear more imminent; and

WHEREAS, the laws of this state relating to such matters as the organization and functions of the state civil defense agency, continuity of government, safekeeping of important records, succession of authority and duties, emergency powers of government, and similar matters may not be adequate to meet possible emergencies;

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 the organization and functions of state and local civil defense agencies, problems of continuity of government, the safekeeping of important records, the succession of governmental authority and duties, emergency powers of government, and matters related thereto and to make its report and recommendations to the Thirty-seventh Legislative Assembly together with such bills as may be necessary to carry out such recommendations.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "P"
(Longmire, Saumur)

APPRECIATION TO CHESTER FRITZ FOR DONATION

Of appreciation to Chester Fritz for the gift of a library to the state University of North Dakota.

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Jointly Concurring:

WHEREAS, through the generous gift of Chester Fritz the sum of one million dollars has been made available for the construction of a library at the state University of North Dakota;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives jointly concurring, that on behalf of the people of the state of North Dakota, we express our thanks and appreciation for the generosity and foresight of Mr. Fritz in making this significant contribution to the cultural life of the state, and we commend the state board of higher education for providing space upon the university campus for the library, for taking prompt steps toward the construction thereof and for its action in providing that such library shall be named THE CHESTER FRITZ LIBRARY, in order to perpetuate the name, generosity and foresight of the donor.

Filed March 2, 1959.

SENATE CONCURRENT RESOLUTION "Q"
(Erickson and Roen)

TELEVISION BOOSTER STATIONS

A concurrent resolution requesting the federal communications commission to permit television booster stations in North Dakota.

WHEREAS, many of the people of the state of North Dakota are on the fringe or outside of the effective range of a television station; and

WHEREAS, because of the sparse population and the large area of this state it is not economically feasible to construct additional television stations in this state; and

WHEREAS, the cost to individual television viewers, on the fringe or outside the range of a television station, for the purchase of equipment to improve their television reception would be prohibitive in the event television booster stations are not permitted in this state;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-sixth Legislative Assembly of the state of North Dakota requests the federal communications commission to allow television booster stations in North Dakota under such rules and regulations as the commission may prescribe, and that the people of this state will be highly appreciative of any consideration that the federal communications commission may give to the continued operation of booster stations.

Be It Further Resolved, that the secretary of state forward copies of this resolution to the members of the federal communications commission and to the members of the North Dakota congressional delegation.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "S"
(Brooks, Vendsel, Van Horn, Garaas, Wartner,)
(Erickstad, Livingston and Ringsak)

VETERANS DAY OBSERVANCE

A senate concurrent resolution urging the proper observance of November 11, Veterans Day as a holiday.

WHEREAS, the Congress of the United States and the Legislative Assembly of the state of North Dakota have by law designated the day November 11 as Veterans Day, and confirmed its status as a holiday; and

WHEREAS, such action was taken at the request of a grateful nation in order that its citizens might honor all men and women on November 11 who had served their country in grave emergency; and

WHEREAS, through lack of information there has been created a misunderstanding as to the significance of this holiday; and

WHEREAS, in order to correct this situation it was the intent of Congress and the legislative assembly of this state to reemphasize the importance of November 11 by calling upon the public to properly observe Veterans Day; and

WHEREAS, the attorney general of North Dakota issued a formal opinion that Veterans Day is a non-business day and a holiday; and

WHEREAS, the observance of Veterans Day would give to the citizens of North Dakota one day of the entire year to express their gratitude to all veterans of all wars for the sacrifices they made to preserve our freedoms;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Thirty-sixth Legislative Assembly of the state of North Dakota hereby urges the superintendent of public instruction to recommend to all schools that appropriate observance be instituted within their regular school routine; also the various chambers of commerce, and all other state, municipal, and private organizations to carry out the intent and purpose of the laws by closing places of business and other state and municipal activities so that November 11 shall and will be a day on which the American people will have an opportunity to express their appreciation to those who have served their country.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "V"

(Roen, Saumur, Larson and Erickson)

L.R.C. STUDY OF CONSOLIDATION OF LICENSING FUNCTIONS

A concurrent resolution directing the legislative research committee to study the feasibility of consolidating the licensing and regulation of trades and occupations in one central agency.

WHEREAS, North Dakota has by statute provided for the licensing and regulation of a substantial number of trades and occupations and many additional bills in regard to other trades and occupations are under consideration by the Thirty-sixth Legislative Assembly; and

WHEREAS, each licensed trade and occupation is required to maintain a central office and separate personnel for the licensing and regulation of their respective trades and occupations with resulting higher cost of operation than would be necessary if it were possible to consolidate such licensing and regulation in one central agency; and

WHEREAS, because of increasing costs of licensing and regulating trades and occupations, the legislative assembly, at every session, is asked to amend the statutes to provide for higher licensing and examination fees; and

WHEREAS, considerable confusion results among the trades, occupations and general public in dealing with the separate licensing and regulating agencies because of unfamiliarity with their duties and the location of their offices; and

WHEREAS, over the past years, there have been a number of complaints from citizens of the state that examinations for

trade and occupational licensing may not truly measure the ability of the applicant and at times the testing and grading procedures in regard to such examinations have been questioned, which criticism might be eliminated through the use of a central impartial licensing agency; and

WHEREAS, a number of states have established central licensing facilities in order to meet the objectives and problems set forth in this resolution;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby authorized and directed to study the laws of the state of North Dakota and those of other states providing having a central licensing agency in order to determine the merits and feasibility of establishing a central licensing agency in the state of North Dakota for trades and occupations and to make its report and recommendations to the Thirty-seventh Legislative Assembly accompanied by such legislation as may be necessary to carry out its recommendations.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "W"
(Hernett and Meidinger)

L.R.C. STUDY OF INVESTMENT OF STATE FUNDS

A concurrent resolution directing the legislative research committee to study the investment of state funds.

WHEREAS, the state of North Dakota has a number of independent trust funds or "trust like" funds which are independently invested in accordance with the requirements of each fund; and

WHEREAS, there appears to be a lack of diversity in state investments, as indicated by the fact that well over half of the state investments are in obligations of the United States; and

WHEREAS, recent studies of the investment of state funds have shown the average interest yield on such funds to be only 2.1% in contrast with a yield of 2.7% in a majority of the states, which amounts to a difference in yield of over $450,000 based upon the $75,988,260 balances existing in such funds in the year 1956;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby directed to study and review the laws and policies pertaining to the investment of state funds. The committee is specifically directed to consider the merits of broadening the types of investments permitted by law; the feasibility of developing an investment pool system with professional type management for the purpose of providing proper diversification of investments in order to obtain the greatest possible return to the state consistent with safe investment practices, methods of equitable distribution of income among the various funds participating in an investment pool; and to make its report and recommendations to the Thirty-seventh Legislative Assembly together with suitable legislation to carry out such recommendations.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "X"
(Longmire and Saumur)

NORTH DAKOTA ACADEMY OF SCIENCE

A concurrent resolution recognizing the North Dakota Academy of Science as the official academy of science of this state.

WHEREAS, North Dakota does not presently have an official academy of science; and

WHEREAS, the North Dakota Academy of Science has been in existence since 1908, having as its members many brilliant and successful scientists; and

WHEREAS, the North Dakota Academy of Science has not only served to foster deep and enduring friendships among the active scientists of this state, but has also served to encourage a high morale among the members to exert their best efforts for the benefit of science and their fellowmen; and

WHEREAS, the North Dakota Academy of Science has done much to bring science to the attention of the people of the state of North Dakota and the nation;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That because of the splendid record of many achievements the Thirty-sixth Legislative Assembly of the state of North Dakota hereby recognizes the North Dakota Academy of Science as the official academy of science of this state; and

Be It Further Resolved, that the secretary of state forward a copy of this resolution to the historian of the North Dakota Academy of Science.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "Z"

(Foss and Erickstad)

L.R.C. STUDY OF CONSOLIDATING PUBLIC HEALTH ACTIVITIES

A concurrent resolution directing the legislative research committee to study the feasibility of consolidating state activities relating to public health in one state agency.

WHEREAS, it is the responsibility of the state department of health to perform many functions relating to the protection of the public health and the improvement thereof; and

WHEREAS, it is also the statutory responsibility of the North Dakota state medical center at the University of North Dakota to "provide facilities for the coordination, improvement, expansion and unification of health and welfare activities of this state"; and

WHEREAS, the joint utilization of the existing facilities in the field of public health may provide greater economies, efficiencies and further improvement of public health;

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 merits and feasibility of unifying or consolidating the state activities in the field of public health into one agency and to specifically consider among other plans the feasibility of centering such activities in the medical center at the University of North Dakota.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "A-A"
(Holand)

L.R.C. STUDY OF CONSOLIDATING AGRICULTURAL ACTIVITIES

A concurrent resolution authorizing and directing the legislative research committee to study the feasibility of placing the administration of certain agricultural activities that are now administered by separate state boards, commissions and institutions under the jurisdiction of the state department of agriculture and labor.

WHEREAS, the Constitution of this state establishes a department of agriculture which is maintained and staffed by the state; and

WHEREAS, there are many activities of the state in the field of agriculture, the majority of which have been placed under the jurisdiction of separate boards, agencies and institutions; and

WHEREAS, it would appear that consideration should be given to the consolidation of many or all of these agricultural activities in the department of agriculture and labor in order to carry out the intent of the Constitution in regard to such department and to eliminate confusion, duplication and to promote efficiency in such governmental activities;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby directed to study the various activities of the state in the field of agriculture now being carried on by various departments, agencies, boards, and institutions and to determine the merits and feasibility of consolidating the administration of many or all of the state agricultural activities in the department of agriculture and labor, and to make its report and recommendations to the Thirty-seventh Legislative Assembly together with such legislation as may be necessary to carry out such recommendations.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "B-B"
(Krause)

POINT FOUR PROGRAM FOR INDIANS

A concurrent resolution to the Congress urging the passage of a "point four program" to raise the standards of well-being of Indian citizens.

WHEREAS, the Indian citizens of this state who reside on and adjacent to federal Indian reservations do not enjoy a standard of living in any way approaching that found among the non-Indian citizens of this state, and in fact often suffer extreme hardships through inadequate diet, housing, and at times even hunger; and

WHEREAS, a continuation of the federal reservation system with its ever-increasing population will result in even further hardships because of an almost total absence of employment opportunities on the reservation; and

WHEREAS, the social advancement of our Indian citizens is and will continue to be largely barred unless economic improvements are forthcoming; and

WHEREAS, legislation will be presented to the Congress to provide assistance similar to the "point four program" to the Indian citizens of this and other states through the provision of technical and financial assistance to aid in the development of natural resources on Indian lands; to develop the full capabilities of industrial and agricultural production; in improvements in housing, nutrition, clothing, sanitation and health; and the resettlement of individuals and families in other areas;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Congress is respectfully urged to give favorable consideration to the passage of a "point four program" to aid the Indian citizens of this and other states to reach the level of well-being enjoyed by the great majority of the citizens of our country and to provide for the implementation of this program at the earliest possible date; and

Be It Further Resolved, that copies of this resolution be forwarded by the secretary of state to the secretary of the interior, the commissioner of Indian affairs, and to each member of the North Dakota congressional delegation.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "F-F"

(Krause, Livingston, Roen, Van Horn,)
(Garaas, Wenstrom, Erickson)

COMMENDING THEODORE ROOSEVELT CENTENNIAL COMMISSION

A concurrent resolution commending the North Dakota Theodore Roosevelt Centennial Commission and its executive director for the excellent work done in commemorating the anniversary of the birth of Theodore Roosevelt.

WHEREAS, the North Dakota Theodore Roosevelt Centennial Commission was created by the Thirty-fifth Legislative Assembly to promote the proper observance of the centennial anniversary of the birth of Theodore Roosevelt; and

WHEREAS, the commission initiated and promoted a school program to carry out this observance whereby forty thousand students participated in commemoration programs in more than three thousand schools in this state, and whereby the state University and Agricultural College each awarded honorary degrees as a part of the Theodore Roosevelt observance; and

WHEREAS, the Dickinson State Teachers College conducted a symposium of lectures during which several nationally prominent personalities delivered addresses, thus greatly enhancing the academic reputation of our state; and

WHEREAS, the commission made possible the development and production of "Old Four Eyes", the now famous outdoor drama which exemplified to the state and the nation the heritage of Theodore Roosevelt and focused the attention of the people of the state of North Dakota upon the possibilities for future development of tourist attractions within the state; and

WHEREAS, the commission, with the cooperation of the North Dakota Bar Association, established a speakers bureau which resulted in over four hundred and fifty addresses being given which indoctrinated the public in the high ideals and sense of public responsibility which were typical of Theodore Roosevelt, all of which greatly benefited the citizens of the state; and

WHEREAS, the commission engaged in numerous other activities commemorating the memory of Theodore Roosevelt which, at the same time, focused nationwide attention on the state of North Dakota; and

WHEREAS, the national director of the Theodore Roosevelt Centennial Commission has specifically stated that no other

state in the Union can match the record of the North Dakota Theodore Roosevelt Centennial Commission in the work it has done; and

WHEREAS, the commission could not have done such an outstanding job without the full and complete cooperation of the schools and their officials, the members of the State Bar Association, the news media of the state and other interested parties;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That we, on behalf of all of the people of this state, commend the North Dakota Theodore Roosevelt Centennial Commission and its director, Mr. Jack R. Smutz, the superintendent of public instruction, and the officials of the various participating schools throughout the state, the Dickinson State Teachers College, the North Dakota State Bar Association, the press, radio and television industries, and other friends of the Commission for the excellent and public-spirited manner in which the task of properly observing the centennial anniversary of the birth of Theodore Roosevelt was accomplished in this state.

Be It Further Resolved, that a copy of this resolution be forwarded by the secretary of the Senate to Mr. Jack R. Smutz, executive director of the North Dakota Theodore Roosevelt Centennial Commission.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "I-I"
(Foss and Erickstad)

L.R.C. STUDY OF STATE TRAINING SCHOOL

A concurrent resolution directing the legislative research committee to study the physical and instructional facilities of the state training school with a view to determining its suitability to the rehabilitation and preparation of the youngsters at the institution.

WHEREAS, it is the purpose of the state training school to rehabilitate and prepare for later life the young people of this state who are committed to such school, in order that they may become useful citizens of the state; and

WHEREAS, in order to properly prepare youngsters for useful citizenship through the facilities of the state training school, it is necessary to conduct a diversified program that will help develop the latent talents of the many different types of youngsters at the school; and

WHEREAS, it is possible that more emphasis should be placed upon scholastic and physical education programs at the school, and less emphasis upon matters such as the operation of the present farm program, in order that scientific, musical and related training can be offered at the school; and

WHEREAS, continually changing times and correctional methods dictate that the legislative assembly should periodically review its legislative policy and the statutes of the state concerning the state correctional institution for children, in order to be certain that the institution's program is continually geared toward offering its youngsters every opportunity to become useful citizens;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby authorized and directed to study the physical plant, instructional program, coeducational system, farm program, and other related programs of the state training school in order to determine whether or not present facilities, both physical and instructional, are of the type which best serve to develop the talents and interest of the youngsters at the institution, and to make its report and recommendations to the Thirty-seventh Legislative Assembly and to prepare and introduce such legislation as may be necessary to carry out its recommendations.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "J-J"
(Erickstad and Trenbeath)

STATE ACCEPTANCE OF OLD FORT TOTTEN

A concurrent resolution authorizing and directing the state historical society to accept the old Fort Totten site from the Federal Government if it is offered to the state.

WHEREAS, the site of old Fort Totten is one of the state's oldest historic sites, having been established in 1867; and

WHEREAS, old Fort Totten is presently being used as an Indian school but will be abandoned in the near future when a new Indian school is completed; and

WHEREAS, the United States Bureau of Indian Affairs has expressed a willingness to transfer the site and buildings at old Fort Totten to the state;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the state historical society is hereby authorized and directed to accept the site and buildings at old Fort Totten if such property is offered to the state by the United States Bureau of Indian Affairs and to maintain and preserve the site of historic old Fort Totten as a tourist and recreational center; and

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of the Senate to the state historical society, the Secretary of Interior, the North Dakota congressional delegation, the superintendent of the Turtle Mountain Indian Reservation and the president of the Pioneer Daughters of the state of North Dakota.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "K-K"
(Wenstrom, Larson, Longmire, Meidinger, Wadeson,)
(Trenbeath, Freed, Roen, Gronvold, Livingston, Brooks)

DAKOTA TERRITORY CENTENNIAL CELEBRATION

A concurrent resolution authorizing the appointment of a temporary committee to make, promote and supervise plans for a 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, the state of South Dakota is presently considering legislation to create a commission to commemorate the creation of the Dakota Territory; and

WHEREAS, it is desirable and proper that the year 1961 be marked with appropriate activities to observe the significant events in the history of the state of North Dakota, the outstanding contributions of early residents of the area now included in our state, and to bring the rich historical heritage of the state to the attention of our citizens;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

1. That the governor is hereby authorized and directed to appoint a Dakota Territory Centennial Committee consisting of not more than nineteen citizens of the state for the purpose of formulating and executing plans to appropriately observe the centennial anniversary of the creation of the Dakota territory;

2. That such committee shall meet at the call of the governor, who shall act as chairman of the committee. The committee shall select a vice chairman and a secretary from among its members. The committee shall appoint such subcommittees as it shall deem desirable from its own membership and from among other citizens of the state, and may adopt such rules and regulations as deemed appropriate to govern its activities in carrying out its responsibilities;

3. The committee shall enlist the aid of all departments of the state, call upon civic, patriotic, educational, fraternal, professional, and religious bodies and organizations to join in the observance, and shall cooperate with similar Dakota Territory Centennial Committees or Commissions of other states. The department of public instruction shall encourage and provide for suitable commemorative activities in the public schools of the state; and

Be It Further Resolved, that such Dakota Territory Centennial Committee shall make a report to the Thirty-seventh Legislative Assembly in regard to the plans and program for the centennial observance, and as to any further action by the legislative assembly that may be desirable to implement the proper observance of the one hundredth anniversary of the creation of the Dakota Territory.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "M-M"
(Committee on Delayed Bills)

STUDY OF ASPHALT AND BITUMINOUS DRIVING LANES

A concurrent resolution directing the state highway department to make a comparative study of costs of construction, maintenance, and the life expectancy of asphalt and bituminous driving lanes on the interstate highway system.

WHEREAS, the state of North Dakota is in the process of constructing hundreds of miles of interstate highways which are intended to be built to the highest practical standards; and

WHEREAS, it is the present policy of the state highway department to provide in their specifications for the use of Portland cement in the construction of driving lanes on the interstate system; and

WHEREAS, it appears that driving lanes on highways constructed from asphaltic materials can be of equal strength as concrete; and

WHEREAS, few North Dakota contractors are equipped to construct concrete surfaced highways, but many such North Dakota contractors have the necessary equipment for asphalt construction;

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 make a study of the costs of the construction and maintenance of driving lanes on the interstate system constructed from Portland cement as compared to such costs of construction and maintenance through the use of high-type asphaltic concrete materials, and the comparative life expectancies of each type of construction; and

Be It Further Resolved, that the state highway department report its findings to the Thirty-seventh Legislative Assembly, and that copies of this resolution be forwarded by the secretary of the Senate to the state highway commissioner.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "N-N"
(Committee on Delayed Bills)

JAMESTOWN COLLEGE SEVENTY-FIFTH ANNIVERSARY

A concurrent resolution commending the Jamestown College on the seventy-fifth anniversary of its founding.

WHEREAS, Jamestown College received its charter in the year 1884 and will be observing its seventy-fifth anniversary during the 1959-1960 academic year; and

WHEREAS, the Legislative Assembly of the state of North Dakota wishes to take note of this historic occasion; and

WHEREAS, the Jamestown College, the only privately endowed institution of higher learning in the state of North Dakota, has contributed substantially to the development of an informed citizenry and to the growth and expansion of the state of North Dakota and is recognized as a distinguished center of educational leadership; and

WHEREAS, the Legislative Assembly wishes to emphasize its beliefs in the high value and importance of such privately endowed and operated colleges in meeting the challenge of higher education in this state;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Legislative Assembly does hereby commend the Jamestown College for its contributions to the citizens of the state of North Dakota and to reaffirm its faith in the Jamestown College to make similar contributions to the welfare of the state in the next two years.

Filed March 6, 1959.

SENATE CONCURRENT RESOLUTION "O-O"
(Committee on Delayed Bills)
(By request)

L.R.C. STUDY OF INSTITUTIONAL CARE AND REVOLVING FUNDS

A concurrent resolution directing the legislative research committee to study the feasibility of depositing all moneys presently deposited in the institutional revolving fund that are received from the state liquor tax into the general fund and relieving the counties of their responsibility for paying and collecting the expenses of institutional care in the state hospital, Grafton state school and tuberculosis sanatorium and to authorize the state board of administration to collect the cost of institutional care in certain instances from responsible relatives and patient's estates.

WHEREAS, state law presently provides that a portion of the moneys received from taxes on liquor shall be deposited in an institutional revolving fund to defray the cost of operation of the state hospital, Grafton state school, and the tuberculosis sanatorium; and

WHEREAS, this practice involves the principle of earmarking funds which is frowned upon by the legislative assembly because such moneys could be credited directly to the general fund thereby making the general fund more flexible; and

WHEREAS, the present law requires certain relatives, and in some instances patient's estates, to pay for the cost of institutional care where such payments would not be a hardship on the persons concerned, and

WHEREAS, it is felt that a central state agency would be more effective in the collection of the costs of institutional care from responsible relatives and patient's estates than is presently the case, wherein each of the fifty-three counties perform such function;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the legislative research committee is hereby authorized and directed to study the feasibility of depositing all of

the moneys, presently credited to the institutional revolving fund, into the general fund; to relieve the counties of paying and collecting moneys for the costs of institutional care; that institutional expense of the state hospital; Grafton state school and the tuberculosis sanatorium be absorbed by the state; and that the state board of administration collect all costs of institutional care at the state hospital, Grafton state school and tuberculosis sanatorium from responsible relatives and patient's estates when such payment would not work a hardship on the individuals concerned or heirs of the patient's estate. The legislative research committee is hereby authorized to consult with the state board of administration and any other state agency or department in the course of this study, and to make such reports and recommendations as it may deem necessary to the Thirty-seventh Legislative Assembly.

Filed March 6, 1959.

SENATE MEMORIAL RESOLUTIONS

SENATE MEMORIAL RESOLUTION No. 1
(Holand and Vendsel)

CONDOLENCE TO SENATOR R. E. MEIDINGER

A resolution of condolence to R. E. Meidinger in the loss of his wife.

WHEREAS, Almighty God in His infinite wisdom has called from our midst the wife of Senator R. E. Meidinger, and

WHEREAS, she was a devoted wife and mother and respected and loved by all who knew her, and her untimely passing is not only a great personal loss to her family, but to all her friends and acquaintances.

Now, Therefore, Be It Resolved by the Senate of the Thirty-sixth Legislative Assembly of the State of North Dakota, assembled this 11th day of February, 1959, that we do hereby express and extend to the family of Senator R. E. Meidinger our deep sympathy and condolence in this hour of sorrow; and

Be It Further Resolved, that the secretary of the Senate be instructed to prepare an enrolled copy of this resolution to be forwarded to Senator R. E. Meidinger and his family, at Jamestown, North Dakota, immediately by special delivery mail.

Filed February 11, 1959.

SENATE MEMORIAL RESOLUTION No. 2
(Senate Memorial Resolutions Committee)

MEMORIAL TO DECEASED MEMBERS OF THE SENATE

A memorial resolution for deceased members of the Senate of the state of North Dakota.

WHEREAS, since the adjournment of the Thirty-fifth Legislative Assembly, God in His wisdom has seen fit to summon to enternal rest His servants and our former colleagues:

Frank H. Beaton, who served in the twenty-fifth session of the legislative assembly in the house of representatives and who, subsequently, served as a member of the senate in the twenty-sixth to the twenty-ninth legislative assemblies, inclusive, from the tenth legislative district, died March 30, 1957.

Oliver E. Bilden, who served in the twenty-fourth session of the legislative assembly in the house of representatives and

who, subsequently, served as a member of the senate in the twenty-fifth to the thirty-fifth legislative assemblies, inclusive, from the fifth legislative district, died March 24, 1958.

J. C. Blaisdell, Jr., who served in the twenty-fourth session of the legislative assembly in the house of representatives and who, subsequently, served as a member of the senate in the twenty-fifth and twenty-sixth legislative assemblies from the twenty-ninth legislative district, died February 28, 1958.

Clyde Kieley, who served in the thirty-fourth and thirty-fifth legislative assemblies from the fourth legislative district, died July 14, 1957.

Elias B. Lichty, who served in the thirtieth and thirty-first legislative assemblies from the twenty-second legislative district, died June 14, 1957.

John L. Miklethun, who served in the sixteenth to the nineteenth legislative assemblies, inclusive, from the sixteenth legislative district and in the twenty-third legislative assembly from the fifteenth legislative district, died July 31, 1955.

Fred Pathmann, who served in the nineteenth and twentieth legislative assemblies from the forty-seventh legislative district, died March 26, 1957.

John G. Plath, who served in the seventeenth to the twenty-first legislative assemblies, inclusive, in the house of representatives and who, subsequently, served as a member of the senate in the twenty-second and twenty-third legislative assemblies from the tenth legislative district, died January 9, 1959.

O. T. Tofsrud, who served in the ninth and tenth legislative assemblies from the thirty-fourth legislative district and in the eighteenth to the twenty-first legislative assemblies, inclusive, from the forty-second legislative district, died June 22, 1957.

Emil F. Torno, who served in the thirtieth to the thirty-fifth legislative assemblies, inclusive, from the thirty-fourth legislative district, died November 22, 1958.

Syver Vinje, who served in the twenty-fourth and twenty-fifth legislative assemblies from the eighth legislative district, died February 14, 1957.

WHEREAS, today, we as members of the senate of the Thirty-sixth 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-sixth 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, 1959.

SENATE MEMORIAL RESOLUTION No. 3
(Ringsak, Erickstad)

CONDOLENCE TO SENATOR ROSAMUND O'BRIEN

A resolution of condolence to Senator Rosamund O'Brien upon the loss of her mother.

WHEREAS, the Divine Ruler has called from our midst Mrs. Halvor Thoe of Devils Lake, North Dakota, the mother and companion of Senator Rosamund O'Brien; and

WHEREAS, Mrs. Thoe 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 Senate of the Thirty-sixth Legislative Assembly of the State of North Dakota, assembled this 25th day of February, 1959, that we do hereby express and extend to Senator Rosamund O'Brien and her family our deep sympathy and condolence in this hour of sorrow; and

Be It Further Resolved, that the Secretary of the Senate be instructed to prepare an enrolled copy of this resolution to be forwarded to Senator Rosamund O'Brien.

Filed February 25, 1959.