

VETOED MEASURES

CHAPTER 1

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

BUDGET

Note: The following line items were vetoed by the Governor. For the remainder of Senate Bill No. 1, see chapter 1.

Subdivision 9.

Commissioner of Insurance

Investigation of unauthorized companies.....	\$ 2,500.00
Travel expense	6,000.00

Subdivision 12.

Department of Agriculture and Labor

Predatory animal and rodent control	101,500.00
---	------------

Subdivision 15.

State Land Commissioner

Salary—deputy	12,000.00
---------------------	-----------

Subdivision 42.

State Laboratories Department

Salary—director	18,000.00
-----------------------	-----------

Approved in part March 20, 1963.

Filed March 21, 1963.

Item Vetoes

March 20, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 1 appropriates money for the expenses of the executive, legislative and judicial departments of state government, and for all of the subdivisions thereof, and for public schools; specifying the amount and time for which such appropriations shall be available.

There is no question but that the Budget Board, the legislative appropriation committees and the Legislature have spent much time and effort to shape this budget to achieve economy in state government without adversely affecting state services. For the most part I am in agreement with their decisions. There are, however, some further economies which I believe can and should be made. Senate Bill No. 1 is therefore approved only in part, with disapproval and veto given by me to those lined items listed below with explanations.

On page 5 in the appropriation to the Commissioner of Insurance the amount of \$2500.00 for "Investigation of Unauthorized Companies" is hereby vetoed. This appropriation was apparently abused in the past biennium, and there need not be a specific appropriation for this activity. An investigation of unauthorized insurance companies can be done using funds allocated to other department activities.

On page 5 in the appropriation to the Commissioner of Insurance the amount of \$6000.00, "Travel Expense", is hereby vetoed. This department, with its divisions of State Fire Marshal, State Bonding Fund, State Hail Insurance, and Fire and Tornado Fund, has a total of \$101,000 appropriated for travel. I believe this sum, which amounts to \$202 for each working day in the biennium, is excessive. The Insurance Commissioner can justify his travel from the funds for travel allocated to the divisions of his department. My elimination of the \$6000.00 travel appropriation in the budget of the Commissioner of Insurance is not to be construed as an attempt to limit travel by him or the personnel of any specific division under his department.

On page 7 in the appropriation for the Commissioner of Agriculture and Labor I veto the line item of \$101,500.00 for predatory animal and rodent control. This item is to support a program of matching federal funds to control coyotes, foxes, rats, mice and other animals. I have been informed that the coyote problem in this state is now very small. Sheep raising has diminished in areas frequented historically by coyotes. The control of foxes statewide is not possible under this program. Rodent control on farms, grain elevators and in municipalities should be a local responsibility. Educational service is available from County Extension Agents and Public Health officers. Commercial exterminating companies are available to municipalities, grain elevator operators and individuals. Advances in effective poisons have made rodent control possible and safe for anyone interested in controlling rats and mice. Nearly all of the predatory animal and rodent control program could be done by private enterprise rather

than by a taxpayer-supported service operated by the State. I would anticipate that private enterprise will move in to fill any gap left by the abolition of this state program. This program is an example of a once-necessary government activity which has done a good job but is now becoming outmoded. This type of program should give way to the more demanding services of government.

On page 8 in the State Land Commissioner's budget I veto the item of \$12,000.000 for "Salary—Deputy". This should not be construed as a criticism of the office or the salary of the deputy. This officer can be paid from the \$137,750 clerkhire appropriation for the department. I regard the clerkhire appropriation as excessive and certainly able to absorb the salary of the deputy commissioner.

On page 16 in the budget for the State Laboratories Department I veto the item of \$18,000.00 for "Salary—Director". In so doing I am not critical of the office of director, or the officer now serving, or the salary. The director may continue to be paid the listed salary out of the \$406,850 clerkhire appropriation for this department. There is no question but that the number of inspectors now serving this department could be cut down. The extensive time that the inspectors of this department devote to political activity on state time gives ample margin to maintain the legitimate functions of the department with fewer employees.

Sincerely,

WILLIAM L. GUY

Governor

CHAPTER 428

S. B. No. 31

(Sorlie, Longmire, Wadeson, Miller)
(From LRC Study)

TRANSFER OF TRUCK REGULATORY DIVISION

AN ACT

Transferring the field enforcement functions of the weight control division of the state highway department, together with all field equipment and facilities used by the weight control division, to the state highway patrol, and to amend and reenact sections 24-01-13, 24-03-02, 39-03A-09, 39-04-40, and 39-12-07 of the North Dakota Century Code, relating to the authority of the state highway commissioner in regulating and controlling the weight of vehicles traveling upon the state highway system.

Veto

March 9, 1963

The Honorable Frank Wenstrom
President of the Senate
Bismarck, North Dakota

Dear Mr. Wenstrom:

I have carefully considered S.B. 31, which would transfer the enforcement functions of the Truck Regulatory Department from the Highway Department to the Highway Patrol. This is legislation recommended by the Legislative Research Committee and, as such, represents careful study and a sincere effort to improve the operation of our state government. However, S.B. 31 has some serious drawbacks, which cause me to withhold approval.

The Highway Commissioner is, under law, responsible for the "protection and control" of the roads in our state highway system. This bill leaves that responsibility with the Highway Commissioner, but takes his enforcement organization, the Truck Regulatory Department, away from him.

There are different levels of training and physical qualifications required of state personnel engaged in the various types of law enforcement such as is done by Game Wardens, the Highway Patrol, license inspectors, the Truck Regulatory people, and public health inspectors. The physical requirements of the Highway Patrol personnel are substantially higher than those necessary for the Truck Regulatory personnel. To require total training in Highway Patrol work

and Truck Regulatory work of all people in the Highway Patrol, as S.B. 31 would require, would add a massive and costly training program to the Highway Patrol. To give the option of pursuing Truck Regulatory work or Highway Patrol work to each individual Highway Patrolman on duty under this bill could result in a serious dilution of effectiveness in both duties. It is widely recognized that best enforcement of specific laws comes about when specific individuals are assigned to enforce specific and closely related laws.

North Dakota has millions of dollars invested in good highways. A concentrated effort must be maintained in regulating loaded trucks using our highways in order to control cost of maintenance. The Highway Commissioner is best equipped and is specifically charged with holding highway maintenance costs down through regulation of truck traffic. Past experience has proved that where loaded truck traffic enforcement was not the primary objective of the enforcement agency, loaded truck regulation suffered.

The financing of the Truck Regulatory activity should come from Highway Department funds. To divert Truck Regulatory responsibility from the Highway Department and still finance this activity from Highway Department funds would sever, in part, the Highway Commissioner's control of funds allotted by the Constitution to his department.

I have heard no complaints about the operation of the Truck Regulatory Department under our Highway Commissioner. We have an excellent Highway Patrol and an excellent Truck Regulatory Department under the present organizational structure. I believe it to be in the best interests of the people of North Dakota not to change that structure.

I therefore veto S.B. 31.

Sincerely,

WILLIAM L. GUY
Governor

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

§ 1. Transfer of Weight Control Division and Functions.)
All field enforcement functions of the weight control division of the state highway department are hereby transferred to the state highway patrol. It shall hereafter be the duty of the highway patrol to operate, maintain and staff all scale houses and portable scales, and to provide field enforcement for all

laws and regulations presently enforced by the weight control division. This Act shall not be construed as limiting the statutory power of the state highway commissioner to authorize and issue special permits to overweight, overwidth, and overlength vehicles.

§ 2. Transfer of Equipment—Relocation of Permanent Scales.) All equipment of the weight control division, including cars, station wagons, radios, portable scales, permanent scale facilities and houses, and any other equipment used by the weight control division in its field enforcement program shall be transferred to the state highway patrol. Hereafter any relocation of permanent scale facilities resulting from the relocation or reconstruction of highways on the state highway system shall be done by the highway department and the cost thereof shall be charged to the costs of the highway relocation or reconstruction project.

§ 3. Employment Preference—Waiver of Qualifications of Highway Patrolmen.) Insofar as possible the superintendent of the state highway patrol shall give preference to present employees of the weight control division of the state highway department for appointment as highway patrolmen if such employees substantially meet the qualifications normally required for appointment to the highway patrol. The superintendent shall waive age and physical qualifications of any employee of the weight control division for appointment as highway patrolman if the other qualifications of such employee substantially meet the regular requirements and standards for appointment as a highway patrolman. Any present employee of the weight control division of the state highway department who does not substantially meet the requirements for appointment to the highway patrol shall be given preference by the highway commissioner for employment in the highway department in a capacity for which he is qualified.

§ 4. Selection of Retirement Plan by Employees of Weight Control Division.) All present employees of the weight control division of the state highway department appointed highway patrolmen who are:

1. Forty years of age or older shall not qualify for the retirement system established for the state highway patrol but instead their salaries shall continue to be taxed and social security coverage extended as provided for by the Federal Social Security Act and agreement in the same manner as other state employees:
2. Thirty-nine years of age or younger shall upon appointment to the highway patrol elect to:

- a. Contribute to the retirement system established for the highway patrol; or
- b. Remain under the coverage of the Federal Social Security Act in the same manner as other state employees. Such election shall be final and may not thereafter be changed unless approved by the highway patrolmen's retirement board.

§ 5. Financing Weight Control Functions.) Funds appropriated to the highway patrol for the performance of functions and duties transferred from the weight control division of the state highway department to the state highway patrol shall be in such amount as the legislative assembly shall appropriate from the state highway fund.

§ 6. Amendment.) Section 24-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-13. Enforcement of Highway Laws—Vehicle Size and Weight Controlled.) The commissioner, with respect to highways under his jurisdiction, may:

1. Classify highways and establish limitations as to weight and load of vehicles thereon as provided under section 39-12-01;
2. Issue special written permits authorizing the operation of oversized or overweight vehicles as provided for under section 39-12-02;
3. Prohibit the operation, or may impose restrictions on vehicular use of highways during certain seasons of the year as provided for under section 39-12-03;
4. Issue permits authorizing the operation of tractors or traction engines with movable tracks as provided for under section 39-21-40.

§ 7. Amendment.) Section 24-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-03-02. Authority to Construct and Maintain State Highway System.) The commissioner shall have the authority, and shall be responsible for the construction, maintenance, protection and control of the highways which shall comprise the state highway system except so far as specific authority has been delegated by law to the highway patrol. The commissioner shall patrol and keep said system in good and safe condition for general public use.

§ 8. Amendment.) Section 39-03A-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-09. Payments by Contributors.) Every member, except as otherwise provided by law, shall be required to contribute into the fund a sum equal to six percent of his monthly salary, but not to exceed eighteen dollars, which sum shall be deducted from his salary and credited to his account in the fund. Every member, who has been in the employ of the North Dakota highway patrol prior to July 1, 1949, shall have the option and he may elect to make payments to the date when he first entered the service of the North Dakota highway patrol. Such back payments shall not exceed three and one-half percent of the total salary which would have been earned by the contributor had he continued in the service of the patrol, and may be spread over a period of three years by having the regular payroll deduction of the contributor increased in an amount equal to the total of his back payments divided by thirty-six, which deduction increase shall be credited to such back payments owing and shall be continued until the full amount of such back payments shall have been completed. Any such deduction increase may be anticipated in part or in full by the contributor at any time and must be anticipated in full before a retirement or optional retirement allowance is granted, and, if not so anticipated and paid in full, then any retirement or optional retirement allowance to which the contributor would otherwise be entitled shall be reduced by an amount and for such time as will assure that the back payments will be returned to the fund in the same manner as if the deduction increase had been continued. Every contributor who shall elect to make such back payments shall receive full credit under this chapter for all contributions made into the fund and for all service credits to which he might thereby be entitled.

§ 9. Amendment.) Section 39-04-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-40. Officers to Enforce the Provisions of Chapter.) The highway patrol and all other road or police officers shall enforce the provisions of this chapter.

§ 10. Amendment.) Section 39-12-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-07. Peace Officers May Weigh Vehicle to Determine Load—Decreasing Gross Weight of Vehicle.) Every police

officer and member of the state highway patrol, having reason to believe that the weight of a vehicle and the load carried thereon is unlawful, may weigh such vehicle and load or have the same weighed either by means of portable or stationary scales, and for that purpose he may require the vehicle to be driven to the nearest scales. Such officer may require the driver of such vehicle immediately to unload such portion of the load as may be necessary to decrease the gross weight to the maximum allowed by the provisions of this chapter.

Disapproved March 9, 1963.

Filed March 18, 1963.

CHAPTER 429

S. B. No. 36

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

WHOLESALEERS' PERMITS

AN ACT

To create and enact subsection 10 of section 57-39-01 and section 57-39-26 of the North Dakota Century Code, relating to wholesaler's permits, records, and reports on sales exempt from the retail sales tax.

Veto

March 21, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 36 would add to the auditing and collection problem of the State Tax Department by requiring the auditing and collection from all users rather than from a single wholesaler who also makes retail sales.

The bill also says the wholesaler, "in good faith", must obtain calendar year certificates from the retailer or purchaser. Establishing fraud under this terminology is almost legally impossible.

The bill creates a weakness in granting sufficient authority to the Tax Commissioner to collect the sales tax from those

who have purchased at wholesale and are the final user and consumer. Note the North Dakota Tax Department's critical appraisal of this legislation as appended.

Because of the problems arising from this legislation, which are greater than any benefits derived from it, I veto Senate Bill No. 36.

Sincerely yours,

WILLIAM L. GUY
Governor

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

§ 1.) Subsection 10 of section 57-39-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

10. "Wholesaler" means any person who sells tangible goods, wares, or merchandise for processing or to a retailer for resale but shall not include the sale of agricultural products by a producer for processing.

§ 2.) Section 57-39-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-39-26. Wholesaler's Permit—Reports—Penalty.) For the purpose of better enforcing the retail sales tax law, every wholesaler shall obtain from the tax commissioner a wholesaler's permit in such manner and upon such forms as the commissioner shall prescribe. The commissioner shall charge a fee of one dollar for each such permit issued. All books, papers, invoices, memoranda and other records relating to the business of the wholesaler shall be open to examination at any time by the tax commissioner or any of his duly authorized agents, and the tax commissioner shall have the same powers of subpoena with respect thereto and with respect to witnesses as is provided in section 57-39-19. When the holder of a wholesaler's or retailer's permit granted pursuant to chapter 57-39 who nevertheless is in the business of primarily selling tangible personal property for resale or for processing, sells such tangible property to a retailer holding a valid retailer's permit pursuant to chapter 57-39, such retailer or purchaser shall remit all sales or use taxes required to be collected under chapters 57-39 or 57-40, provided that such wholesale seller, in good faith, obtains a certificate from such retailer or purchaser covering the calendar year in which such sale or sales are made verifying that such retailer or purchaser has a valid retailer's permit, that the buyer's purchase or purchases from

the wholesale seller are for resale or for processing in the regular course of his business and that such retailer or buyer will collect and remit all sales tax and use taxes on the further transfer, sale, or use of said tangible property in accordance with law and that such retailer or buyer will be liable for penalties for failure to collect or remit such taxes.

Disapproved March 21, 1963.

Filed March 23, 1963.

CHAPTER 430

S. B. No. 82

(Brooks, Erickson, Sanford, Robinson, Trenbeath, Reichert)

TRUCK LENGTH LIMITATIONS

AN ACT

To amend and reenact subsection 4 and to create subsection 7 of section 39-12-04 of the North Dakota Century Code, relating to the length limitations on highway vehicles.

Veto

March 23, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 82 would permit a combination of vehicles consisting of truck tractor, semi-trailer, and trailer, including the load thereon, exceeding sixty feet in length but not exceeding sixty-five feet in length, to operate only on and over those highways in the state designated by the Highway Commissioner. Senate Bill 82 was once defeated in the House of Representatives in the session just concluded, but was reconsidered and passed with a very thin majority.

North Dakota has one of the highest budgets for highway construction and maintenance per capita of any state in the Union. We have been willing to tax ourselves at an extremely high level to obtain the excellent network of state highways which crisscross our state. A large proportion of this excellent state highway system was designed in years past without anticipation of the dramatic growth of the heavy truck freight industry.

We have witnessed in recent years the gradual increase in legal truck lengths and legal axle weights allowed the commercial trucking industry. In the interests of highway safety and highway maintenance, there must be a practical and economical limit to length and weight that can be allowed to operate over North Dakota state highways.

The erosion of truck weight and length limitations in one state causes pressure in adjoining states to comply, whether such compliance is in the best interest of that state or not. I note that the adjoining state of Minnesota still maintains a legal truck length of fifty feet, and so it cannot be said that North Dakota, with its present legal truck length limit of sixty feet, is an island obstructing the flow of interstate truck traffic.

Our commercial truck drivers have an enviable record for courtesy, safety and professional competence on the highways. However, commercial truck drivers guiding their vehicles of the present maximum legal length of sixty feet find themselves in an ever-increasing flow of traffic composed of non-commercial drivers of widely varying competence, safety and courtesy. To keep extending the length of commercial trucks can only add to the hazards brought about by, and to, the many automobile and truck drivers lacking the competence of the commercial truck driver.

The weakening of the North Dakota truck length laws by passage of Senate Bill 82 would be the opening wedge for increased weight limits. Our North Dakota highway system, other than the Interstate Highway, is not designed for the heavy truck loads that would be asked of future legislators to match the increased legal truck length.

To ask the Highway Commissioner under this law to designate highways over which sixty-five foot truck units could operate would only subject the Highway Commissioner to tremendous pressure from the trucking industry. The Interstate Highway is the only state highway built under specifications to permit increased truck length and weight without jeopardizing highway safety and maintenance. However, those sections of the Interstate Highway system which are not complete are definitely not designed to accommodate increased truck length and weight. Until the Interstate Highway system is completed, North Dakota will not have a continuous stretch of state highway which the Highway Commissioner could reasonably designate as a highway which could safely and economically accommodate increased truck lengths.

In the interest of a need for greater rather than less highway safety, and in the interest of protecting the high per capita investment that North Dakotans now have in their present highway system, I hereby veto S.B. 82.

Sincerely yours,

WILLIAM L. GUY
Governor

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

§ 1. **Amendment.)** Subsection 4 of section 39-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A length when operated in combination, including the load thereon, shall not exceed a length of 60 feet, except as hereinafter provided.

§ 2.) Subsection 7 of section 39-12-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

7. A combination of vehicles consisting of truck-tractor semitrailer and trailer, including the load thereon, exceeding 60 feet in length but not exceeding 65 feet in length may be operated only on and over those highways in the state designated by the highway commissioner.

Disapproved March 22, 1963.

Filed March 23, 1963.

CHAPTER 431

S. B. No. 97

(Reichert, Kamrath, Kisse, Roen)

PARK COMMISSIONERS' EMINENT DOMAIN, REPEAL

AN ACT

To repeal subsection 11 of section 11-28-05 and subsection 3 of section 11-28-16 of the North Dakota Century Code, relating to the exercise of the power of eminent domain by the board of park commissioners and the county board of joint park commissioners.

Veto

March 7, 1963

The Honorable Frank Wenstrom
President of the Senate
Bismarck, North Dakota

Dear Mr. Wenstrom:

Transmitted herewith without my approval is Senate Bill No. 97, an Act to repeal subsection 11 of section 11-28-05 of the North Dakota Century Code, relating to the exercise of the power of eminent domain by the board of park commissioners.

Chapter 11-28-05 of the North Dakota Century Code spells out the powers and duties of the board of county park commissioners. Subsection 11 of section 11-28-05 is a substantial power necessary in the full performance of those duties of a board of county park commissioners. To repeal the right of eminent domain now vested in a board of county park commissioners would relieve the public of its rights in the courts to expand the recreational facilities of our state in this and coming generations. The rights of the individual are protected by the courts in the exercise of the power of eminent domain. I have confidence in our courts.

The vitality of North Dakota's projected water resource development would be jeopardized with the loss of the power of eminent domain vested in the boards of county park commissioners. To repeal this section of law would be a denial of the ability of local government to determine its affairs. I think we should strive to strengthen local government. If we fail to strengthen local government, we leave a vacuum into which some higher level of government must move.

This era in which we live is providing greater free time for adults, and is increasing the need for juvenile recreation. Our needs today call for an expansion rather than a retardation of the establishment of our park systems.

I therefore veto Senate Bill No. 97.

Sincerely,
WILLIAM L. GUY
Governor

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

§ 1. **Repeal.**) Subsection 11 of section 11-28-05 and subsection 3 of section 11-28-16 of the North Dakota Century Code are hereby repealed.

Disapproved March 6, 1963.

Filed March 18, 1963.

CHAPTER 432

S. B. No. 99
(Lips)

DEFAMATION BY RADIO OR TELEVISION

AN ACT

To amend and reenact section 14-02-09 of the North Dakota Century Code to provide for the mitigation of damages in defamation suits against radio and television broadcasting stations and to provide for the admissibility in evidence the script or tape recording of such statement.

Veto

March 21, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 99 was originally drawn to give our radio and television stations the same rights regarding retraction and limitation of damages in a libel case as are now given to

newspapers in chapter 14-02 of the North Dakota Century Code. This legislation was sponsored by the North Dakota Broadcasters Association.

Somewhere along the line, this bill was apparently inadvertently amended to do just the opposite of what its sponsors wanted. The bill as now written creates a discrepancy between broadcasters' rights and limitations and those of other advertising and news media. I have received legal advice that this bill would open the door to frivolous and unjust lawsuits, and would require court interpretation of several of its provisions. The North Dakota Broadcasters Association has requested that this bill not become law. I concur, and believe that adequate legislation on this subject must be written in the next session.

I therefore veto Senate Bill No. 99.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. **Amendment.**) Section 14-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-02-09. Defamation by Visual or Radio Broadcast—Limitation of Liability—Retraction.) 1. The owner, licensee or operator of a visual or sound radio broadcasting station or network of stations, and the agents or employees of any such owner, licensee or operator, shall not be liable for any damages for any defamatory statement published or uttered in or as a part of a visual or sound radio broadcast, by one other than such owner, licensee or operator, or agent or employee thereof.

2. Before any suit can be brought against a visual or sound radio broadcasting station or network of stations for any defamatory statement, other than a defamatory statement of or concerning a female, published or uttered by the owner, licensee, operator, agents or employees thereof as a part of a visual or sound radio broadcast, the party aggrieved, at least three days before filing his complaint, must serve notice on the owner, licensee or operator of such visual or sound radio broadcasting station or network of stations at his principal office of broadcasting, specifying the statement alleged to be false and defamatory. If on the trial it appears that the statement was published or uttered in good faith, and its falsity

was due to a misapprehension in regard to the facts, and a full and fair retraction of the erroneous statement in an equal number and at the same prime times to be made within three days after the mistake was brought to the attention of the owner, licensee or operator in as conspicuous a manner as the original statement, the plaintiff will be entitled to recover such damages as he or his family can show they have suffered from character assassination or he has sustained to his property, business, trade, profession, or occupation. If the defamatory statement is against a candidate for office, upon the written request of such candidate, the retraction must be immediately made editorially.

3. Every visual or sound radio broadcasting station shall retain in its files the script of any editorial statement published or uttered by the owner, licensee, operator, agents or employees thereof, for a period of one year following the publishing or uttering of such statement. Such script and any tape recording which may have been made of such statement shall be admissible in evidence as proof of the contents of such statement in any suit for damages for any defamatory statement published or uttered in or as a part of a visual or sound radio broadcast, by the owner, licensee, operator, agents or employees of the visual or sound radio broadcasting station or network of stations.

Disapproved March 21, 1963.

Filed March 23, 1963.

CHAPTER 433

S. B. No. 146

(Reichert, Ringsak, Sinner, Lips, Mutch)

VALUATION OF PUBLIC UTILITY PROPERTY

AN ACT

To amend and reenact section 49-06-02 of the North Dakota Century Code, and establish the standards for valuation of public utility property for rate making purposes.

Veto

March 8, 1963

The Honorable Frank Wenstrom
Lieutenant Governor of North Dakota
President of the Senate
Thirty-Eighth Legislative Assembly
Bismarck, North Dakota

Dear Mr. Wenstrom:

Senate Bill No. 146 amends section 49-06-02 of the North Dakota Century Code. This amendment, if approved, would make a significant change in public utility rate-making procedures followed by the North Dakota Public Service Commission.

Under our present law, a public utility is allowed a fair return on the money it honestly and prudently invests in North Dakota, less accrued depreciation. This amendment would force the North Dakota Public Service Commission to select a higher value than that of a public utility's actual money investment in North Dakota, less accrued depreciation. This higher value would be arrived at by selecting unnamed indexes and such other facts of an equally obscure nature as the commission might find reasonable.

It should be obvious that a given amount of net return would appear as a larger percentage of return to an actual money investment than the same net return would appear as a percentage of return to an inflated valuation. In rate-setting cases a public utility could more easily argue for increased rates without arousing public opposition if its rate of return could be made to appear comparatively low. This amendment would permit the appearance of lower rate of return to a public utility investment if such investment were given an inflated value in excess of actual money investment.

The proponents of this amendment would not have submitted it had we been in a deflationary trend. If this amendment were enacted into law and we entered a prolonged deflationary period, I am sure there would be a determined effort by public utilities to strike this proposed amendment in favor of the rate-making procedures now in effect.

There has been no abuse cited in our present rate-making procedure. The Federal Communications Commission does not permit inflated valuations in computing rate of return for public utilities. I believe this bill is not in the best interests of our North Dakota consuming public, nor is this bill necessary to maintain the sound continued expansion of our public utilities and the excellent services they are now performing.

I therefore veto Senate Bill No. 146.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. Amendment.) Section 49-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-06-02. Value of Property for Rate Making Purposes—Determination.) The value of the property of a public utility, as determined by the public service commission for rate making purposes, shall be the money honestly and prudently invested therein by the utility less accrued depreciation adjusted to give due recognition to changes in general price and cost levels as indicated by appropriate indexes or such other facts as the commission shall find reasonable.

Disapproved March 8, 1963.

Filed March 18, 1963.

CHAPTER 434

S. B. No. 158

(Baker, George, Longmire)

LEGISLATORS' CONFLICT OF INTEREST, REPEAL

AN ACT

To repeal section 54-03-21 of the North Dakota Century Code prohibiting a member of the legislative assembly, his spouse, partnership, corporation, or association from performing services or providing materials for the state of North Dakota for a consideration in excess of ten thousand dollars in any calendar year.

Veto

March 6, 1963

The Honorable Frank Wenstrom
Lieutenant Governor of North Dakota
Bismarck, North Dakota

Dear Mr. Wenstrom:

I am sending herewith without my approval Senate Bill 158.

Senate Bill 158 repeals section 54-03-21 of the North Dakota Century Code, the so-called "anti-corruption law." This law was passed by the people as an initiated measure on June 29, 1954, by a vote of 75,362 to 61,780.

I realize that this law bars many fine people from serving in our legislature. However, the law does stand as a guiding principle that North Dakotans do want to keep their legislature as free as possible from self-centered interests. I believe the law could be amended to exclude subdivisions of the state from its provisions. It could also be amended and strengthened to eliminate the possibility of a serious conflict of interest in legislators who work for but do not necessarily own a share in a business contracting with the State.

In order that a cloud not fall over our determination that legislators are most responsive to the people when a conflict of interest does not exist, I veto Senate Bill 158.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. **Repeal.**) Section 54-03-21 of the North Dakota Century Code is hereby repealed.

Disapproved March 6, 1963.

Filed March 18, 1963.

CHAPTER 435

S. B. No. 243
(Mutch)

CREDIT CARD PURCHASES BY STATE

AN ACT

To amend and reenact subsection 21 of section 54-44-04 of the North Dakota Century Code providing for the operation of a centralized purchasing service and to provide for credit card purchases by the department of accounts and purchases.

Veto

March 18, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

In January of 1961, I implemented the Department of Accounts and Purchases. This department has many duties, but one of its major functions is to act as the central purchasing agency for state government. Central purchasing by this department has already made giant strides in cutting the cost of government, eliminating patronage and corruption, establishing quality control and opening up the availability of state contracts to all businesses on a competitive basis without regard to political patronage.

Some purchasing procedures instituted by the Department of Accounts and Purchases are less than one year old and are subject to change in the never-ending effort to improve this service in the best interest of the taxpayers of our state. The purchase at retail of gasoline for state vehicles is one area of purchasing which requires additional study. The retail purchasing of gasoline for state vehicles as now followed by the Department of Accounts and Purchases has shown a

dramatic saving to the taxpayers but does contain some false economies to be overcome.

The hostility of some state departments to centralized purchasing must be taken into account in projecting the possible effects of passage of Senate Bill No. 243. This law specifically forbids competitive bidding on items of fifteen dollars or less. This law would forbid the State from contracting on the basis of low bids for the purchase of all state vehicle gasoline at retail, thus losing hundreds of thousands of dollars to the state government. We are striving to operate state government under the same sound principles of economy that apply to any business. State government's first obligation is to all taxpayers.

The hostility of some state departments toward nonpatronage-oriented purchasing would cause these departments to immediately shun in every way possible contracts for purchases which would be in excess of fifteen dollars. Costly and uneconomical small lot purchasing would become the order of the day in many state departments.

I believe so strongly in the economy and fairness practiced by our Department of Accounts and Purchases that I cannot approve legislation which is designed to weaken that department's effectiveness or abolish the principle of competitive bidding.

Therefore, I veto Senate Bill No. 243.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. Amendment.) Subsection 21 of section 54-44-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. Shall be vested with the duties, powers, and responsibilities involved in the operation of a centralized purchasing service. This purchasing service shall include the purchase of all equipment, furniture, fixtures, printing, materials, supplies and other commodities for all state departments, institutions, offices, and agencies, excluding land, buildings, or space, or the rental thereof, and excepting emergency purchases that are impossible of execution by the department of accounts and pur-

chases within the required time, highly specialized equipment which can be better purchased by the department institution or office which is to utilize such equipment, and such specific items and minor purchases as the director may exempt. Purchases by all state departments, institutions, offices and agencies may be purchased by the use of a purchase credit card issued in the name of the state and department, institution, office or agency by the department of accounts and purchases on individual purchases of fifteen dollars or less. In no event shall individual purchases of fifteen dollars or less be subject to competitive bidding.

Disapproved March 18, 1963.

Filed March 18, 1963.

CHAPTER 436

S. B. No. 270
(Ringsak)

REFUSAL OF CHEMICAL TEST

AN ACT

To amend and reenact section 39-20-04 of the North Dakota Century Code, relating to the revocation of licenses, permits, or driving privileges upon refusal to submit to chemical testing.

Veto

March 23, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 270 amends section 39-20-04 of the North Dakota Century Code relating to revocation of the privilege of driving a motor vehicle upon refusal to submit to chemical testing in instances of suspicion of driving under the influence of alcohol. This bill provides that in any case where a vehicle operator has refused to submit to chemical testing but shall subsequently, within seven days after the date of arrest, enter a plea of guilty to the offense of driving while intoxicated, the provisions of this section relating to the revocation of license, permit, or operating privilege shall not apply.

This section of Senate Bill 270 would, in effect, cause any driver who refused to submit to chemical testing under our implied consent law to plead guilty. I do not believe this to be a reasonable alternative.

The last section of Senate Bill 270 provides that the court, at any time, may stay the provision of this section for so long as the court deems advisable. This provision would, for all practical purposes, do away with the implied consent law.

Observations of the actions of the various courts in North Dakota reveal that should Senate Bill 270 become law, there would be a wide difference in the manner in which individual courts would handle the problem of drunken driving. Some courts have a record of strict enforcement of drunken driving charges while other courts in our state have considerable weakness and vacillation regarding all or individual cases of those charged with drunken driving. I believe that the courts should uniformly administer the traffic laws throughout the state.

In the interests of highway safety and in curbing the rising accident toll caused by drunken driving, I veto Senate Bill 270.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. **Amendment.)** Section 39-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-04. Revocation of Privilege to Drive Motor Vehicle Upon Refusal to Submit to Chemical Testing.) If a person under arrest for the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor and refuses to submit to chemical testing, none shall be given, but the state highway commissioner, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, and that the person had refused to submit to the test or tests, shall revoke his license or permit to drive and any nonresident operating privilege for a period of three months; or if the

person is a resident without a license or a permit to operate a motor vehicle in this state the commissioner shall deny to the person the issuance of a license or permit for a period of three months after the date of the alleged violation, subject to review as hereinafter provided. In any case where an operator has refused to submit to chemical testing but shall subsequently, within seven days after the date of arrest, enter a plea of guilty to the offense of driving while intoxicated, the provisions of this section relating to the revocation of a license, permit, or operating privilege shall not apply. Provided that the court at any time may stay the provisions of this section for so long as the court deems advisable.

Disapproved March 22, 1963.

Filed March 23, 1963.

CHAPTER 437

S. B. No. 291
(Luick, Kee, Kjos)

BOND ISSUE ELECTIONS

AN ACT

To require a delay of sixty days between elections whenever a bond issue or excess levy has failed when submitted to a vote.

Veto

March 18, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 291 prevents the calling of an election for at least sixty days on a bond issue or excess levy question defeated in an election. I believe this to be a wise law regarding bond issues. However, in the case of an excess levy election an impossible situation would be created by this law.

School board members take office on July 1. They then set up their budget. Should an excess levy election be required, there would be only one opportunity to hold such an election before their budget was submitted on October 1 for determining the mill levy to be spread. For all practical purposes,

Senate Bill No. 291 would allow only one election each year on the question of an excess levy. This would be disastrous to many North Dakota schools.

I therefore veto Senate Bill No. 291.

Sincerely yours,

WILLIAM L. GUY
Governor

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

§ 1.) Whenever at any election a bond issue or excess levy has failed to receive the required approval of the electors, as provided in chapters 21-03, 57-16, or 57-17, the matter shall not again be submitted to a vote until a period of at least sixty days shall have expired.

Disapproved March 18, 1963.

Filed March 18, 1963.

CHAPTER 438

S. B. No. 300
(Becker, Kjos, Van Horn)

DUTIES OF RETIRED JUDGE

AN ACT

To amend and reenact section 27-17-03 of the North Dakota Century Code, to provide that a retired district judge may temporarily assume the duties of a district judge unable to perform his duties because of sickness or other unavoidable cause.

Veto

March 21, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 300 circumvents the time-honored power of the governor to make appointments to fill vacancies which may arise from the failure of a district judge to serve his district because of sickness, injury or other unavoidable cause. The

last line of the bill states that a retired judge appointed by the Supreme Court to temporarily fill a vacancy shall serve only until such time as the regular district judge is able to assume his duties or until such position is filled by election or appointment as provided by law. Obviously, this language would mean the end of appointments by the governor as provided by law.

There may have been a time in past administrations when this bill could have been favorably considered by a governor, but it was not presented then. There may be a future administration where a governor would look favorably on this bill. However, I do not, and therefore I veto Senate Bill No. 300.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. Amendment.) Section 27-17-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-17-03. Duties of Retired Judges.) Upon the retirement of a judge of the supreme court or a judge of the district court, the supreme court may appoint him a commissioner of that court to aid and assist the court in the performance of such duties as may be assigned to him with his consent.

Any such retired judge shall also be eligible to serve as a referee in any civil case or other judicial proceeding when so designated by the court having power to appoint referees; he may also, when requested, serve as legal counsel in the office of the attorney general, in any executive department, commission or bureau of the state and for any committee of the legislative assembly.

The supreme court may appoint a retired district judge to temporarily assume the duties of any district judge unable to carry out his duties because of sickness, injury, or other unavoidable cause. Such retired judge shall perform the same duties in the same manner as the district judge he replaced and shall receive the same compensation and expenses as such judge, less the amount of his retirement compensation. The retired judge shall serve only until such time as the

regular district judge is able to assume his duties or until such position is filled by election or appointment as provided by law.

Disapproved March 21, 1963.

Filed March 23, 1963.

CHAPTER 439

S. B. No. 312

(Forkner, Baeverstad, Miller, Sorlie, Sanford, Kjos, Saumur)
(George, Lips, Strinden, Morgan, Baker, Becker, Mahoney)

INCOME TAX STATEMENTS OF STATE EMPLOYEES

AN ACT

To provide that any person who is required to approve warrants for, or to pay any compensation to any state employee shall require a statement from the tax commissioner that such officer or employee has filed and paid his state income tax prior to his receiving such compensation or, in the alternative, shall require a sworn statement from such employee that he was not required to file a return or that no state income tax is due.

Veto

March 21, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill No. 312 sets out a cumbersome procedure for checking on each state employee's tax payments before any warrant to, or payment of compensation to, that employee be made. This is discriminatory and unjustified. State employees should have the same rights under our tax laws as do any citizens who work for their living.

The cost to state agencies in checking on their employees' tax payments far outweighs the tax delinquencies upon which recovery might be made.

I therefore veto Senate Bill No. 312.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. Statement of State Employee That State Income Tax Has Been Paid Prior to Receiving Salary.) Any person who is required to issue warrants for, or to pay any salary, wages, or other compensation to any officer or employee of the state, or its political subdivisions or instrumentalities, shall require a statement from the tax commissioner that such officer or employee has filed an income tax return and paid any income tax due to the state or that such officer or employee has filed a tax return but no tax was due or, in the alternative, shall require from the state officer or employee under penalties of perjury a statement that he was not required to file an income tax return under North Dakota law and that no state income tax is due. Such statement shall be signed by all regular or permanent state officials or employees, or issued by the tax commissioner for such employees on or before November fifteenth of each year and such statements shall be considered as complying with the requirements of this Act for a period of one year after such date. All persons employed after November fifteenth of each year shall be subject to the provisions of this Act in the same manner as officers and employees who are employed on November fifteenth and all provisions of this Act shall be complied with in regard to such persons prior to the second payment of salary, wages, or other compensation to which they may be entitled.

Disapproved March 21, 1963.

Filed March 23, 1963.

CHAPTER 440

H. B. No. 530

(Fitch, Stockman, Davis (Mercer-Dunn-Oliver), Tough)
(From LRC Study)

HIGHWAY SPEED LIMITS

AN ACT

To create and enact sections 39-09-09 and 39-09-10; to amend and reenact sections 39-09-02, 39-09-03, and 39-09-07, subsection 18 of section 40-05-01, and subsection 14 of section 40-05-02 of the North Dakota Century Code, relating to speed limits upon the highways and streets of the state.

Veto

March 18, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

House Bill No. 530 raises the speed limits on all state highways.

With the highway death toll climbing each year and with injury, tragedy and property destruction from highway accidents mounting annually, we need to ask ourselves, "Why?" Excessive speed is a contributing factor to the horrifying carnage on the highways.

I cannot see how we attack the problem of highway safety by raising speed limits on state highways. I therefore veto House Bill No. 530.

Sincerely yours,

WILLIAM L. GUY
Governor

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

§ 1. **Amendment.**) Section 39-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-02. Speed Limitations.) 1. Except when a special hazard exists that requires lower speed for compliance with section 39-09-01, the limits specified in this section or estab-

lished as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits.

- a. Thirty miles per hour within the boundaries of any incorporated city or village;
- b. Seventy miles per hour during the daytime and sixty miles per hour during the nighttime on highways which are a part of the state highway system;
- c. Seventy-five miles per hour during the daytime and sixty-five miles per hour during the nighttime on controlled-access highways, commonly called interstate highways;
- d. Sixty miles per hour in other locations during daytime or nighttime.

“Daytime” means from a half hour before sunrise to a half hour after sunset. “Nighttime” means at any other hour.

The maximum speed limits set forth in this section may be altered as authorized in sections 39-09-03 and 39-09-07.

2. The driver of every vehicle shall, consistent with the requirements of section 39-09-01, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

§ 2. **Amendment.**) Section 39-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-03. Local Authorities May Set Speed Limitations — Signs Posted.) 1. Whenever local authorities in their respective jurisdictions determine that the maximum speed permitted under this chapter is greater or less than is reasonable and safe under the conditions found to exist upon a highway, road or street, or part thereof, the local authorities may determine and declare a reasonable and safe maximum limit thereon.

2. Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

3. Any alteration of maximum limits on state highways or extensions thereof in a city or village by local authorities shall not be effective until such alteration has been approved by the commissioner.

4. Not more than six such alterations as hereinabove authorized shall be made per mile along a street or highway, except in the case of reduced limits at intersections, and the difference between adjacent limits shall not be more than ten miles per hour.

§ 3. **Amendment.)** Section 39-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-07. Speed Zones on State Highways.) Whenever the state highway commissioner and the superintendent of the highway patrol shall jointly determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist upon any part of the state highway system, other than the interstate system, they may determine and declare a reasonable and safe maximum limit which, when appropriate signs giving notice thereof are erected, shall be effective at all times or during hours of daytime or nighttime or at such other times as may be determined at such part of the highway. The limits prescribed by subdivision c of subsection 1 of section 39-09-02 for interstate highways shall not be altered except at exit and access points.

§ 4.) Section 39-09-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-09-09. Minimum Speed Regulation.) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

Whenever the commissioner and superintendent of the highway patrol acting jointly, or local authorities within their respective jurisdictions determine that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the commissioner and superintendent, or such local authorities, may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

§ 5.) Section 39-09-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-09-10. Charging Violations and Rule in Civil Actions.)
1. In every charge of violation of any speed regulation in this chapter the complaint and the summons or notice to appear shall specify the speed at which the defendant is

alleged to have driven and also the maximum or minimum speed applicable within the district or at the location.

2. The provisions of this chapter declaring maximum or minimum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

§ 6. **Amendment.)** Subsection 18 of section 40-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18. **Speed of Vehicles and Locomotives.**

To regulate, within the limits prescribed by chapter 39-09, the speed of vehicles and locomotives within the corporate limits of the corporation;

§ 7. **Amendment.)** Subsection 14 of section 40-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. **Traffic Regulation.** To regulate, control, or restrict within designated zones, or congested traffic districts, except that the speed limit for vehicles shall be subject to the limitations prescribed by chapter 39-09, the use of streets, alleys, or other public ways by various classes of traffic, except that any municipal regulations shall be ineffective as to common carriers licensed by this state under a certificate of public convenience and necessity until such regulations are approved by the public service commission;

Disapproved March 18, 1963.

Filed March 18, 1963.

CHAPTER 441

H. B. No. 781
(Fitch)

HIGHWAY BILLBOARD ADVERTISING

AN ACT

Relating to the regulation of advertising devices adjacent to highways in the state of North Dakota, and providing a penalty.

Veto

March 19, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

I withhold approval of House Bill No. 781.

The 1959 Session of the North Dakota Legislature established the policy of State control of billboard advertising along our interstate highway system. In 1959, this law passed with 148 senators and representatives voting to establish billboard advertising control. Only 8 members voted against it, with 6 absent or not voting.

On the basis of the 1959 legislation controlling billboard advertising, now section 24-01-32 of the North Dakota Century Code, the State of North Dakota contracted with the Federal Bureau of Roads to receive an additional one-half of one percent of federal aid for portions of interstate highway construction. Passage of House Bill No. 781 would open the question of repayment to the Federal Bureau of Roads of funds received as an incentive to control billboard advertising on the interstate highway system.

The interstate highway system was conceived as a nationwide traffic network which would combine the finest facilities possible for the motoring public. This concept included safety and a retention of the natural beauty of the countryside. It is widely accepted by the public and recognized by the Federal Bureau of Roads that positive steps must be taken to reduce distraction and other hazards to driving caused by roadside advertising. It is also necessary that the esthetic value of the open road and the countryside be protected for this generation and coming generations.

Without detracting from the necessary and excellent service our billboard sign companies give to the business community and the consuming public, I still regard positive control of billboard advertising along state highways to be in the best public interest. I am convinced that the North Dakota Highway Department can work with the outdoor advertising industry in developing roadside advertising control policies which will be mutually acceptable.

The passage of House Bill No. 781 would also create substantial cost to the Highway Department in the administration of its provisions.

I therefore veto House Bill No. 781.

Sincerely yours,
WILLIAM L. GUY
Governor

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

§ 1. Short Title.) This Act may be cited as the "Outdoor Advertising Act".

§ 2. Declaration of Policy.) It is hereby declared to be in the public interest to preserve natural beauty along the highways while at the same time recognizing that both the convenience of travel and the interests of the economy as a whole require a reasonable freedom to advertise.

§ 3. Definitions.) The following terms, wherever used or referred to in this Act, shall have the following meanings unless a different meaning clearly appears from the context:

1. "Advertising device" means any billboard, sign, notice, poster, display, emblem or similar item, located out of doors and which is intended to be viewed by the public from a highway, and includes any structure used for the display of any such outdoor advertising device. A double face or v-type structure shall be considered as a single device facing in both directions;

2. "Business of outdoor advertising" means the business conducted for direct profit through rentals or other compensation received from the erection or maintenance of advertising devices;

3. "Commissioner" means the state highway commissioner;

4. "Highway" means every way or place of whatever nature open to the use of the public for vehicular travel in

this state, outside of cities and other incorporated municipalities;

5. "Limited access highway" shall mean every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway;

6. "Person" means an individual, partnership, association, or corporation;

7. "Scenic area" means any of the following areas adjacent to highways:

- a. Land in or within two hundred and fifty feet of national and state parks, and historic shrines and monuments maintained at public expense;
- b. Land maintained by the commissioner as picnic or rest areas;
- c. Land not in an area zoned for or devoted to business, commercial, or industrial purposes, in which the landscape is generally regarded as possessing unusual attractiveness, and which, with the consent in writing of the owner of the land, has been designated as a scenic area by the commissioner.

8. "Travelers' lodge" means any hotel, motel, or other establishment which furnishes lodging to travelers;

9. "To erect" includes the act of placing, constructing, painting, creating, or bringing into being an advertising device on a site adjacent to a highway, but does not include the changing of copy upon, or the repair or replacement of, an existing legal advertising device; and

10. "To maintain" includes the act of leasing as lessor, operating, displaying, posting, or changing copy upon an erected advertising device.

§ 4. Enforcement of Provisions by Commissioner—Applicability.) It shall be the duty of the commissioner to administer and enforce the provisions of this Act. This Act shall be applicable throughout the state except within cities and other incorporated municipalities and except with respect to official signs erected by the state or any local subdivision thereof.

§ 5. Licenses.) Notwithstanding the provisions of section 4, no person shall engage in the business of outdoor advertising anywhere within the state without obtaining a license from the commissioner. The fee for such license, hereby imposed, shall be fifty dollars per annum payable annually in advance.

Application for a license or renewal of a license, shall be made on a form furnished by the commissioner, shall contain such pertinent information as the commissioner may require, and shall be accompanied by the annual fee. Licenses granted under this section shall expire on the thirty-first day of December of each year, and shall not be prorated.

Every license issued by the commissioner shall be assigned a separate identification number and it shall be the duty of each permittee to fasten to each advertising device a water-proof label indicating the assigned number. This label shall be supplied by the advertising device owner and shall not be less than two inches by four inches in size. Those license numbers assigned by the commissioner shall remain constant. In the event of sale or transfer of ownership of advertising device, the owner will assume the license number providing he complies with provisions set forth in this Act.

The commissioner shall have authority, after a hearing upon thirty days' notice in writing to the licensee, to revoke a license where it shall find that any material information required to be given in the application therefor was false or misleading or that the licensee has violated any of the provisions of this Act, unless such licensee shall, before the expiration of said thirty days, correct such false or misleading information and comply with the provisions of this Act.

§ 6. Bond Requirements.) A permit for an advertising device shall not be issued to any applicant until the applicant shall have filed with the commissioner a corporate surety bond, approved as to form by the commissioner and in the principal sum hereinafter specified, conditioned that the advertising device or devices covered by the bond shall be erected and at all times maintained in accordance with all provisions of this Act and with all lawful orders and regulations of the commissioner relating to such device or devices, and that such device or devices will be removed by the permittee within thirty days after the expiration or revocation of the permit or permits covering same. Said bond shall remain in full force and effect as long as any permit is held by the permittee and as long as any duty or obligation of the permittee with respect to such device or devices shall remain unsatisfied. The surety on said bond may cancel said bond upon giving thirty days' notice in writing to the commission and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said cancellation. The principal sum of the bond shall be based on the number of permits issued to the permittee, and shall be constantly maintained in undiminished amount, as follows:

For up to 5 devices	\$ 500.00
For from 6 to 25 devices	1,000.00
For 26 or more devices	5,000.00

In lieu of the bond required aforesaid, there may be filed an insurance policy approved by the commissioner which provides the same protection as that specified above. The aggregate liability of the surety for all breaches of the conditions of said bond shall, in no event, exceed the sum of the bond.

§ 7. Removal.) Any advertising device not covered by a current permit as required by section 5 hereof, or which is owned or maintained by a person engaged in the business of outdoor advertising without a license contrary to the provisions of section 5 hereof, or which is in violation of any provisions of this Act, is hereby declared to be illegal and shall be removed by the commissioner who, for that purpose, may enter upon private property without incurring liability for so doing and may recover from the permittee or owner of the device, under the bond or insurance policy provided for in section 6 or otherwise, the cost of removal, said recovery to be in the minimum amount of at least twenty-five dollars; provided, however, that, as a prerequisite to such removal and recovery, if any advertising device bears thereon the name and address of the owner hereof or his identification number said owner must be given written notice to remove said structure or sign within thirty days after the receipt thereof, after which the commissioner may remove same as aforesaid.

§ 8. General Regulations with Respect to the Maintenance of Advertising Devices.) No advertising device shall be hereafter maintained:

1. Which purports to be or is in imitation of or resembles an official traffic-control device or railroad sign or signal, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.
2. Which uses the word "stop" or "danger" prominently displayed, or presents or implies the need or requirement of stopping, or the existence of danger.
3. If placed in such manner as to prevent any traveler on any highway from obtaining a clear view of approaching vehicles for a distance of five hundred feet along the highway.
4. Within a distance of one thousand feet from the point of intersection of a highway at grade with another highway or with a railroad, unless traffic at such inter-

section is controlled by official traffic-control devices; provided, however, that advertising may be affixed to or located adjacent to a building at such intersections in such a manner as not to materially cause any greater obstruction of vision than that caused by the building itself.

5. If within the right-of-way of any highway.
6. On private land without the written consent of the owner or occupant thereof.
7. Which contain statements, words or pictures of an obscene, indecent, or immoral character, or such as will offend public morals or decency.
8. On rocks, trees, or other perennial plants or on poles maintained by public utilities.
9. Unless maintained in good general condition and in a reasonable state of repair.
10. Within a specifically designated scenic area.

§ 9. General Regulations with Respect to the Erection of Advertising Devices.) No advertising device shall be hereafter erected:

1. Within three hundred feet of and facing a residence, church, or school;

2. Outside of areas zoned for or devoted to business, commercial, or industrial purposes, in closer proximity to any lawful existing advertising device on the same side of the highway than the number of lineal feet which equals one and one-half the square foot area of the proposed new device; provided that such required spacing shall in no case be less than three hundred and fifty feet; and provided further that not more than two advertising devices advertising a travelers' lodge and located within ten miles of the establishment so advertised shall be exempt from the requirements of this subsection if such devices are not erected in closer proximity to any lawfully existing structure on the same side of the highway than two hundred and fifty feet. For the purpose of the foregoing spacing requirements, a series of up to six small signs, each of an area no greater than six square feet and spaced at least one hundred feet apart, designed to be read in sequence to convey a single message, shall be considered as one advertising device; and the spacing distances between such a series of signs and other advertising devices shall be measured from the first and last sign in such series. Advertising devices which are exempt from the spacing requirements

of this section pursuant to section 11 shall not be taken into account in determining the spacing required hereunder for other advertising devices;

3. The provisions of this section shall not apply to advertising devices in existence on the effective date of this Act.

§ 10. Additional Regulations Applicable to Limited Access Highways.) Advertising devices adjacent to limited access highways are subject to all provisions of this Act, and in addition are subject to the further regulations hereinafter set forth:

1. No advertising device shall be hereafter erected adjacent to a limited access highway unless located upon property access to which is available otherwise than from the traveled portion of such limited access highway.

2. Notwithstanding the provisions of subsection 2 of section 9, no advertising device shall be hereafter erected adjacent to a limited access highway outside of areas zoned for or devoted to business, commercial, or industrial purposes in closer proximity to any lawful, existing advertising device on the same side of the highway than the number of lineal feet which equals two times the square foot area of the proposed new device; provided that such required spacing shall in no case be less than four hundred feet; and provided further that not more than two advertising devices advertising a travelers' lodge and located within ten miles of the establishment so advertised shall be exempt from the requirements of this subsection if such devices are not erected in closer proximity to any lawfully existing structure on the same side of the highway than two hundred and fifty feet. Not more than two advertising devices of each of the kinds described in section 11 hereof and owned by the same owner are exempt from the foregoing spacing requirements, and such exempt devices shall not be taken into account in determining the spacing required hereunder for other advertising devices.

3. The provisions of this section shall not apply to advertising devices in existence on the effective date of this Act.

§ 11. Certain Advertisements Excepted.) The following advertising devices are excepted from the requirements of sections 5 and 6, relating to permits, identification and bond, and from the spacing requirements of subsection 2 of section 9, and, to the extent therein specified, from the spacing requirements of subsection 2 of section 10:

1. Point of sale signs. Advertising devices containing a total combined advertising area of not more than five hundred square feet and limited to ten in number, located within two

hundred feet of the center of any place of business and which advertise goods or services sold, produced, or rendered thereon.

2. Farm product signs. Advertising devices located on any farm and within three hundred feet of the farm residence or other principal farm buildings or of the entrance roadway to the farm, and which relate in whole or in part to farm products, merchandise, or service sold, produced, manufactured, or furnished on such farm, provided that no such device shall exceed twenty square feet in area.

3. For sale signs. Advertising devices upon real property and advertising the same as being for sale or for rent.

§ 12. Disposition of Fees.) All moneys received by the commissioner under the provisions of this Act shall be paid by the commissioner into the state treasury, and allocated to the commissioner for use in the administration of this Act.

§ 13. Regulations.) The commissioner is authorized to promulgate reasonable regulations with respect to the administration of this Act. Such regulations shall not be inconsistent with the provisions of this Act nor shall they impose any substantive requirement not expressly provided for herein. The highway commissioner shall not enter into any agreements or contracts with the bureau of public roads or any other federal official or agency inconsistent with the terms of this Act, and he shall terminate any existing, executory agreement in regard to advertising adjacent to interstate highways in this state.

§ 14. Appeal.) Any person or persons aggrieved by any act or refusal to act of the commissioner may, within thirty days from the date of such act or of written notice of such refusal to act, appeal therefrom to an appropriate court of review by filing in said court a verified petition, theretofore duly served upon the commissioner, setting forth the facts upon which the request for judicial review is based.

§ 15. Penalty.) Any person, firm, corporation, or association violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding five hundred dollars.

Disapproved March 19, 1963.

Filed March 19, 1963.

CHAPTER 442

H. B. No. 860
(Maragos)

PUBLIC SAFETY DIVISION FUND TRANSFER

AN ACT

To reappropriate to the North Dakota highway patrol all unexpended funds appropriated to the public safety division, to repeal chapter 24-14 of the North Dakota Century Code, relating to the public safety division, and declaring an emergency.

Veto

March 20, 1963

The Honorable Ben Meier
Secretary of State
Bismarck, North Dakota

Dear Mr. Meier:

House Bill No. 532 transfers the Division of Public Safety from the Highway Department to the Highway Patrol on July 1, 1963. I have approved this action and have signed House Bill No. 532.

House Bill No. 860 is an emergency measure designed to immediately cut off funds to the Division of Public Safety for the balance of the present biennium. I can see no justification for not permitting an orderly transfer of the Division of Public Safety from the Highway Department to the Highway Patrol in the three months remaining of the present biennium.

I therefore veto House Bill No. 860.

Sincerely yours,

WILLIAM L. GUY

Governor

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

§ 1. Reappropriation of Funds for 1961-1963 Biennium.)
Such balance of the funds appropriated to the public safety division as contained in section 1 of chapter 37 of the 1961 Session Laws of North Dakota that may remain unexpended on the effective date of this Act are hereby reappropriated to the North Dakota highway patrol for purposes of encouraging

safe driving practices and public adherence to traffic safety laws through public education and information during the biennium ending June 30, 1963.

§ 2. **Repeal.)** Chapter 24-14 of the North Dakota Century Code is hereby repealed.

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

Disapproved March 20, 1963.

Filed March 20, 1963.