

VETOES

S. B. No. 40
(Legislative Research Committee)

TAXATION OF MINERAL RIGHTS SEVERED FROM SURFACE INTERESTS

AN ACT

To provide a tax upon mineral rights severed from surface interests, and to repeal sections 57-0224, 57-0225 and 57-2430 of the North Dakota Revised Code of 1943.

VETO

March 21, 1953

Honorable Thomas Hall
Secretary of State
Bismarck, North Dakota

Dear Mr. Hall:

Transmitted herewith without my approval is Senate Bill 40, a bill to provide a tax upon mineral interests severed from surface interests.

Present laws provide for the assessment of minerals as other property is assessed. The purposes of this bill can be accomplished if present assessment laws are complied with. Especially would this be so in a proven oil field.

The surface owner under this bill acquires also a priority in the purchase from the county of previously severed mineral interests underneath his land, which to him perhaps is an advantage. However, this would most likely apply only when such interests at the time of purchase appeared to be of small value. He can under present laws eventually purchase such interests forfeited to the county for non-payment of taxes also.

I sympathize with the surface owner who sold his mineral interests for a small consideration. Naturally he desires to regain possession of such rights just as cheaply as possible. However, I do not believe it should be done at the expense of the surface owner who has retained his mineral interests. In a proven oil field this assessment could result in a tax beyond his ability to pay when development may not produce oil on his land for several years.

I therefore veto this bill.

Respectfully submitted,
NORMAN BRUNSDALE
GOVERNOR

NB:IN

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

§ 1. REPEAL.) Sections 57-0224, 57-0225 and 57-2430 of the North Dakota Revised Code of 1943 are hereby repealed.

§ 2. NON-SEVERED MINERAL RIGHTS ASSESSED WITH SURFACE INTERESTS.) Where mineral interests are not permanently severed from the surface ownership the same shall be deemed a part of the real estate and the assessed valuation of such real estate shall be deemed to include all mineral rights as well as surface rights. A lease shall not be deemed to permanently sever any mineral interests.

§ 3. SEVERED RIGHTS ASSESSED APART FROM SURFACE INTERESTS.) Where any part of the mineral rights in any real estate shall have been permanently severed from the surface ownership, such mineral interests shall be assessed and taxed separate and apart from the surface interests in the same manner as other interests in real estate are assessed and taxed, and the assessed value of the surface interests shall be decreased accordingly; and, except as provided in section 4 of this act, such mineral interests shall be subject to foreclosure for delinquent taxes and sold in the manner provided by law for the sale of real property for delinquent taxes.

§ 4. SURFACE OWNER MAY PURCHASE FORECLOSED MINERAL RIGHTS.) Upon taking title to any mineral interest for the non-payment of taxes, the state, by the county auditor of the county wherein such mineral interest is situated, shall notify the owner of the surface rights and such owner shall have the right within thirty days of such notice to purchase such mineral interest by paying to the county auditor the amount of all delinquent taxes with interest and penalty thereon, including the expenses of any tax proceedings had by such county; the state of North Dakota by such county auditor shall thereupon convey such mineral interest to the owner of the surface rights. If there shall be more than one person interested in the surface rights to the land in which the forfeited mineral interest exists, any one of such owners may purchase such mineral interest from the state, but he shall hold the same in trust for all of the persons interested in the surface rights, and upon payment to him of a pro rata share of the amount so paid by him he shall convey a proportionate interest to each of the other interested parties.

Vetoed March 21, 1953.

S. B. No. 106
(Olson, Troxel and Krenz)

SALE, PURCHASE, AND USE OF EGGS
FOR HUMAN CONSUMPTION

AN ACT

Relating to the regulation of the sale, purchase, and use of eggs for human consumption; creating a new body of law and providing for the administration thereof through the creation of a North Dakota egg commission; requiring the licensing of persons engaged in the sale, purchasing, dealing, and trading of eggs and the keeping of records by persons so licensed; adopting federal standards and grades for individual shell eggs; establishing a penalty for violation of this act; and repealing chapter 19-07 of the North Dakota Revised Code of 1943.

VETO

March 21, 1953

Honorable Thomas Hall
Secretary of State
Bismarck, North Dakota

Dear Mr. Hall:

Transmitted herewith without my approval is Senate Bill 106, a bill relating to the regulation of the sale, purchase and use of eggs for human consumption, creating a North Dakota Egg Commission and providing for licensing of persons dealing in eggs.

Under present laws the regulation of the egg industry is under the State Laboratories Department as provided for in Chapter 19-07 of the North Dakota Revised Code. Under Section 19-0202 this department can in addition adopt rules and regulations governing the inspection of food.

Substantially the provisions of this bill can be carried out by the laboratories department without a duplication of inspectors as would result if Senate Bill 106 were enacted into law.

I therefore veto this bill.

Respectfully submitted,

NORMAN BRUNSDALE
GOVERNOR

NB-IN

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

§ 1. DEFINITIONS.) As used in this Act, unless the context or subject matter otherwise requires:

1. "Department" shall mean the North Dakota department of agriculture and labor;
2. "Commission" shall mean the duly appointed North Dakota egg commission.
3. "Person" shall mean and include any individual, firm, partnership, corporation, company or association, and shall include any trustee receiver, assignee, or similar representative thereof;
4. "Producer" shall mean poultry raisers, farmers, and individuals who produce eggs for sale;
5. "Graded" shall mean when used in connection with eggs that such eggs have been candled to remove inedibles and are sorted as to size or weight and quality;
6. "Ungraded" shall mean when used in connection with eggs that such eggs have been candled and all inedible eggs removed but are not sorted as to size or weight and quality;
7. "Centralizer" shall mean persons buying from two or more licensed dealers;
8. "Eggs unfit for human food" are eggs which consist in whole or in part of a filthy, decomposed, putrid substance or containing a foreign substance;
9. "Eggs" when used without further description or qualification shall include only fresh, sweet eggs;
10. "Candling" is the careful examination in a partially dark room or place of the whole egg by means of a strong light, the apparatus and method employed to be such as is approved by the commission.

§ 2. ESTABLISHMENT OF NORTH DAKOTA EGG COMMISSION.)
The North Dakota egg commission shall be composed of the several members of the North Dakota poultry improvement board, the commissioner of agriculture and labor, and one representative from the retail grocery industry who shall be appointed by the governor. The representative from the retail grocery industry shall serve for three years, each term commencing on the first day of July next following the date of appointment. On or before the first day of July in each year hereafter when a term of such representative of the retail grocery industry is to expire the governor shall reappoint such representative or appoint his successor. Vacancies arising by reason of the death, resignation, removal or disqualification of such representative shall be filled by appointment of the governor and the representative so appointed shall serve for

the unexpired term in which the vacancy has arisen. The members of the commission shall receive allowances or expenses not to exceed the amount allowed by the state for mileage and subsistence.

§ 3. ORGANIZATION OF THE COMMISSION; MEETINGS; OFFICERS.) Meetings of the commission shall be held as often as necessary except that there shall be no less than four such meetings in any one fiscal year. Meetings of the commission shall be called in the discretion of the chairman thereof and shall be held at a time and place to coincide with meetings of the North Dakota poultry improvement board insofar as that is possible. The chairman of said board shall have power to call special meetings whenever in its judgment a meeting is necessary. At the first meeting of the commission held after the first day of July of each year, the members of the commission shall elect from their number by a majority vote of the members present a chairman to preside at the meetings and such other officers as the members of the commission shall determine to be necessary. The powers and duties of such officers shall be limited and prescribed by a two-thirds vote of all members of the commission. The commission shall also have the power to appoint a permanent secretary who may or may not be a member of the commission. A majority of the members of the commission shall constitute a quorum for transacting business and each member present shall have a single vote for all purposes. The commission shall have the power to adopt all rules and regulations for the conduct of its business and meetings.

§ 4. ADMINISTRATION OF THE ACT.) The commission shall have the authority and it shall be its duty to promulgate regulations defining purchase and retail standards and grades for eggs; defining minimum plant requirements for candling, selling, and storage of eggs; and defining candling methods; and it shall be the duty of the commission to promulgate such additional rules and regulations as may be necessary for the enforcement of this Act. Any rules or regulations of this commission may be enforced according to law. It shall be the duty of the department of agriculture and labor to enforce the provisions of this Act and the rules and regulations adopted hereunder.

§ 5. LICENSE REQUIRED; APPLICATION, FEE AND RENEWAL.) No person shall engage in the business of buying, selling, dealing in or trading in eggs, in any location at any time without first having obtained a license for each place of business therefor from the department of agriculture and labor. Applications for such licenses shall be made in writing upon forms to be furnished by the department and each application

shall be accompanied by a license fee as hereinunder provided. The annual license fee shall be established by the egg commission and shall not exceed five dollars for each licensed buyer of eggs from producers and/or retail merchants who sell to the ultimate consumer and shall not exceed twenty-five dollars plus a bond of two thousand dollars for all centralizers. Every license shall expire on the 30th day of June next following the issuance thereof. Such license may be renewed for additional periods of one year upon written application therefor and payment of the prescribed fee for each place or location of business.

§ 6. PROHIBITING SALES.) No person shall sell, offer for sale or expose for sale or have in his possession for sale, in any location, at any time, eggs for human consumption that are inedible or adulterated. Eggs that are filthy, putrid, decomposed, or otherwise unfit for human food in whole or in part shall be deemed adulterated. Eggs which contain black rot, white rot, mixed rot, sour eggs with green whites, eggs with stuck yolk, moldy eggs, musty eggs, eggs showing blood rings, eggs with embryo chicks, or any other eggs that are filthy, decomposed or putrid or which contain any other foreign or objectionable substances shall be deemed inedible.

§ 7. CANDLING, RECANDLING, CANDLING CERTIFICATE.)

1. All eggs shall be candled by the first licensed buyer, irrespective of time or season, and all adulterated eggs and inedible eggs shall be removed before purchase. Total payment shall not be made before candling. However, nothing in this section shall be construed so as to prevent a licensed buyer from advancing or making partial payment to the producer before such candling.
2. One candling certificate shall be placed on the top layer of each case of candled eggs by the person candling same. The candling certificate shall be in such form and shall contain such information as prescribed in the rules and regulations as promulgated by the commission pursuant to the provisions of this chapter.
3. No person shall sell, offer for sale, or expose for sale, or have in his possession any eggs in cases whereon the candling certificates have expired unless such eggs have been refrigerated within 48 hours from the time of first candling or have been recandled and all inedible eggs removed and a new candling certificate properly filled out and attached thereto. For the purposes of this act "expired" shall mean that seven days have elapsed after the date of candling.

§ 8. RECORDS AVAILABLE.) All licensed persons shall keep such candling records as may be provided by the rules and regulations promulgated by the commission as provided in this chapter, which records shall be available at all times for inspection or examination by the department or its duly appointed inspectors.

§ 9. LICENSE SUSPENDED OR CANCELLED FOR VIOLATION.) The commissioner of agriculture and labor shall have the power to suspend or cancel any license issued pursuant to the provisions of this chapter upon a showing that the licensee has violated any of the provisions of this Act or has refused to comply with any or all of the lawful regulations promulgated as provided in this chapter. Such cancellation or suspension shall be made only after hearing and in a manner as provided by the administrative agencies act of this state.

§ 10. VIOLATIONS.) Any person who violates any provision of this Act shall be guilty of a misdemeanor and shall be punished according to the provisions of the law provided therefor.

§ 11. APPROPRIATIONS.) There is appropriated out of any moneys in the state treasury, not otherwise appropriated, a sum not to exceed sixteen thousand dollars for the biennium ending June 30, 1955, for the payment of the costs and expenses of administration of the Act as herein provided.

§ 12. STANDARDS AND GRADES; GRADING NOT NECESSARY.) The North Dakota standards and grades for retail sales shall be in accordance with the U. S. standards and grades for individual shell eggs. Any person exposing or offering eggs for retail sale to a consumer shall give notice of the exact grade of eggs as promulgated in the rules and regulations, or the fact that they are ungraded, in the following manner:

1. If eggs are offered for sale in cartons, by plainly and conspicuously indicating on each carton the exact grade, or the fact that the eggs are ungraded.
2. If eggs are offered for sale in bulk, by plainly and conspicuously indicating the exact grade, or the fact that the eggs are ungraded by a placard exhibited among or adjacent to the eggs.

Nothing in this regulation shall be construed to make the grading of eggs compulsory, except that all eggs offered or exposed for retail sale shall be truthfully and plainly labeled as to grade or labeled "candled but ungraded."

§ 13. EXEMPTIONS.) A producer who sells only ungraded eggs produced by his own flocks shall be exempt from the licensing and candling provisions of this Act. Eggs to be used

for hatching and appropriately labeled as such are exempt from the candling provisions of this Act and need not carry a candling certificate. Cases carrying hatching eggs should be clearly and plainly labeled as such. However, any person who sell eggs through a regularly established retail outlet shall be termed a retailer and shall come within the ruling of this Act.

§ 14. REPEAL OF PRIOR LAWS, SAVING OF CERTAIN RIGHTS THEREUNDER.) Chapter 19-07 of the North Dakota Revised Code of 1943 is hereby repealed to take effect on the date that this Act goes into force, subject to the following limitations and provisions:

1. The commission provided for in this Act shall succeed to all files, papers and property relating to the administration of the law hereby repealed and may dispose of or use such files, papers and property as it deems necessary for the efficient administration of the Act.
2. Any legislative appropriation heretofore or hereinafter made available for the administration of the laws as herein repealed, upon the taking effect of this Act, to the extent that such appropriation is unexpended shall be made available for the administration of this Act, under the direction and control of the commission provided for by this Act.

§ 15. All license fees collected under the provisions of this Act shall be covered into the state treasury and no moneys shall be expended in excess of the funds so collected.

Vetoed March 21, 1953.

S. B. No. 269
(Stucke, Streibel, Dewing, Day, Page, Haag,
(Pyle, Kusler, Fraser, Olson and Ferry)

TRANSFER OF DUTIES OF BOARD OF ADMINISTRATION
TO BOARD OF CONTROL

AN ACT

Transferring the duties of the board of administration to the board of control, authorizing the employment of a director and repealing sections 54-2102 and 54-2104 of the North Dakota Revised Code of 1943.

VETO

March 20, 1953

Honorable Thomas Hall
Secretary of State
Bismarck, North Dakota

Dear Mr. Hall:

Transmitted herewith without my approval is Senate Bill 269, a bill transferring the duties of the board of administration to a board of control, authorizing the employment of a director and repealing sections 54-2102 and 54-2104 of the North Dakota Revised Code of 1943.

One question involved is whether Senate Bill 269 was legally passed. I have requested and have received an opinion from the attorney general which states that a vote of two-thirds of both houses of the legislature is necessary to enact this bill into law. Because it received only a majority vote, it was not legally passed according to his opinion.

I therefore veto this bill.

Respectfully submitted,
NORMAN BRUNSDALE
GOVERNOR.

NB-IN

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

§ 1.) There is hereby created the board of control which shall consist of three members appointed by the governor and removable by the governor without cause. The members of the board shall receive such per diem compensation as may be provided from time to time by appropriation and shall have

all the duties and responsibilities previously vested in the board of administration and shall have power to employ an executive director to serve at the will of the board at such salary as may be fixed by the board. No member of the board of administration shall be appointed to the board of control.

§ 2. REPEAL.) Section 54-2102 of the North Dakota revised Code of 1943 is hereby repealed.

§ 3. REPEAL.) Section 54-2104 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

Vetoed March 20, 1953.