ORDER OF ACTS

REGULAR SESSION OF THE
ELEVENTH LEGISLATURE
STATE OF ARIZONA

CHAP.

1. S. B. 12. An Act relating to an emergency appropriation for the Arizona Commission of Agriculture and Horticulture. 1
Approved January 17, 1933

2. H. B. 5. An Act making an appropriation for the current and contingent expenses of carrying on, conducting and defraying the expenses of the Eleventh Legislature of the State of Arizona; and declaring an emergency. 2
Approved January 18, 1933.

3. H. B. 49 An Act relating to the State Flower. 3
Approved January 23, 1933.

4. H. B. 67. An Act to amend Section 1653, R. C., 1928, relating to the operation of motor vehicles without paying registration fee; penalty; seizure and sale. 4
Approved January 26, 1933.

5. S. B. 66 An Act to provide an emergency appropriation for the use of the State Law and Legislative Reference Bureau. 5
Approved February 4, 1933.

6. H. B. 18. An Act to amend Section 1029 of Chapter 21, R. C., 1928, relating to school holidays. 6
Approved February 4, 1933.

7. H. B. 8. An Act relating to county scholarships, repealing sections 1146, 1147, 1148, 1149, 1150 and 1151, and amending section 1155, Revised Code of 1928. 7
Approved February 9, 1933.

8. S. B. 21. An Act relating to the sale of poultry, and amending chapter 82, Revised Code of 1928, by adding a section, to be designated section 3626a. 8
Approved February 9, 1933.

9 H. B. 40. An Act to amend Section 5172, R. C., 1928, relating to re-arrest and commitment after bail and grounds therefore in criminal cases. 9
Approved February 9, 1933.

10. S. B. 25. An Act relating to salaries of precinct officers, and amending section 2801, Revised Code of 1928. 10
Approved February 9, 1933.

11. H. B. 15. An Act relating to refunds of motor vehicle fuel license tax, and amending article 6, chapter 31, Revised Code of 1928, as amended by chapter 16, Session Laws 1931-32. 11
Approved February 15, 1933.

12. H. B. 37. An Act amending Secs. 1350 to 1353, both inclusive, of the Revised Code of 1928, relating to public works of the state and its subdivisions, such amendment consisting of an amendment to Sec. 1350 relating to minimum wages for labor, the addition of five new sections relating to qualifications of employees, and prohibiting employment of nonresidents, to qualifications of contractors, and giving preference to resident tax paying contractors, giving preference to material produced or manufactured in Arizona, and to resident tax paying dealers, providing that such preference shall yield to federal aid regulations, but requiring the state or subdivisions thereof to make good any deductions made by such regulations or federal aid contracts by reason of such preferences; amending Sec. 1353 relating to penalties, and declaring an emergency. 12
Approved February 17, 1933.

13. S. B. 18. An Act to authorize the acquisition by any county by eminent domain of any right-of-way for any highway to be acquired under any agreement with the United States Government; and declaring an emergency. 15
Approved February 17, 1933.

14. H. B. 9. An Act relating to the proposed construction of a highway bridge across the Colorado river near Parker, Arizona; authorizing the Arizona state highway commission to negotiate a loan from the reconstruction finance corporation or other agency, and amending section 1, chapter 75, Session Laws 1931. 16
Approved February 21, 1933.

15. H. B. 64. An Act to amend Sec. 2561, Revised Code of 1928, relating to the practice of medicine and surgery. 17
Approved February 21, 1933.

16. H. B. 52. An Act to permit the issuance of bonds in anticipation of the collection of state taxes; to authorize such bond issue for the last half of the year 1932, all of the year 1933, and the first half of the year 1934; and declaring an emergency. 18
Approved February 23, 1933.

17. H. B. 138. An Act relating to the Arizona state fair commission, providing for the appointment of a business manager, and authorizing the performance of certain duties of the Arizona reconstruction finance corporation commission. 19
Approved February 23, 1933.

18. H. B. 70. An Act to amend Sec. 1011, Art. 4, Chapter 21, Revised Code of 1928, relating to the powers and duties of the board of trustees of school districts, by adding to said section another subdivision to be known as subdivision 11; and to provide for the use of school houses as civic centers. 20
Approved February 23, 1933.

19. H. B. 55. An Act to amend Sec. 867, Revised Code of 1928, relating to the payment of supervisors' and school warrants and providing for the payment of interest if not paid; and declaring an emergency. 21
Approved February 23, 1933.

20. H. B. 91. An Act relating to free textbooks in the common schools, and in state institutions and amending Sec. 1048, Revised Code of 1928. 22
Approved February 23, 1933.

21. H. B. 122. An Act to amend Chap. 12, Revised Code of 1928, entitled "Cities and towns" by adding thereto an article to be designated "Article 18 - Refunding improvement bonds"; providing for refunding by cities and towns, subject to certain conditions, of all or any part of the outstanding bonded indebtedness incurred under Art. 16, Chap. 12, Revised Code of 1928 or Chap. 144, Session Laws of 1919, or amendments of said acts; providing for the issuance of refunding bonds and the sale or exchange thereof; prescribing the form of said bonds; providing for the extension and continuance of the assessments levied to provide for the payment of the original bonds, and for the collection of said assessments and the application thereof to payment of unexchanged original bonds and the payment of refunding bonds; providing that lots or parcels of land sold to pay delinquencies in unexchanged original bonds shall be subject to further sale to pay future instalments on refunding bonds; providing for surrender to the owner thereof lots or parcels of land sold for bonds refunded, and reinstating the original assessment on such lot or parcel of land and the collection thereof at the same time and in the same manner as the assessments for which no sale has been made; repealing inconsistent acts, and declaring an emergency. 23
Approved February 23, 1933.

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22. S. B. 104. An Act for the relief of Mary A. Murphy, Eleanor Sheldon and Mark Wilmer.
Approved February 24, 1933.

23. H. B. 36. An Act proposing to amend section 3, article XII, constitution of Arizona, relating to terms of office of county officers. 28
Approved February 28, 1933.

24. S. B. 13. An Act relating to articles of incorporation, and amending section 587, Revised Code of 1928. 29
Approved March 2, 1933.

25. H. B. 247. An Act relating to the suspension of business by institutions doing a banking business, and authorizing the regulation and limitation of withdrawals of deposits, and declaring an emergency. 30
Approved March 2, 1933.

26. H. B. 248. An Act to amend Section 1653, Revised Code of 1928, as amended by Chapter 4, Session Laws of 1933, relating to the operation of motor vehicles without paying registration fee; penalty; seizure and sale. 31
Approved March 2, 1933.

27. H. B. 89. An Act to amend Sec. 1575, Art. 3, Chapter 31, Revised Code of 1928, as amended by Sec. 8, Chap. 100, Session Laws of 1931, relating to state highway fund, an ad valorem tax; and to amend Sec. 1673, Art. 6, Chap. 31, Revised Code of 1928, as amended by Sec. 1, Chap. 16, Session Laws of 1931-32, (1st special), relating to motor vehicle fuel license tax, amount of tax, payment and distribution thereof, and declaring an emergency. 32
Approved March 2, 1933.

28. S. B. 81. An Act relating to interest on public deposits, and amending section 2637, Revised Code of 1928. 33
Approved March 3, 1933.

29. H. B. 167. (Sub.) An Act declaring the existence of an emergency, and providing procedure in actions and foreclosure of real estate mortgages. 34
Approved March 4, 1933.

30. H. B. 258. An Act relating to the suspension of business by institutions doing a banking business, and authorizing the regulation and limitation of withdrawals of deposits, and providing for the issuance of scrip, and amending Chapter 25, Session Laws of Arizona, Eleventh Legislature, 1933, and providing for the constitutionality of the remainder of the act should any part thereof be held unconstitutional, and declaring an emergency. 35
Approved March 6, 1933.

31. S. B. 51. An Act relating to the investment of moneys in the permanent funds, and amending section 2640, Revised Code of 1928. 37
Approved March 7, 1933.

32. H. B. 121. An Act relating to the issuance of refunding bonds by counties, school districts and other municipalities, and amending sections 2668 and 2669, Revised Code of 1928. 38
Approved March 7, 1933

33. H. B. 192. An Act relating to the payment of salaries and wages, and amending Sec. 4876, Revised Code of 1928. 39
Approved March 9, 1933.

34. S. B. 1. An Act relating to old age pensions; providing for the payment thereof, and creating county old age pension commissions in each county of the state. 40
Approved March 9, 1933.

35. H. B. 236. An Act to create a state board of public welfare and to define its jurisdiction, powers and duties; to provide for the appointment of the county boards of public welfare and defining their 43

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jurisdiction, powers and duties; to repeal Art. II, Chap. 40, Revised Code of 1928, and all laws or parts of laws in conflict herewith; and declaring an emergency.
Approved March 9, 1933.

36. H. B. 270. An Act making an additional appropriation for current and contingent expenses of carrying on, conducting and defraying expenses of the Eleventh Legislature of the state of Arizona in connection with salaries of employees; and declaring an emergency. 47
Approved March 11, 1933.

37. S. B. 68. An Act relating to irrigation districts; providing for district assessments, for the conversion of district liens, for the payment of district taxes, for the release of taxes, in certain cases, for district loans, for the settlement of district obligations, and for the exclusion of district lands; providing methods of elections and qualifications of electors, and amending Art. 2, Chap. 81, Revised Code of 1928, and acts amendatory thereof. 48
Approved March 11, 1933.

38. H. B. 228. An Act relating to the various departments and institutions of the state of Arizona, and creating a joint committee to investigate the affairs thereof, and making an appropriation; and declaring an emergency. 60
Approved March 13, 1933.

39. S. B. 16. An Act relating to taxation, and to provide for a graduated tax on net incomes. 61
Approved March 9, 1933.

40. S. B. 63. An Act relating to mileage and traveling expenses of public officers, and amending section 2803, Revised Code of 1928. 79
Approved March 14, 1933.

41. S. B. 85. An Act relating to salaries of public officers, and amending Sec. 2791, Revised Code of 1928, and acts amendatory thereof. 80
Approved March 14, 1933.

42. S. B. 15. An Act relating to speed limits on highways, and amending section 1587, Revised Code of 1928, as amended by section 1, chapter 15, Session Laws 1931-32 (1st special). 81
Approved March 14, 1933.

43. H. B. 32. An Act proposing to amend Section 1 of Article 5 of the Constitution of the State of Arizona, relative to the executive department. 82
Approved March 14, 1933.

44. H. B. 128. An Act relating to interest, establishing the legal rate thereof, fixing a maximum rate which may be charged by written agreement, and amending Secs. 1883, 1884, 1885 and 1886, Revised Code of 1928. 83
Approved March 14, 1933.

45. H. B. 134. An Act relating to certified public accountants; establishing a state board of accountancy: Providing for examination of accountants and classification of certified public accountants; and repealing Art. 5, of Chap. 58, Revised Code of 1928, the same being Secs. 2527, 2528, 2529, 2530, 2531 and 2532 of said Code relating to certified public accountants. 84
Approved March 14, 1933.

46. H. B. 260. An Act making an appropriation for the state treasurer, and declaring an emergency. 89
Approved March 14, 1933.

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47. H. B. 266. An Act relating to Legislative examiner and repealing Chap. 45, Session Laws of 1929; and declaring an emergency. 90
Approved March 14, 1933.

48. H. B. 273. An Act suspending the operation of Article 2, Chapter 60, Revised Code of 1928, and a portion of Sec. 62, Revised Code of 1928, and declaring an emergency. 91
Approved March 14, 1933.

49. H. B. 139. (Sub) An Act relating to state, county, city, town and school district warrants, declaring such warrants to be acceptable in the payment of debts due the state or political subdivision issuing such warrants, requiring their acceptance for the payment of taxes, and amending Sec. 801, Revised Code of 1928; and declaring an emergency. 92
Approved March 14, 1933.

50. S. B. 166. An Act to make an appropriation for the state tax commission, for the administration of revenue laws; and declaring an emergency. 93
Approved March 15, 1933.

51. H. B. 174. An Act relating to the Arizona copper tariff board; providing for the creation thereof, and designating its duties; making an appropriation therefor; and declaring an emergency. 94
Approved March 15, 1933.

52. H. B. 150. An Act relating to juvenile and child welfare, and amending Secs. 1941 and 1942, Revised Code of 1928. 95
Approved March 15, 1933.

53. H. B. 148. An Act relating to juvenile and child welfare; and amending Sec. 3, Chap. 64, Session Laws of 1929. 96
Approved March 15, 1933.

54. H. B. 136. An Act to amend Sec. 2332, Chap. 52, Revised Code of 1928, relating to record of satisfaction. 97
Approved March 15, 1933.

55. H. B. 202. An Act defining wholesale peddlers; providing for the licensing thereof; defining the conditions upon which a license will be granted; specifying fees for such license; and providing penalties for violations of this act. 98
Approved March 15, 1933.

56. H. B. 170. An Act amending Sec. 537, Revised Code of 1928, to enable municipalities to provide for the payment of the annual instalments of principal and interest to be made in partial payments; and to amend Sec. 541 of the Revised Code of 1928, as amended by Chap. 105 of the Session Laws of 1931, Regular Session, providing a method for the sale of property by reason of delinquency in the payment of the special assessments and providing for refunds; and declaring an emergency. 101
Approved March 15, 1933.

57. H. B. 149. An Act relating to adoption, and amending Secs. 121, 122, 123 and 124, Revised Code of 1928. 103
Approved March 15, 1933.

58. H. B. 69. An Act to amend Art. 2, Chap. 64, Revised Code of 1928, by adding thereto a new section to be designated, 2790a, relating to the rights of aliens and burden of proof of citizenship; and declaring an emergency. 105
Approved March 15, 1933.

59. H. B. 33. An Act proposing to amend Section 11 of Article VII of the Constitution of the State of Arizona, relative to general elections. 106
Approved March 15, 1933.

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60. H. B. 12. An Act relating to the acceptance of partial payments on taxes and amending Sec. 3094, Revised Code of 1928. 107
Approved March 15, 1933.

61. S. B. 105. An Act relating to the industrial commission, and amending section 1392, Revised Code of 1928. 108
Approved March 15, 1933.

62. S. B. 67. An Act relating to the registration of electors, and repealing article 2, Chapter 22, Revised Code of 1928. 109
Approved March 15, 1933.

63. S. B. 131. An Act relating to highways and the Arizona highway patrol, and amending chapter 104, Session Laws 1931. 115
Approved March 15, 1933.

64. S. B. 32. An Act relating to industrial railroads, and permitting such railroads to transport the property of others without being considered common carriers, and amending article 2, chapter 15, Revised Code of 1928, by adding a section to be designated section 678a. 116
Approved March 15, 1933.

65. H. B. 253. An Act relating to education; providing for evening and night schools; providing for district and county estimates; providing for polling places at school elections; providing limitations of expenditures from county levies; providing for additional and decreased allowances; amending sections 1004, 1030, 1035, 1046, 1071, 1088, 1089, 1090, 1091, and 1094, Revised Code of 1928; amending article 5, chapter 21, Revised Code of 1928, by adding a section to be designated section 1040a; amending article 10, chapter 21, Revised Code of 1928, by adding a new section to be designated section 1090a, and repealing section 1058, Revised Code of 1928. 117
Approved March 17, 1933.

66. S. B. 11. An Act relating to the state bar, and creating a public corporation to be known as "the state bar of Arizona." 122
Approved March 17, 1933.

67. H. B. 207. An Act to amend Sec. 3451, Art. 3, Chap. 81, Revised Code of 1928, entitled electrical districts and pertaining to the annual election to fill vacancies, giving notice thereof, defining the qualifications of directors and voters at annual elections providing for the holding of the election and the paying of the expenses thereof. 129
Approved March 17, 1933.

68. H. B. 163. An Act relating to livestock and to amend Sec. 2106, Revised Code of 1928, as amended by Chap. 43, Session Laws of 1931. 130
Approved March 17, 1933.

69. H. B. 161. An Act to amend Sec. 2104, Revised Code of 1928, as amended by Sec. 9, Chap. 43, Session Laws of 1931, Regular Session; Sec. 2145, Revised Code of 1928, as amended by Sec. 1, Chap. 15, Session Laws of 1929, Regular Session as amended by Sec. 27, Chap. 43, Session Laws of 1931, Regular Session; Sec. 2146, Revised Code of 1928, as amended by Sec. 1, Chap. 13, Session Laws of 1929, Regular Session, as amended by Sec. 28, Chap. 43, Session Laws of 1931, Regular Session; and to amend Sec. 2148 and 2155, Revised Code of 1928, as amended by Sec. 30 and 32, respectively, Chap. 43, Session Laws of 1931, Regular Session, relating to livestock, the livestock industry, the slaughter of animals and the sale of meat. 131
Approved March 17, 1933.

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70. H. B. 191. An Act to promote the development of the Arizona citrus fruit industry in this state, and in interstate and foreign markets; to protect the state's reputation in these markets, to establish standards and standard containers for certain fruits; to prevent fraud and deception in the receiving, packing, sale and accounting of sales of certain fruits; to prescribe penalties for the violation of the provisions of this act, and to provide a method of enforcement of the terms and provisions of this act; and declaring an emergency. 133
Approved March 17, 1933.

71. H. B. 123. An Act relating to public works, and providing for the payment thereon of not less than the general prevailing rate of wages; and declaring an emergency. 140
Approved March 17, 1933.

72. H. B. 116. An Act relating to the sale of property for delinquent taxes, and amending Section 18, Chapter 103, Session Laws 1931; and declaring an emergency. 143
Approved March 17, 1933.

73. H. B. 71. An Act to provide funds for county scholarships. 145
Approved March 17, 1933.

74. S. B. 136. An Act relieving county officers from liability on account of travelling expenses and mileage heretofore paid such county officers, and declaring an emergency. 146
Approved March 17, 1933.

75. S. B. 80. An Act relating to county advertising and printing, and amending section 778, Revised Code of 1928. 147
Approved March 17, 1933.

76. H. B. 129. An Act relating to the manufacture and sale of spirituous liquors and imposing a tax thereon. 148
Approved March 18, 1933.

77. S. B. 4. An Act relating to municipal corporations engaging in business; providing for the construction, purchase or lease of public utilities, and amending section 409, Revised Code of 1928. 152
Approved March 18, 1933.

78. S. B. 31. An Act relating to motor vehicles, special engine numbers, new blocks, changing motors, and seizure of motor vehicles or motors, and amending Sec. 1643, Revised Code of 1928, and the further amendment of Art. 5, Chap. 31, Revised Code of 1928, by adding thereto a section to be designated Sec. 1643a. 154
Approved March 18, 1933.

79. S. B. 91. An Act relating to arson; defining the degrees thereof; fixing penalties, and repealing article 1, chapter 108, and section 4795, Revised Code of 1928. 155
Approved March 18, 1933.

80. S. B. 100. An Act relating to the importation of motor vehicle fuel in vehicle tank, and amending article 6, chapter 31, Revised Code of 1928, as amended by chapter 16, Session Laws 1931-32 (1st special). 156
Approved March 18, 1933.

81. S. B. 116. An Act relating to the Municipal Charter of the City of Prescott, Arizona in amending Act number 37, Laws of the Territory of Arizona 1883. 157
Approved March 18, 1933.

82. S. B. 158. An Act to amend sections 1309, 1311 and 1312, article 12, Revised Code of 1928, relating to absentee voting. 158
Approved March 18, 1933.

83. H. B. 25. An Act requiring payment during a certain period and in certain proceedings initiated by the Arizona Corporation Commission, or its sucessors, of the cost of investigation of the books, accounts, practices, activities and/or appraisals of the properties of public utilities by the public utility investigated or appraised, and repealing all acts and parts of acts in conflict herewith, and declaring an emergency. Approved March 18, 1933. 159

84. H. B. 46. An Act relating to the basic sciences; defining the same and creating a board of examiners therein; providing for the examination and registration of practitioners of the healing arts; and providing penalties for the violation hereof. Approved March 18, 1933. 161

85. H. B. 72. An Act to amend Secs. 176, 177, 189 and 191, Revised Code of 1928, relating to assignments for the benefit of creditors, and to repeal all acts in conflict herewith. Approved March 18, 1933. 165

86. H. B. 99. An Act relating to Insurance agents and Insurance solicitors and amendinf Sec. 1817, Revised Code of 1928. Approved March 18, 1933. 167

87. H. B. 86. An Act relating to the construction of an irrigation dam in the San Pedro river in Cochise county, authorizing the Arizona state highway commission to procure funds for such purpose, and to cause the construction of the said dam. Approved March 18, 1933. 170

88. H. B. 115. An Act relating to judgment of foreclosure, and amending Sec. 2324, Revised Code of 1928. Approved March 18, 1933. 171

89. H. B. 142. An Act relating to banks and banking; state banking department; records of department; stock in other corporations; borrowing by savings banks; savings banks loans; penalties; membership in federal home loan bank; amending Secs. 213, 224, 230, 231 and 268 by adding a new section to Sec. 268, to be numbered 268(a); and declaring an emergency. Approved March 18, 1933. 172

90. H. B. 146. An Act to provide for the raising of additional public revenue by imposing a tax upon the privilege of engaging in certain businesses in Arizona; to provide for the ascertainment, assessment and collection of said taxes; to provide for the time of payment of the tax; to provide for correcting assessments and examination of records; and providing for procedure when the returns are not filed; for the enforcement of collection and for penalties; providing for hearing, rehearing and appeal; providing for the manner in which the tax may be paid; providing for a penalty for the filing of false or fraudulent returns; providing for the relief of unemployment and the disposition of the proceeds of the tax; repealing all laws in conflict herewith and declaring an emergency. Approved March 18, 1933. 175

91. H. B. 144. Relating to dependent and delinquent minors, and providing a penalty for contributing to the delinquency or dependency of such minors. Approved March 18, 1933. 187

92. H. B. 176. An Act to amend Sec. 3, Chap. 43, Session Laws of 1929, relating to land settlement. Approved March 18, 1933. 189

93. H. B. 204. An Act relating to fish and game preservation and amending section 4, chapter 97, Session Laws of 1931; sections 1, 13, 14, 29 and 36, chapter 84, Session Laws of 1929; sections 23, 25 and 31, chapter 97, Session Laws of 1929. Approved March 18, 1933. 190

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94. H. B. 245. An Act to provide for conventions to pass on amendments to the Constitution of the United States proposed by the Congress of the United States for ratification by conventions in the several states. Approved March 18, 1933. 195

95. H. B. 200. An Act making appropriations for the various departments of state, for the state institutions, for public schools, for stste departments, activities, agencies, and purposes appurtenant thereto; and for the interest on and redemption of the public debt; providing for the manner in which appropriations for labor shall be expended and the manner in which and conditions under which all appropriations herein shall be paid, all for the fiscal year beginning July 1, 1933, and ending June 30, 1934, hereinafter designated as the 22nd fiscal year, and beginning July 1, 1934 and ending June 30, 1935, hereinafter designated as the 23rd fiscal year, all of which constitute a general appropriation bill for said fiscal years. Approved March 18, 1933. 198

96. H. B. 274. An Act relating to the licensing of stores, and repealing Chap. 9, Session Laws of 1931-32 (1st special). Approved March 18, 1933. 211

97. S. B. 84. An Act relating to banks and banking, building and loan associations and security companies, and to amend sections 209, 211, 215, 216, 219, 222, 223, 228, 235, 238, 239, 249, 250, 251, 270 and 271, Chap. 8, Revised Code of 1928, and to further amend said Chap. 8 by adding thereto nine sections to be designated sections 219a, 225a, 245a, 245b, 245c, 245d, 246a, 270a and 272a, respectively. Approved March 20, 1933. 212

98. S. B. 87. An Act to amend Sec. 2967 of the Revised Code of 1928, relating to grazing and agricultural lands. Approved March 20, 1933. 221

99. S. B. 47. An Act relating to the protection of native Arizona plants, and amending chapter 8, Session Laws 1929. Approved March 21, 1933. 222

100. S. B. 123. An Act relating to the transportation by motor vehicles of persons and property over the public highways, providing for the licensing, regulation and taxation of motor carriers and the regulation of private motor carriers, and repealing Art. 3 of Chap. 15 and Art. 7 of Chap. 31, Revised Code of 1928, and making provision for the validity of the remainder of the law, if part thereof is held unconstitutional. Approved March 18, 1933. 224

101. S. B. 33. An Act relating to irrigation; and providing for the organization of irrigation water delivery districts and the conduct thereof. Approved March 21, 1933. 232

102. H. B. 166. An Act relating to the control, inspection and marketing of fruits and vegetables to regulate dealers engaged in shipping such products. Approved March 20, 1933. 233

103. H. B. 118. An Act relating to the sale in the open market of goods, wares and merchandise manufactured, produced or mined by convicts or prisoners. Approved March 20, 1933. 244

104. H. B. 178. An Act to amend Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Chap. 102, Session Laws of 1931, and add thereto Secs. 9-a and 10-a, relating to and regulating the business of contracting, and repealing all laws and parts of laws in conflict with the provisions of this act. Approved March 22, 1933. 245

ELEVENTH LEGISLATURE
REGULAR SESSION
STATE OF ARIZONA

CHAPTER 1

(SENATE BILL NO. 12)

AN ACT

RELATING TO AN EMERGENCY APPROPRIATION FOR THE ARIZONA COMMISSION OF AGRICULTURE AND HORTICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ARIZONA:

Section 1. There is hereby appropriated out of any moneys in the general fund not otherwise appropriated, the sum of seventeen thousand eight hundred and seventy-five dollars and fifty cents, for the use of the Arizona commission of agriculture and horticulture for salaries and wages in the maintenance of road inspection stations during the remainder of the twenty-first fiscal year.

Section 2. On the presentation and verification of legal claims, the state auditor is authorized to draw his warrant against said appropriation and the state treasurer is directed to pay the same.

Section 3. To prevent the closing of road inspection stations, and to preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JANUARY 17TH, 1933

CHAPTER NO. 2

(HOUSE BILL NO. 5)

AN ACT

MAKING AN APPROPRIATION FOR THE CURRENT AND CONTINGENT EXPENSES OF CARRYING ON, CONDUCTING AND DEFRAYING THE EXPENSES OF THE ELEVENTH LEGISLATURE OF THE STATE OF ARIZONA; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ARIZONA:

Section 1. That the sum of Ninety-two Thousand Dollars, or so much thereof as may be necessary, is hereby appropriated out of the General Fund now in the hands of the state treasurer of the state of Arizona, for the several objects and purposes hereinafter named:

(1) The sum of Thirty-Nine Thousand, Eight Hundred Forty Dollars, or so much thereof as may be necessary, is hereby appropriated for the payment of the salaries of the members of the Eleventh Legislature of the state of Arizona.

(2) The sum of Seventeen Thousand, One Hundred Sixty Dollars, or so much thereof as may be necessary, is hereby appropriated for the payment of employees of said legislature; Four Thousand, Three Hundred Eighty Dollars, or so much thereof as may be necessary, for the payment of the employees of the Senate; and Twelve Thousand, Seven Hundred Eighty Dollars, or so much thereof as may be necessary, for the payment of the employees of the House.

(3) The Sum of Three Thousand Dollars, or so much thereof as may be necessary, is hereby appropriated for the payment of mileage of the members of said legislature.

(4) The Sum of Thirty-Two Thousand Dollars, or so much thereof as may be necessary, is hereby appropriated for the payment of the contingent expenses of said Legislature; Twelve Thousand, Four Hundred Dollars, or so much thereof as may be necessary, for the payment of the contingent expenses of the Senate; and Nineteen Thousand, Six Hundred Dollars, or so much thereof as may be necessary, for the contingent expenses of the House.

Section 2. All claims for salaries of and mileage for members of the respective Houses of said legislature shall be honored by the state auditor upon the presentation of a certificate signed by the presiding officers of the respective Houses of said legislature, whereupon said state auditor shall issue his warrant upon the state treasurer for the payment of the same, and said treasurer, upon presentation, shall pay the same out of the appropriation herein provided for and from the General Fund of the state of Arizona.

Section 3. That all salaries for clerks and employees of said respective Houses of said Legislature shall be paid in like manner as provided in Section 2 of this Act.

Section 4. The salaries of said members of said legislature and the salaries of the said employees thereof, shall be payable on Monday of each and every week during the session of said legislature. The incidental expenses of said legislature shall be payable whenever the proper voucher shall be presented.

Section 5. WHEREAS, an urgent necessity exists for the appropriation of funds to pay the salaries and mileage of the members of the legislature, and to provide funds for the contingent expenses of said legislature, the provisions of this Act are necessary for the expenses and maintenance of said legislature, to keep it intact and preserve the public peace, health and safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval by the governor, and is hereby exempt from the provisions of referendum provided for in the Constitution of the state of Arizona.

APPROVED JANUARY 18TH, 1933

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER NO. 3

(H. B. 49)

AN ACT

Relating to the state flower.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2, Chapter 68, S. L., 1931, is hereby amended to read as follows:

Sec. 2. The pure white waxy flower of the Cereus Giganteus (Giant Cactus) or Saguaro, shall be the state flower of Arizona.

APPROVED JANUARY 23RD, 1933

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER NO. 4

(H. B. 67)

AN ACT

To amend Section 1653, R. C., 1928, relating to the operation of motor vehicles without paying registration fee; penalty; seizure and sale.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1653, R. C., 1928, is hereby amended to read as follows:

Sec. 1653. Operation without paying registration fee; penalty; seizure and sale. Whenever any vehicle shall be operated upon the public highways of the state without payment of the registration or transfer fee, such fee shall be deemed delinquent, and if not paid within thirty days after delinquency a penalty equal to such fee shall be added thereto and collected; provided, that during the year 1933 such penalty shall not be collected if such fees are paid within sixty days after such delinquency. Every registration or transfer fee and any penalty added thereto shall from the date the same are due constitute a lien upon the vehicle upon which the same are due. The division shall collect such fee and penalty by seizure of such vehicle from the person in possession thereof, if any, and by sale as provided by law for the seizure and sale of personal property by the tax collector for the collection of taxes due thereon.

Sec. 2. Whereas, an early operation of this act is required to preserve the public peace, health and safety, an emergency is therefore declared to exist and this act is hereby exempt from the operation of the referendum provisions of the State Constitution and shall take effect and be in full force and effect from and after its passage and its approval by the governor.

APPROVED JANUARY 26TH, 1933

ELEVENTH LEGISLATURE
REGULAR SESSION
STATE OF ARIZONA

CHAPTER NO. 5

(SENATE BILL NO. 66)

AN ACT

TO PROVIDE AN EMERGENCY APPROPRIATION FOR THE USE OF THE STATE LAW AND LEGISLATIVE REFERENCE BUREAU.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ARIZONA:

Section 1. The sum of two thousand five hundred dollars, or so much thereof as may be necessary, is hereby appropriated for the use of the state law and legislative reference bureau of the state library.

Section 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED FEBRUARY 4TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER NO. 6

(H. B. 18)

AN ACT

To amend Section 1029 of Chapter 21, R. C., 1928, relating to school holidays.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That Sec. 1029 of Chap. 21, R. C., 1928, be and the same is hereby amended to read as follows:

Sec. 1029. School periods; holidays. The school year shall begin on the first day of July and end on the last day of June. A school month is twenty school days, or four weeks of five days each; provided, that when the fourth of July, the eleventh day of November, the twenty-fifth of December and Thanksgiving day occur within the school week, the schools shall be closed and the pay of the teachers shall not be diminished on that account. Boards of trustees may declare a recess during the Christmas holiday season not to exceed two school weeks; but during said period the teachers shall receive their regular pay.

Sec. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

APPROVED FEBRUARY 4TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER NO. 7

(H. B. 8)

AN ACT

Relating to county scholarships, repealing sections 1146, 1147, 1148, 1149, 1150 and 1151, and amending section 1155, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Secs. 1146, 1147, 1148, 1149, 1150 and 1151, Revised Code of 1928, are hereby repealed.

Sec. 2. Sec. 1155, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1155. Annual appropriation authorized; manner of expending. There shall be appropriated in the general appropriation bill, for each fiscal year, a sum of money, not less than eighty-five one hundredths of one mill on the dollar of the assessed valuation of all taxable property in the state, for the improvement, support and maintenance of the university, including the payment of salaries, current expenses, purchase of equipment, making necessary repairs, construction of new buildings, purchase of lands, and in general for the payment of all such expenses connected with the management of said institution; and the state board of equalization shall, upon determining the aggregate assessed valuation of all taxable property within the state, compute the amount of money so determined, and certify the same over its seal, to the state auditor and state treasurer. All the amounts so appropriated shall be paid as other claims against the state are paid. The balance of the amount so appropriated, if any, remaining on hand at the end of the fiscal year, shall not revert to the general fund but shall be carried forward for the continued use for which appropriated.

Sec. 3. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED FEBRUARY 9TH, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER NO. 8

(SENATE BILL NO. 21)

AN ACT

Relating to the sale of poultry, and amending chapter 82, Revised Code of 1928, by adding a section, to be designated section 3626a.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Chapter 82, Revised Code of 1928, is hereby amended by adding thereto a section, to be designated Sec. 3626a, and to read as follows:

Sec. 3626a. It shall be unlawful to sell or transfer or offer for sale or transfer, any poultry, to or by any packing house, butcher, huckster, dealer, merchant, restaurant, hotel, boarding house, fraternity house or any person who purchases poultry of any kind for resale in any manner, unless the actual delivery of such poultry is accompanied by a written and signed bill of sale bearing date of such sale or transfer, from the vendor to the party purchasing or receiving, showing address and residence of vendor and including number and description of such poultry. Upon the trial of any person charged with the theft, unlawful possession, handling or killing of any such poultry, the possession under claim of ownership by purchase of such poultry by the accused, without he having such bill of sale therefor, shall be prima facie evidence against the accused that such possession is illegal. Any person failing or neglecting to deliver such bill of sale as herein provided shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than three hundred dollars or be sentenced to not more than six months in the county jail or both such fine and imprisonment in the discretion of the court.

APPROVED FEBRUARY 9TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER NO. 9

(H. B. 40)

AN ACT

To amend Section 5172, R. C., 1928, relating to re-arrest and commitment after bail and grounds therefor in criminal cases.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 5172, R. C., 1928, is hereby amended to read as follows:

Sec. 5172. Re-arrest and commitment after bail, grounds. The court to which the committing magistrate returns the complaint, or in which the indictment or information or appeal is pending, or in which a judgment on appeal is remitted to be carried into effect, may, by an order entered upon its minutes, direct the arrest of the defendant and his commitment to the officer to whose custody he was committed at the time of giving bail, and his detention until legally discharged, in the following cases: When, by reason of his failure to appear, he has incurred a forfeiture of his bail, or of money deposited instead thereof; when it satisfactorily appears to the court that his sureties, or either of them, are dead or insufficient, or have removed from the state; upon an indictment or information being found for felony, and the defendant is on insufficient bail, in which case the order shall specify the increased amount; when it appears to the court that the offence is not bailable.

APPROVED FEBRUARY 9TH, 1933

ELEVENTH LEGISLATURE
REGULAR SESSION
STATE OF ARIZONA

CHAPTER NO. 10

(SENATE BILL NO. 25)

AN ACT

Relating to salaries of precinct officers, and amending section 2801, Revised Code of 1928.

Be it enacted by the legislature of the state of Arizona:

Section 1. Sec. 2801, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2801. Precinct officers' salaries fixed by supervisors. At the regular June meeting of the various boards of supervisors preceding a general election, said boards shall fix the salaries of all precinct officers for the two years commencing on the first day of the following January.

APPROVED FEBRUARY 9TH, 1933.

CHAPTER NO. 11

(H. B. 15)

AN ACT

Relating to refunds of motor vehicle fuel license tax, and amending article 6, chapter 31, Revised Code of 1928, as amended by chapter 16, Session Laws 1931-32.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Article 6, chapter 31, Revised Code of 1928, as amended by chapter 16, Session Laws 1931-32 (1st special), is hereby so amended that the subsection of section 1 of said chapter 16, Session Laws 1931-32, designated as Sec. 1677c, shall read as follows:

Sec. 1677c. Refunds on motor vehicle fuel not used in motor vehicles or exported. When motor vehicle fuel is sold to a person who claims that he will be entitled to a refund of the tax hereunder, by reason of the fact that such motor vehicle fuel is not for use in a motor vehicle, the seller shall make out in triplicate, on forms prescribed by the superintendent, an invoice setting forth the name and address of the purchaser, the number of gallons of motor vehicle fuel so sold, and such other information as the superintendent shall require. He shall give the original of such invoice to the purchaser at the time of sale, and shall mail the duplicate to the superintendent not later than Tuesday of the week next succeeding the sale. Any person entitled to a refund of the motor vehicle fuel tax shall be reimbursed under the following conditions and in the following manner:

(a) Application for refund shall be filed with the superintendent within six months from the date of purchase or invoice of the motor vehicle fuel with respect to which refund is claimed, and not thereafter.

(b) Such application shall be in the form prescribed and furnished by the superintendent, shall be sworn to, and shall state the quantity of motor vehicle fuel with respect to which refund is claimed, the purpose for which used, the date of purchase, and from whom purchased, and shall contain such other information as the superintendent shall require; provided, that no fee shall be charged or collected for taking the acknowledgment of an applicant for refund of the license tax on any motor vehicle fuel. Said application shall be accompanied by the original invoice or an acceptable duplicate showing such purchase.

(c) In the case of a claim for refund on account of motor vehicle fuel exported, the claimant shall make satisfactory proof of export to the superintendent and shall file such claim within thirty days from the date of export. Said claim shall be in such form and contain such information as the vehicle superintendent may require. The original invoice or an acceptable duplicate shall accompany the claim.

(d) Any person or distributor selling kerosene in quantities not to exceed five gallons at any one sale shall collect no license tax thereon, but at the time of such sale the purchaser shall execute a receipt for such kerosene, in triplicate, on a form prescribed by the superintendent, and the seller shall be entitled to a refund of the tax paid by him on such kerosene upon application therefor and filing with the superintendent the original of said receipt. The duplicate receipt shall be mailed to the superintendent by the seller not later than the Tuesday of the week next succeeding the sale. The triplicate shall be retained by the seller for a period of two years.

(e) The above conditions having been fully complied with, the vehicle superintendent shall determine the amount of refund due and shall certify and refund such amount.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED FEBRUARY 15th, 1933.

CHAPTER NO. 12

(HOUSE BILL 37)

AN ACT

Amending Secs. 1350 to 1353, both inclusive, of the Revised Code of 1928, relating to public works of the state and its subdivisions, such amendment consisting of an amendment to Sec. 1350 relating to minimum wages for labor, the addition of five new sections relating to qualifications of employees, and prohibiting employment of nonresidents, to qualifications of contractors, and giving preference to resident tax paying contractors, giving preference to material produced or manufactured in Arizona, and to resident tax paying dealers, providing that such preference shall yield to federal aid regulations, but requiring the state or subdivisions thereof to make good any deductions made by such regulations or federal aid contracts by reason of such preferences; amending Sec. 1353 relating to penalties, and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That Sec. 1350 of the Revised Code of 1928 is hereby amended to read as follows:

Sec. 1350. Hours of labor on public work; wages. Eight hours, and no more, shall constitute a lawful day's work for all persons doing manual or mechanical labor employed by or on behalf of the state, or of any of its political subdivisions, except in an extraordinary emergency, in time of war, or for the protection of property or human life; in such cases the persons working to exceed eight hours each day shall be paid on the basis of eight hours constituting a day's work. Not less than the minimum per diem wages fixed by the state highway commission for manual or mechanical labor performed for said commission or for contractors performing work under contract with said commission, shall be paid to persons doing manual or mechanical labor so employed by or on behalf of the state or of any of its political subdivisions. Persons doing manual or mechanical labor employed by contractors or sub-contractors in the execution of any contract with the state, or with any of its political subdivisions, shall be deemed to be employed by or on behalf of the state, or of such political subdivision thereof.

Sec. 2. That there shall be and hereby is added to Art. 1 of Chap. 24, of the Revised Code of 1928, a new section, to be numbered Sec. 1352-A. which shall read as follows:

Sec. 1352-A. Bona fide residents to be employed. That in all contracts for public work hereafter let by the state of Arizona, or any of its political subdivisions, and in all performance of any such work by the state or any political subdivision thereof, there shall be employed in the performance of such work only persons who are and have been for not less than one year bona fide residents of the state of Arizona, except that contractors or sub-contractors may place on such work not to exceed three of their regularly employed non-resident executives and technical experts, and except that when such bona fide residents of the state shall not be available for such employment and the proper representative of the Arizona industrial commission shall so certify, persons who are not qualified under this section may be employed until such time as there shall be available a sufficient number of employees who qualify under this provision.

Sec. 3. That there shall be and hereby is added to Art. 1 of Chap. 24 of the Revised Code of 1928, a new section to be numbered Sec. 1352-B, which shall read as follows:

Sec. 1352-B. Only licensed contractors to be employed; preference to contractors paying taxes; sub-contracting to non-taxpayers prohibited. Hereafter, in the letting of bids for any contract for public work to be performed on behalf of the state of Arizona, or any political subdivision thereof, and to be paid for out of public funds, no bid shall be recognized for the performance of a contract

including construction work which is not made by a bidder duly licensed as a contractor in the state of Arizona and in awarding the contract for any work to be paid for out of public funds, bids of contractors who have not been found unsatisfactory in prior public contracts and who have paid state and county taxes within the state of Arizona for not less than two successive years immediately prior to the making of said bid on a plant and equipment such as is ordinarily required for the performance of the contract for which such bid is made, or on other real or personal property in the state of Arizona equivalent in value to such plant, shall be deemed a better bid than the bid of any competing contractor who has not so paid taxes, whenever the bid of such competing contractor shall be less than five per cent lower and the contractor making such bid herein provided to be deemed the better bid, shall be awarded the contract. No contract hereafter awarded for such public work shall be sublet to a sub-contractor who has not paid taxes as hereinabove specified.

Sec. 4. That Art. 1 of Chap. 24 of the Revised Code of 1928, shall be and hereby is amended by adding thereto a new section, to be numbered Sec. 1352-C, which shall read as follows:

Sec. 1352-C. Preference to materials produced or manufactured in Arizona. That in awarding contracts for furnishing material, either directly or through a contractor or sub-contractor, to the state of Arizona, or any political subdivision thereof to be paid for out of public funds, bidders who furnish material produced or manufactured in the state of Arizona shall be awarded the contract in preference to any competing bidder who shall furnish material not produced or manufactured in the state of Arizona, whenever the bid of such competing bidder, quality and suitability for the purpose considered, shall be less than five per cent lower.

Sec. 5. That Art. 1 of Chap. 24 of the Revised Code of 1928, shall be and hereby is amended by adding thereto a new section, to be numbered Sec. 1352-D, which shall read as follows:

Sec. 1352-D. Preference of certain dealers and bidders and definitions thereof. That in awarding contracts for furnishing material, either directly or through a contractor, to the state of Arizona or any political subdivision thereof, to be paid for out of public funds, bidders who furnish material supplied by a dealer resident in the state of Arizona, who has paid state and county taxes within the state of Arizona for not less than two successive years immediately prior to the making of said bid, on a stock of materials of the kind so offered to be supplied reasonably sufficient to supply the purchases of his customers from said stock instead of from stock shipped into the state to fill orders previously taken, shall be awarded the contract in preference to any competing bidder who shall furnish material not supplied by such resident dealer, whenever the bid of such competing bidder, quality and suitability for the purpose considered, shall be less than five per cent lower.

Sec. 6. That Art. 1 of Chap. 24 of the Revised Code of 1928, shall be and hereby is amended by adding thereto a new section, to be numbered Sec. 1352-E, which shall read as follows:

Sec. 1352-E. Exception of federal aid contracts in certain instances. If any provision or condition contained in any of the seven preceding sections of this article shall conflict with any provision of the federal law, or any rule or regulation made under the federal law pertaining to federal aid contracts, then such provision of said sections as is in conflict with such federal law, rule or regulation shall not apply on such federal aid contracts, to the extent that such conflict exists, but all provisions of said sections with which there is no such conflict, shall apply to said federal aid contracts, and the state of Arizona and its political subdivisions are hereby required, whenever said federal law, rules or regulations permit to enter into and perform any such contract subject to the provisions of said sections and make good out of such funds the amount that the representatives of the federal government require to be deducted from the federal aid funds allotted to said contract by reason of the application of the provisions of said sections.

Sec. 7. That Sec. 1353 of the Revised Code of 1928 is hereby amended to read as follows:

Sec. 1353. Violations defined; penalty. Any officer of the state or of any of its political subdivisions, or any person acting under or for such officer or any contractor or sub-contractor of the state, or any political subdivision thereof, or other person violating any provision of the eight preceding sections of this article, is guilty of a misdemeanor and shall for every offense be punished by a fine of not less than fifty dollars, nor more than one thousand dollars, or by imprisonment not more than six months, or both such fine and imprisonment.

Sec. 8. The provisions of this act shall not be construed in any manner pertaining to irrigation districts.

Sec. 9. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 10. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED FEBRUARY 17TH, 1933.

ELEVENTH LEGISLATURE
REGULAR SESSION
STATE OF ARIZONA

CHAPTER NO. 13

(SENATE BILL NO. 18)

AN ACT

TO AUTHORIZE THE ACQUISITION BY ANY COUNTY BY EMINENT DOMAIN OF ANY RIGHT-OF-WAY FOR ANY HIGHWAY TO BE ACQUIRED UNDER ANY AGREEMENT WITH THE UNITED STATES GOVERNMENT; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ARIZONA:

Section 1. Whenever any county board of supervisors shall hereafter enter into any agreement with the government of the United States acting through its duly authorized officers or agents, pursuant to any act of Congress for the acquiring of any right-of-way for any highway in their respective counties, and the United States has constructed a part of the highway described in said agreement and the board of supervisors has been unable under the provisions of Section 1701 of the Revised Code of 1928, to acquire any right-of-way necessary for the completion of said highway, it shall be the duty of the county attorney of such county upon demand by the agent of the United States having charge of the work to be done by the United States under said agreement and resolution by the board of supervisors directing him so to do, to forthwith file in the Superior Court of the county wherein said land is situated, proceedings for condemnation as provided in Sec. 1337, Revised Code of Arizona, 1928, in the name of said county, and it shall be the duty of the county treasurer to make the deposit required by the court as provided for in said Sec. 1337, Revised Code of 1928, and upon final judgment being granted by the court fixing the value of the lands sought to be condemned and the damages, if any, to pay the amount thereof found due; and if the money so deposited or paid by the treasurer has not been appropriated or set aside for that purpose by the board of supervisors of said county, it shall be the duty of said board to set up such amount in its next budget and levy for said purpose.

The provisions of this section shall not apply to highways designated as national highways, state highways or state routes.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED FEBRUARY 17TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER NO. 14

(H. B. 9)

AN ACT

Relating to the proposed construction of a highway bridge across the Colorado river near Parker, Arizona; authorizing the Arizona state highway commission to negotiate a loan from the reconstruction finance corporation or other agency, and amending section 1, chapter 75, Session Laws 1931.

Be it enacted by the Legislature of the State of Arizona:

Section 1. The Arizona state highway commission is hereby authorized to enter into negotiations with the reconstruction finance corporation, or any other agency of the United States government, for a loan sufficient to construct, in whole or in part, a toll or other highway bridge and approaches thereto over and across the Colorado river in the vicinity of Parker, Arizona, at a point to be determined by the commission. If such loan can be satisfactorily arranged, said commission is authorized to perform all acts necessary to complete the same, and to provide for the repayment thereof by setting up, in each of the annual budgets of the highway department during a period of years next succeeding such loan, such sums as may be necessary; provided, however, that the commission shall not enter into any agreement which does not make the project self-liquidating.

Sec. 2. The Arizona highway commission is hereby authorized, empowered and directed, in carrying out the purposes of this act, to pledge or hypothecate, for the repayment of such loan, any and all tolls or revenues which may accrue to the state by virtue of the construction of such bridge; provided, that it shall not pledge or extend the faith and credit of the state of Arizona in any manner.

Sec. 3. Sec. 1, chapter 75, Session Laws 1931, is hereby amended to read as follows:

Sec. 1. The Arizona highway commission is hereby authorized to cooperate with the state of California, or any agency thereof, and with the United States bureau of Indian affairs, or any agency of the United States, or with any other person, agent or agents, in the construction of a toll or other highway bridge, with approaches thereto over and across the Colorado river in the vicinity of Parker, Arizona, at a point to be mutually determined by the Arizona highway commission, the California highway department, and the United States bureau of Indian affairs, or their duly authorized agents, and is authorized to provide in the state highway budget for any fiscal year after the twenty-second, for the purpose herein specified, for an expenditure not to exceed seventy-five thousand dollars; provided, that no part of such money shall be expended until at least an equal amount shall be made available, under conditions satisfactory to the Arizona highway commission, by the state of California or any agency thereof, and at least an equal amount by the United States bureau of Indian affairs, or any agency of the government of the United States.

Sec. 4. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED FEBRUARY 21ST, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER NO. 15

(HOUSE BILL 64)

AN ACT

To Amend Sec. 2561, Revised Code of 1928, relating to the practice of medicine and surgery.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2561, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2561. Exception to application. Nothing in this chapter shall inhibit service in an emergency, or the domestic administration of family remedies, nor the practice of religion or treatment by prayer; nor shall it apply to any commissioned medical officer in the United States army, navy or public health service, in the discharge of his official duties; nor to any licensed practitioner from another state when in actual consultation with a licensed practitioner of this state.

Sec. 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

APPROVED FEBRUARY 21ST, 1933.

CHAPTER 16

(H. B. 52)

AN ACT

To permit the issuance of bonds in anticipation of the collection of state taxes; to authorize such bond issue for the last half of the year 1932, all of the year 1933, and the first half of the year 1934; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Whenever the legislature shall have made appropriations for any fiscal year as authorized by law and taxes have been levied upon the taxable property within this state sufficient to produce funds to pay such appropriations, and the loan commissioners of the state of Arizona shall ascertain that the proceeds of such taxes will not be in the state treasury in time to pay in cash the expense provided for by such appropriation, then the said loan commissioners may anticipate the collection of such taxes by issuing and selling, as herein provided, bonds to be designated "State of Arizona Tax Anticipation Bonds".

Sec. 2. Such bonds shall be signed by the governor, attested by the state auditor, and countersigned by the state treasurer, shall be payable within six months from date, and shall bear such rate of interest not in excess of six per cent per annum, bear such date and be payable at such place, all as may be determined and designated by said loan commissioners. Each bond shall specifically recite that it is issued in anticipation of state taxes theretofore levied for the fiscal year, (herein insert year for which taxes are levied) that it is payable solely from the proceeds of such taxes, and is issued pursuant to this act, naming the title thereof.

Sec. 3. The total amount of such bonds, including both principal and interest thereon, issued for any fiscal year, shall not exceed fifty per cent of such taxes uncollected and not in the state treasury at the time of the issuance of the said bonds. When the issuance and sale of such bonds shall have been consummated, the state treasurer is hereby authorized and he shall immediately call in and pay from the proceeds of such bond issue all state warrants which shall have been registered and accumulated at such date.

Sec. 4. The loan commissioners shall by resolution authorize the issuance of any such bonds, prescribe their form, the form of the coupons representing the interest thereon, and the manner in which the said coupons shall be signed, and shall fix the manner, the terms, and the conditions under which such bonds shall be sold.

Sec. 5. The funds arising from the sale of said bonds shall be used solely for the purposes for which the taxes upon which they are based are levied.

Sec. 6. When tax anticipation bonds are issued in accordance with the provisions of this act, the taxes upon which they are based and by which they are secured shall, when and as collected, be kept by the state treasurer and by him used solely for the payment of such bonds and the interest thereon, until all of the bonds so issued, together with the interest thereon, shall be paid in full; provided, that the state treasurer may pay such interest out of the general fund of the state.

Sec. 7. The holder of any bond issued in accordance with the provisions of this act may, in his own name and on his own behalf, or on behalf of all of the holders of such bonds, by mandamus proceedings in the supreme court of the state of Arizona, compel the performance of any duty imposed by this act.

Sec. 8. The provisions of this act shall apply to all uncollected taxes for the last half of the year 1932, all of the year 1933, and the first half of the year 1934.

Sec. 9. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 10. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED FEBRUARY 23, 1933

CHAPTER 17

(H. B. 138)

AN ACT

Relating to the Arizona state fair commission, providing for the appointment of a business manager, and authorizing the performance of certain duties of the Arizona reconstruction finance corporation commission.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Arizona state fair commission; business manager, to serve the reconstruction finance corporation commission. The Arizona state fair commission shall appoint a business manager, to serve during the remainder of the twenty-first fiscal year, who shall act as such business manager and, without additional compensation, act as bookkeeping and accounting officer for the Arizona reconstruction finance corporation commission.

Sec. 2. Arizona state fair commission to pay for office supplies of reconstruction finance corporation commission. For payment of the cost of books, forms, stationery and supplies necessary for the uses of the Arizona reconstruction finance corporation commission, claims may be drawn against the operation fund of the said Arizona state fair commission, and when properly approved, the state auditor shall be authorized to draw his warrant in satisfaction of the same.

Sec. 3. To preserve the public peace, health, and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED FEBRUARY 23, 1933.

CHAPTER 18

(H. B. 70)

AN ACT

To amend Sec. 1011, Art. 4, Chap. 21, Revised Code of 1928, relating to the powers and duties of the board of trustees of school districts, by adding to said section another subdivision to be known as subdivision 11; and to provide for the use of school houses as civic centers.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That Sec. 1011, Art. 4, Chap. 21, Revised Code of 1928, is hereby amended by adding thereto another subdivision, to be known as subdivision 11, to read as follows:

11. The board may permit the use, under its direction, and subject to such conditions, rules and regulations as it may prescribe, of the school house or houses within the district as a civic center for such district, where the citizens, parent teachers' association, Camp Fire girls, Boy Scout troops, clubs and associations formed for recreational, educational, political, economic, artistic or moral activities of the district may engage in supervised recreational activities and where they may meet and discuss, from time to time, as they may desire, any and all subjects and questions which, in their judgment, may appertain to the educational, political, economic, artistic and moral interests of the citizens of the respective communities in which they reside; provided that such use of said public school houses and grounds for said meetings shall in no wise interfere with such use and occupancy of said public school house and grounds, as is now, or hereafter may be, required for the purpose of said public schools of the state of Arizona.

Sec. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

APPROVED FEBRUARY 23, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 19

(H. B. 55)

AN ACT

To amend Sec. 867, Revised Code of 1928, relating to the payment of supervisors' and school warrants and providing for the payment of interest if not paid; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 867, Revised Code of 1928, is hereby amended to read as follows:

Sec. 867. Payment of warrants; interest if not paid. When a warrant of the board of supervisors or of the county superintendent of schools is presented for payment, the treasurer shall pay the same, and write or stamp on the face thereof "paid", the date of payment, and sign his name thereto; if he cannot pay the same for want of funds, he shall indorse thereon, "not paid for want of funds", and the date of presentation, and sign his name thereto; and from that time until paid the warrant shall bear six per cent per annum interest. He must keep a register of warrants presented for payment.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED FEBRUARY 23, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 20

(H. B. 91)

AN ACT

Relating to free textbooks in the common schools, and in state institutions and amending Sec. 1048, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1048, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1048. Free textbooks. The state shall furnish free textbooks for the common schools and for all state welfare institutions maintaining educational facilities, and the cost thereof and the contingent expenses necessarily incurred in complying with the provisions of this article shall be appropriated out of the general fund, for the use of the state board of education. The several county superintendents of schools shall furnish to the secretary of the state board of education, on or before the first day of April in each year, a complete list of textbooks necessary for the schools of their respective counties, and the secretary of the board of directors of state institutions shall furnish a list of textbooks necessary for state welfare institutions, and the state board of education shall supply the books requested.

APPROVED FEBRUARY 23, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 21

(H. B. 122)

AN ACT

To amend Chap. 12, Revised Code of 1928, entitled "Cities and towns" by adding thereto an article to be designated "Article 18 - Refunding improvement bonds"; providing for refunding by cities and towns, subject to certain conditions, of all or any part of the outstanding bonded indebtedness incurred under Art. 16, Chap. 12, Revised Code of 1928 or Chap. 144, Session Laws of 1919, or amendments of said acts; providing for the issuance of refunding bonds and the sale or exchange thereof; prescribing the form of said bonds; providing for the extension and continuance of the assessments levied to provide for the payment of the original bonds, and for the collection of said assessments and the application thereof to payment of unexchanged original bonds and the payment of refunding bonds; providing that lots or parcels of land sold to pay delinquencies in unexchanged original bonds shall be subject to further sale to pay future instalments on refunding bonds; providing for surrender to the owner thereof lots or parcels of land sold for bonds refunded, and reinstating the original assessment on such lot or parcel of land and the collection thereof at the same time and in the same manner as the assessments for which no sale has been made; repealing inconsistent acts and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Chap. 12, Revised Code of 1928, entitled, "Cities and towns", is hereby amended by adding an article to be designated, "Article 18. Refunding Improvement Bonds", and to read as follows:

Article 18. Refunding improvement bonds.

Sec. 1. Improvement bonds issued under Art. 16, Chap. 12, Revised Code of 1928, or Chap. 144, Session Laws of 1919, or amendments of said acts, may be refunded in the following manner:

Sec. 2. Refunding bonds covering public improvements; municipal legislative body may order issuance. Whenever the public interest or convenience may require, or whenever the legislative body of any municipality may deem it expedient and advisable, the said legislative body is hereby authorized and empowered to order the issuance of refunding bonds to refund all or any part of the outstanding bonded indebtedness incurred under Art. 16, Chap. 12, Revised Code of 1928, or Chap. 144, Session Laws of 1919, or the amendments of said acts.

Sec. 3. Refunding bonds; amount of; prior delinquencies; how payable; interest. The amount for which said refunding bonds may be issued shall not exceed the total amount remaining due on the principal of the original issue, excluding delinquencies occurring more than one year prior to the adoption of the resolution of intention for such refunding. All delinquencies in principal occurring more than one year prior to the adoption of said resolution of intention, and all delinquencies in interest, shall be paid either by the owners of the property assessed or by the municipality, at or before the time such refunding bonds are issued. Said refunding bonds shall be payable in equal annual installments either the same or twice as many as the number of installments remaining unpaid on the original bonds, but the time of the payment of said installments of principal may be postponed so that the first annual installment shall be payable not more than five years after the date of the resolution of intention for the refunding bonds. The rate of interest of the said refunding bonds shall be the same as the rate of interest on the original bonds. Any or all of the refunding bonds shall be callable at par on any interest payment date, by thirty days notice prior to said date, mailed to the persons who presented the last interest coupon that was collected on said refunding bond, and thereafter said bonds shall cease to bear interest. If a part of said bonds are called only the earlier maturities shall be called first.

Sec. 4. Issuance of bonds; resolution to recite terms. Before ordering the issuance of refunding bonds as herein authorized, the legislative body of the municipality shall pass a resolution of intention so to do. Said resolution of intention shall be sufficient if the following can be reasonably ascertained therefrom: (1) The year of issuance, approximate total amount, and approximate balance of principal remaining unpaid on the bonds proposed to be refunded. (2) The number of the resolution of intention initiating the proceeding, or the general assessment number of the assessment under which the bonds were issued. (3) The description of the district assessed for the improvement for which said bonds were issued, but if the assessment diagram for such improvement remains on file in a public office within the municipality, said resolution may refer to such assessment diagram, stating where the same may be seen and examined, instead of describing the said district. (4) The amount for which the refunding bonds will be issued. (5) The years when said refunding bonds shall be payable. (6) The rate of interest payable on said refunding bonds. (7) That said legislative body intends to issue said refunding bonds. (8) That the owners of, or persons interested in or having a lien upon any property which has been assessed for the payment of said original bonds, may protest in writing against the issuance of said proposed refunding bonds. (9) That all persons who fail to file written protest within the time allowed therefor shall be barred and estopped from making any objection to the issuance of said refunding bonds and the validity thereof.

Sec. 5. Publication & posting of Resolution. Said resolution of intention shall be published, in successive issues, five times in a daily newspaper or two times in a weekly or semi-weekly newspaper published and of general circulation in said municipality. The city clerk shall also cause to be conspicuously posted along the line of the improvement for which the bonds to be refunded were issued, at not more than 300 feet in distance apart, a notice of the proposed issuance of refunding bonds, which notice shall be sufficient if it is headed, "Notice of Proposed Issuance of Refunding Bonds", in letters at least one inch in height, and shall substantially state all matters required to be stated in the resolution of intention, and give the date of the passage of the resolution of intention.

Sec. 6. Protest to proposed bond issue; who may make; when made. Any person who owns or is interested in, or has any lien upon any lot, piece or parcel of real property upon which there is unpaid any part or all of the assessment for the purpose of paying the bonds to be refunded, may file his written objections to the said proposed refunding bonds within fifteen days after the date of the last publication of the said resolution of intention, or within fifteen days after the completion of the posting of the notices above referred to, if such date be subsequent to the day of the last publication of the said resolution of intention. All of said objections shall be heard by the legislative body of said municipality at its regular meeting place, at the first regular meeting after expiration of the time for filing objections, unless some other place or time is specified in the resolution of intention and notice. Said hearing shall not be held less than five days, nor more than thirty days after the expiration of the time for filing written objections. Such hearing may be adjourned or postponed from time to time as the legislative body may deem best. If adjourned or postponed, it shall be sufficient notice thereof to record the fact of such postponement in the minute records of the legislative body. If a quorum of the legislative body shall fail to attend at the time and place of the hearing, the adjournment or postponement may be made by the city clerk by notation in the minute records of the legislative body.

Sec. 7. Hearing of protests; abandonment of proceedings. At the hearing, any person interested in any manner or affected in any manner, by the proposed refunding bond issue, may appear and make an oral objection thereto, and the said legislative body shall hear and pass upon all written or oral objections so made, and its decision thereon shall be final and conclusive. If the said legislative body determine upon a different plan of refunding, they may abandon the proceedings already had and immediately pass a different resolution of intention proposing such new plan.

Sec. 8. Issuance of bonds. When no such objections against the proposed refunding bonds have been filed or made at the hearing, or when all objections filed have been heard and considered, and found by the legislative body to be insufficient, then the said legislative body shall have immediate jurisdiction to authorize, by resolution, issuance of the proposed refunding bonds as proposed in the resolu-

tion of intention. Such resolution need not describe the proposed bonds nor give details for the issuance thereof, but may refer to the resolution of intention therefor.

Sec. 9. Denominations of refunding bonds; date; interest coupons. The refunding bonds shall be of the same denominations as the original bonds, except that any original bond may be divided into two or more refunding bonds, and two or more original bonds may be consolidated into a refunding bond, provided that original bonds payable at different dates shall not be consolidated, nor shall an original bond be divided into bonds payable at different dates. Said bonds shall be dated as of the date of the last interest payment date prior to the passage of the resolution ordering issuance thereof, and shall bear interest therefrom, and shall have semi-annual interest coupons thereto attached, the first of which shall be payable on the first day of January or July, as the case may be, after the date of said bonds. Any interest coupons becoming due and payable before any of said refunding bonds are sold or exchanged shall be cut from said bonds before the same are delivered. The due date of said bonds shall be the first day of January in the years in which they respectively become due.

Sec. 10. Form of bond; how executed. The said bonds shall be signed by the mayor of said municipality, attested by the clerk, and sealed with the corporate seal of said municipality; the interest coupons shall bear the facsimile signature of the mayor and clerk. The bonds shall be in substantially the following form:

"CITY (OR TOWN) OF _____
REFUNDING IMPROVEMENT BOND.

KNOW ALL MEN BY THESE PRESENTS:

That the City (or Town) of _____, Arizona, a duly organized municipal corporation, promises to pay as hereinafter stated, to the bearer hereof, on the _____ day of _____, the sum of _____ Dollars, together with interest on said sum at the rate of _____ per cent per annum, payable semi-annually, on the first days of January and July of each year, as evidenced by and upon the presentation and surrender of the interest coupons hereto attached, as they severally become due. Both principal and interest are hereby made payable at the office of the City (or Town) of _____ or at _____ at the option of the holder. This bond is issued in pursuance of law, and is one of a series of bonds, for the total sum of _____Dollars, of which _____ Dollars remain unpaid at the date of the issuance of this refunding bond, issued for that certain improvement in said municipality, consisting of (briefly describing improvement), initiated by resolution number_____ of (name of municipality), and is payable only out of the special fund to be collected from special assessments imposed upon the lots or parcels of land fronting on or benefited by said improvement. Said special fund is set apart by law for the payment of said bonds, and cannot be used for any other purpose. This bond is callable at par on any interest payment date, by mailing notice thirty days prior to said date to the person last presenting one of the attached coupons for payment. It is hereby certified and declared that the improvement for which said bonds are issued is authorized by law. That all the acts, conditions and things required to be done precedent to and in the issuance of said bonds have been done and performed in regular and due form, as required by the laws of the state of Arizona, the charter of (name of municipality) and all ordinances and resolutions thereof, and that the special assessments out of which said bonds are to be paid are first liens on the property assessed, subject only to the lien for general taxes and prior special assessments, and that the proceedings for the issuance of this refunding bond have been had in all respects in compliance with the laws of the state of Arizona, the charter of (name of municipality), and all ordinances and resolutions thereof, and any bona fide purchaser for value of this bond has the right to rely on the recitals therein contained. For the assessment or re-assessment, collection and payment of said special assessments, the full faith and diligence of said municipality are hereby irrevocably pledged."

Sec. 11. Disposal of bond issue; sale; exchange. Unpaid bonds remain in force. Division of collections. Immediately upon ordering the issuance of said refunding bonds, the legislative body shall proceed to negotiate the disposition of said bonds. Said refunding bonds may be sold at public or private sale, with or without advertisement;

provided that no sale thereof shall be made for less than par and accrued interest. They may be exchanged for a like amount of bonds to be retired.

The legislative body, in order to facilitate the sale or exchange of said bonds, may enter into an agreement placing the said bonds in escrow with the county treasurer, in a responsible bank or trust company, or any person who shall furnish bond of a responsible bonding company conditioned for the faithful performance of the trust. The purpose of such escrow shall be to facilitate the exchange or sale of said bonds, and to provide that none of said refunding bonds shall be sold unless bid for not less than seventy-five per cent thereof shall have been received, or exchanged unless seventy-five per cent thereof shall have been offered for exchange. When seventy-five per cent of said bonds shall have been sold or exchanged, in pursuance of the provisions of this act, all of the bonds so purchased or exchanged may be delivered, and thereupon the time for payment of such percentage of the assessments levied to pay for said improvement as is represented by refunding bonds sold or exchanged, shall be extended to correspond with the time of payment of the refunding bonds, and the lien of each assessment shall by virtue of the delivery of said refunding bonds be extended and continue until such assessment is paid, or until two years after the due date of the last installment of said refunding bonds, and the unpaid portion of said assessments shall continue to draw interest at the same rate and be enforceable in the same manner as provided by the law under which said assessments were levied and said original bonds issued, until the expiration of said lien as hereby extended. If seventy-five per cent or more of said refunding bonds shall be sold or exchanged, but there shall remain unsold and unexchanged twenty-five per cent or less of said refunding bonds, the original bonds remaining unpaid and unexchanged shall continue in full force and effect as if this act had not been passed, and the holders of such unpaid and unexchanged original bonds shall be entitled to have the coupons on such bonds, and the bonds themselves, when they become due and payable, collected at the time and in the manner provided in the act under which said bonds were issued, and the superintendent of streets is hereby authorized and directed to compute the actual percentage which the refunding bonds sold or exchanged shall bear to the original bonds remaining unpaid and unexchanged at any time after the issuance of such refunding bonds, and at each collection date shall collect, of the assessments levied for said improvement, the proper percentage of principal to apply to unpaid and unexchanged original bonds, and the proper percentage of principal, if any is then due, to apply to sold or exchanged refunding bonds, together with the interest then due on all of said bonds.

The proceedings for the collection of the percentage applicable to unsold and unexchanged original bonds shall remain the same as if this act had not been passed, except that if the superintendent of streets shall sell any property for any assessment out of which, under the provisions of this act, there are payable original bonds and refunding bonds, there shall be declared due only the percentage of the principal which is attributable to the original bonds outstanding, and the sale shall be made for the amount represented by the total principal unpaid on original bonds, the interest to date of sale on original bonds, and the interest and principal to date of sale on refunding bonds, and the sale shall be made subject to future installments of principal and interest on refunding bonds as and when the coupons and bonds representing said interest and principal become payable, and the notice of sale, certificate of sale, and deed, shall expressly state that said sale is subject to the payment of the percentage of the assessment which is set aside for payment of the refunding bonds, and that said property may be sold again for the payment of any future installment of interest or principal on said refunding bonds when the same becomes due, if such installment of interest and principal shall not be paid by the purchaser at said sale, or any subsequent owner thereof. When sales are made, the proceeds of which shall be applied wholly to refunding bonds, the sale shall be made in all respects in compliance with the act under which the original bonds were issued.

Sec. 12. Reinstatement of assessment included in refunding procedure. At the time of the issuing of the refunding bonds herein provided for, and as a part of such refunding, the legislative body of the municipality may surrender to the owner of or any person having an interest in or lien thereon its interest in or to any lot or parcel of land sold to the municipality for any assessment levied for

the bonds so refunded, upon payment by said owner or other person of interest at the rate paid on the bonds from the date of the sale on the amount for which the property was sold, including penalties accrued up to the sale and costs of the sale, but remitting penalties accruing after the date of the sale, and, with the consent of such owner, may reinstate the original assessment as if such sale had not been made. Notation of such reinstatement shall be made on the record of the assessment by the superintendent of streets, and thereupon, such assessment shall be included among the assessments out of which the unpaid bonds or refunding bonds shall be paid. The time when the first payment on the principal of said assessments on such reinstated property shall begin shall be the same as when the first installments on other assessments shall begin, both for the payment of refunding bonds and the unrefunded bonds, if any, and the reinstated installments shall be payable annually after the installments hereby authorized for the refunding bonds are paid, and the lien shall be correspondingly extended. Such surrender and reinstatement may be made either before or after the expiration of time for redemption and after delivery of deed, but this section shall not be construed so as to limit the powers granted to the municipality by the act under which the original bonds were issued, or any amendment thereof.

Sec. 13. Repeal. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 14. Emergency. To preserve the public peace, health, and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect immediately upon its passage in the manner provided by law.

APPROVED FEBRUARY 23, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 23

(H. B. 36)

AN ACT

Proposing to amend section 3, article XII, constitution of Arizona, relating to terms of office of county officers.

Be it enacted by the Legislature of the State of Arizona:

Section 1. It is hereby proposed to amend section 3, article XII, constitution of Arizona, to read as follows:

Sec. 3. Subject to change by law, there are hereby created in and for each organized county of the state, the following officers, who shall be elected by the qualified electors thereof: Sheriff, recorder, treasurer, county attorney, assessor, three supervisors, and a school superintendent, each of whom shall be elected for a term of four years, and such officers elected at the general election in 1934 shall serve until the first Monday in January, 1939.

Sec. 2. When said proposed amendment shall be approved by a majority of the members elected to each house of the legislature, and shall be entered on the journal of each house, together with the ayes and nays thereon, the secretary of state shall submit such proposed amendment to a vote of the people at the next general election, or at a special election, if the legislature shall call a special election for the purpose of having proposed amendment voted upon.

APPROVED FEBRUARY 28TH, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 24

(SENATE BILL NO. 13)

AN ACT

Relating to articles of incorporation, and amending section 587, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 587, Revised Code of 1928, is hereby amended to read as follows:

Sec. 587. Articles of incorporation; required contents. Persons desiring to incorporate, before doing any business as a corporation, shall adopt articles of incorporation, signed and acknowledged by them as deeds are required to be acknowledged, and file the same in the office of the corporation commission, and a certified copy thereof in the office of the county recorder in each county of the state wherein the corporation proposes to transact business, where the same shall be indexed and recorded. The articles shall contain: 1. The names, residences, and post office addresses of the corporators, the name of the corporation, and its principal place of business. The name shall indicate the character of the business to be carried on by the corporation, and not more than one corporation shall have the same name; 2. the general nature of the business to be transacted; 3. the amount of capital stock authorized and the time when and the conditions upon which it is to be paid in. The articles may provide for the issuance of one or more classes of stock and stock without par value, in such number of shares, with such rights, and preferences, as shall be stated in the articles; that the issuance and sale of shares without par value will be for such consideration as is prescribed in the articles; that shares without par value shall be deemed fully paid and non-assessable; 4. the time of the commencement and the termination of the corporation; 5. by what officers the affairs of the corporation are to be conducted and the time of their election; 6. the highest amount of indebtedness or liability, direct or contingent, to which the corporation is at any time to subject itself, which must in no case exceed two-thirds of the authorized capital stock, and in case of corporations having no par value stock such amount shall be computed by rules and regulations of the corporation commission; provided, that such limitation shall not apply to indebtedness heretofore or hereafter authorized by three-fourths of the votes cast with respect thereto in conformity with the provisions of the articles of incorporation and the by-laws of any such corporation, at a lawfully held meeting of the stockholders thereof, and approved by the corporation commission; nor shall the rediscounting of securities owned by any such corporation, representing lawfully made loans, or the pledging or guaranteeing of said securities by the direct or indirect obligation of said corporation, by, with or to the federal intermediate credit bank, the regional agricultural credit corporation or other federal agency, or any bank or banking institution, if the transaction is authorized by the articles of incorporation of said corporation and approved by the corporation commission, be construed as a creation of indebtedness within the meaning of this section; 7. whether private property is to be exempt from corporate debts, and unless so exempted, stockholders are liable for the debts of the corporation, in the proportion which their stock bears to the whole capital stock.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 2ND, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 25

(H. B. 247)

AN ACT

Relating to the suspension of business by institutions doing a banking business, and authorizing the regulation and limitation of withdrawals of deposits, and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Upon recommendation of the superintendent of banks the Governor may, by proclamation, authorize the superintendent of banks to direct the suspension of business of all institutions doing a banking business in this state for such period as the superintendent of banks shall designate. The superintendent of banks in his recommendation to the Governor shall state fully his reasons therefor.

Sec. 2. The superintendent of banks may, whenever in his judgment he deems it necessary for the safety and protection of depositors, regulate and limit the withdrawal of deposits from any banking institution in this state.

Sec. 3. The superintendent of banks shall make such rules and regulations as are necessary to carry out the provisions of this act.

Sec. 4. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 2ND, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 26

(H.B. 248)

AN ACT

To amend Section 1653, Revised Code of 1928, as amended by Chapter 4, Session Laws of 1933, relating to the operation of motor vehicles without paying registration fee; penalty; seizure and sale.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 1653, Revised Code of 1928, as amended by Chapter 4, Session Laws of 1933, is hereby amended to read as follows:

Sec. 1653. Operation without paying registration fee; penalty; seizure and sale. Whenever any vehicle shall be operated upon the public highways of the state without payment of the registration or transfer fee, such fee shall be deemed delinquent, and if not paid within thirty days after delinquency a penalty equal to such fee shall be added thereto and collected; provided, that during the year 1933 such penalty shall not be collected if such fees are paid within ninety days after such delinquency. Every registration or transfer fee and any penalty added thereto shall from the date the same are due constitute a lien upon the vehicle upon which the same are due. The division shall collect such fee and penalty by seizure of such vehicle from the person in possession thereof, if any, and by sale as provided by law for the seizure and sale of personal property by the tax collector for the collection of taxes due thereon.

Sec. 2. Whereas, an early operation of this act is required to preserve the public peace, health and safety, an emergency is therefore declared to exist and this act is hereby exempt from the operation of the referendum provisions of the State Constitution and shall take effect and be in full force and effect from and after its passage and its approval by the governor.

APPROVED MARCH 2ND, 1933.

CHAPTER 27

(H. B. 89)

AN ACT

To amend Sec. 1575, Art. 3, Chap. 31, Revised Code of 1928, as amended by Sec. 8, Chap 100, Session Laws of 1931, relating to state highway fund, an ad valorem tax; and to amend Sec. 1673, Art. 6, Chap. 31, Revised Code of 1928, as amended by Sec. 1, Chap. 16, Session Laws of 1931-32, (1st special), relating to motor vehicle fuel license tax, amount of tax, payment and distribution thereof, and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1575, Art. 3, Chap. 31, Revised Code of 1928, as amended by Sec. 8, Chap. 100, Session Laws of 1931, is hereby amended to read as follows:

Sec. 1575. State highway fund. The state highway fund shall be held in the custody and charge of the state treasurer, and no money shall be placed to the credit of, nor paid out from said fund, except as provided in this chapter.

Sec. 2. Sec. 1673, Art. 6, Chap. 31, Revised Code of 1928, as amended by Sec. 1, Chap. 16, Session Laws of 1931-32, (1st special), is hereby amended to read as follows:

Sec. 1673. Amount of tax; when payable; distribution. Every distributor shall pay to the state, in addition to all other taxes provided by law, a license tax of five cents for each gallon of motor vehicle fuel possessed, refined, manufactured, produced, blended or compounded in this state by such distributor, or imported by such distributor, whether in the original package or container in which it was imported, or otherwise. The payment of the tax herein imposed shall not be required on any motor vehicle fuel possessed at the time this law becomes effective, and upon which a tax has been paid to the state under the provisions of Chap. 31, Revised Code of 1928, and amendments thereto. In the computation of such tax, one per cent of the tax otherwise due shall be deducted before payment for shrinkage. Such license tax accrued in any calendar month shall be paid on or before the fifteenth day of the next succeeding calendar month to the vehicle superintendent, who shall promptly pay six tenths of all such money to the state treasurer, who shall deposit the same in the state highway fund, and three tenths of all such money to the several county treasurers of the state, in the proportion that the sales of motor vehicle fuel in such county shall bear to the total sales of motor vehicle fuel throughout the state, and one tenth of all such money, during the ensuing two years, to a reconstruction finance corporation fund to be expended under the governor's direction, and thereafter to the state highway fund; provided, however, that prior to July 1, 1933, the proportion of said tax distributed to the state shall be three fifths thereof, and the proportion of said tax distributed to the counties shall be two fifths thereof. Such tax accruing to the counties shall be used by the counties as may be determined by the boards of supervisors thereof, for the construction, improvement or maintenance of county highways or bridges, or for the retirement of outstanding county highway bonds, or the payment of interest thereon. The vehicle superintendent shall deduct all exemptions and refunds from the said tax before making the division between the state and counties.

Sec. 3. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 2ND, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 28

(SENATE BILL NO. 81)

AN ACT

Relating to interest on public deposits, and amending section 2637, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2637, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2637. Minimum rate of interest; how deposits carried. An active depository of public money shall pay interest thereon at the rate of not less than one-half of one per cent per annum; an inactive depository of public money shall pay interest on money on deposit less than six months but more than two months not less than one per cent per annum, on money on deposit for six months and over not less than two per cent per annum. The interest shall be calculated on daily balances and credited monthly. Every such deposit shall be carried upon the books of the depository as the treasurer shall direct.

Sec. 2. To preserve the public peace, health, and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED ARCH 3RD, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 29

(SUB. H. B. 167)

AN ACT

Declaring the existence of an emergency, and providing procedure in actions and foreclosure of real estate mortgages.

Be it enacted by the Legislature of the State of Arizona:

Section 1. There is hereby declared to be in the state of Arizona an emergency involving the social, economic and financial welfare of the state as a whole.

Sec. 2. In all actions for the foreclosure of real estate mortgages now pending, in which final judgment has not been rendered, and in all actions hereafter commenced for the foreclosure of real estate mortgages, or on notes secured thereby, executed prior to the passage of this act, in any court in the state of Arizona, said court, upon application of either the plaintiff or the defendant in such action, provided said defendant is not in default for want of pleading, unless upon hearing of said application good cause is shown to the contrary, may order such cause continued for a period not longer than two years from the date this act becomes effective.

Sec. 3. In all actions now pending in which default has been entered but no judgment signed, the plaintiff or defendant shall have ten days from the date upon which this act becomes effective in which to file said application for continuance. Upon an order of continuance, as provided in this act, the court shall make such order or orders for the possession of the real estate involved in said action, giving preference to the owner or owners in possession, determining fair rental terms to be paid by the party or parties to be in possession, and application for distribution of the rents, income and proceeds from said real estate, and make such provisions for the preservation of said property as in the discretion of the court may seem just and equitable during the continuance of said cause. Said order shall provide that such rent, income or proceeds shall be paid to and distributed by the clerk of the superior court of the county in which said suit is pending, and further provide that in such distribution the taxes, insurance, cost of maintenance and up-keep of said real estate shall be paid in the priority named and the balance distributed as the court may direct; provided, however, that the court shall, upon a substantial violation of its order, or for other good and sufficient cause, set aside said order of continuance, and the cause shall proceed to trial as by law now provided.

Sec. 4. The court may, upon such terms and conditions as in its discretion seem just, advisable or equitable, suggest and recommend conciliation or arbitration between the parties to the action.

Sec. 5. The provisions of this act shall not be construed to apply to any suit for the foreclosure of a mortgage or on notes secured thereby, owned by the superintendent of banks of Arizona, in his official capacity, or his assigns or any person claiming through or under him.

Sec. 6. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 4TH, 1933.

CHAPTER 30

(H. B. 258)

AN ACT

Relating to the suspension of business by institutions doing a banking business, and authorizing the regulation and limitation of withdrawals of deposits, and providing for the issuance of scrip, and amending Chapter 25, Session Laws of Arizona, Eleventh Legislature, 1933, and providing for the constitutionality of the remainder of the act should any part thereof be held unconstitutional, and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Upon recommendation of the Superintendent of Banks the Governor may, by proclamation, authorize the Superintendent of Banks to direct the suspension of business of all institutions doing a banking business in this state for such period as the Superintendent of Banks shall designate. The Superintendent of Banks in his recommendation to the Governor shall state fully his reasons therefor.

Sec. 2. The superintendent of banks may, whenever in his judgment he deems it necessary for the safety and protection of depositors, regulate and limit the withdrawal of deposits from any banking institutions in this state.

Sec. 3. The superintendent of banks shall make such rules and regulations as are necessary to carry out the provisions of this act.

Sec. 4. Whenever any person shall violate any provision of this act or shall fail or refuse to comply with any rule or regulation issued by the superintendent of banks pursuant to the provisions of this act, such persons shall be punished by a fine not to exceed five thousand dollars, or by imprisonment not to exceed six months or by both such fine and imprisonment. Each day that any person shall fail or refuse to comply with any such rule or regulation shall be a separate offense.

Sec. 5. If any person shall fail or refuse to comply with any rule or regulation of the superintendent of banks issued pursuant to the provisions of this act, the superintendent of banks may upon application to the superior court, procure a mandatory injunction requiring compliance with such rule or regulation, and no bond shall be required of the superintendent of banks in any such action. Such actions shall be given precedence over all actions then existing.

Sec. 6. During the period that the business of institutions doing banking business in this state is suspended or withdrawals of deposits are limited or restricted, the superintendent of banks by and with the consent and approval of the Governor may authorize any institution doing banking business in this state, or any clearing house association, or any association of institutions doing a banking business in this state, to issue scrip redeemable at its face value upon such terms, conditions and limitations as the superintendent of banks may prescribe, provided that such terms, conditions and limitations shall never be less exacting than those now or hereafter prescribed by any statute, rule or regulation promulgated by the United States or any agency thereof. Such scrip, when issued shall be received in payment of all obligations of whatever nature.

Sec. 7. Any person who with the intent to defraud shall make, alter, forge, or counterfeit any scrip, or who shall have in his possession any altered, forged, counterfeited or spurious scrip with intent to use the same, knowing or having reasonable grounds to believe that such scrip is altered, forged, counterfeited or spurious, shall be guilty of a felony.

Sec. 7a. If any section, sub-section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional.

Sec. 7b. This act shall be effective to and including the 15th day of January, 1935

Sec. 8. To preserve the public peace, health and safety it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 6TH, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 31

(SENATE BILL NO. 51)

AN ACT

Relating to the investment of moneys in the permanent funds, and amending section 2640, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2640, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2640. Investment of funds; by whom; on what property; rate. The state treasurer, with the approval of the governor and secretary of state, shall invest any moneys in the permanent funds of the state in bonds of the United States, improvement bonds of this state, or of the counties, incorporated cities and towns, or school districts thereof. Said moneys shall not be invested in bonds yielding a lower rate of interest than two per cent per annum.

APPROVED MARCH 7TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 32

(H. B. 121)

AN ACT

Relating to the issuance of refunding bonds by counties, school districts and other municipalities, and amending sections 2668 and 2669, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2668, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2668. Refunding bonds; procedure. The board of supervisors, on behalf of the county or of any school district therein, and the governing body of any municipality, may issue refunding bonds to refund the bonded indebtedness of such county, school district or municipality, whenever expedient to do so. The board of supervisors, or such governing body, desiring to issue refunding bonds, shall adopt a resolution, entered upon its minutes, stating the facts and determination of such necessity or advisability, the amount of bonds to be issued, the date thereof, the denominations, the rate of interest (which shall not exceed the rate in the original issue, more than one per cent), the maturity date (which shall not be more than ten years later than the date of maturity of the original issue), and the place of payment, within or without the state, of the principal and interest.

Sec. 2. Sec. 2669, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2669. Form and contents of bonds. Such bonds shall be negotiable in form, executed in the name of the county, school district or municipality, signed by the chairman of the board or governing body, countersigned by the county or municipal treasurer, sealed with the seal of the county or municipality and attested by the clerk; the interest shall be payable semi-annually, evidenced by semi-annual interest coupons attached to the bond, bearing the engraved facsimile signature of the chairman of the board or governing body. Both principal and interest of said bonds shall be payable at the office of the county or municipal treasurer, or at such other place as may be designated in said bonds and coupons, at the option of the holder; the principal shall be payable in substantially equal annual instalments, beginning not later than ten years after the date of said bonds and continuing during the period within which said indebtedness is to be discharged.

Sec. 3. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 7TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 33

(H. B. 192)

AN ACT

Relating to the payment of salaries and wages, and amending Sec. 4876, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 4876, Revised Code of 1928, is hereby amended to read as follows:

Sec. 4876. Semi-monthly wage payment; notice; violation; penalty. The state of Arizona, every department and institution of the state, every county and municipal corporation within the state, every school district and institution of learning within the state, every contractor (whether individual, firm, partnership, association or corporation) employed under contract by the state, or by any of said departments, institutions, counties or municipal corporations, and every company or corporation doing business in the state, shall designate regular days not more than sixteen days apart as days fixed for the payment of wages to the employees thereof, and shall post and maintain notices, printed or written, in plain type or script, in at least two conspicuous places where said notices can be seen by said employees as they go to and from their work, setting forth said days as "pay days", and the state and every such department, institution, corporation or individual shall pay on each of said days to its or his employees in lawful money of the United States, or in negotiable bank checks, payable on demand, of the date of said day, all wages due said employees up to such pay day, except that said state, department, institution, corporation, or individual may withhold wages for not more than five days labor due any employee remaining in the service thereof.

Every contractor mentioned herein, and every corporation (except municipal corporations) violating any of the provisions hereof, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty nor more than five hundred dollars for each offense; provided, that to and including the fifteenth day of January, 1935, the operation of this section, insofar as it applies to the medium of payment, shall be suspended during any period in which banking business in this state is generally suspended, or limitations or restrictions are imposed under the direction of the superintendent of banks upon withdrawals of deposits from institutions doing a banking business in this state.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 9TH, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 34

(SENATE BILL NO. 1)

AN ACT

Relating to old age pensions; providing for the payment thereof, and creating county old age pension commissions in each county of the state.

Be it enacted by the Legislature of the State of Arizona:

Section 1. This act shall be cited as the old age pension act of 1933.

Sec. 2. County old age pension commission. The board of supervisors of each county is hereby designated the county old age pension commission, hereinafter referred to as the county commission. The members thereof shall serve without additional compensation.

Sec. 3. Powers of county commission. The said county commissions shall perform the duties imposed upon them by this act, for and on behalf of their respective counties, and for such purpose shall have power to make such rules and regulations, not inconsistent with this act, and to provide such blanks, forms, books, and stationery, as may be necessary, and the expense thereof shall be a county charge.

Sec. 4. Who eligible for old age pension. Every citizen of the United States, over the age of seventy years, who has resided in the state continuously for not less than thirty-five years next preceding the date of application, shall, subject to the conditions hereinafter imposed, be eligible, in the discretion of the county commission, to receive an old age pension; provided, that occasional absences from the state, not exceeding a total of five years, or absence from the state while in the employ or service of the state or of the United States, shall not be deemed to be an interruption of continuous residence.

Sec. 5. Conditions. No person shall be eligible for a pension whose income from all sources, at the date of application, shall exceed three hundred dollars per annum, and no applicant shall be eligible who alienates, transfers, or divests himself, directly or indirectly, of any property, for the purpose of availing himself of the provisions of this act.

Sec. 6. Determining income. In ascertaining the income from property of an applicant, the same shall be computed on the basis of three per cent of the value of such property, as determined by the county commission. In ascertaining the applicant's income from all sources, such income for the last preceding year shall be deemed to be his annual income, and the property owned by him at the close of such year shall be deemed to be accumulated property; provided, that for the purpose of fixing the amount of the pension, if any, to be allowed, any loss of income from personal earnings shown by the applicant to have been suffered may be deducted from the said income of the preceding year.

Sec. 7. Applications. All applications for old age pensions shall be made to the county commission, under oath, on a form to be prescribed by the commission, and shall show: 1. that the applicant is a citizen of the United States; 2. that he has resided continuously in Arizona for a period of thirty-five years; 3. that he is at the time a resident of the county in which the application is made; 4. that he is seventy years of age or over; 5. that he is not a guest or inmate of any public institution, and, 6. such other information as the commission may require.

Sec. 8. Amount of pension. The county commission shall ascertain the facts, and in accordance therewith determine the pension, if any, to be allowed in each case, but in no event shall such pension exceed thirty dollars per month. The award so made shall be reviewed at least annually, and whenever, in the opinion of the county commission, the conditions warrant, the amount of the pension shall be revised.

Sec. 9. Pension certificate. Upon the award of an old age pension, the commission shall issue to the pensioner a certificate, which shall set forth the date of issuance, the pensioner's name, age and residence, and the amount of monthly payment; and said certificate shall be good for one year unless sooner revoked. The pension shall commence as of the date of issuance of the certificate, and shall be paid in monthly instalments as hereinafter provided.

Sec. 10. Pension paid by state and county. The old age pensions provided by this act shall be paid sixty-seven per cent by the state and thirty-three per cent by the county in which the pensioner resides, and shall be paid out of the general fund of the state and of such county respectively.

Sec. 11. Payment of pension. (a) When a pension award is made and pension certificate issued the commission shall certify the facts with respect thereto, on a blank to be prescribed by the state auditor, to said state auditor and to the county treasurer of the county in which the pensioner resides and such certification, until revoked, superceded or nullified by expiration or death, shall be authority to the said officials to draw their warrants monthly in payment of such pension, in the respective proportions herein prescribed. Any warrant so issued shall be mailed to the last known address of the pensioner.

(b) The payment of pension instalments shall be by means of a voucher warrant or warrant to which is attached a voucher or claim, which shall be signed and acknowledged by the pensioner before such warrant will be honored by the state treasurer.

Sec. 12. Cancellation of pension. If any pensioner hereunder, or the wife or husband thereof, shall become possessed of property or income in excess of the amount allowed by law in respect to the amount of such pension, the county commission may, on inquiry, revoke such pension or reduce the amount thereof during the current period of the certificate; and it shall be the duty of the pensioner immediately to notify the county commission of the acquisition of such property or income.

Sec. 13. Recovery of pension upon death of pensioner. (a) Upon the death of a pensioner, or if a married person, the death of the last survivor, the total amount paid on such pension, together with three per cent interest, shall be deducted and allowed out of the proceeds of such pensioner's property, as a preferred claim against the estate, and shall be proportionately refunded to the state and county treasurer respectively for deposit to the credit of the general fund, leaving the balance for distribution among the lawful heirs.

(b) If, on the death of a pensioner hereunder, it shall be found that such pensioner was possessed of property in excess of the amount allowed by law in respect to the amount of the pension received by him, double the total amount of the pension paid in excess of the amount to which the pensioner was by law entitled, may be recovered by the county commission, as a preferred claim against the estate of said pensioner. The attorney-general or county attorney shall take the necessary steps to recover such claim and the amount so recovered shall be paid into the state treasury and the county treasury in proportion of their respective payments on such pension.

Sec. 14. Payment of funeral expenses. Upon the death of a pensioner, the monthly instalment then accruing, with an additional amount to be fixed by the county commission, but not to exceed a total of one hundred dollars shall, if the estate of the deceased is insufficient for such purpose, be paid to such person or persons as the commissioner may direct, for the burial of the pensioner.

Sec. 15. Removal to another county. No pensioner shall receive any other relief from the state, or from any political subdivision thereof, except for hospitalization, medical and surgical expenses, while receiving the said pension. In case the pensioner finds it necessary because of illness or for any other justifiable cause, to remove from the county paying such pension, to another county within the state, the county paying such pension at the time of removal shall continue to pay the same until such pensioner becomes qualified to receive a pension from the county to which he has removed. When a pensioner removes permanently from the state, his pension shall cease.

Sec. 16. Pension cannot be assigned or attached. A pension awarded under the provisions of this act shall be inalienable by any assignment, sale, attachment, execution, or otherwise, and in case of bankruptcy such pension shall not pass to any trustee or other person acting on behalf of creditors.

Sec. 17. Pension improperly obtained; inquiry. If the county commission has reason to believe that a pension certificate has been improperly obtained, it shall cause inquiry to be made by the county attorney, and may suspend the payment of any instalment pending such inquiry. If it appears that the pension was improperly obtained, the pension certificate shall be cancelled, but if it appears that the pension was properly obtained, the suspended instalments shall be payable in due course.

Sec. 18. Penalty for obtaining pension fraudulently. Whoever by means of a wilfully false statement or representation, or by impersonation or other fraudulent device, obtains, or attempts to obtain, or aids or abets any other person to obtain: 1. an old age pension certificate to which he is not justly entitled; 2. a larger pension than that to which he is justly entitled; 3. payment of any forfeited instalment; 4. or aids or abets in the buying or in any way disposing of the property of a pensioner, without the consent of the county commission, shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine not exceeding two hundred and fifty dollars or to undergo imprisonment in the county jail not exceeding three months, or both.

Sec. 19. Violation; penalty. Whoever violates any provision of this act for which no penalty is specifically provided shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine not exceeding two hundred and fifty dollars or to undergo imprisonment in the county jail not exceeding three months, or both. If a pensioner hereunder is convicted of an offense under this section, the county commission may cancel the certificate in respect to the issue of which the offense was committed.

Sec. 20. Forfeiture of pension. In case of forfeiture of a pension certificate, the person whose pension is so forfeited shall be disqualified from making an application for a new certificate until after the expiration of one year from the date of forfeiture.

Sec. 21. Report of commission. Within ninety days after the close of each fiscal year, the commission of each county shall make an annual report to the state auditor, which shall contain: 1. the total number of pensioners; 2. the total amount paid; 3. the total number of applications; 4. the number of pensions granted, the number denied, the number cancelled during the year, and such other information as the state auditor may deem advisable.

Sec. 22. Vested right not conferred. This act shall in no wise be construed as conferring any vested right on the pensioner.

Sec. 23. Appropriation. The sum of twenty dollars per month to each pensioner under this act, or so much thereof as may be necessary, is hereby appropriated out of the general fund of the state, to carry out the provisions of this act. The state auditor shall report to the state tax commission the sum of all warrants issued hereunder, and the state tax commission shall include said sum in determining the annual tax levy.

Sec. 24. Effective date. This act shall take effect and be in force from and after July 1, 1933.

APPROVED MARCH 9TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 35

(H. B. 236)

AN ACT

To create a state board of public welfare and to define its jurisdiction, powers and duties; to provide for the appointment of county boards of public welfare and defining their jurisdiction, powers and duties; to repeal Art. II, Chap. 40, Revised Code of 1928, and all laws or parts of laws in conflict herewith; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. State board of public welfare; appointment; term of office. The governor shall appoint a board to consist of five (5) members, citizens of the state of Arizona, to constitute the state board of Public Welfare. At least one of such members shall be a woman. Immediately upon this act becoming effective the governor shall appoint all such members, three (3) thereof for a term expiring January 1, 1935, and two (2) thereof for a term expiring January 1, 1937, and thereafter the term of each member appointed by the governor shall be four years. Appointments to fill vacancies in the board arising from any cause whatsoever, except expiration of term, shall be made for the remaining portion of such term. The members of the board shall serve without pay, except that they shall receive their actual and necessary expenses incurred in travelling and in discharge of the duties required by this act.

Sec. 2. Meetings of board. The board, immediately after appointment, shall meet and elect a chairman and shall meet thereafter at least once in every three (3) months and whenever called in session by the chairman. It shall make such rules and orders for the regulation of its own proceedings as it may deem proper.

Sec. 3. Powers and duties of board. The board shall have the following powers and duties, to-wit:

1. To study the subjects of unemployment, poverty, vagrancy, housing conditions, crime and kindred subjects and their causes, treatment and prevention, and the prevention of any hurtful social condition.

2. To study and promote the welfare of the dependent and delinquent child and to provide for the placing and supervision of dependent, delinquent and defective children; subject, however, to the orders of the superior court of the county in which such child resided at the time the board first assumed control thereof.

3. To assume control of the persons of all orphans, waifs and dependent children under the age of eighteen years, within the state, to the extent herein provided; subject, however, to the orders of the superior court of the county in which such child resided at the time the board first assumed control thereof; to investigate the conditions surrounding any orphan, neglected or dependent child under the age of eighteen years, upon presentation of facts warranting such investigation; to provide suitable homes for orphans or children who have been abandoned by their parents, and to have them adopted whenever such action is deemed to be in the best interests of the child; provided, however, that when no suitable home can be found or provided for such child the board shall temporarily provide for the care of such child in a foster home or an institution, or in such other place as in the opinion of the board will most fittingly serve the child's interest.

4. To inspect and make reports on private orphanages, institutions, maternity homes and persons or organizations receiving and placing children, and to require such institutions to submit such annual reports and information as the board may determine.

5. To licnese for a period not exceeding one (1) year all persons, firms, agencies, institutions and associations engaged in or carrying on public welfare relief, social welfare and charitable functions and to revoke such license, when in the opinion of the board the public welfare or the good of the state at large is not being properly subserved.

6. To employ a secretary, who shall be a trained investigator of social service problems, at a salary to be fixed by the board; and to employ such other inspectors, officers and agents as it may deem needful in the discharge of its duties.

7. To recommend to the legislature social legislation, and the creation of necessary institutions or agencies designed to promote social welfare in the state.

8. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever it deems it necessary in making the investigations provided for herein or in the discharge of its other duties, and to give such publicity to its investigations and finding as it may deem best for the public welfare.

9. To pay out of the funds appropriated or donated to the board, office expenses, salaries of employees and all other expenses incurred in carrying out the duties and powers herein set out subject to the approval of the governor.

10. To aid and cooperate with the several county boards of supervisors in the care and maintenance of the indigent, sick, and dependent poor, either directly or through the agency of the county board of public welfare and to make necessary expenditures therefor; provided, however, that such boards of supervisors shall upon request or demand by the state board of public welfare, by resolution, assign and delegate to the board of public welfare all or any of the powers and duties of such boards of supervisors now provided by law with respect to the care and maintenance of the indigent, sick and dependent poor; and provided further, that when such powers and duties of any board of supervisors are so assigned and delegated, such board of supervisors shall from time to time transfer and pay into the state public welfare fund sufficient funds of the county to defray the cost and expense of the care and maintenance of the indigent, sick and dependent poor of said county assumed by the state board of Public Welfare; such funds shall be used only for the purposes for which they were transferred and/or paid. The respective boards of supervisors and the state board of Public Welfare shall meet in joint session on or before the 15th day of July in each year and estimate the amounts that may be required to meet the expense of the care and maintenance of the indigent, sick and dependent poor of the county during the ensuing year; and the board of supervisors shall thereafter levy in the manner provided by law sufficient taxes to raise the amount so estimated. Nothing in this paragraph shall be deemed to extend to the maintenance or operation of any county almshouse, poor farm, or hospital now or hereinafter maintained or operated by any county board of supervisors.

11. To receive, hold and administer for the purposes for which the state board of Public Welfare is created, any and all property, real or personal, or the use thereof donated to such board, either by will or deed, and to use and administer said property for the purposes specified and in accordance with instructions of the will, deed or gift creating such donation. To receive, hold and expend, subject to the provisions of this act, money received by gift, donation or otherwise from private sources, from federal, state, county or municipal governments or agencies, or from any charitable association or institution. All money received under the provisions of this paragraph shall be paid into the state treasury to be maintained by the state treasurer in a fund known as "State Public Welfare Fund."

12. To initiate or approve work projects in any county for the relief of the destitute unemployed.

13. To act as the official agency for the state in any social welfare activity initiated by the federal government and to administer any state funds that may at any time be appropriated or made available for the relief of destitute or necessitous persons.

Sec. 4. Board may select institution to care for children. The board may select and designate any institution or foster home in this state to care for orphans, waifs and dependent children under the age of eighteen years and may enter into contracts with such institutions or foster homes for the support and care of such children at a sum certain per month. The board may investigate and direct the manner in which such children are being cared for in such institution or foster home and require that funds contracted to be paid to any such institution or foster home are used for the purposes contracted. The board may cancel any contract made with any istitution or foster home at any time when in the opinion of the board such institution is not fulfilling the contract or when children placed therein are not receiving the benefits intended.

Sec. 5. Board deemed guardian of children subject to authority of court. The board shall be deemed the guardian of every child as may to it appear to be subject to, or entitled to the benefits of this article; and as such guardian may, without specific appointment by any court, act with respect to providing for the proper care and maintenance of any such child. No provision of this article shall divest Superior courts or judges of jurisdiction over children, whether the child welfare board has acted or not.

Sec. 6. Mothers deemed in class. Any widowed or abandoned mother of a child under sixteen years of age, who is unable to support, maintain and educate her child, or any mother whose husband is permanently, either physically or mentally unable to support, maintain, and educate such child, and who is without any property, which, in the judgment of the state board could be disposed of towards the support of self and children, shall be deemed to be within the class of mothers described herein.

Sec. 7. Duty of state board upon receiving report as to child or children. Upon receiving reports pertaining to any child or mother with children under the age of sixteen years who may be entitled to aid, and, after final investigation, the board may place the child temporarily in an institution, or in the home of a suitable person, payment for which, in either case, is to be made as other claims against the state are paid out of money appropriated therefor.

Sec. 8. Allowances for relief of mothers; investigations and procedure. Upon receiving reports as to the necessity of any mother for support, and after final investigation, the board may make an order therein fixing an amount per month to be paid to the mother of one child under sixteen years of age, with an additional amount per month for each additional child under such age; which order shall be authority to the state auditor to draw warrants for the amount therein specified for the period, if any therein specified, and if no such period is mentioned, the authority of such order is to continue until such time as revoked by the board. No allowance shall be ordered for the relief of any mother who has not resided in the state for at least one year immediately preceding the time of application for relief and who is not a citizen of the United States; nor unless the application accompanied by the affidavit of the mother shows the right to such allowance, and such additional facts as the board may require. The original order shall be filed in the Superior court of the county in which the child or mother is, and copies filed with county board of public welfare, the auditor of the state, and one retained in the records of the state board.

Sec. 9. Consent of parent or order of court to obtain guardianship. The board shall not assume the guardianship, custody or control of any minor child without the consent of its parent, if within the state, without first obtaining an order of the court awarding the board the custody of such child under the provisions of article I, chapter 40, Revised Code of 1928. The court may commit any child found by it to be a neglected or deserted child, to the guardianship, custody and control of the board, and in that case the child so committed shall be subject to, and entitled to, the same benefits as other children under the guardianship and control of the board.

Sec. 10. County board of public welfare; appointment; duty. The state board of public welfare shall appoint in every county of the state three (3) persons, residents of different communities of the county, to constitute the county board of public welfare, whose duty shall be to advise with and assist the state board in the welfare and relief work of such county. The members of each county board of public welfare shall serve without pay, except that they shall receive their actual and necessary travelling expenses while

in discharge of the duties imposed upon them by the state board. The state board shall have the power to remove at any time any member of any county board arising from any cause whatsoever. Each county board shall be under the direct supervision and control of the state board and shall cooperate and coordinate with private, charitable, relief and welfare organizations; shall act in a general advisory capacity to the county and municipal authorities in dealing with questions of dependency and delinquency, distribution of poor funds, welfare and relief funds and social considerations generally, and shall at all times do and perform such duties as may be assigned to them by the state board of public welfare.

Sec. 11. Terms of office; organization; secretary and employees. The county board of public welfare shall be appointed one for one year, one for two years, and one for three years, and subsequent appointments shall be for a term of three years. The persons so appointed shall meet immediately after their appointment and organize by selecting a chairman. The county board may, with the consent and approval of the state board, employ a secretary and such other employees as may be necessary in the discharge of its duties.

Sec. 12. Article II of chapter 40, Revised Code of 1928, consisting of sections 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952 and 1953, is hereby repealed. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 13. Should any section, paragraph, sentence, clause or phrase of this act be declared unconstitutional or invalid for any reason, the remainder of said act shall not be affected thereby.

Sec. 14. Whereas, the early operation of this act is required to preserve the public peace, health and safety, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval by the governor, and is hereby exempted from the operation of the referendum provisions of the constitution of the state of Arizona.

APPROVED MARCH 9TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 36

(H. B. 270)

AN ACT

Making an additional appropriation for current and contingent expenses of carrying on, conducting and defraying expenses of the Eleventh Legislature of the state of Arizona in connection with salaries of employees; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That the sum of five hundred ($500.00) dollars, or so much thereof as may be necessary, is hereby appropriated out of the general fund now in the hands of the state treasurer of the state of Arizona, for the salaries of employees.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 11TH, 1933.

CHAPTER 37

(SENATE BILL 68)

AN ACT

Relating to irrigation districts; providing for district assessments, for the conversion of district liens, for the payment of district taxes, for the release of taxes in certain cases, for district loans, for the settlement of district obligations, and for the exclusion of district lands; providing methods of elections and qualifications of electors, and amending Art. 2, Chap. 81, Revised Code of 1928, and acts amendatory thereof.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Article 2, chapter 81, Revised Code of 1928, as amended by section 7, chapter 98, Session Laws 1931, is hereby amended by adding a section, to be designated section 3356a, and to read as follows:

Sec. 3356a. District assessments; collection. (a) In addition to authorized taxes, the board of directors may, at any regular or special meeting, public notice of which shall be given for at least ten days previous by posting in three of the most public places within the district, by resolution adopted by a two-thirds vote and entered upon the records of the district, levy an assessment for the purpose of paying or refunding district indebtedness, repairing, improving, extending, maintaining and operating existing irrigation works, installing new works or systems, or meeting emergencies. Any such assessment may by such resolution be made payable at one time or in instalments extending over such period of time and in such amounts as the board of directors may deem advisable. Such resolution shall state the purpose or purposes for which such levy is made, the aggregate amount thereof, and the amount thereof per acre, which shall be equal upon each acre subject to district taxation, the method, times and manner of payment and collection of the assessment, and if the same be payable in instalments, the amounts and due dates thereof. The board of directors shall also by such resolution prescribe the rate or amount of penalty attaching for failure to pay the assessment, or any instalment thereof, when the same becomes due, and the interest the same shall bear from said date, which penalty and interest shall in no event exceed the rate or amount provided by laws then in force relating to state and county taxes. The board of directors shall have the right to provide by said resolution that failure to pay any instalment of any assessment may, at the option of the board, cause the whole amount thereof to become immediately due and payable.

(b) No assessment equal to more than two dollars and fifty cents per acre per year or in excess of an aggregate of five dollars per acre shall become effective until approved by a majority vote of the qualified electors of the district. Should the directors deem it necessary or advisable to levy an assessment in excess of two dollars and fifty cents per acre payable in any one year, or in excess of an aggregate of five dollars per acre, the question of such proposed levy shall be submitted to a vote of the qualified electors of the district at a regular or special election. Notice of such election shall be given by posting notices thereof in three public places in each division of the district for at least twenty days prior to the date of the election, and also by publication of such notice in a newspaper of general circulation published in the county where the office of the board of directors of such district is kept, once a week for at least two successive weeks prior to such election. Such notice shall specify the time of holding the election, and shall, briefly state the same matters as are herein required to be set forth in the resolution of the board of directors levying such assessment. Said election and the results thereof shall be determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of directors; provided, that no informalities in conducting such election shall invalidate the same if said election shall have been otherwise fairly conducted.

(c) A copy of the resolution levying an assessment as herein provided, signed by the president and attested by the secretary of the district, shall be filed in the office of the county recorder of each county in which any of the lands of such district shall lie; provided, that where the approval of the qualified electors of the district is required such copy shall not be filed until such approval by election as herein provided shall have been obtained, and in such cases the district secretary shall attach to the copy so filed a certificate stating that the levy of the assessment therein provided for has been approved.

(d) Upon the levy of any assessment as herein provided the same shall be and become a lien to the amount thereof upon the lands assessed, subject only to prior state, county and district taxes and assessments, which lien shall continue until such assessment and all penalties and interest thereon are paid in full.

(e) Assessments levied under the provisions of this section shall be payable to the district secretary at the district office, and when so paid the district secretary shall execute, under the seal of the district, a release of the lands for which payment is made, and such release may be filed in the office of the county recorder.

(f) The district secretary shall, after the date of maturity of any assessment or instalment thereof, on unanimous vote of the board of directors in districts having a board composed of three members, and on a two-thirds vote of the directors in districts having a board of nine members, prepare a list of the lands upon which such assessment or instalment thereof is unpaid and delinquent, describing such lands as the same appear upon the district records and the names of the owners thereof, respectively, stating that so much of each tract of land as may by said secretary be deemed necessary for the purpose will, on the date specified, be sold by him at public auction to the highest and best bidder for cash, at the office of the district, for the assessment or instalment thereof then due and unpaid, and penalties, interest and charges thereon. The said secretary shall mail the owner of each parcel of land, if the owner be known, at his last known address as the same appears upon the district records, a copy of said notice of proposed sale. Such notice shall be mailed not less than thirty days prior to the date therein fixed for such sale, and said secretary shall cause said list and notice to be published at least once a week for two consecutive weeks in a newspaper of general circulation within the county wherein the district office is located, the first of which publications shall be not less than thirty days prior to the date of the sales prescribed therein.

(g) At the time and place fixed for the sale the district secretary shall sell said lands, or so much thereof as may be necessary, in satisfaction of the amount of such assessment then due and unpaid thereon, with interest, penalties and costs of sale, and shall deliver to the purchaser a certificate of purchase as in the case of sales of real property sold under execution. The delinquent land owner, or his grantee, or other person entitled by the laws of Arizona to redeem from execution sales, may redeem from any such sale within the times and in the order and manner provided by the laws of this state relating to redemption from tax sales; provided, that any notice of such redemption required by law shall be given, and the amounts required for redemption shall be paid, to the secretary of the district.

(h) Whenever such redemption shall be made by the land owner or his grantee the secretary shall issue and deliver to him a certificate of redemption, and, except where sales shall have been made to the district, the secretary shall, upon surrender of the certificate of purchase, pay over to the purchaser the amount paid on redemption. If no redemption be made by the land owner or his grantee within the time herein provided, the district secretary shall execute and deliver to the last redemptioner redeeming said property, or to the purchaser in case there is no such redemption, a deed reciting the proceedings had and taken and conveying all the right, title and interest of said delinquent land owner in and to the premises sold. Such deed shall vest the grantee therein with title to the premises involved, subject only to prior state, county and district taxes and assessments, and the person named in such deed shall be forthwith entitled to demand and receive possession of the premises described in such deed. In the event the delinquent land owner or other person in possession of the lands des-

cribed in any such deed shall upon demand fail to deliver up possession thereof, possession of such lands may be recovered as if the same were held by forcible detainer.

(i) The district may, if it so elects, bring suit in any court of competent jurisdiction for the recovery of the amount of any delinquent assessment or instalment thereof. The remedies herein given are cumulative and not restrictive. No proceedings for the collection and enforcement of said assessment or any instalment thereof shall be invalidated because of any omission or informality, providing the substantial rights of the delinquent land owner shall have been recognized and any sale made shall have been fairly conducted.

(j) The district board of directors shall have power and authority to enact, pass and adopt any and all necessary by-laws, ordinances, resolutions and rules and regulations not in conflict herewith for the carrying out of the provisions and purposes of this section.

Sec. 2 Article 2, chapter 81, Revised Code of 1928, is hereby amended by adding a section, to be designated section 3356b, and to read as follows:

Sec. 3356b. Conversion of assessments for district obligations into first mortgage liens. (a) The district tax and assessment liability of district lands shall at all times be and remain a first charge against the same; and all district taxes and assessments levied and assessed shall continue to be first liens against such district lands except as otherwise expressly provided with respect to lands owned by the state of Arizona or the United States of America.

(b) Whenever any district shall, for one year or more, be in default in the payment of legally existing district obligations amounting to five dollars per acre or over, and an assessment shall have been authorized by vote of the qualified electors of the district, as provided in section 1 hereof, and levied by such district for the purpose of discharging such default or for the purpose of paying or refunding district indebtedness, or both, then any such assessment may be converted into negotiable first mortgage liens upon the lands situate within the district and liable for such district taxes or assessments.

(c) The board of directors shall have power to order such conversion by a resolution prescribing the aggregate amount of such lien per acre and the terms, conditions, and procedure for accomplishing such conversion, the times, manner and method of payment and satisfaction of the converted lien, including the rate of interest which the same shall bear and the times of payment thereof, provided that in no event shall such interest exceed seven per cent per annum. The district secretary shall mail to the owner of each parcel of land within the district, at his last known address as the same appears on the records of the district, a copy of said resolution, accompanied by a notice demanding that the land owner shall within twenty days after the date of mailing such notice execute a good and sufficient note or notes evidencing the amount of such converted lien, and a mortgage upon the lands of such owner situate within the district and subject to such lien as security for the payment of said note. A copy of such resolution and notice shall be published at least once a week for two consecutive weeks in a newspaper of general circulation within the county wherein the district office is located, the first of which publications shall be not less than twenty days prior to the date fixed by said notice for the execution of the notes, mortgages or contracts therein mentioned. Publication of said resolution and notice as above provided shall be equivalent to service of the same by mail upon any land owner whose address is unknown. The form and contents of such notes and mortgages shall be prescribed by the board of directors. In the event any land owner shall refuse to execute such note and mortgage within twenty days after the date of mailing or first publication of a copy of the resolution and notice as hereinabove provided, then the district secretary shall be and become the duly constituted and appointed legal representative and attorney-in-fact of such delinquent land owner, with full power and authority to execute the note or notes mentioned and the mortgage securing the same, and any other papers or documents necessary and proper in relation thereto, for and on behalf of such owner and in his name, place and stead, with like force and effect as if the same were executed by such land owner in person; and said district secretary shall, pursuant to the powers hereby

vested in him, execute, acknowledge and deliver such notes and mortgage and other papers and documents.

Provided, however, that no note and/or mortgage or a similar document executed by said district secretary, as hereinbefore provided, shall impose any personal obligation upon the landowner in whose behalf such secretary may execute any note, mortgage and/or other document.

Provided, however, that the execution of said note and/or mortgage and/or other document so executed by said secretary shall be and constitute a first mortgage lien against the premises involved in accordance with the tenor and provisions thereof.

And provided further, that whenever any assessment shall be levied for the purpose of refunding any bond and/or warrant obligation of the district, the assessment therefor may be paid with such district bonds and/or warrants at the refunding value thereof and thereupon no lien shall be created hereunder upon any district lands so discharged of such obligations.

(d) The word "landowner" as used herein shall be held and taken to include record owners, purchasers under contract, and entrymen. Notice served upon a married person shall be deemed and considered as notice served also upon his or her spouse, and notices served upon guardians and administrators shall constitute notice against heirs and wards, and upon attorney-in-fact, against principal. Such converted liens shall, except as otherwise provided in this article, be enforceable against any lands of the state of Arizona or the United States of America in all respects as if such liens were upon lands held in fee and subject to the paramount lien or title of the state of Arizona or United States of America.

(e) The mortgage liens into which assessments or tax liens shall be converted by executed mortgage, as herein provided, shall constitute and become negotiable mortgage liens upon the lands involved, in accordance with the priority established by the district board, notwithstanding such conversion of assessment or tax liens into mortgage or contract liens, and shall be prior and superior to all other liens or encumbrances except lien of state, county and district taxes not converted as hereinafter provided.

(f) The district board of directors may in the manner hereinbefore provided for the conversion of district assessments, similarly convert into mortgage liens or contracts any and all district taxes then levied and assessed, except taxes levied and assessed for the payment of principal or interest on existing district bonds satisfaction of which said principal or interest shall not be then otherwise provided for, and may subordinate such liens so converted to any previous assessment lien converted into realty mortgage lien as hereinbefore provided or to any refunding bond issue. Any such district tax so converted may be fixed and established by said board as a lien prior to, and superior to any other lien or encumbrance then existing against the lands of said district, except said preferred, prior and converted first mortgage lien, and except said unsatisfied bond tax levy not then otherwise provided for, and except also state, county and district taxes thereafter assessed against said district lands.

(g) All liens, charges and demands existing at the time of the conversion of said district assessment into said first mortgage lien, except state, county and district taxes and unconverted taxes and assessments, and all liens thereafter created except state, county and district tax liens, may only be enforced or foreclosed against lands covered by such mortgage liens, subject to such prior converted mortgage liens. No tax liability for the payment of principal or interest upon any subsequently issued district bonds shall be created against said district lands, except for the payment, redemption or satisfaction of said prior converted mortgage lien, until said prior converted mortgage and all thereof, together with interest, costs and penalties, shall have been paid or satisfied in full.

(h) The district board of directors may enter into an agreement guaranteeing payment of the principal, instalment thereof, and interest thereon of converted liens as a district obligation. Such agreement shall be in such form and tenor as may be approved by a two-thirds vote of the district board and when so approved and executed, shall thereafter be binding upon the district and irrevocable without the consent of the parties thereto.

(i) The district board of directors shall have power to adopt any and all necessary by-laws, ordinances, resolutions, rules and regulations, not in conflict herewith, for the carrying out of the provisions and purposes of this section.

(j) Nothing herein contained shall be construed to subordinate any tax lien for the payment of the principal or interest of district bonds in favor of any lien created hereunder, but such district tax lien for the payment of principal and interest of issued and outstanding district bonds shall remain in full force and effect until the principal of such bonds and the interest thereon shall be fully satisfied.

Sec. 3. Sec. 3364, Revised Code of 1928, is hereby amended to read as follows:

Sec. 3364. Payments of taxes; warrants. (a) Payment of taxes levied for district purposes may be made with matured interest coupons or warrants of a district at their par value, when the aggregate amount of such warrants and the matured interest coupons does not exceed the total amount of taxes due and to which aggregate amount a money payment sufficient to fully pay the balance of the said taxes is made.

(b) District warrants drawn against any fund established by the district board of directors or by statute, for which district taxes have been levied and assessed, shall be received and accepted in the payment of district taxes notwithstanding any provision of this article for the apportionment or division of district moneys or tax collections into different funds. District warrants substantially complying with the requirements of this article shall be prima facie evidence of the uses and purposes for which executed and delivered and of their qualification for acceptance in the payment of taxes, and shall be accepted as such by the respective county treasurers.

(c) Whenever any district tax moneys shall have been deposited by the district treasurer in any district fund and such moneys, together with district warrants accepted in payment of district taxes, shall exceed the amount appropriated for such fund, the district secretary shall cause to be transferred out of such satisfied fund, and apportioned to other district funds, any such excess tax moneys so deposited therein, to the end that each district fund shall, on final budget accomplishment, receive its proper proportion of district tax collections, notwithstanding any deferment incidental to the acceptance of district warrants.

Sec. 4. Sec. 3373, Revised Code of 1928, is hereby amended to read as follows:

Sec. 3373. District may purchase at tax sale. At any sale of taxable property in the district for delinquent taxes, such irrigation district may become the purchaser thereof and hold title thereto with the same rights and power as individuals. Said lands shall until disposed of be and remain public property, and the board of directors of any district shall have power and authority to deal with such lands so acquired in such manner as they may deem for the best interests of said district, including the right to lease, sell, transfer and convey the same. Whenever five or more qualified electors of the district shall file with the district board a written request that any of such lands be sold, the same shall be offered at public sale under terms and conditions to be fixed by the board. The board shall have power to fix the minimum price that will be accepted for said lands and to reject any and all bids of less amount than the minimum price so fixed.

Sec. 5. Sec. 3389, Revised Code of 1928, as amended by section 13, chapter 98, Session Laws 1931, is hereby amended to read as follows:

Sec. 3389. Payment of claims; borrowing. (a) No claim shall be paid by the district treasurer until the same shall have been allowed by the board, and then only upon warrants signed by the president and countersigned by the secretary, which warrants shall state the date when the claim was allowed by the board and from what fund payable. If the district treasurer has not sufficient money on hand in such fund to pay such warrant when it is presented for payment, he shall endorse thereon the date when presented and the words "Not paid for want of funds; this warrant draws interest from this date at six per cent per annum," and sign the endorsement, and from the

date of such endorsement such warrant shall draw interest at the rate of six per cent per annum until paid; provided, that when first presented any amount in the fund upon which said warrant is drawn shall be applied and the payment endorsed thereon, and the warrant registered for the unpaid balance only. All claims against the district shall be verified in the same manner as is required for claims against counties, and upon filing shall be numbered consecutively by the secretary and kept in the office of the district. The secretary of the district is hereby authorized and empowered to administer oaths to parties verifying claims, as a notary public may do.

(b) The district treasurer shall keep a separate district register in which he shall enter each warrant presented for payment, showing the date and amount of the warrant, to whom payable, the date of presentation for payment, the date of payment, and the amounts paid in redemption thereof, and all warrants shall be paid in the order of their presentation. All warrants shall be drawn payable to the claimant or order, as county warrants are drawn. Nothing herein contained shall preclude the board of directors from the adoption of a special form of warrant fixing the time of payment and a lesser rate of interest, in which case said special warrants shall be payable only at the time fixed and shall bear interest only at the rate set forth on the face thereof.

(c) The district board of directors may borrow money for necessary district expenses, obligations and expenditures upon the security of, and not exceeding the amount of district taxes then levied and assessed, at interest rates not exceeding eight per cent per annum, and as evidence of such loan may issue and deliver its district warrants drawn upon the district fund or funds levied and assessed for meeting the expense items, obligations or expenditures for which such money is borrowed. No borrowing shall be made for any purpose in excess of the taxes then levied and assessed for such purpose.

(d) All warrants heretofore issued in payment of legally incurred expenses, obligations and expenditures of irrigation districts of this state and the acceptance of the same in payment of taxes, are hereby validated.

(e) The district board of directors may, if it so elect, in lieu of warrants, deliver as evidence of loans, its promissory notes. Such notes may be secured by collateral pledge of district assessments or tax moneys as collected and not otherwise appropriated. District notes shall be payable at the district office or at such bank or place as may be designated therein, but shall not be receivable in the payment of taxes.

Sec. 6. Sub-section (d) of Sec. 5, Chap. 8, Session Laws of 1931, (First Special), amending Sec. 3430, Art. 2, Chap. 81, Revised Code of 1928, be and the same is hereby amended to read as follows:

Immediately upon selection said committee shall proceed to formulate a plan to be known as "Bondholders Agreement" in respect to the district affected and the continuance of its business and affairs in such manner as to restore its solvency at the earliest practicable date, and shall consider matters affecting its feasibility, including the character of the soil, the water supply, the topography, the productive value of the lands, in units of 40 acres each, the economic costs of and the receipts from agricultural operations, and may survey, or cause to be surveyed, any one or more of these factors. When such a plan shall be agreed upon, it shall be reported to the meeting, which may be adjourned from time to time until such report shall be received. Said report of the committee may be amended by the meeting, and shall be adopted or rejected, separately, by the majority vote of the full board of directors and majority-in-value vote of the bonds represented. In case of disagreement, the negotiations for another basis of agreement may be continued, and the meeting may be adjourned from time to time for a period not to exceed one year from the convening of the meeting. In the event such meeting be unable and fail to agree upon such bondholders' agreement within such period the said meeting shall stand adjourned sine die, and the State Treasurer shall return the bonds deposited with him to the respective and proper holders thereof.

Sec. 7. That sub-section (e), of Sec. 5, Chap. 8, Session Laws of 1931, (First Special), amending Sec. 3430, Art. 2, Chap. 81, Revised Code of 1928, is hereby amended to read as follows:

(e) Said bondholders' agreement shall empower said committee to execute, and said committee shall be charged with the execution of, the plan contained therein; but no action, except as herein expressly provided, shall be taken by said committee until the decree of the Superior Court entered in the proceedings hereinafter provided for shall have become final. Immediately upon the deposit with the State Treasurer of Arizona, subject to the provisions of said bondholders' agreement and of this act, of bonds aggregating at least fifty-one per cent of the principal amount of all bonds of such district then outstanding, for the purpose of obtaining constructive consent of the unknown holders of outstanding bonds of such district and such holders of said bonds who have not deposited the same with the State Treasurer as hereinabove provided, the board of directors of such district shall, in the name and for and on behalf of said district, file in the Superior Court of the county in which is located the office of said district, a petition in rem, verified by the oath of the president and secretary of said district, in which shall be set forth the plan embodied in said bondholders' agreement for retiring or refunding the bonds of the district proposed to be retired or refunded. Said petition shall further recite what percentage in amount of the holders of said bonds to be retired or refunded have deposited their bonds with the State Treasurer; and it shall further set forth what steps have been taken to obtain the consent of all known holders of such bonds. Upon the presentation of said petition to the Judge of said court, either in open court or in chambers, said Judge shall direct said district to publish, and said district shall cause to be published, as nearly concurrently as practicable, for at least four consecutive weeks in a newspaper of general circulation published in the county in which the office of the district board of directors is located and in one financial journal of national circulation published in the City of New York, to be by the court designated, a notice describing in substance the terms of said bondholders' agreement under which the outstanding bonds of the district are to be surrendered, refunded, satisfied, compromised, exchanged or discharged, and a certified copy of said notice and of said petition shall forthwith be served upon the secretary of the State Certification Board and on the State Treasurer. Said notice shall contain a general description of the bonds to be refunded or retired and the amount thereof, and also a general description of the refunding bonds, if any, to be issued under the terms of the bondholders' agreement, and shall require all holders of such outstanding bonds so to be retired or refunded to file in said matter of said petition in said Superior Court their written dissent from, or objection to said proposed plan of settlement in said notice described. If such dissent in writing shall not be filed in said court and cause within ninety days from the first publication of said notice in said financial journal, the owners and holders of such outstanding bonds failing to file such dissent or objection shall be deemed to have consented to the terms and provisions of said bondholders' agreement and the provisions of this Act. After the expiration of ninety days from the date of the first publication of said notice in said financial journal the holders of said outstanding bonds so failing to file their objections and protests with said court will be deemed to have consented to said refunding, compromise or settlement of said bonds under the terms and provisions of said bondholders' agreement; and such failure within said time to file said objections and protests with said court shall be equivalent to the acceptance in writing signed by the known consenting bondholders of outstanding bonds or the deposit with the State Treasurer of Arizona of the bonds owned and held by them subject to the provisions of said bondholders' agreement and of this Act.

"After the expiration of ninety days from the date of the first publication of said notice in said financial journal said board of directors shall file in said proceedings in said Superior Court its verified return of its acts under the order of the court theretofore made, attaching thereto affidavits of the publishers of said newspaper and of said financial journal of the publication of said notice. Thereupon said court, or the Judge thereof in chambers, shall forthwith hear said cause and shall enter a decree adjudging that all of the owners and holders of said outstanding bonds to be retired or refunded under the terms of said bondholders' agreement, who have not within ninety days after the date of the first publication of said notice in said financial journal filed in said court and cause their written dissent and objection to the terms of said bondholders' agreement, have consented that their bonds may be retired or refunded under the terms of said bondholders' agreement.

In said decree said court shall direct the officers of said district to deposit with the State Treasurer of Arizona, as trustee, for the persons entitled thereto, the pro rata part of the cash, or refunding bonds, or both, which under the terms of said bondholders' agreement belongs to the owners of said bonds whose consent was so obtained by said court proceedings in the manner and under the conditions hereinbefore set forth. Said decree shall further provide that upon payment of the money, or delivery of refunding bonds, or both, provided for in said bondholders' agreement, to the State Treasurer of the State of Arizona as trustee, said bonds so held by said holders as aforesaid shall be deemed paid, and shall no longer be an obligation of said district; that upon the surrender to said State Treasurer of said outstanding bonds, together with unpaid interest coupons belonging to the same, said Treasurer shall pay or deliver upon demand to said holders their pro rata part of the moneys or refunding bonds, or both, so deposited with him as trustee as aforesaid, and shall mark said bonds cancelled and deliver same to said irrigation district. All holders of said outstanding bonds to be retired or refunded shall be deemed and taken to have notice of all steps and proceedings had.

"The procedure in the Superior Court under the provisions of this Act shall be in the nature of an equitable proceeding in rem. Any holder of any outstanding bonds affected by such court procedure in this Act provided for, or any other interested party, shall have the right to appeal to the Supreme Court at any time within thirty days after the rendition of said decree of the Superior Court, which appeal must be heard and determined within three months from the time of taking the same. The court, in inquiring into the regularity, legality or correctness of any of said proceedings, shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties, and may approve the proceedings in part and disapprove the remainder thereof. The costs of the proceedings and any appeal may be allowed and apportioned between the parties in the discretion of the court.

"In the event that the bonds of the district deposited with the said State Treasurer at the end of two years from the date of the adoption of the bondholders' agreement as aforesaid shall be less than fifty-one percent of the principal amount of all bonds of such district then outstanding, said bondholders' agreement shall be abrogated and the committee discharged, and said State Treasurer shall return any bonds theretofore deposited with him to the respective and proper owners thereof."

Sec. 8. Sec. 3430, Revised Code of 1928, as amended by subsection (h), section 5, chapter 8, Session Laws 1931-32 (1st special), is hereby amended to read as follows:

(h) The actual and necessary expenses of the committee incurred in the performance of the duties imposed hereby or by said bondholders' agreement, shall be at the expense of the district and paid as other operating expenses. The total amount of such expenses shall not exceed one thousand dollars in the case of a district having a total of ten thousand acres or less, or fifteen hundred dollars if more than ten thousand but less than twenty thousand acres; nor shall it exceed twenty cents per acre in the case of a district having an acreage between twenty thousand and thirty thousand acres, fifteen cents if between thirty thousand and forty thousand acres, or ten cents if in excess of forty thousand acres. In the event such district does not have funds available to meet such expenses currently and as needed, the board of directors is authorized from time to time to borrow upon its warrants or promissory notes, the amount required to meet such expenses as herein contemplated, bearing interest at a rate of not to exceed eight per cent per annum. The board of directors may include in the next ensuing budget the necessary amounts for the payment and satisfaction of such loan, warrants or promissory notes, together with the interest accrued and the interest estimated to accrue to the time of payment.

Sec. 9. Sec. 3430, Revised Code of 1928, as amended by subsection (j), chapter 8, Session Laws 1931-32 (1st special), is hereby amended to read as follows:

(j) When all bond obligations of the district affected, accrued or to accrue during the operation of said bondholders' agreement, and the expense incident thereto, shall have been discharged in full, and upon the certificate of the state treasurer to that effect filed with the state board of certification, said bondholders'

agreement and said committee shall stand abrogated and discharged, and all right and powers of the district restricted or suspended by said bondholders' agreement shall be restored. Whenever an agreement has been entered into and executed by and between the bondholders' committee provided for in subsection (c) of this section and the district board of directors, or whenever any agreement shall be made by the district board of directors and any group of bondholders acting individually or by a bondholders' committee, whether organized under the provisions of this section or not, whereby fifty-one per cent or more of said bondholders shall agree to accept in satisfaction of district bonds a stipulated price per acre, then any landowner may, if provided for in said agreement, discharge his land of the tax liability for the payment of bond interest and bond principal by paying his proportion of such bond tax liens. Upon the making of payment of such proportionate liability there shall be issued to him by the bondholders' representative or such person as may be designated in said agreement between the district directors and said bondholders, a satisfaction of such bond liability, and said lands shall no longer be liable for the payment of bond principal or bond interest and shall be excluded from district assessments for such purposes. To the extent that such bond principal or bond interest shall be reduced by such individual payments, the annual tax levy of the district shall be correspondingly reduced and the board of directors shall levy a district tax only for the unsatisfied portion of bond principal and bond interest.

Sec. 10. That Sec. 3339, Art. 2, Chap. 81, Revised Code of 1928, be and the same is hereby amended to read as follows:

Sec. 3339. Definitions; qualifications of electors: methods of election. Whenever the words "General Electors" and "qualified electors for bond issues and special assessments," are used in this article said words shall mean and designate persons who possess the property qualifications provided in section 3324 of this article and who have possessed such qualifications for ninety days immediately preceding the date of the election at which they seek to vote, and who have resided continuously for six months immediately preceding such election in any county in which said district or a part thereof may lie; and each such elector shall be entitled to one vote on each question submitted and one vote for each office to be filled at all elections; provided, however, that where the holder of such record title is a married person, only the spouse in whose name such title stands shall be entitled to vote at such election.

Instead of the foregoing personal and individual system of district voting, any irrigation district may elect to adopt an acreage system of voting under the following conditions:

The bona fide landowners of any district residing in the state of Arizona may petition the Board of Directors of such district to adopt and declare for an acreage system of voting within such district. Said petition shall be dated and shall be signed personally by bona fide record landowners, residing in the state of Arizona, representing not more than 160 acres each, and shall be filed with the district secretary. If the Board of Directors shall be satisfied that not less than fifty-one per cent of the total acreage of such district is represented by the signers of said petition, then such Board shall adopt a resolution changing the manner of voting in such district from an individual and personal ballot system to an acreage system of voting and thereafter, all elections within said district shall be held and conducted on an acreage basis, as hereinafter provided.

In district wherein the acreage system of voting shall be adopted, every bonafide owner of land within the district holding title or evidence of title thereto of record, including entrymen upon public lands, under the public land laws of the United States, or a certificate of purchase from the state of Arizona, and who has held such title for ninety days, and who is a resident of the state of Arizona is an elector of such district, and at all elections shall be entitled to one vote on each question submitted and to one vote for each office to be filled, for each acre of land in the District owned by him, but not exceeding one hundred sixty votes.

The administrator or executor of a deceased person, and the guardian of a minor incompetent person, appointed and qualified under the laws of Arizona, shall have the right to represent and cast the vote of the person or estate which he represents; and an officer of a corporation designated and authorized by a resolution of the Board of Directors of such corporation may respresent and cast the vote of such corporation.

An elector who is absent from the county wherein the district of which he is an elector is situated, or who expects to be absent therefrom at the time of holding any election in such district, or who furnishes the secretary of the board of directors of such district with a doctor's certificate of physical inability to go to the pools, may vote at any election held in such district substantially in the same manner as is provided for voting absent or disabled voters at general elections by article 12 of chapter 22, Revised Code of 1928. The acts and duties therein required of the county recorder shall be performed by the secretary of the district.

When voting shall be conducted upon an acreage basis, at least five days before the day is fixed for the holding of any general or special election the secretary of the district shall make up an election register. Such election register shall denote the names of the holders of lands within the district, the number of acres held by each and the number of votes which they are entitled to cast. Said lists shall be arranged by divisions where the district is divided into divisions, the name of the holder and the number of votes he is entitled to cast as shown by the records of the county recorder, the state land department of the state of Arizona, and the United States Land office for the district in which such irrigation district is located as of the 20th day before the time fixed for the holding of such election. No person shall be allowed to vote unless his name shall appear as a holder aforesaid upon said public records, nor shall be cast more votes than the number of votes to which he is entitled as shown by the district register.

Ballots shall at all times be under the supervision and direction of the election board, which shall keep the ballots not voted within the polling place and within plain view of the election board and of the public, and deliver them only to qualified voters within the place where said election may be held. One member of the election board shall be designated as judge, one as inspector and one as clerk by the board of directors at the time of appointing such board. Every qualified elector, before receiving an official ballot shall call out his name to the election clerk. If his name be found on the election register, the clerk shall then hand him a blank official ballot, first inserting with pen and ink in a space provided for that purpose the number of votes which he is entitled to cast, as ascertained from the election register. The clerk shall also, before delivering the ballot to the applicant therefor, write his name on the stub thereto and shall call out audibly the name of the applicant and the number of votes to which he is entitled, which shall be entered in the poll list in the order of the application for ballots.

After the voter shall have received his ballot he may retire to a booth to mark it. Having marked his ballot, he shall hand the same to the inspector, folded in such shape that the inspector may accurately see the number of votes to which the voter is entitled, as marked on his ballot by the clerk. The inspector shall then first call out the name of the voter and the number of votes he is entitled to cast as marked aforesaid, and the clerk shall compare the number so called with that indicated on the election register, and if they agree he shall so answer audibly to the inspector. The inspector shall then tear off the stub at the perforated line, leaving the number of votes the voter is entitled to cast on the ballot, and deliver said ballot to the judge who shall deposit the ballot in the ballot box and announce that it is voted, which fact shall be noted by the clerk and by the inspector opposite the voter's name on the proper list. The inspector shall then file the stub on a string to be used by him for that purpose.

If, when the inspector announces the name of the voter tendering him a ballot and the number of ballots he is entitled to by the mark on the ballot, it should be found that the number of votes does not correspond with the number of votes the voter is entitled to as shown by the election register, the ballot shall not be deposited in the ballot box but shall be handed to the clerk, who shall destroy the same without noting or making known its contents or any of them, and the clerk shall thereupon on demand, deliver to the voter a new ballot, properly indicating the number of votes to which he is entitled.

If the voter should, in marking his ballot, accidently or by mistake wrongly mark it, he may surrender it to the clerk who shall give him a new one in lieu thereof properly marked with the number of votes to which he is entitled, and destroy the old one so surrendered without noting or making its contents known.

The voter, to indicate the person for whom he votes and/or the measure or proposition for or against which he votes and the number of votes he wishes to cast, shall write in the space to the right of the name of the candidate he wishes to vote for and/or to the right of the measure and/or proposition which he wishes to vote for or against, the number of votes he casts. The right of any person to vote may be challenged, and such voter shall thereupon be sworn and examined as to his qualifications, and if the board be satisfied of the qualifications of such person to vote he shall be permitted to do so, otherwise, not. Any voter, whose name does not appear upon the election register, may make oath of his qualifications as an elector and of his right to have his name placed thereon, and if the election board be satisfied of the qualifications of such elector and of his right to have his name placed upon such election register the same shall be so ordered, otherwise the application of such person to vote shall be denied.

A majority of the acreage as represented by the votes cast at any election shall, when elections are conducted on an acreage basis, determine the result.

The board of directors of the district shall have power and authority to prescribe the form of registration lists, ballot, poll lists, election returns and all other papers and documents used in connection with the holding of any and all elections, and shall make provision for preserving the secrecy of the ballot. Said provisions and forms shall be prescribed at least twenty days prior to the time of the holding of any election. The general laws of the state relating to elections shall apply to elections held under the provisions of this act, so far as applicable and not in conflict herewith.

No acreage shall be voted except by the real owner, and no conveyance made within thirty days previous to any election nor of any acreage for the primary purpose of enabling the grantee to vote such acreage, shall be of any force or effect as qualifying such nominal grantee to vote such land.

Whenever any district shall have adopted an acreage system of district voting, any acreage standing in the name of any corporation, not exceeding one hundred sixty (160) acres in all, may be voted by such officer of such corporation as may be designated by resolution of the board of directors of the same, passed and filed with the secretary of the district at least thirty days previous to any election at which such acreage is proposed to be voted.

Sec. 11. Article 2, chapter 81, Revised Code of 1928, is hereby amended by adding thereto a section, to be designated section 3403a, and to read as follows:

Sec. 3403a. Exclusion of district lands. (a) Whenever the board of directors of any irrigation district shall find that any lands within such district are alkaline, slick, unsusceptible of economic levelling, water-logged, caliche, hard pan, or otherwise unproductive or incapable of carrying their proportionate district liabilities and obligations without recurring delinquencies, or shall be uncleared or unreclaimed for five years after inclusion within such district, irrigation water therefor being available, and the major portion thereof shall then be unfarmed and delinquent in the payment of district taxes for two years or more, it may exclude said lands as hereinafter provided.

(b) The board shall adopt a resolution stating its findings and declaring its intention to exclude said lands for one or more of said authorized reasons and shall require the record owner or any persons actually resident upon said land to show cause why said lands should not be excluded from the district, and shall cause a copy of said resolution to be served upon the record owners and actual residents, if any, upon said lands, personally if residents of the county wherein said district office may be located, and if not, by registered mail addressed to such persons at their last known post office address, and by publication of said resolution at least once a week for three successive weeks in a paper of general circulation within the county wherein said district office may be located.

(c) Said resolution shall fix a time for hearing upon said resolution at the district office. The board of directors at the time and place mentioned in said resolution or at such time or times to which the hearing of said resolutions may adjourn, shall proceed

to consider said resolution and to hear any and all pertinent objections to the exclusion of said lands. Such objections shall be filed in writing at least two days previous to the time fixed for hearing. The failure of any person interested to show cause why such land should not be excluded by the filing of objections thereto, shall be deemed and taken as an assent on his part to the exclusion of such land from said district.

(d) Upon conclusion of the hearing, the said board may sustain the objections thereto and rescind its previous resolution, or may adopt a second resolution excluding said lands, or a portion thereof, from said district.

(e) Any person feeling himself aggrieved by such final action of the board may file a written motion for reconsideration within ten days after the adoption of said final resolution, and may appeal to the superior court of the county wherein such lands are located within twenty days after determination by the district board of such motion for reconsideration. Said appeal shall consist of notice and of a recital of the proceedings then had and taken, and of the facts and matters involved, and of the reasons why the appelant feels himself aggrieved by the action of said board. Said matter shall be tried before, and the superior court of such county shall have jurisdiction to hear, decide, adjudicate and make any and all necessary orders and judgments in the premises, as in civil suits, and there shall be no further appeal from the final judgment of such superior court. In case no motion for reconsideration or appeal shall be taken within the time allowed, said final resolution shall be filed for record in the office of the county recorder and in the office of the board of supervisors and of the county treasurer of the county in which such excluded lands may be located.

(f) Upon the exclusion of any lands, the board of directors may make such re-arrangement or reapportionment of director's subdivisions within the district as the board may deem advisable. No such exclusion of lands shall impair or affect the district organization or its rights in, or property, or any of its rights or privileges of whatever kind or nature, nor shall it affect, impair or discharge any contract obligation, lien or charge for or upon which it was or might become liable or chargeable had such exclusion of lands not been made. No omission or informality in the proceedings for the exclusion of said lands shall invalidate the same, providing the substantial rights of the parties concerned shall be recognized and such proceedings shall be fairly conducted. The board of directors shall have power and authority to make any and all rules, regulations or resolutions and by-laws in the premises.

Sec. 12. Validity. Should any section, paragraph, sentence, clause or phrase of this act be declared unconstitutional or invalid for any reason, the remainder of this act shall not be affected thereby.

Sec. 13. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 17TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 38

(H. B. 228)

AN ACT

Relating to the various departments and institutions of the state of Arizona, and creating a joint committee to investigate the affairs thereof, and making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. A joint legislative committee, to be known as the special investigating committee, eleventh legislature, is hereby created. Said committee shall consist of three (3) members of the house and two members of the Senate who shall be appointed respectively by the speaker and the president, and shall be charged with the duty of making a thorough investigation of the affairs of the various departments and institutions of the state of Arizona and counties thereof.

Sec. 2. The committee to investigate the affairs of the various departments and institutions of the state of Arizona and counties thereof, shall have and possess, as to such investigation all of the powers extended by Secs. 13, 14 and 15, Revised Code of 1928. Said committee shall have authority to employ such assistants, auditors, accountants and clerks, as may be necessary for the proper conduct of the investigation, and to incur all proper expense incident thereto.

Sec. 3. Upon the completion of such investigation, the report of said committee shall be placed before the governor and attorney general, and if in their judgment the findings warrant such action, the attorney general shall, or if such report pertains to a county office, a report shall be laid before the board of supervisors and county attorney of such county, and the county attorney shall take such steps as may be necessary to procure the filing of an information against any officer of said state departments or institutions or other person responsible for the conduct of its affairs, who shall be deemed to have been guilty of a violation of the laws of this state, and to prosecute such case to a conclusion.

Sec. 4. The sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of the general fund for the expense of said committee. The expenses of the committee herein provided for shall be presented to the speaker of the house by the chairman of said committee, to be by said speaker audited and when so audited shall be by the speaker approved and submitted to the state auditor and state treasurer for payment. The Arizona highway department shall budget a sum in the amount of five thousand dollars which is to be placed at the disposal of the committee for the purpose of defraying expenses in connection with the investigation of that department.

Sec. 5. The governor shall be ex officio chairman of this committee and no disbursement shall be made from the funds hereby appropriated unless authorized and approved by the governor.

Sec. 6. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 13TH, 1933.

State of A rizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 39

(SENATE BILL NO. 16)

AN ACT

Relating to taxation, and to provide for a graduated tax on net incomes.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Citation. This act may be cited as "the income tax act of 1933."

Sec. 2. Persons taxable. Every person residing within the state, or in case of death his personal representative, shall pay a tax on net income, and every nonresident shall pay a tax on such net income as is derived from property located or business transacted within the state. Said tax shall be assessed, levied and collected as hereinafter provided.

Sec. 3. Object of tax. The object for which the said tax is imposed is to assist in defraying the cost of maintenance of the state government, and to lessen the burden in this regard resisting upon tangible property.

Sec. 4. Definitions. For the purposes of this act:

(a) "Person" shall mean and include natural persons, fiduciaries and corporations.

(b) "Corporation" shall mean and include all corporations, joint stock companies and associations, as defined by section 577, Revised Code of 1928, and all corporations, copartnerships, and associations, whether incorporated or unincorporated, as defined by section 1887, Revised Code of 1928, unless otherwise expressly stated.

(c) "Head of a family" shall mean a natural person who maintains a household and supports therein himself and one or more persons dependent upon him.

(d) "Resident" or "residing within the state" shall mean a natural person domiciled within the state, who maintains a permanent place of abode or spends in the aggregate not less than seven months of the income year within the state.

(e) "Income year" shall mean the calendar year or corresponding fiscal year.

(f) "Years open to audit" shall mean the five successive income years next preceding the last income year for which the income of any person has been assessed, and any income year for which no report of income was made.

(g) "Value" shall mean the fair market value.

(h) "Tax commission" or "commission" shall mean the state tax commission.

(i) "Treasurer" or "treasury" shall mean the treasurer or the treasury of Arizona.

(j) "Net income" shall mean gross income less allowable deductions.

(k) "Gross income" is defined in section 6.

Sec. 5. Administration. The state tax commission shall administer and enforce the provisions of this act.

(a) The commission may from time to time make such rules and regulations, not inconsistent with this act, as it may deem necessary.

(b) In addition to all other powers of assessment granted it by law, the commission shall possess the power to assess incomes.

(c) For the purpose of ascertaining the correctness of any report of income, or making an estimate of the taxable income of any taxpayer, the commission shall have power to examine or cause to be examined by any agent or representative, any books, papers, records, or memoranda, bearing upon the matters required to be included in the report, including a copy of the taxpayer's current income tax return to the United States government, and all amendments to said return whether arrived at by compromise or adjudication, after hearing and final determination by the Federal government, and to require the attendance of the taxpayer or of any other person having

knowldege in the premises, administer oaths, take testimony and require proof material for its information, by the same means and in the same manner as allowed to courts of record. If any person summoned to appear to testify or to produce books, papers, records, or other data, shall refuse to do so, the superior court for the county in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

(d) All agents or representatives of the commission shall, for identification purposes, have credentials signed by the commission and countersigned by the governor.

(e) The commission shall have power to appoint and employ such agents, specialists and clerks, within the limits of appropriations and compensation prescribed by law, as it may deem necessary to full effectuate the purposes of this act.

Sec. 6. Gross income. "Gross income" shall include:

(a) Rent of Arizona real estate.

(b) Dividends derived from stocks, whether paid in cash or property.

(c) Interest derived from money loaned or invested in notes, mortgages, bonds, or other evidence of debt.

(d) Wages, salaries or fees derived from services.

(e) Profits derived from the transaction of business or from the disposition of real estate or other capital assets.

(f) Royalties derived from mines, or the possession or use of franchises or other legalized privileges.

(g) Life insurance paid to the insured, and insurance paid to a corporation or partnership upon policies on the lives of its officers, partners or employees, after deducting from such insurance the cash surrender value thereof on January 1, 1933, and all net premiums paid thereafter and not deducted on Arizona income tax returns, provided, that when the wife or other surviving heir of the insured is the beneficiary of a policy carried by, or on which the premium is paid by a corporation or partnership on the life of a stockholder or part owner therein, under an agreement whereby in lieu of the insurance paid at death the corporation receives the stock or interest of the insured in the business, the net gain of the corporation or partnership shall be treated as gross income.

(h) All other gains, profits or income, subject to the exemptions hereinafter provided.

Sec. 7. Rates; persons other than corporations. The tax to be assessed, levied and collected upon the taxable income of persons other than corporations shall be computed at the following rates:

(a) On the first one thousand dollars or any part thereof, one per cent.

(b) On the second one thousand dollars or any part thereof, one and one-fourth per cent.

(c) On the third one thousand dollars or any part thereof, one and one-half per cent.

(d) On the fourth one thousand dollars or any part thereof, two per cent.

(e) On the fifth one thousand dollars or any part thereof, two and one-half per cent.

(f) On the sixth one thousand dollars or any part thereof, three per cent.

(g) On the seventh one thousand dollars or any part thereof, three and one-half per cent.

(h) On the eighth one thousand dollars or any part thereof, four per cent.

(i) On the ninth one thousand dollars or any part thereof, four and one-half per cent.

(j) On the tenth one thousand dollars or any part thereof, five per cent.

(k) On the eleventh one thousand dollars or any part thereof, five and one-half per cent.

(l) On taxable income in excess of eleven thousand dollars, five and one-half per cent.

Sec. 8. Rates; corporations. The tax to be assessed, levied and collected upon the taxable income of corporations shall be computed at the following rates:

(a) On the first one thousand dollars or any part thereof, two per cent.

(b) On the second one thousand dollars or any part thereof, two and one-half per cent.

(c) On the third one thousand dollars or any part thereof, three per cent.

(d) On the fourth one thousand dollars or any part thereof, three and one-half per cent.

(e) On the fifth one thousand dollars or any part thereof, four per cent.

(f) On the sixth one thousand dollars or any part thereof, five per cent.

(g) On the seventh one thousand dollars or any part thereof, six per cent.

(h) On all taxable income in excess of seven thousand dollars, six per cent.

Sec. 9. Exemptions. There shall be exempt from taxation under this act income as follows:

(a) Pensions received from the United States.

(b) Inheritances, devises, bequests and gifts received during the year.

(c) Insurance received in payment of a death claim and contracts paid by reason of the death of the insured, except insurance paid to a corporation or partnership upon policies on the lives of its officers, partners or employees, and except insurance (other than amounts paid by reason of the death of the insured) received under life insurance, endowment or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon.

(d) Income of all religious, humanitarian, benevolent, scientific, educational or other corporations or associations of individuals not organized or conducted for pecuniary profit.

(e) Income received by the United States, the state and all counties, cities, villages, school districts or other political units of the state.

(f) Income of cooperative associations or corporations engaged in marketing farm products for producers, as defined by chapter 13, Revised Code of 1928.

(g) Income of insurance companies which pay to the state a tax upon premium income.

(h) Income of domestic insurance companies.

Sec. 10. Deductions; all taxpayers. Every taxpayer, in reporting income for purposes of taxation, shall be entitled to the following deductions:

(a) Payments made within the year, if reasonable in amount, for wages, salaries or compensation, including cash bonuses to employees, for services actually rendered in carrying on the business, profession or occupation from which the income is derived; provided, and not otherwise, the taxpayer shall file a report as required by section 16, subsection (d), paragraph 2, and subsection (e). No deduction shall be allowed under this section for amounts expended for personal living or family expenses.

(b) Other ordinary and necessary expenses actually paid within the year in the maintenance and operation of the business, profession or occupation from which the income was derived.

(c) A reasonable allowance for depreciation by exhaustion, wear and tear, and depletion of the property from which the income was derived.

(d) Losses actually sustained within the year and not compensated by insurance or otherwise; provided, that no deductions shall be allowed for loss resulting from the operation of business conducted or the ownership of property located without the state, nor on the sale of property purchased and held for pleasure or recreation and not acquired or used for profit, but this proviso shall not be construed to exclude losses due to theft or to the destruction of property by fire, flood or other casualty. No deduction shall be allowed under this subsection for loss sustained in disposition of shares of stock or of securities where it appears that within thirty days before or after the date of such disposition the taxpayer acquired (otherwise than by bequest or inheritance) or entered into a contract or option to acquire substantially identical property, and the property so acquired was held by the taxpayer for any period after such disposition.

(e) Taxes other than special improvement taxes (and in the case of persons other than corporations, inheritance taxes) paid during the year upon the business or property from which the income taxed is derived, including taxes imposed by the state of Arizona and the United States government; provided, that income taxes imposed by the state of Arizona shall, for the purposes of this subsection, accrue only in the year in which such taxes are assessed;

and provided, further, that allowable deductions for federal taxes shall be confined to cash payments made within the year covered by the return, and if for income taxes shall be limited to taxes paid on net income taxable under this act.

(f) Dividends, excepting such as are specified in section 26, subsections (b) and (c), received from a corporation the income of which is subject to the law of this state, which has filed a report of income as required by this act, and a report as required by section 16, subsection (d), paragraph 4, and the principal business of which is attributable to Arizona. For the purpose of this subsection the principal business of a corporation shall be considered attributable to Arizona if fifty per cent or more of the entire net income or loss of the corporation after adjustment for tax purposes, for the year preceding the payment of such dividends, was used in computing the average taxable income provided by this act. If the net incomes of several affiliated corporations have been combined for the purpose of determining the income subject to taxation, the location of the principal business of such group shall determine the taxable status of dividends paid, but inter-company dividends passing between affiliated corporations whose incomes are included in the taxable income of the group, shall not be assessed as group income.

(g) Contributions or gifts made within the year to the state or any political subdivision thereof for exclusively public purposes, or to corporations, community chest funds, foundations, or associations operating within the state, organized and operated exclusively for religious, humanitarian, benevolent, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of ten per centum of the taxpayer's net income of the calendar or fiscal year as computed without the benefit of this subsection.

Sec. 11. Deductions; corporations. In addition to the deductions allowed in section 10, corporations shall be entitled to the following deductions:

(a) Interest paid within the year in the operation of the business from which the income is derived, provided, and not otherwise, the taxpayer shall file the report required by section 16, subsection (d).

(b) Amounts distributed to patrons in proportion to their patronage, by corporations doing business on a co-operative basis, may be deducted as cost, purchase price or refunds, but no deduction shall be made for distributions to stockholders or owners of any such corporation in proportion to their stock or ownership, nor for amounts retained and subject to distribution in proportion to stock or ownership as distinguished from patronage. Amounts distributed in proportion to patronage shall be reported as income or receipts by the persons to whom the distributions are made.

Sec. 12. Deductions; persons other than corporations. In addition to the deductions allowed in section 10, persons other than corporations shall be entitled to the following deductions:

(a) Inheritance taxes paid during the year with respect to the business or property from which the income is derived.

(b) Interest paid within the year on existing indebtedness; provided, and not otherwise, the taxpayer shall file the report required by section 16, subsection (f). No deductions shall be allowed for interest paid on an indebtedness created for the purchase, maintenance or improvement of property or the conduct of business the income from which property or business would not be taxable under this act.

(c) Interest paid within the year on existing indebtedness not exceeding three thousand dollars, on the family home of the taxpayer; provided, and not otherwise, the taxpayer shall file the report required by section 16, subsection (f).

(d) Taxes paid within the year on not to exceed five thousand dollars of the assessed valuation of the family home of the taxpayer.

Sec. 13. Deduction of losses. If a taxpayer in any year subsequent to the year 1933 sustains a net business loss, such loss may be offset against the net business income of the subsequent year, and if not thus completely offset the remainder may be offset against the net business income of the following year. For the purposes of this section, net business income shall consist of all income attributable to the operation of a trade or business regularly carried on by the taxpayer, less the allowable ~~deduction for business expenses~~.

Sec. 14. Deductions from net income tax. There shall be deducted from the tax after the same shall have been computed, a personal exemption for natural persons as follows:

(a) For an individual, eight dollars.

(b) For husband and wife or head of a family, seventeen dollars and fifty cents, and for each dependent child under eighteen years of age or other person dependent upon and entirely supported by such husband and wife or head of a family, an additional four dollars.

(c) To the head of a family, who is a widow or widower, for each child under the age of eighteen years actually dependent upon and supported by such taxpayer, an additional four dollars.

(d) For each person dependent upon and actually supported by a taxpayer not the head of a family, an additional four dollars.

(e) For the purpose of computing taxes payable by persons residing together as members of a family, the income of the wife and of each child under eighteen years of age shall be added to that of the husband or father if living, or if not, to that of the head of the family, and assessed to him except as hereinafter provided. The taxes levied shall be payable by such husband or head of a family, but if not paid by him may be enforced against any person whose income is included within the computation.

(f) The personal exemptions provided by this section shall be determined by the personal status of a taxpayer on the last day of the last year included in the computation of income, except as otherwise provided in this act.

Sec. 15. Income year, calendar or fiscal. (a) Taxpayers who customarily determine their income on the basis of an established fiscal year instead of on that of the calendar year, may, with the approval of the commission, and subject to such rules and regulations as it may establish, return their net income under this act on the basis of such fiscal year, in lieu of that of the calendar year; provided, that all fiscal years ending between July 1 preceding and June 30 following the close of the calendar year shall correspond to such calendar year for the purposes of this act. No fiscal year shall end on a date other than the last day of a month.

(b) A taxpayer may, with the approval of the tax commission, and under such regulations as it may prescribe, change his income year from the fiscal year to the calendar year or otherwise, in which case his net income shall be computed upon the basis of such new income year.

(c) If the taxpayer, with the approval of the commission, changes the income year on the basis of which his net income is computed, he shall, at such time and in such manner as the commission may prescribe, make a separate report of income for the period intervening between the end of his former income year and the beginning of his new income year.

Sec. 16. Filing reports. (a) Every corporation, as defined in section 4, whether taxable under this act or not; every person other than a corporation who receives during the year a net income of eight hundred dollars or over, if single, or sixteen hundred dollars or over, if married, and every partnership shall, on or before March 15 of each year (or if for a fiscal year ending on some date other than December 31, within seventy-five days after the last day of such fiscal year) file with the commission a report of income in such manner and form and setting forth such facts, necessary to the enforcement of the provisions of this act, as the commission shall prescribe.

(b) The report of a corporation, including investment company copartnerships, shall be made upon the oath or affirmation of the president, vice-president, or other principal officer and the treasurer thereof, or if a corporation in liquidation or in the hands of a receiver, upon the oath or affirmation of the person responsible for the conduct of its affairs.

(c) The report of a person other than a corporation, and the report of a partnership (other than an investment company copartnership) shall be made upon the oath or affirmation of a member of such partnership.

(d) Corporations doing business within the state shall also file, with the report of income as provided herein, on forms prescribed by the commission, the following reports:

1. Transfers of their capital stock made by or to residents of the state during the income year, the names and addresses of

sellers and purchasers, dates of transfer, and number of shares of stock transferred in each instance.

2. Names and addresses of and the amount paid to each officer or employee residing within the state to whom seven hundred dollars or more was paid for salaries, wages, fees, or bonuses, for services actually rendered in carrying on the business, profession or occupation from which the income is derived.

3. The form of indebtedness on which, and the names and addresses of the creditors residing within the state to whom, interest was paid in the operation of the business from which the income is derived.

4. Payments made, and the names and addresses of persons residing within the state to whom dividends, or liquidating dividends were paid.

5. Payments made, and the names and addresses of persons, within or without the state, to whom payments were made for rents or royalties on property situate within the state.

(e) Persons other than corporations claiming deductions for salaries, wages, fees or bonuses paid for services shall file the report required in subsection (d), paragraph 2, of this section.

(f) Persons other than corporations, claiming deductions for interest paid within the year on existing indebtedness, shall report the form of the indebtedness, the names and addresses of creditors to whom interest was paid, and the amount paid to each.

(g) Whenever in the judgment of the commission any person other than a corporation is subject to income tax, or for any reason ought to file a report of income, it shall notify such person to make such report, and to include therein such information as the commission shall prescribe. Failure to receive such notice shall not excuse a person required to file a report of income.

(h) Married persons living together as husband and wife may make separate reports or join in a single joint report of income.

(i) Upon written request therefor, the commission may, for absence, sickness, or other sufficient reason, extend the time, not exceeding thirty days, for filing a report of income.

Sec. 17. Computation of taxes. (a) The assessment of taxable incomes of the income year 1933 shall be based upon one-half of the net income for the whole year 1932; provided, further, that the deductions shall only be one-half of the deductions allowed for the full year, and provided, further, that this provision shall apply only to the computation of income tax payable in 1933. Thereafter the computation shall be based on the full net income of each previous year.

(b) In the case of married persons living together as husband and wife who make separate reports, the tax shall be computed on the combined taxable income. On request, a separate statement or tax bill shall be issued to husband and wife. In such case the deductions from net income tax shall be allowed but once and divided equally, and the amount of tax due shall be paid by each in the proportion that their separate incomes bear to the combined income.

(c) Liability to taxation for income which follows the residence of a recipient shall, in the case of persons other than corporations who move into or out of the state within the year, be determined for such year by the ratio of time which the residence of the taxpayer within the state bears to the entire calendar or fiscal year.

(d) Deductions for personal exemptions, as provided in sec-14, shall be prorated on the basis of the time of residence within and without the state. The net income of the taxpayer assignable to the state for such year shall be used in determining the income subject to assessment.

Sec. 18. Payment of tax. (a) All income taxes owing to the state under the provisions of this act shall be due and payable on March 15, following the close of the calendar year in which the income accrued; provided that the income tax for the year 1933 based on one half of the net income for 1932, shall be due and payable on June 15, 1933, and provided, that in the case of persons who with the consent of the commission make their report of income on the basis of a fiscal year other than the calendar year, the tax shall be due and payable seventy-five days after the close of such fiscal year. The full amount of such tax, as the same shall appear from the face of the report of income, may be paid to the commission when the report of income is filed, or on the day when the same becomes due and payable, or the taxpayer may pay the same in two instalments; one-half on the date when the full amount, as herein provided, shall

become due and payable and the second half ninety days after such date. For the purposes of this paragraph the report of income upon which the tax is computed shall be presumed to be correct.

(b) In the event that an extension of time for filing a report of income has been granted the time for payment of the first instalment shall be postponed until the expiration of such extension, but the time for payment of the second instalment shall not be extended unless the extension shall specifically provide.

(c) When the time for the payment of any instalment has been extended, there shall be added to such instalment interest at the rate of eight per cent per annum from the time when the payment should have been made had no extention been granted, until paid. If any instalment is not paid when due the whole amount of the tax unpaid shall become due and payable upon notice and demand by the commission.

(d) The tax may be paid by uncertified check, but if a check so received is not paid by the bank on which it is drawn the taxpayer shall remain liable for the payment of the tax and all legal penalties, the same as if such tax had not been tendered.

Sec. 19. Method of accounting; inventories; keeping records. (a) Persons who customarily estimate their incomes or profits on a basis of cash receipts and disbursements, or other method of accounting which clearly reflects their taxable income, may make their report of income in accordance with the method of accounting regularly employed by them; provided, that if the method employed does not clearly reflect the taxable income the computation shall be made upon a basis, and in such manner as in the opinion of the commission will clearly reflect such net income.

(b) "Paid" or "actually paid" are to be construed in the light of the method used in computing taxable income, whether on the accrual or receipt basis; provided, that deductions for federal taxes shall be confined to cash payments made within the year covered by the income tax return, and reserves for contingent losses or liabilities shall not be deducted.

(c) Whenever in the opinion of the commission, the use of inventories is necessary to clearly determine taxable income, inventory shall be taken by the taxpayer upon such basis, conforming as nearly as may be to the best accounting practice in the trade or business and most clearly reflecting the income, as the commission may prescribe.

(d) Whenever in the judgment of the commission it is necessary that a person subject to an income tax should keep records to show whether or not he is in fact liable to tax, the commission may by notice served upon such person require records to be kept that will disclose the entire net income of such person and enable the commission to compute his taxable income. Thereafter, any taxes assessed upon information not contained in such records shall carry a penalty of twenty-five per cent of the amount of the tax, which shall be in addition to all other penalties.

Sec. 20. Corporate tax evasion. (a) When any corporation liable to taxation under this act conducts its business in such a manner as either directly or indirectly to benefit the members or stockholders thereof or any person interested in such business, by selling its products or the goods or commodities in which it deals at less than the fair price which might be obtained therefor, or where a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a substantial portion of its stock in such a manner as to create a loss or improper net income, the commission may determine the amount of taxable income of such corporation for the income year, having due regard to the reasonable profits which but for such arrangement or understanding might or could have been obtained from dealing in such products, goods or commodities.

(b) For the purposes of this act, whenever a corporation which is required to file a report of income is affiliated with or related to any other corporation through stock ownership by the same interests or as parent or subsidiary corporations, or whose income is regulated through contract or other arrangement, the tax commission may require such consolidated statements as in its opinion are necessary in order to determine the taxable income received by any of the affiliated or related corporations; provided, however, that where eighty per cent or more of the stock is owned by the parent corporation within the state, the net income may be computed on the basis of the combined returns of all such subsidiary corpora-

tions.

Sec. 21. Situs of income. (a) Income from mercantile or manufacturing business not requiring apportionment under section 24, and income from rentals or royalties from real estate or tangible peronal property, or from the operation of any farm, mine or quarry, or from the sale of real property or tangible personal property shall follow the situs of the business or property from which derived. All other income, including royalties from patents, income from personal services, professions and vocations and from land contracts, mortgages, stocks, bonds and securities or from the sale of similar intangible personal property, shall follow the residence of the recipient, except as in this act otherwise specifically provided.

Sec. 22. Non-resident fiduciary; non-resident beneficiary. A resident who receives income from a non-resident fiduciary shall be taxed the same as though such income had been received without the intervention of a fiduciary. A resident fiduciary receiving income from a non-resident beneficiary shall report such income in accordance with the provisions of sections 21, 23 and 24.

Sec. 23. Separate reports. (a) Persons deriving income from within and without the state shall make a separate report of income derived from without the state, in the form and manner prescribed by the commission.

(b) The entire taxable income of a person deriving income from within and without the state shall, if such person resides within the state, be combined and aggregated for the purpose of determining the proper rate of taxation.

Sec. 24. Apportionment of income derived from within and without the state. (a) Persons engaged in business within and without the state shall be taxed only on such income as is derived from business transacted and property located within the state. The amount of such income apportionable to Arizona may be determined by an allocation and separate accounting thereof when in the judgment of the commission that method will reasonably reflect the income properly assignable to this state. Otherwise such income shall be determined by first deducting from the total net income of the taxpayer such part thereof, less related expenses if any, as follows the situs of the property or the residence of the recipient (provided, that in the case of income which follows the residence of the recipient, the amount of interest and dividends deductible under this provision shall be limited to the total interest and dividends received which are in excess of the total interest, or related expenses if any, paid and allowable as a deduction under sections 11 and 12 during the income year), and the remaining net income shall be apportioned to Arizona on the basis of the ratio obtained by taking the arithmetical average of the following three ratios:

1. The ratio of the tangible property, real, personal, and mixed, owned and used by the taxpayer in Arizona in connection with his trade or business during the income year, to the total of such property of the taxpayer owned and used by him in connection with his trade or business everywhere. Cash on hand or in the bank, shares of stock, notes, bonds, accounts receivable, or other evidence of indebtedness, special privileges, franchises, good will, or property the income of which is not taxable or is separately allocated, shall not be considered tangible property nor included in the apportionment.

2. In the case of persons engaged in manufacturing or in any form of collecting, assembling, or processing goods and materials within the state, the ratio of the total cost thereof within the state to the total cost thereof everywhere. "Cost of manufacturing, collecting, assembling, or processing within the state and everywhere," shall be so interpreted as to conform as nearly as may be to the best accounting practice in the trade or business. Unless in the opinion of the commission the peculiar circumstances in any case justifies a different treatment, this term shall be interpreted to include as elements of cost within the state, the total cost of all goods, materials, and supplies used in manufacturing, assembling, or processing within the state regardless of where purchased; the total wages and salaries paid or incurred during the income year in the state in such manufacturing, assembling, or processing, and the total overhead or manufacturing burden properly assignable according to good accounting practice to such manufacturing,

assembling, or processing within the state.

3. In the case of trading, mercantile, or manufacturing concerns, the ratio of the total sales made through or by offices, agencies, or branches located in Arizona during the income year, to the total net sales made everywhere during said income year.

(b) If it shall be shown to the satisfaction of the commission that the use of any one of such ratios produces an unreasonable or inequitable result, for the reason that the taxpayer, in producting the income taxed, does not to any appreciable extent employ the factors used, such ratio may, with the approval of the commission, be omitted in obtaining the final average ratio which is to be applied to the remaining net income. If the income of any such person properly assignable to the state cannot be ascertained with reasonable certainty by either of the foregoing methods, then the same shall be apportioned and allocated under such rules and regulations as the commission may prescribe.

(c) "Sales", as used in this section, shall include exchange, and "manufacturing" shall include mining and all processes of fabricating or curing raw materials.

(d) A foreign corporation whose principal business is carried on or transacted in Arizona shall be deemed a resident of the state for income tax purposes and its income shall be determined and assessed as if it were incorporated under the laws of Arizona, notwithstanding its domicile is elsewhere.

Sec. 25. Income of partnerships. (a) Individuals carrying on business in partnership (excepting investment companies as defined by section 1887, Revised Code of 1928) shall be liable for income tax only in their individual capacity. In computing the income of each partner there shall be included his distributive share, whether distributed or not, of the net income of the partnership for the income year. Partners shall be required to file individual returns on the basis of a fiscal or calendar year which coincides with that upon which the partnership return is filed.

(b) The net income of the partnership shall be computed in the same manner and on the same basis as provided for persons other than corporations.

Sec. 26. Distribution of dividends; accumulated profits; distributions in liquidation; property dividends.

(a) Distribution of dividends derived from stocks, whether paid in cash or property, shall be presumed to be made out of profits, and from the most recently accumulated profits.

(b) Profits accumulated, or increase in value of property accrued before January 1, 1933, may be distributed exempt from tax, after profits accumulated subsequent to January 1, 1933, have been distributed, but any such tax-free distribution shall be applied against and reduce the cost or other income tax basis provided in section 27, subsection (a). If tax-free distributions exceed the cost or other income tax basis, the excess shall be included in the gross income of the year in which received.

(c) Distributions in liquidation of a corporation shall be treated as payment in exchange for the stock, and the gain or loss to the distributee resulting therefrom shall be determined under the provisions of this subsection and section 27, subsection (a). Distributions in liquidation shall not be taxed as a gain until the distributee shall have received amounts in liquidation in excess of the cost or other income tax basis, and any excess shall be taxed as gain in the year in which received. Losses upon liquidation shall be recognized only in the year in which the corporation makes its final distribution. For the purpose of this subsection a corporation shall be considered to be liquidating when it begins to dispose of the assets with which it carried on the business for which it was organized and begins to distribute the proceeds from the disposition of such assets, or the assets themselves, whether or not such disposition and distribution is made pursuant to resolution for dissolution; provided, that any distribution of current earnings of a corporation shall not be considered to be a distribution in liquidation unless the corporation making such distribution has ceased or is about to cease carrying on the business for which it was organized.

(d) Dividends paid in property other than cash shall be appraised at the value of such property on the date of distribution.

(e) A dividend paid by a corporation in its own capital stock shall not be subject to tax as a dividend at the time of its receipt

by a stockholder; but the sale of such stock and of the stock with respect to which it was issued may result in a gain or loss for tax purposes, to be determined as provided in this subsection and in section 27, subsection (a). For such determination the cost or other basis of the old and of the new shares shall be such proportions of the original cost or other basis of the old stock as is properly allocable to each, according to regulation prescribed by the commission. If before or after the distribution of a stock dividend the corporation cancels orredeems its stock in such manner as to make the transaction in whole or in part essentially equivalent to a taxable dividend, such distribution, to the extent that it represents profits accumulated subsequent to January 1, 1933, shall be treated as a taxable dividend.

(f) When a dividend, not a distribution in liquidation, is distributed in property other than cash, the profit or loss arising therefrom shall be that of the corporation, and measured by the difference between the value of such property at the time of distribution and the income tax cost thereof to the corporation.

(g) Where the transfer of a reserve or other account or a portion thereof is in effect a transfer to surplus, so much of such transfer as was accumulated through deductions from the gross or taxable income of years open to audit shall be included in the taxable income of such years, and so much thereof as was accumulated through deductions from the gross or taxable income of years not open to audit shall be included in the taxable income of the year in which the transfer was effected.

Sec. 27. Gain or loss in sale of capital assets; replacement of property destroyed. (a) For the purpose of ascertaining gain or loss resulting from the disposition of real estate or other capital assets, acquired prior to January 1, 1933, the value thereof as of January 1, 1930, shall be the basis. For computing profit or loss on the disposition of property acquired by gift subsequent to January 1, 1933, the cost to the last preceding owner who did not acquire it by gift shall be the basis, or in case such cost cannot be ascertained, if the property was acquired by such preceding owner after January 1, 1933, then the basis shall be the value thereof at or about January 1, 1930, to be determined from the best information obtainable. For computing profit or loss on the disposition of property acquired by descent or by will after January 1, 1933, the appraised value thereof, in the administration of the estate of the deceased owner, as of the date of his death, shall be the basis. In every case the basis shall be diminished by the sum of all deductions allowed after acquisition or after the basis date, for exhaustion, wear and tear and depletion; by the amounts of income deferred by the taxpayer and used to reduce property, and by anticipated losses on the property which have been deducted from taxable income.

(b) If property, exclusive of inventories (as raw material, goods in process and finished goods), as a result of its destruction in whole or in part by fire or other casualty, is involuntarily converted into money which is in good faith, within one year, under regulations prescribed by the commission, expended in the replacement of the property destroyed or in the acquisition of other property similar or related in service or use to the property destroyed, or in the establishment of a replacement fund which, within two years from date of the casualty is actually expended to replace the property destroyed or in the acquisition of other property similar or related in service or use to the property destroyed, no gain shall be recognized, and in the case of gain the property so replaced or acquired shall be deemed to take the place of the property so destroyed. If any part of the money is not so expended the gain, if any, shall be recognized in an amount not in excess of the money which is not so expended. Replacement of property by an insurance company shall be deemed to be an expenditure by the taxpayer of insurance moneys received by him.

Sec. 28. Gain or loss in transfers pursuant to reorganization of corporations. (a) "Reorganization" shall mean a merger or consolidation, by which one corporation shall acquire not less than a majority of the voting stock and not less than a majority of the total number of shares of all other classes of stock of another corporation, or substantially all of its properties; or a transfer by one corporation of all or a portion of its assets to another corporation, immediately following which the transferor or its stockholders are in control of the corporation to which the assets are so transferred; or a recapitulation, or change in the form of capitalization;

or a mere change in identity, form or place of organization, however effected.

(b) "Party to a reorganization" shall mean a corporation resulting from a reorganization, and in the case of an acquisition by one corporation of not less than a majority of the voting stock and not less than a majority of the total number of shares of all other classes of stock of another corporation, shall include both corporations.

(c) "Control", as used in this section, shall mean the ownership of at least eighty per cent of the voting stock and at least eighty per cent of the total number of shares of all other classes of stock of the corporation.

(d) No gain or loss shall be recognized if in pursuance of reorganization stock, securities or property of a corporation party thereto are exchanged solely for stock or securities of such or another corporation pary to such reorganization; provided, that where property is exchanged solely for stock and the stock is thereafter sold, the difference between the cost of the property so exchanged, or its fair market value as of January 1, 1933, and the amount received for the stock so received in such exchange, shall constitute profit or loss under the provisions of subsections (d) and (e).

(e) No gain or loss shall be recognized when property is transferred to a corporation solely in exchange for its stock, if immediately after the exchange the corporation is in the control of the person or persons exchanging such property; provided, that if the exchange is by two or more persons this provision shall apply only if the amount of the stock received by each is substantially in proportion to his interest in the property prior to the exchange.

(f) No gain to the distributee shall be recognized when, in pursuance of reorganization, stock or securities of a corporation party thereto are distributed to a stockholder in such or another corporation party to the reorganization, without the surrender by the distributee of stock or securities in such corporation.

(g) The distribution, in pursuance or reorganization, of the stock or securities of a corporation party thereto shall not be considered a distribution of earnings or profits for the purpose of determining the taxability of subsequent distributions.

(h) When property (other than stock or securities of a corporation party to a reorganization) was acquired in pursuance of reorganization, and for income tax purposes the transaction was treated as provided in subsection (d), and immediately after the transfer control of the property remained in the same persons or any of them, the basis for determining gain or loss, depletion or depreciation, shall be the same as if the property remained in the hands of the transferor.

(i) When property (other than stock or securities of a corporation party to a reorganization) was acquired by a corporation by the issuance of its stock or securities, and for income tax purposes the transaction was treated as provided in subsection (e), the basis shall be the same as if the property remained in the hands of the transferor.

(j) When property consists of stock or securities distributed in pursuance of reorganization, and for income tax purposes the transaction was treated as provided in subsection (f), the basis shall apply to the stock in respect of which the distribution was made and be apportioned as in the case of stock dividends.

Sec. 29. Reports of executors and administrators. (a) In all cases where a deceased person, if living, would have been required to file a report of income, the executor or administrator of the estate of such decedent shall, within the time that it should have been filed had the decedent survived, file such report, which shall show:

1. All income received by decedent during that portion of the year covered by the report preceding the demise of the decedent.

2. All income received by him from the estate of the deceased during the year covered by the report, if such receipts would have been assessable had the decedent survived.

3. All income received by him from the estate of the deceased covered by the report, accrued at the date of death but not reported by the decedent on the accrual basis, if such receipts would have been assessable had the decedent survived.

4. If the decedent was a married person at the date of death, the income of the widow, if living, and of all children under eighteen, together with the income of any person actually supported

by and dependent upon the estate.

(b) Income arising from a transaction which was being reported by the decedent while living, on a deferred basis, shall be reported by the executor or administrator in the same manner. If all of such deferred income has not been reported and accounted for before the executor or administrator is discharged, he shall in his last report of income, return as income the then value of the deferred income unreported.

(c) The executor or administrator shall be allowed the same personal exemptions that the decedent, had he survived, would have been entitled to; except that no personal exemption shall be allowed, under section 14, subsections (a) and (b), but for the year of death.

(d) If the decedent was a single person at the time of death, and was actually supporting children under the age of eighteen years or any other person or persons dependent upon him the personal exemption deductible under section 14, subsections (c) and (d) shall be allowed until such children reach the age of eighteen years or until such other person or persons shall cease to be dependent.

(e) If the decedent was a married person at the date of death and his widow is the head of a family, the same personal exemption shall be allowed as is allowed to the head of a family under section 14, subsection (b), (c) or (d), as the case may be.

(f) The executor or administrator shall include in his report of income the income of the wife of the deceased, if living, and of all children under eighteen, together with the income of any person actually supported by and dependent upon the estate.

Sec. 30. Reports of guardians. A guardian shall make a report of income, which shall show the income from all sources received by or for his ward, and shall pay the tax. The net income of a guardian shall be ascertained in the same manner as the income of other persons, and shall be subject to the same deductions for personal exemptions as the ward would have been entitled to had he made the return; provided, that if any ward is under eighteen and the child of a person required to file a report of income, the personal exemption provided in section 14, subsection (c) shall be allowed to the guardian. The taxable income of a ward under eighteen shall be added to the taxable income of the parent or head of a family as provided in section 14, subsection (e), and the tax computed on the combined income of such ward and parent or head of a family. The tax on the combined income shall be credited with any tax the guardian may have paid or is liable for on the income of the ward, and the balance of the tax on the combined income shall be paid as provided in section 14, subsection (e). If the tax so credited shall not be paid by the guardian when due, the parent or head of a family shall pay the same and shall have a personal right of action for reimbursement therefor against the guardian and a lien upon the property from which the income is derived.

Sec. 31. Reports of trustees. (a) The trustee of a trust estate created by will, contract, declaration of trust, or implication of law, shall make a report of income received by him as such, showing the total taxable income received during the year, the names and addresses of distributees and the amounts severally distributable to them whether distributed or not, and also the amounts to be accumulated by them for unknown, unborn, or undisclosed beneficiaries, or for other reasons. The net income received by a trustee shall be ascertained in the same manner as the net income of persons other than corporations, except that the personal exemptions under section 14, subsections (a), (b), (c) and (d) shall not be allowed. A distributee who receives or is entitled to receive any part of such net income shall report the same, together with other income as provided by this act. A non-resident distributee shall be assessed on such income as the income of non-residents is assessed. No personal exemption shall be allowed a distributee unless he makes claim therefor in his report of income.

(b) All nondistributable income, or contingently distributable income not distributed, shall be assessed to the trustee in the same manner as income of persons other than corporations, except that the personal exemption under section 14 shall not be allowed.

Sec. 32. Income taxes lien on trust estate. Income taxes levied against the income of beneficiaries, as provided in sections 29, 30, and 31, shall be a lien on that portion of the trust estate or interest therein from which the income taxed is derived, and if

not paid by the distributee shall be paid by the fiduciary before the same becomes delinquent. Every person who as a fiduciary under the provisions of this act pays an income tax shall have all the rights of reimbursement provided by law for the allowance of expenses of executors and administrators, guardians, or trustees.

Sec. 33. Payment of tax before discharge of fiduciary. (a) No fiduciary applying for discharge of his trust shall be so discharged until he has made a report of all income received in his representative capacity to the date of such application, and paid the tax found to be due, as in this section provided.

1. Upon making application for discharge, any such fiduciary shall file with the commission a report of income received after the close of the last preceding income year, and a report of income received during each of the years open to audit, if such reports have not theretofore been filed.

2. The commission shall determine the amount of taxes to become due and certify the same to the court, whereupon the court shall enter an order directing the fiduciary to pay into the treasury the amount of tax, if any, found due.

3. The receipt of the treasurer shall be evidence of the payment of the tax and shall be filed with the court before a final distribution of the estate or trust shall be ordered and the fiduciary discharged.

(b) The treasurer shall enter the amount in a ledger account entitled "Advance Income Taxes."

Sec. 34. Office audit; correction. (a) As soon as practicable the commission shall audit each report of income filed, and compute the tax, and the amount so computed shall be the tax. If it shall be found that any person has been over or underassessed, or that no assessment has been made when one should have been, the proper correction or assessment shall be made. If the tax found due shall be greater than the amount theretofore paid, the deficiency shall be paid to the commission within twenty days after notice to and demand upon the taxpayer.

(b) If the report was made in good faith and the deficiency of the tax is not due to any fault of the taxpayer, there shall be no penalty or additional tax added because of such deficiency, but interest shall be added to the amount of the same from the date the tax was originally due until paid, at the rate of six per cent per annum.

(c) If the tax found due shall be less than the amount theretofore paid, the commission shall certify such overpayment to the auditor, for refund to the taxpayer.

(d) Any correction or assessment made as a result of such office audit shall be presumed to be the result of an audit of the report of income only, and shall not be deemed a verification of any item in the report nor preclude the commission from making field audits of the books and records of the taxpayer and from making further correction or assessment.

Sec. 35. Field investigation. Whenever it is deemed advisable to verify a report of income or otherwise ascertain the taxable income of any person the commission may direct such verification to be made, and for such purpose shall have the powers prescribed by section 5. Upon such information as may be gained, the commission shall determine the true amount of income received during the year or years under investigation. If it shall appear upon investigation that a person has been over or underassessed, or that no assessment has been made when one should have been made, the commission shall make a correct assessment.

Sec. 36. Limitation on corrections. Corrections or additional assessments of income may be made at any time within five years after the close of the period covered by a report of income; provided, that if in any year no return is filed, income of any such years may be assessed when discovered.

Sec. 37. Interest on back taxes; interest on overpayments. (a) In assessing back taxes interest shall be added to such taxes at the rate of six per cent per annum from the date they would have become delinquent if unpaid, had they been assessed when they first became assessable, to the date on which such back taxes when subsequently assessed will become delinquent, if unpaid.

(b) In certifying refunds of taxes which have been overpaid,

interest shall be added at the rate of six per cent per annum from the date of the payment of such taxes until the date on which such overpayment is certified to the auditor.

Sec. 38. Notice of correction or of assessment. (a) When a correction or assessment has been made, as provided in sections 34 and 35, the taxpayer shall be given notice thereof, in writing, by registered mail, or served as a superior court summons. Service by regular mail shall be deemed sufficient if receipt thereof is admitted, or there is other satisfactory evidence of receipt.

(b) Within fifteen days after such notice, the taxpayer may present evidence, orally or in writing, under oath; and the controverted correction or assessment may be modified if, in the judgment of the commission, such action is justified by the facts disclosed.

(c) If within twenty days after such notice, the taxpayer does not request a hearing before the commission, the correction or assessment as proposed, or as modified in accordance with subsection (b), shall be final and conclusive, and the tax shall become immediately delinquent.

Sec. 39. Hearing by commission. Any person aggrieved by the correction or assessment of his income shall be entitled to a hearing before the commission, if within twenty days after the notice prescribed by section 38 he shall in writing request the same and explain in detail his objections to such correction or assessment. Upon a request for hearing the commission shall fix the date and place of hearing, and shall hear the taxpayer and render its decision.

Sec. 40. Court review. (a) No person against whom an income assessment has been made, corrected or confirmed shall be allowed in any action or proceeding, either as plaintiff or defendant, to contest such assessment in court unless such person shall first have made in good faith written objection to such assessment, to the commission, and full disclosure under oath of all assessable income, nor unless he shall have availed himself of the remedy provided by sections 38 and 39.

(b) An appeal from a decision of the commission shall be taken to the superior court of the county in which the taxpayer resides, within twenty days after written notice to the taxpayer of such decision has been given by registered mail, by serving a notice of appeal and a copy thereof on the commission. The notice shall name the order or decision from which appeal is taken, specify the objections to the correction, assessment, order or decision to be considered, and recite the assignments of error, together with a statement of the facts upon which the appellant relies and the propositions of law involved.

(c) Within twenty days after the service of such notice, the commission shall return to the court the original or a certified or photostatic copy of all documents, papers, evidence, statements and exhibits on file in the matter and of all testimony taken therein.

(d) Within twenty days after service of notice of appeal, the appellant shall serve upon the commission a brief in support of his objections to such assessment, and shall at the same time file a copy thereof with the clerk of the court wherein said appeal is pending.

(e) Within thirty days after service of appellant's brief the commission shall serve upon the appellant or his counsel an answer to the objections raised on appeal, and a brief in support of such answer and of the assessment; whereupon the appeal shall be regarded as at issue.

(f) Subject to the provisions of law for change of venue or the calling in of another judge, said appeal may thereupon be brought on for hearing by either party, on ten days' notice to the other, upon the record made before the commission and not otherwise. The attorney general shall appear for the commission.

(g) In all actions to contest the validity of income assessments the proceedings of the commission shall be presumed to be legal, and its determination shall not be impaired, vitiated or set aside upon any grounds not affecting the legal groundwork of the tax. If the court, disregarding any irregularity, informality or omission not affecting the legal groundwork of the tax, shall find that the assessment complained of was neither in whole nor in part illegal, it shall enter an order confirming the assessment and directing judgment in accordance with the terms of the order. If it shall find that the assessment is in whole or in part illegal it

shall direct the commission to make such corrections as it may deem necessary. Upon eight days' written notice to the adverse party the court shall enter judgment. It shall be the duty of the clerk of the court to promptly transmit two copies of the decision to the commission.

(h) Within twenty days after the entry of judgment either party may appeal to the supreme court in the manner provided for appeals from the judgment of a superior court, and such appeal shall be placed on the calendar of the supreme court and brought to a hearing in the same manner as other state cases. If no appeal be taken the clerk of the court shall certify such fact to the commision and return the record to the commission.

Sec. 41. Stay of collection pending appeal. When any person shall have served notice of appeal to the superior court, as provided in this act, all collection proceedings shall be stayed until final determination thereof; provided, that such appeal shall not operate to stay the delinquent penalty and interest on unpaid amounts.

Sec. 42. Payment of taxes on appeal. (a) Any person who shall contest an assessment in court shall state in his notice of appeal what portion if any of the tax is admitted to be legally assessable and correct, and shall pay to the commission the tax so admitted. Such payment shall constitute an admission of the legality of the tax paid, and the tax so paid cannot be recovered in any action or proceeding.

(b) Any assessment, or part thereof, appealed to the superior court, which the court shall finally order to be paid, shall be deemed to be delinquent from the date on which it would have become delinquent had no appeal been taken, and shall be subject to the penalty and interest prescribed for delinquent taxes.

Sec. 43. Final certification; collection or refund. When any correction or assessment, action or proceeding, affecting the income assessment of any taxpayer shall become final, the commission shall collect the same, if any part thereof is delinquent, as provided for the collection of delinquent taxes. If the tax is overpaid the commission shall certify to the auditor, for refund, the amount of such overpayment, and the auditor shall draw his warrant in favor of the taxpayer for the amount.

Sec. 44. Claim for refund. (a) An action or proceeding for the allowance of credits or for the refund or recovery of income taxes alleged to have been erroneously collected or paid, shall be brought as provided in this section and not otherwise.

(b) No refund shall be made nor credit allowed for taxes paid for years not open to audit.

(c) No refund shall be made on any item of income or deduction assessed as a result of an office audit, nor for any year the income of which was assessed as a result of a field audit, which item or assessment shall have become final.

(d) Claims for refund or credit shall be filed with the commission and shall set forth specifically and in detail the basis of and reason for any such claim. Upon the filing of a claim it shall be considered and acted upon as provided for the consideration of additional assessments. If any portion of a claim is disallowed the person filing the same shall have the right of hearing and appeal provided in section 39.

(e) If the commission shall fail or neglect to act on any claim for refund or credit within one year after the receipt thereof, such neglect shall have the effect of allowing such claim and the commission shall certify such refund or credit.

Sec. 45. Collection of delinquent taxes. (a) If any tax imposed by this act or any portion thereof be not paid within thirty days after the same becomes delinquent, the commission shall issue a warrant under the hand of its chairman and its official seal directed to the sheriff of any county commanding him to levy upon and sell the real and personal property of the taxpayer found within his county, for the payment of the amount of such tax, with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the commission and pay to it the money collected by virtue thereof by a time to be therein specified, not less than sixty days from the date of the warrant. The sheriff shall, within five days after the receipt of the warrant, file with the

clerk of the court a copy thereof, and the clerk shall thereupon enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns the amount of the tax or portion thereof and penalties and interest for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to any interest in real or personal property of the taxpayer against whom it is issued in the same manner as a judgment duly docketed in the office of the clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to execution issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In its discretion the commission may issue a warrant of like terms, force and effect, directed to any agent authorized to collect income taxes, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the commission shall have the same remedies to enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment against the taxpayer for the amount of the tax.

(b) Every tax imposed by this act, and all increases, interest and penalties thereon shall become, from the time the same is due and payable, a personal debt from the person liable to the state of Arizona.

(c) An action may be brought at any time by the attorney general, at the instance of the commission, in the name of the state, to recover the amount of any taxes, penalties and interest due under this act.

Sec. 46. Failure to file reports; penalties. (a) Any person required to make a report of income, who shall fail to do so within the time and in the manner prescribed by this act, or shall make a report which does not disclose his entire taxable income, shall be assessed, in an amount not less than one hundred dollars, according to the best judgment of the commission. If, after notice as provided in section 38, no request is made for a hearing, the assessment shall be final and conclusive, and the person assessed shall thereafter be forever barred from questioning the correctness of the same in any action or proceeding.

(b) If any person required to make a report of income fails to file the same within the time and in the manner prescribed by this act, the commission shall add to the tax of such person ten dollars in the case of corporations and five dollars in the case of persons other than corporations. If no tax is assessed against such person the amount of this fee shall be collected as income taxes are collected, and no person shall be allowed in any action or proceeding to contest the imposition of such fee.

(c) Any person required to make a report of income, who fails to do so, or makes an incorrect report, with intent in either case to defeat or evade the income tax, shall be assessed at twice the normal rate. Such increased assessment shall be in addition to all other penalties. The statute of limitations shall not begin to run as against any such taxpayer until the assessment shall have been made as herein provided.

(d) Any person required to do so, who fails to file a report as provided by section 16, subsection (d), (e) and (f), shall be subject to a fine or penalty of not less than twenty-five nor more than five hundred dollars, to be assessed and collected as income taxes.

(e) Any person other than a corporation, or any officer of a corporation required by law to make, render, sign, or verify a report of income or any statement required by this act, who fails or refuses to make such report or statement at the time or times provided, or who makes a false or fraudulent report or statement with intent to defeat or evade the income tax, or to obstruct the enforcement of any provision of this act, shall upon conviction be fined not less than one hundred nor more than five thousand dollars, or be imprisoned not to exceed one year, or both, at the discretion of the court, and be required to pay the cost of prosecution.

Sec. 47. Secrecy required; penalty; reciprocity. (a) Except in accordance with the order of a court having jurisdiction or as otherwise provided by this section, it shall be unlawful for any officer, deputy, agent, clerk or employee charged with any duty connected with or relating to the assessment or collection of the income tax, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this act.

(b) Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, or the inspection by the attorney general or other legal representative of the state, of the report or return of any taxpayer who shall bring action to review or set aside the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this act.

(c) The tax commission may permit the United States commissioner of internal revenue or the proper officer of any state imposing an income tax upon the incomes of individuals, or the authorized representative of either such officers, to inspect the report of income of any taxpayer, or it may give any such officer an abstract of the report of income, or supply him with information concerning any item contained in any report of income or disclosed by any investigation of the income or report of income, of any taxpayer; provided, that such permission shall be granted or such information furnished only if the statutes of the United States or of such state, as the case may be, grant substantially similar privileges to the officers of this state charged with the administration of this act.

(d) Any violation of this section shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the state or of any county thereof, he shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

Sec. 48. Preservation of reports. Reports and returns received under the provisions of this act shall be preserved for five years, and thereafter until the commission orders them to be destroyed.

Sec. 49. Disposition of income tax. (a) The tax commission shall remit all revenues collected under this article direct to the state treasurer within three days following such collection or receipt by the commission, and any receipt or acknowledgment delivered by the tax commission to the taxpayer filing report and making such payment shall serve and be recognized only as a receipt of the amount so tendered and accepted, subject to proper clearance and collection if in the form of a check, draft, or other instrument of exchange except lawful money of the United States, but shall not be evidence or be construed as an acknowledgment by said commission of the sufficiency of such amount or as to the correctness of the report so filed or of any matter contained therein.

(b) With each remittance of such funds to the state treasurer the commission shall transmit to him a full statement of all amounts paid under protest. The state treasurer shall set up a fund to be designated "Income tax suspense fund", into which he shall pay and carry all amounts so paid under protest until such time as their status is finally determined by appeal to the commission or to the courts or for a period of three months if no such appeal be prosecuted by the taxpayer. The tax commission shall keep the state treasurer fully advised with respect to the status of all such payments.

(c) Of all other income tax receipts or collections so transmitted to him, the state treasurer shall pay into said "Income tax suspense fund" ten per centum thereof until the total amount of said fund, less the amount held therein as paid under protest, shall amount to twenty thousand dollars, and at all times when such amount equals twenty thousand dollars neither said ten per centum or any part thereof shall be paid into said fund. From said "Income tax suspense fund" the state treasurer shall disburse and pay all refunds to taxpayers upon order and certificate of the state tax commission or by decree of a court of competent jurisdiction.

Sec. 50. Invalid provisions. If any part or provision of this act shall be adjudged to be invalid, such judgment shall not invalidate the remainder of the act, but shall be confined in its operation to the particular clause, sentence or paragraph directly involved in the controversy out of which such interpretation may arise.

APPROVED MARCH 9, 1933.

REFERENDUM ORDERED
Refrained by court action from submitting certification and referring to vote of people.
October 3,1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 40

(SENATE BILL 63.)

AN ACT

Relating to mileage and traveling expenses of public officers, and amending section 2803, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2803, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2803. Mileage and traveling expenses. Whenever the official duties of a public officer make it necessary for him to travel from the point where he is required by law to maintain his office, he shall be allowed mileage and traveling expenses not in excess of actual reimbursement, to be computed as follows: If to a point without the state, a sum equal to the aggregate of railway fare and pullman charges; if within the state, a sum equal to railway or stage fare; where private conveyance is used, not to exceed five cents per mile traveled, all distances to be measured by the nearest regularly traveled road, and if more than one officer, employee, or other public agent is transported in the same private automobile, only one mileage shall be charged or allowed; no claim for lodging and meals for one person shall exceed five dollars per day. Members of boards of supervisors shall be allowed mileage from their homes to the city or town limits of the county seat when attending meetings of the board. No claim for traveling expenses shall be allowed unless all items for transportation by common carrier, or for lodging, are verified by vouchers.

APPROVED MARCH 14,1933.

March 18,1933.

Governor B.B.Moeur,
State House,
Phoenix,Arizona.

My dear Governor:

I wish to call your attention to S.B. 63 now designated by Chapter 40 relating to Mileage and Traveling Expenses of Public Officers and amending Section 2803, Revised Code of 1928. This bill was received in this office March 15,1933, at 1:10 o'clock P.M. Notation on back sheet shows that this bill was received in your office March 8, 1933 at 3:45 P.M. and was approved by you March 14,1933.

Please be advised that under the caption where same passed the House March 8, 1933 by the following votes: 48 Ayes, 11 Nays, 5 Absent, 0 excused. Same was not signed by the Speaker of the House, also, on one of the back sheets under the caption passed the House March 8,1933, same has been crossed through in ink and was signed by S.A. Spear, Speaker of the House and Lallah Ruth, Chief Clerk of the House. My reason for bringing this to your attention is that should in the future any litigation come up relating this act in question there will be a record in this office showing the correct manner in which this bill was received in this department.

Yours very truly,

(SIGNED) JAMES H. KERBY
Secretary of State.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 41

(SENATE BILL NO. 85)

AN ACT

Relating to salaries of public officers, and amending Sec. 2791, Revised Code of 1928, and acts amendatory thereof.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2791, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2791. Salaries of state officers. Beginning the first Monday in January, 1935, state officers shall receive the following annual salaries: Governor, six thousand dollars; secretary of state, four thousand dollars; state auditor, state treasurer, superintendent of public instruction, state mine inspector, members of the corporation commission, members of the tax commission, three thousand six hundred dollars each; attorney-general, four thousand four hundred dollars; chief justice and associate justices of the supreme court, six thousand eight hundred dollars each; clerk of the supreme court, two thousand eight hundred and eighty dollars; reporter of decisions of the supreme court, nine hundred and sixty dollars; judges of the superior court of the counties of Cochise, Gila, Maricopa, Pima and Yavapai, four thousand four hundred dollars each; judges of the superior court of the counties of Pinal, Coconino, Mohave and Yuma, three thousand six hundred dollars each; the judges of the superior court of the counties of Navajo, Graham, Greenlee, Santa Cruz and Apache, three thousand two hundred dollars each. One-half of the salary of each judge of the superior court shall be paid by the state and the other half by the county for which he is elected.

APPROVED MARCH 14, 1933.

CHAPTER 42

(SENATE BILL NO. 15)

AN ACT

Relating to speed limit on highways, and amending section 1587, Revised Code of 1928, as amended by section 1, chapter 15, Session Laws 1931-32 (1st special).

Be it enacted by the legislature of the state of Arizona:

Section 1. Sec. 1587, Revised Code of 1928, as amended by section 1, chapter 15, Session Laws 1931-32 (1st special), is hereby amended to read as follows:

Sec. 1587. Speed limit on highways. No person shall drive a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to the traffic, surface and width of the highway and the hazard at intersections and any other conditions then existing. Nor shall any person drive at a speed which is greater than will permit the driver to exercise proper control of the vehicle and to decrease speed or to stop as may be necessary to avoid colliding with any person, vehicle or other conveyance upon or entering the highway in compliance with legal requirements and with the duty of drivers and other persons using the highway to exercise due care; provided, that this provision shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence upon the part of the defendant as the proximate cause of an accident. Subject hereto and except where lower speed is specified herein, the driver of a vehicle shall not drive the same at a speed in excess of that specified as follows:

(a) Fifteen miles per hour: 1. when passing a school building or the grounds thereof during school hours or while children are going to or leaving school during opening or closing hours, or when passing school busses where children are being loaded or unloaded, or, 2. when approaching within one hundred feet of a grade crossing of a steam, electric or street railway where the driver's view of such crossing or of any traffic on such railway within a distance of four hundred feet in either direction is obstructed.

(b) Twenty miles per hour: 1. in any business district as defined herein, or, 2. upon approaching within fifty feet and in traversing an intersection of highways where the driver's view in either direction along any intersecting highway within a distance of two hundred feet is obstructed, except that when traveling upon a through street or at traffic controlled intersections the district speed shall apply.

(c) Twenty-five miles per hour: 1. in any residence district as defined herein, or, 2. at any railway grade crossing where the view is not obstructed, or, 3. in public parks within cities unless a different speed is indicated by local authorities and duly posted. Provided, however, that no person operating a vehicle for the transportation of passengers for compensation shall operate such vehicle at a speed in excess of forty-five miles per hour.

(d) In charging a violation of this section, the complaint shall specify the speed at which the defendant is alleged to have driven, and the speed which this section declares lawful at the time and place of such alleged violation. Any person violating the provisions of this section shall be guilty of a misdemeanor.

APPROVED MARCH 14, 1933.

CHAPTER 43

(HOUSE BILL NO. 32)

AN ACT

Proposing to amend Section 1 of Article 5 of the Constitution of the State of Arizona, relative to the executive department.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That it is hereby proposed to amend Sec. 1 of Art. 5 of the Constitution of the State of Arizona to read as follows:

Sec. 1. The executive department of the state shall consist of governor, secretary of state, state auditor, state treasurer, attorney general and state superintendent of public instruction, each of whom shall hold office for four years, beginning on the first Monday in January next after his election. The terms of office of those elected at the general election in 1934 shall begin on the first Monday in January, 1935, and shall end on the first Monday in January, 1939, or when their successors are elected and qualified.

The persons, respectively, having the highest number of votes cast for the office voted upon shall be elected; but if two or more persons shall have an equal and the highest number of votes for any one of said offices, the two houses of the legislature at its next regular session shall elect, by joint ballot, one of such persons for said office.

The officers of the executive department, during their terms of office, shall reside at the seat of government, where they shall keep their offices and the public records, books and papers. They shall perform such duties as are prescribed by this constitution, and as may be provided by law.

Sec. 2. When said proposed amendment shall be approved by a majority of the members elected to each of the two houses, it shall be entered on the journal of each house, together with the ayes and nays thereon. The secretary of state shall submit such proposed amendment to a vote of the people at the next general election, or at a special election, if the legislature shall call a special election, for the purpose of having proposed amendments voted upon.

APPROVED MARCH 14, 1933.

CHAPTER 44

(H. B. 128)

AN ACT

Relating to interest, establishing the legal rate thereof, fixing a maximum rate which may be charged by written agreement, and amending Secs. 1883, 1884, 1885 and 1886, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1883, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1883. Legal rate of interest. The interest for any legal indebtedness shall be at the rate of six dollars upon one hundred dollars for a year, unless a different rate is contracted for in writing. A rate of interest, not to exceed eight per cent per annum, if agreed to in writing, signed by the debtor, shall be paid; a judgment rendered on such agreement shall bear the rate of interest provided for in the agreement, and it shall be so specified in the judgment.

Sec. 2. Sec. 1884, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1884. Usury prohibited; penalty. No person shall directly or indirectly take or receive in money, goods, or things in action, or in any other way, any greater sum or any greater value for the loan or forbearance of any money, goods, or things in action, than eight dollars on one hundred dollars for one year; any person, contracting for, reserving or receiving, directly or indirectly, any greater sum or value, shall forfeit all interest.

Sec. 3. Sec. 1885, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1885. Payment of usurious interest to apply on principal. Where a greater rate of interest than eight per cent per annum has been contracted for, reserved, or received, directly or indirectly, all payments of money or property made on account of such interest, or as inducements to contract for more than eight per cent per annum, whether made in advance or not, shall be deemed and taken to be payments made on account of the principal, and in an action brought to recover the amount of the obligation the court shall render judgment for no greater sum than the balance found due upon the principal, without interest, after deducting such payments.

Sec. 4. Sec. 1886, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1886. Payment may be set-off or sued for. In an action brought to recover on an obligation whereby there has been contracted for, reserved or taken, a greater rate of interest than eight per cent per annum, all payments made in money or property may be pleaded as a counterclaim or set-off, and if such payments exceed the amount of the principal, judgment may be rendered in favor of the defendant for such excess, with interest at the rate six per cent per annum. Where such payments exceed the amount of the principal of the debt or obligation an action may be maintained to recover such excess.

APPROVED MARCH 14, 1933.

CHAPTER 45

(HOUSE BILL NO. 134)

AN ACT

Relating to certified public accountants; Establishing a state board of accountancy: Providing for Examination of accountants and classification of certified public accountants; and repealing Art. 5, of Chap. 58, Revised Code of 1928, the same being Secs. 2527, 2528, 2529, 2530, 2531 and 2532 of said Code relating to certified public accountants.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Board of accountancy. There is hereby established a state board of accountancy, to consist of five members to be appointed by the governor within thirty days after the taking effect of this act, the persons so appointed to hold office for one, two, three, four and five years respectively, the term of each member to be designated by the governor in his appointment. All members of the board shall be citizens and residents of this state, and shall be certified public accountants under the provisions of this act, or shall be eligible to receive their certificates as certified public accountants under the provisions of Sec. 4 of this act. Upon the expiration of each of the terms aforementioned, a successor shall be appointed by the governor in the same manner except that all succeeding appointments after the first shall be for a term of five years in each and every instance. No member shall be eligible for reappointment on the board within three years next following the expiration of his term. Any vacancies which may occur, from any cause shall be filled by appointment by the governor for the unexpired term, in the same manner as the regular appointments.

Sec. 2. Certified public accountant. Any citizen of the United States or person who had duly declared his intention of becoming such citizen, being over the age of twenty-one years and of good moral character, having a place for the regular transaction of business as a professional public accountant in the state of Arizona, and who shall, as hereinafter provided, receive from the Arizona state board of accountancy, herein called the board, a certificate to practice as a certified public accountant, shall be known and styled as a certified public accountant, but no other person, nor corporation, nor any partnership, shall assume such title, or any other words, letters or abbreviations tending to indicate that the person, firm or corporation shall engage in the business of public accounting.

Sec. 3. Examination of applicants. Examinations of persons applying for certificates under this act shall be held in Phoenix, or elsewhere within the state as the board may elect, at least once in each year, or oftener at the discretion of the board. The subjects in which applicants will be examined are: (1) theory of accounts; (2) practical accounting; (3) auditing; and (4) commercial laws affecting accountancy. No person shall be permitted to take such examination unless he (a) shall have been practicing continuously on his own account as a public accountant for at least two years; (b) or shall have been continuously employed in the office of a certified public accountant as an assistant for at least three years; or (c) shall present an academic diploma, showing the successful completion of academic work required for a bachelor's degree from an accredited college or university, or correspondence school, or the equivalent thereof, or other equally satisfactory evidence of academic work as required by the board, provided however, that no person shall be permitted to take the examination unless he presents satisfactory evidence that he has successfully completed a course of studies and instructions in any state or county, which is the equivalent to the requirements for graduating from the highest grade offered by the high schools in this state. All examinations herein provided for shall be in writing upon forms provided by the board and may be held under the joint auspices and control of the Arizona state board of accountancy and the American Institute of accountants, and shall be uniform with similar

examinations held in other states at the same time. All examination papers shall be graded by the Arizona state board of accountancy, or a majority thereof.

At the option of the candidate examination papers will also be graded by the board of examiners of the American Institute of accountants to count as partial satisfaction of admission requirements. The time and place for holding examination shall be duly advertised for not less than three consecutive days nor less than thirty days prior to the date of such examination, in at least one daily newspaper published in each of the three most populous cities of the state. The questions propounded at said examination shall be submitted to the entire board before being adopted, and shall be certified by the board as a reasonable and fair test of the applicant's qualifications, and reasonably susceptible of answer and solution in the time allowed. Each subject shall be graded separately, and every applicant shall be required to obtain a grade of seventy-five per cent (75%), in each subject upon which he is examined. The board may make all needful rules and regulations, regarding the scope of the examinations, the method and time of filing applications for examinations, and all other rules and regulations necessary to carry into effect the purposes of this act. Within sixty days after the examination the board shall notify each candidate of his grading. All examination papers shall be preserved for a period of one year after all the candidates have been notified as to their grading and any candidate shall, upon written request to the board have access to his examination papers and be entitled to a statement of the reasons for the gradings given.

Sec. 4. Waiver of examination. Public accountants. The board shall waive the examination of any person possessing the qualifications stated in Sec. 2 of this act, who (a) (1) is a lawful holder of a certified accountant's certificate issued under the laws of another state which extends similar privileges to certified public accountants of this state; provided the requirements for the issuance of certificates in said state are, in the opinion of the board, equivalent to the requirements of this state; (2) is a holder of a certificate of certified public account, or chartered accountant or the equivalent thereof, issued under the laws of any foreign government which extends similar privileges to certified public accountants of this state, provided the requirements of said certificates are, in the opinion of the board, equivalent to the requirements in this state; (3) has for a continuous period of at least ten years been engaged in the practice of public accounting on his own account, maintaining an office for the practice of accountancy in the state of Arizona for at least one year immediately preceding the passage of this act, and has furnished the board mentioned herein with evidence which is satisfactory that his qualifications are such that the dignity of the title of certified public accountant would not suffer because of their lack of knowledge and this may be done by oral examination or by the furnishing of an affidavit at the pleasure of the board; (4) or has completed an established course in higher accountancy comprising the theory of accounts, practical problems of accounting, commercial law or business law, and income tax problems, in an established and reputable school and shall hold a diploma as a graduate in the studies mentioned above, and has for a continuous period of at least five years been engaged in the practice of public accounting on his own account, maintaining an office for the practice of accountancy in the state of Arizona for at least one year preceding the passage of this act; (5) or has served as an accountant upon the staff of a reputable public accounting firm or accountant for a continuous period of at least ten years immediately preceding the passage of this act, one of which shall have been in the state of Arizona, and five years of said ten years' service to have been as a senior accountant, and who shall apply in writing to the board within six months after the taking effect of this act, and who has furnished to the board satisfactory evidence of his qualifications as shown under subsection (3), or who shall have furnished a prescribed course in accounting as outlined under subsection (4); (6) has for a continuous period of ten years after the issuance to him of a certificate of public accountant, as hereinafter provided, actively been engaged in the practice as such, or who has continuously served for not less than six years next preceding

the passage of this act as a public official in the auditing department of the state. For the purposes of this act a senior accountant is defined as one who is regularly placed in charge of accounting engagements. (b) All persons qualifying under the provisions of this section shall receive certificates as certified public accountants. Nothing herein contained shall be construed as invalidating any certificate issued under prior laws of this state. (c) The board shall issue to all accountants of good moral character, who were maintaining an office and engaged exclusively in public practice on their own account on January 1, 1933, and who do not qualify under the provisions of subdivision (a) of this section, a certificate of authority to practice as a public accountant. This certificate of authority shall not confer any added title and the holder shall be known and styled only as a "public accountant." Applications must be made for this certificate of authority before January 1, 1934.

Sec. 5. Board may revoke certificate: Hearing. The board may revoke any certificate issued under this act if the holder thereof shall be convicted of a felony, or shall be declared by any court of competent jurisdiction to have committed any fraud, or shall be declared by any court of competent jurisdiction or commission to be insane or otherwise incompetent or shall be held by the board to be guilty of any act or default discreditable to the profession; provided that written notice of the cause of such comtemplated action and the date of the hearing thereof by the board shall have been mailed to the holder of such certificate at his last known address at least thirty days prior to such hearing. At all such hearings the attorney general of this state, or one of his assistants designated by him, may sit with the board to act as legal counsel or advisor of the board and to prepare for any legal action that may be determined upon by the board. Any person aggrieved by the decision of said board may, within thirty days after such decision, appeal to the superior court of the county in which the appellant resides. Notice of an appeal from the decision of the board shall be served by leaving with the secretary of the board an attested copy thereof within thirty days after said board has notified him of its decision. Hearing of such appeals shall proceed in accordance with such rules as the court may determine.

Sec. 6. Fees: President, Secretary and Treasurer to be elected by the board; Execution of certificates: Registration by secretary of state: A uniform fee of twenty-five dollars shall be charged by the board for such examination or certificate, or both, same to be paid in advance and to accompany the application, provided, however, that in the event any candidate fails to attend the examination at the date specified, or to pass a satisfactory examination he may appear at the next examination for re-examination without the payment of a second fee. In the event a candidate shall pass a satisfactory examination in two or more of the subjects, he shall be permitted to sit for re-examination in the subjects in which he failed, at any regular examination period within one year from the date of first examination, without additional fee. From fees collected, the board shall pay all expenses incident under this act; provided, that no expense incurred shall be a charge against the fund of the state and that the remuneration of the members of the board shall not exceed ten dollars per day to each member for the time actually spent in attending all regular and special meetings of the board, exclusive of all necessary traveling and other expenses incurred in the performance of their duty under this act to which they shall also be entitled; provided, however, that all moneys received in excess of the fees and expenses herein provided shall be held by the treasurer of the board as a special fund for other like expenses of the board in carrying out the provisions of this act. The treasurer shall file a report with the governor at the close of each calendar year showing the amount of money received during the year, the amount expended and for what purpose, and the balance remaining in his hands, which report shall be subscribed and sworn to by the treasurer. The board shall annually elect from its members a president, a secretary and a treasurer, and all certificates required to be executed for and on behalf of the board shall be certified over the signature of the president and the secretary. The president and secretary of the board shall certify to the secretary of state the name and address of each person entitled to certificates upon examination, as provided under this act, and it shall thereupon be the duty of the secretary of state to register such persons as certified public

accountants and to issue them certificates of registration. The secretary of state shall be entitled to receive two dollars and fifty cents for each registration and certificate issued, to be paid out of the funds accumulated by this act and credited to the general fund. In the event the board shall waive the examination of any person of competent age, as in this act provided, the secretary of state shall likewise register such person and issue such certificate upon the payment of the fees required hereunder.

Sec. 7. Annual registration and license fee. The board shall in December of each year require every certified public accountant and every public accountant who holds a certificate of authority to practice, to register with the board and pay a license fee of five dollars for the privilege of practicing public accounting in this state for the year next following, five per cent of which shall revert to the general fund of the state. This license shall be issued only to certified public accountants and public accountants qualifying under this or prior acts in this state. If any person or firm shall, after July 1, 1933, undertake to practice accounting in this state without first having registered with the board and received a license to practice or if any person or firm represents himself or itself to the public as having received a certificate and license as provided for in this act, or falsely hold himself or itself, out as having qualified and having a certificate, without actually having said certificate, or, if having received such a certificate shall continue to practice accountancy after said certificate has been revoked, or if any person shall otherwise violate any of the provisions of this act, he shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than fifty dollars, nor more than three hundred dollars, or by imprisonment in the county jail for not less than one month nor more than six months or both, in the discretion of the court, and each day such person shall so offend, shall be deemed a separate offense. For the purpose of this act, a person engages in the practice of public accounting when he performs accounting work and / or bookkeeping on a fee basis, per diem, or otherwise for more than one employer, which produces in excess of one hundred dollars per annum, from sources other than his regular employment. In passing upon this question the board will consider specific acts as well as general business conduct. Nothing contained herein shall be considered as prohibiting accountants of other states from entering this state in pursuance of any engagement originating from without this state, provided such accountant registers with the board, giving all facts relevant to such engagement and limits his practice to the subjects covered in the declaration filed.

Sec. 8. False audit or report; penalty. If any person practicing in this state under this act as a certified public accountant or a public accountant, or who is in the practice of public accountancy as a certified public accountant, or a public accountant, or otherwise, shall wilfully falsify any report or statement bearing on any examination, investigation or audit made by him, or under his direction, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than three hundred dollars, nor more than one thousand dollars, or shall be imprisoned in the county jail for a term of not less than three months nor more than one year, or by both such fine and imprisonment for each time he may so have falsified such report, statement or audit.

Sec. 9. Information acquired by accountants privileged. Certified public accountants and public accountants practicing in this state shall not be required to divulge, nor shall they voluntarily divulge any information which they may have received by reason of the confidential nature of their employment. Information derived from or as a result of such professional source shall be deemed confidential, provided, however, that nothing in this section shall be taken or construed as modifying, changing or affecting the criminal or bankruptcy laws of this state or of the United States.

Sec. 10. Nothing herein contained shall be construed to prevent any person from being employed by a certified public accountant or by a public accountant, provided that such employed person shall not sign reports or assume any responsibility for the conduct of his employer's business.

Sec. 11. Conflicting acts repealed. Art. 5, of Chap. 58, of Revised Code of 1928, and all laws and parts of laws in conflict with this act are hereby repealed, including Secs. 2527, 2528, 2529, 2530, 2531 and 2532 of Revised Code of 1928. If any provision of this act is declared unconstitutional by a court of competent jurisdiction, such decision and provision shall not be construed as invalidating the entire act.

APPROVED MARCH 14, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 46

(H.B. 260)

AN ACT

Making an appropriation for the state treasurer, and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. For the purpose of providing for an emergency existing in the state treasurer's office, there is hereby appropriated to the state treasurer out of any money in the general fund not otherwise appropriated the sum of four hundred dollars to be expended for operation.

Sec. 2. The state auditor is hereby authorized to draw her warrant upon the state treasurer, and the state treasurer is authorized to pay said warrant out of the general fund.

Sec. 3. Whereas, immediate operation of the provisions of this act is necessary to make proper appropriations for the state treasurer, an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval by the governor, and it is hereby declared to be exempt from the referendum provisions of the state constitution.

APPROVED MARCH 14,1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 47

(H.B. 266)

AN ACT

Relating to Legislative examiner and repealing Chap. 45, Session Laws of 1929; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Chap. 45, Session Laws of 1929, is hereby repealed.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 14,1933.

March 18,1933.

Governor B.B. Moeur,
State House,
Phoenix,Arizona.

My dear Governor:

I wish to call your attention to H.B. 266 now designated by Chapter 47 relating to Legislative examiner and repealing Chapter 45, Session Law 1929 and declaring an emergency. This bill was received in my office March 15th, 1933, at 1:10 o'clock P.M. Notation on back sheet shows that this bill was received by your office the tenth of March at 10:02 o'clock P.M. and was approved by you on March 14th.

Please be advised that under the caption where same passed the House March 9,1933, by the following votes: 56 Ayes, no Nays, 8 Absent, No excused and signed by S.A. Spear, Speaker of the House, but was not signed by the Chief Clerk of the House. I am advising you so that in the future if any litigation comes up relating to this act in question there will be a record in this office relative to same.

Yours very truly,

(SIGNED) JAMES H. KERBY
Secretary of State.

State of Arizona
House of Representatives
Eleventh Legislature
Regular Session

CHAPTER 48

(H.B. 273)

AN ACT

Suspending the operation of Article 2, Chapter 60, Revised Code of 1928, and a portion of Sec. 62, Revised Code of 1928, and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. The provisions of Art. 2, Chap. 60, Revised Code of 1928, and that portion of Sec. 62, Revised Code of 1928, which reads as follows: "No salary or compensation, however, shall be paid unless the same is authorized in the appropriation for that office, board or commission. Salaries and compensation of all deputies, assistants, clerks and employees shall be in the amount as fixed in the appropriation for that office in the general appropriation bill," shall have no application to the appropriations made under the general appropriation bill for the fiscal years 1933-34 and 1934-35 and the operation of said provisions are hereby suspended during such fiscal years.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 14,1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 49

(SUB.H.B. 139)

AN ACT

Relating to state, county, city, town and school district warrants, declaring such warrants to be acceptable in the payment of debts due the state or political subdivision issuing such warrants, requiring their acceptance for the payment of taxes, and amending Sec. 801, Revised Code of 1928; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Warrants acceptable as money for portion of debts or taxes due the state or political subdivision issuing such warrants. Warrants lawfully issued by the state, and by the counties, incorporated cities and towns, and school superintendents for and on behalf of school districts, of the state, are hereby declared to be assignable and the equivalent of money and acceptable as money at the face value thereof with accrued interest in the payment of any and all debts and demands, including taxes, due to the state or political subdivision issuing the warrant. Provided, however, that not more than seventy-five per cent of any such debt, demand or tax may be paid with such warrants by the debtor or taxpayer.

Sec. 2. Sec. 801, Revised Code of 1928, is hereby amended to read as follows:

Sec. 801. Warrants receivable for portion of debt or tax due county. Subject to the provisions, limitations and restrictions of section 1, hereof, all warrants issued by the board shall be receivable in the payment of all debts to said county and all taxes assessed against property by such county. Upon the tender of any such warrant in payment of any such debt or tax, the county treasurer shall, if the warrant be less than the amount of such debt or tax, and be accompanied by sufficient money to make up the full amount of such debt or tax, credit the amount of such warrant upon such debt or tax.

Sec. 3. Warrants taken in payment of taxes to be acceptable as money in accounting with and between political subdivisions. The state treasurer is hereby directed to receive from the respective county treasurers of the various counties of the state, said warrants accepted by such county treasurers in payment of state taxes under the provisions hereof, in the same manner as money to the extent of the face value thereof with accrued interest to date of acceptance of such warrants by said county treasurers, and in all cases in which the various county treasurers collect or accept taxes for school districts and incorporated towns or cities, the warrants issued by each school district or incorporated town or city, accepted in payment of taxes hereunder, shall in all matters of accounting between such county treasurers and such political subdivisions be considered money to the face value of such warrants with accrued interest to date of acceptance thereof by said county treasurers.

Sec. 4. The provisions of this act shall terminate on and after February 1, 1935.

Sec. 5. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act.

Sec. 6. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 14,1933.

CHAPTER 50

(SENATE BILL NO.166)

AN ACT

To make an appropriation for the state tax commission, for the administration of revenue laws; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. For the purpose of administering revenue measures enacted by the eleventh legislature, the administration of which is by law imposed upon the state tax commission, the following amounts, for the use of the said state tax commission, are hereby appropriated out of the general fund:

(a) For the remainder of the twenty-first fiscal year, twenty thousand dollars.

(b) For the twenty-second and twenty-third fiscal years respectively, such amount as may be necessary for the effective administration of said revenue measures, but not to exceed, in either of said years, four per cent of the total revenue derived from said measures during said years respectively, as determined by receipts therefrom by the state treasurer.

Sec. 2. The said appropriation shall be exclusive of and in addition to the appropriations contained in the general appropriation act for the use and benefit of the state tax commission, but shall not be expended for the administration of any law or the performance of any duty or act administered, imposed upon or performed by the state tax commission prior to January 1,1933, or for the administration of any amendment of any such law, the purpose being to limit the within appropriation strictly to the administration of new revenue measures.

Sec. 3. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 15,1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

Chapter 51

H. B. 174

AN ACT

Relating to the Arizona copper tariff board; providing for the creation thereof, and designating its duties; making an appropriation therefor; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. For the purpose of encouraging and promoting the industry of copper mining, the development of new copper mines, and increasing the value and amount of taxable property, a board is hereby created to be known as the Arizona copper tariff board, to consist of five members, who shall be appointed by the governor.

Sec. 2. The members of the board shall take office immediately upon appointment. At the first meeting of the board a chairman and a secretary shall be chosen from among the members thereof.

Sec. 3. The board is hereby authorized and empowered:

(a) To maintain such office or offices and to employ such experts, advisors, stenographers and other assistants, and fix the compensation thereof, as it shall deem necessary.

(b) To assemble data and information relating to the cost of producing copper in this state, and in the other copper producing states of the United States, and to obtain statistics and data showing the cost of production of copper in foreign countries.

(c) To hold meetings and conferences within or without the state, with representatives of copper producers and with other persons interested in the purposes for which the board is created.

(d) To appear before committees, including committees of the United States congress, for the purpose of presenting facts and statistics relating to the cost of producing copper in the United States and foreign countries.

(e) To make public reports of its proceedings, and to disseminate statistics and data pertaining to the cost of producing copper in the United States and in foreign countries.

Sec. 4. The members of the board, except the secretary, shall serve without pay; provided, that when actually engaged in the duties provided in this act, the members and employees shall be reimbursed for travel, hotel bills and incidental expenses.

Sec. 5. The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of the general fund, for carrying out the purposes of this act. The state auditor is directed to draw his warrant for the payment of claims approved by the chairman and the secretary of the board.

Sec. 6. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 52

(H. B. 150)

AN ACT

Relating to juvenile and child welfare, amd amending Secs.1941 and 1942, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1941, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1941. Board may release child. When it appears to the board of directors of state institutions that there is a reasonable probability that a child committed to the state industrial school, or to the school for juvenile girl offenders, would, if at liberty, observe the law, and that the release of such child would not be incompatible with the welfare of society or detrimental to its own good, the board may, with the approval of the court which committed the child, issue to said child an absolute release from confinement. No other petition or form of application for the release of a child shall be entertained by the board; provided, that this section shall not be construed to impair the pardoning power of the governor.

Sec. 2. Sec. 1942, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1942. Board may place child with family. The board may, with the approval of the committing court, place any child in either of such schools, under the care of any resident of this state who is the head of a family and of good moral character, on such conditions as the board may impose. If such child shall absent itself, without leave, from the person to whose care it has been so committed, it may forthwith, and without further process, be returned to the school and it shall forfeit all credits gained on account of previous good conduct.

APPROVED MARCH 15, 1933.

CHAPTER 53

(H. B. 148)

AN ACT

Relating to juvenile and child welfare; and amending Sec. 3, Chap. 64, Session Laws of 1929.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 3, Chap. 64, Session Laws of 1929, is hereby amended to read as follows:

Sec. 3. Probation officers; powers, duties, and salaries. (a) Any superior judge having regular charge of juvenile cases shall have authority to appoint a chief probation officer, a deputy probation officer, and such number of additional deputy probation officers, not to exceed one for each fifty persons on probation, as he may deem necessary, and provided, further, in counties of the first class the judge may appoint one office assistant. All such officers, deputies and assistants shall be discreet persons of good moral character.

(b) No person shall be appointed chief probation officer until he has passed a competitive examination touching child welfare, juvenile delinquency and dependency and other subjects associated with social science, prescribed and given by a committee of at least three members, to be appointed by said judge presiding over the juvenile court and composed of persons engaged in and acquainted with educational and welfare work and practices. The probation officer shall be clothed with the authority of a peace officer. He shall look after the interests of neglected, delinquent, or dependent children of the county; make investigations and file petitions; be present in court when cases are heard and represent the interests of such children; furnish the court such information and assistance as it may require; assist in the collection of all sums ordered paid for the support of children; and perform such other acts as may be ordered by the court.

(c) The court may permit the removal from the state of any such neglected, dependent or delinquent child, by the person to whom its care may be temporarily awarded, upon such recognizance, with or without sureties, as may satisfy the court, obligating such person to produce such child whenever required by the court. Pending final order or the issuance of letters of adoption, the court may, for maintenance rendered such child pursuant to its order, allow a reasonable sum, which shall be a county charge. The court may issue letters of adoption of any such child in accordance with the laws relating to adoption.

(d) The salaries of the chief probation officer, his deputies, and office assistant, shall be fixed by the appointing judge, by and with the consent of the board of supervisors, and shall not exceed the following amounts: Chief probation officer, twenty-four hundred dollars per year; deputy probation officers, two thousand dollars per year; office assistant, eighteen hundred dollars per year. The actual expenses of the operation of the probation office and any expenses incurred by reason of an order of the court, may be allowed by the court and when so allowed shall be a county charge. The probation officer shall give bond for the faithful performance of his duties, in such sum as the court may determine, and the cost thereof shall be paid by the county.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 54

(H. B. 136)

AN ACT

To amend Sec. 2332, Chap. 52, Revised Code of 1928, relating to record of satisfaction.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That Sec. 2332, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2332. Record of satisfaction. When the debt secured by such instrument has been paid or satisfied, the mortgagee, his assignee or personal representative, shall enter satisfaction thereof; such entry of satisfaction shall be made under the column "remarks" in the book in which the instrument is entered. Any instrument acknowledging satisfaction need not be recorded at length, but the recorder shall make the entry under the head of "remarks" showing that the same has been paid, file the instrument acknowledging satisfaction and return the mortgage or other instrument to the mortgagor.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 55

(H. B. 202)

AN ACT

Defining wholesale peddlers; providing for the licensing thereof; defining the conditions upon which a license will be granted; specifying fees for such license; and providing penalties for violations of this act.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Definitions. When used in this act, unless the context otherwise requires, "wholesale peddler" shall mean any person engaged in selling vegetables, dry beans, butter, eggs, poultry, berries, fruits and nuts to any other person for the purpose of resale, and "fixed and established place of business" shall mean a place of business located in a building or other permanent structure with the bona fide intent on the part of the person engaging in such business to engage in that business permanently in such location.

Sec. 2. Burden of proof. In any prosecution under the provisions of this act, if the state shall show that the place of business of the person prosecuted was established within a period of two months prior to the commencement of the prosecution and that the person prosecuted has not engaged in the business of a wholesale peddler on at least six days in any week since the establishment of the place of business of such person, the burden of the proof shall then be upon such person to prove that his place of business is a fixed and established place of business.

Sec. 3. Wholesale peddler to pay license tax; amount; distribution of proceeds. Every person engaged in the business of a wholesale peddler within this state, except those persons engaged in such business at a fixed and established place of business within the state, shall pay an annual license tax for each county within which such wholesale peddler shall engage in business. In counties containing a population, as determined by the preceding United States census, in excess of one hundred thousand persons, the license tax shall be five hundred ($500.00) dollars, and in counties containing, as determined by the preceding United States census, a population of less than one hundred thousand persons, the license tax shall be three Hundred ($300.00) dollars. Said license tax shall be paid to the sheriff of each county within which such wholesale peddler shall engage in business and upon payment thereof to the sheriff and issuance of license by him, he shall pay one-half thereof to the county treasurer who shall credit the same to the county general fund, and one-half thereof to the state treasurer who shall credit the same to the state general fund.

Sec. 4. Application for license; contents; procedure. Any person before engaging in the business of a wholesale peddler within this state shall make application to the sheriff of each county within which he desires to engage in said business for a license as a wholesale peddler, which application shall be verified and shall contain the name and address of the applicant, the nature of the business, the method of distribution to be used and if selling direct from a motor vehicle the number of the state registration licenses of such vehicle or vehicles, and such other information as the sheriff shall require, which application shall be made upon a blank to be furnished by the sheriff. There shall accompany said application the license fee. Upon receipt of said application and said license fee, and upon a showing to the sheriff that the requirements of this act as hereinafter provided have been complied with, the sheriff shall issue a numbered license authorizing the applicant to operate as a wholesale peddler within the county for a period of one year from the date of issuance. Before any person shall receive a license as a

wholesale peddler he shall file with the sheriff a bond executed by such person as principal and a surety company authorized and qualified to do business in the state of Arizona as surety in the sum of five thousand ($5,000.00) dollars, conditioned that such person shall comply with the provisions of this act and with all other laws of the state of Arizona and shall pay all penalties for violation thereof or damages to other persons arising from the negligence of such wholesale peddler, his agents or employees, in the conduct of his business as such wholesale peddler.

Sec. 5. Grower or producer of own products exempt from provisions of act. The license tax imposed by this act shall not be required of any grower or producer of any of the commodities herein specified who shall engage in the business of a wholesale peddler solely of said commodities produced and grown by him. Any such person shall be entitled to receive a license to engage in the business of a wholesale peddler of products produced and grown by him by showing to the sheriff of any county within which he desires to be so licensed that he is a grower of one or more of the commodities specified. Prior to engaging in the business of a wholesale peddler of products produced and grown by him he shall file an application, which shall be verified, with the sheriff of each county in which he desires to engage in such business, which application shall contain his name and address, the products and commodities produced and grown by him, the acreage upon which he is growing each of such commodities, and the legal description of such property, and the total amount of each of such commodities he expects to produce within the following three nomths' period. Such application shall be filed at least fifteen days prior to the date upon which such person shall desire to engage in the business of a wholesale peddler of products produced and grown by him. The sheriff shall forthwith ascertain the correctness of the statements in said application and not later than fifteen days from the filing of such application, if satisfied that the statements contained in such application are correct, shall issue a license to such person to engage in the business of a wholesale peddler of the commodities produced and grown by him for a period of three months from the date of the issuance of such license.

Sec. 6. Revocation of license by sheriff; procedure. Any license issued under the provisions of this act may be revoked by the sheriff for any violation of the provisions of such license or of this act. Before revoking such license the sheriff shall give notice in writing to the holder thereof stating the reasons for revoking the license, which notice shall be mailed to the holder of the license at his place of business or residence, as the same appears on his application for said license, and shall direct the holder thereof to appear before him on a specified date, not less than ten nor more than thirty days from the date of the giving of such notice, to show cause why such license should not be revoked. Upon such hearing the sheriff shall have power to subpoena witnesses, administer oaths, take testimony and may require the production of any books and records of the holder of such license or of any person with whom he has had business dealings. If upon such hearing the sheriff shall determine that such person has violated the provisions of this act or the provisions of his license, he shall forthwith revoke the same and such person shall not thereafter receive a new license except upon payment of a new license tax and upon showing to the satisfaction of the sheriff that he will comply with the provisions of this act and the provisions of the license.

Sec. 7. Appeal from sheriff's decision. Any person dissatisfied with the decision of the sheriff may not more than thirty days after such decision appeal to the superior court of the county in which such decision was rendered. Hearings of such appeals shall proceed in accordance with such rules as the court may determine.

Sec. 8. Selling to hotels and restaurants; burden of proof. Any person selling the products mentioned in this act to a restaurant or hotel shall prima facie be deemed to be a wholesale peddler within the meaning of this act and the burden of proof shall be upon such person to show that such sale to a hotel or restaurant was not for the purpose of

resale.

Sec. 9. Penalty. Any person who shall engage in the business of a wholesale peddler within this state without being licensed as herein provided or who, having been licensed as a wholesale peddler of products produced and grown by him, shall sell other than products grown by him as a wholesale peddler, shall be guilty of a misdemeanor.

APPROVED MARCH 15, 1933.

RECEIVED
OCT 17 1933
STATE TAX COMMISSION
OF ARIZONA

CHAPTER 56

(H. B. 170)

AN ACT

Amending Sec. 537, Revised Code of 1928, to enable municipalities to provide for the payment of the annual instalments of principal and interest to be made in partial payments; and to amend Sec. 541 of the Revised Code of 1928, as amended by Chap. 105 of the Session Laws of 1931, Regular Session, providing a method for the sale of property by reason of delinquency in the payment of the special assessments and providing for refunds; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 537, Revised Code of 1928, is hereby amended to read as follows:

Sec. 537. Assessments certified; payable out of bonds; instalments; advance payments. The superintendent at the time he certifies the list of assessments unpaid to the clerk, shall write the word "certified" on the record of the assessment, opposite each assessment included in said list, and thereupon all assessments of twenty-five dollars or over shall cease to be payable in cash and shall thereafter be payable only in equal annual instalments on the first day of December in each year preceding the first day of January on which the bonds become due, provided, however, that the legislative body of the municipality may provide a plan whereby the annual instalment may be collected in partial payments prior to the time said instalment is due, and the lien of each assessment on the property assessed shall continue and remain in full force and effect until the expiration of two years after the last instalment on said assessment shall become due, or until said assessment shall be fully paid. An uncollected instalment shall be added to the succeeding instalment and, together with interest and penalties, be payable therewith. The number of instalments in which said assessment shall be payable shall correspond to the number of years in which there are bonds to be paid, but the total number of instalments shall not exceed ten. All assessments of twenty-five dollars or more not paid before the certification of assessments unpaid to the clerk shall bear interest from the date of the warrant at the same rate as that specified for the bonds in the resolution of intention. Said interest shall be payable on the first days of June and December of each year, immediately before the interest becomes due on the bonds, provided, however, that the legislative body of the municipality may provide a plan whereby such interest may be collected in partial payments prior to the date such interest becomes due. The legislative body may provide for receiving payment of the instalments of said assessment before they become due, and using the proceeds thereof in redeeming such bonds as may be presented for redemption by the owners thereof, or for investing the same in improvement bonds for other work or other satisfactory investment, but no investment of such funds shall be made so as to prejudice the prompt payment of the bonds at the date on which they become due.

Sec. 2. That Sec. 541, Revised Code of 1928, as amended by Chap. 105, Session Laws of 1931, be amended to read as follows:

Sec. 541. Sale; city may purchase where no bidders. On the day fixed for the sale, the superintendent shall, at the hour of ten o'clock, or at any time thereafter to which the sale may be adjourned, begin the sale of the property advertised, commencing at the head of the list and continuing in the numerical order of lots, until all are sold. He may postpone or continue the sale from day to day until all the property is sold. Each lot separately assessed shall be offered for sale separately. The sale shall be for the entire assessment including the delinquent instalments, and the person who will take the least quantity of land and then and there pay the amount of the assessment, penalty and costs due,

including fifty cents to the superintendent for a certificate of sale, shall become the purchaser. The municipality may provide by ordinance that if there is no purchaser other than the municipality who will pay the entire amount of the assessment, penalty and costs, including fifty cents to the superintendent of streets for a certificate of sale, the superintendent of streets shall sell the lot or portion thereof to the person who will take the least quantity of land and then and there pay the amount of the assessment then delinquent, including interest, penalty and costs due, and fifty cents to the superintendent of streets for a certificate of sale, and deed shall issue to such purchaser, subject to redemption, as hereinafter provided by this article; that the lien on the entire lot, piece or parcel of land assessed shall continue to be in effect for the amount of the assessment or portion thereof, including interest, penalties and costs, thereafter to become due, and the land may again be sold should the assessment again become delinquent. When so provided by ordinance such fact shall be stated in the notice of sale and the superintendent of streets shall comply with such provisions. If there is no purchaser for any lot so offered for sale, the same shall be struck off to the municipality as the purchaser, and the legislative body of such municipality shall appropriate out of the general fund of the treasury the amount bid for such purpose, and shall order the treasurer to place the same in a special fund for such improvement. The legislative body, however, may direct the treasurer to pay into said special fund only the sum required to pay the instalment then due or to become due upon the bonds issued for such assessment, and thereupon the municipality shall become obligated to pay out of the general fund of the municipality the succeeding instalments, and interest on said bonds, as are payable by the assessments on said lot. The municipality may sell any lot, so purchased after the expiration of the time for redemption, at public or private sale. All moneys received by the municipality from the redemption of property purchased by it and from the sale by it of property so purchased, less the amount theretofore paid into the special fund out of the general fund, shall be paid into the special fund for the payment of the bonds until said special fund is sufficient to pay all outstanding bonds. Provided, however, that if said municipality shall have provided that the instalment of principal and interest may be paid in partial payments prior to the time each of said instalments shall become due, and the owner of the property against which the instalment of principal and interest shall have become delinquent has paid in to the superintendent of streets partial payments on said instalments, that the said owner of the property advertised for sale shall have the right to pay the balance due on said annual instalment of principal and interest plus penalties and costs, and no sale shall be held on said parcel of land. The said superintendent of streets shall note on his records the date of the payment and mark said instalment of principal or interest paid. In the event the owner does not pay the balance due on the instalment of principal or interest, and the property is sold for the full amount of the assessment, the superintendent of streets shall refund to the owner all money received by him from said owner by way of partial payments.

Sec. 3. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 4. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 57

(H. B. 149)

AN ACT

Relating to adoption, and amending Secs. 121, 122, 123 and 124, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 121, Revised Code of 1928, is hereby amended to read as follows:

Sec. 121. Service of notice where consent not given; providing investigation. Upon the filing of the petition, the court shall fix a day for the hearing thereof. If the parent, guardian or next of kin does not consent to the adoption of a child, a copy of the petition and of the order fixing the day of hearing shall be served on him as a summons in a civil action, if found in the state, and, if not, by publication once a week for three successive weeks in such newspaper in the county as the court may direct, the last publication to be at least four weeks prior to the time appointed for the hearing. Like notice shall also be published when a child has no parent living, and no guardian or next of kin in this state. The court may order such further notice as it deems proper. Likewise upon the filing of said petition and the fixing of a day of hearing, the court shall direct a probation officer or other officer of the court or an agent of the state, county or city board of public welfare, or some other discreet and competent person, to make a careful and thorough investigation of the matter and report his findings in writing to said court. The person so directed to make such investigation shall make inquiry, among other things, as to: 1. Why the natural parents, if living, desire to be relieved of the care, support and guardianship of such child; 2. whether the natural parents have abandoned such child or are morally unfit to have its custody; 3. whether the proposed foster parent or parents is or are financially able and morally fit to have the care, supervision and training of such child; 4. whether the proposed change of name and guardianship is for the best interest of said child; 5. the physical and mental condition of such child. For the purpose of ascertaining the physical and mental condition of the child said investigator may secure the opinion of a reputable physician or competent mental examiner.

Sec. 2. Sec. 122, Revised Code of 1928, is hereby amended to read as follows:

Sec. 122. Hearing of petition. Upon the day appointed for hearing of the petition, the petitioner, the child, and the parent, guardian, next of kin or next friend, if subject to the process of the court, shall appear before the court.

Sec. 3. Sec. 123, Revised Code of 1928, is hereby amdnded to read as follows:

Sec. 123. Examination by judge; interlocutory and final order and revocation thereof. The court shall then examine all persons appearing, together with the findings and recommendations of said investigating officer so directed, and if satisfied that the interests of the child will be promoted by the adoption, shall make an interlocutory order setting forth the facts and declaring that from the date of the final order of adoption in such case, if such final order be afterwards entered, as hereinafter provided, such child, to all legal intents and purposes, will be the child of the petitioner or petitioners and that its name may be thereby changed. Such final order of adoption shall not be granted until the child shall have lived for one year in the proposed home and shall have been visited during the said

period at least once in every three months by a probation officer, an agent of the state or county or city board of public welfare or other person designated by the court for the purpose. At any time before the entry of such final order of adoption, the court may revoke its interlocutory order for good cause, either of its own motion, or on the motion of the natural parent or parents of such child, the guardian, the original petitioner or petitioners, or the child itself by its next friend; but no such revocation shall be entered unless ten days notice in writing shall have been given to the original petitioner or petitioners, unless he or they make the motion or have removed from the state, nor unless the original petitioner, or petitioners, if residents of the state, shall have been given an opportunity to be heard. The files and records of the court in adoption proceedings shall not be open to inspection or copy by other persons than the parties in interest, their attorneys, and representatives of public welfare agencies having an interest therein, except upon order of the court expressly permitting inspection or copy.

Sec. 4. Sec. 124, Revised Code of 1928, is hereby amended to read as follows:

Sec. 124. Relation and rights after adoption; vacation of final order. The natural parents shall, by such final order of adoption, be divested of all legal rights and obligations in respect to the child, and the child shall be free from all legal obligations of obedience and maintenance in respect to them; such child shall from and after the entry of the interlocutory order herein provided for be, to all intents and purposes, the child and heir at law of the person so adopting it, and entitled, to all the rights and privileges and subject to all the obligations of a child of such person begotten in lawful wedlock.

APPROVED MARCH 15, 1933.

State od Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 58

(H. B. 69)

AN ACT

To amend Art. 2, Chap. 64, Revised Code of 1928, by adding thereto a new section to be designated, 2790a, relating to the rights of aliens and burden of proof of citizenship; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Art. 2, Chap. 64, Revised Code of 1928, is hereby amended, by adding thereto a new section, to be designated 2790a, to read as follows:

Sec. 2790a. Proof of citizenship. Whenever in any action or proceeding, civil or criminal, brought by, or in the name of, the state or the people thereof, or by or in the name of any political subdivision or agency of the state, or by any public board or officer on behalf of any thereof, to enforce any law which denies any right, privilege or license to any person not a citizen of the United States, or not eligible to become such citizen, or to a person not a citizen or resident of this state, and whenever in any action or proceeding in which the state or any political subdivision or agency thereof, or any public board or officer acting on behalf thereof, is or becomes a party, it is alleged in the pleading therein filed on behalf of the state, the people thereof, political subdivision or agency, or of such board or officer, that such right, privilege or license has been exercised by a person not a citizen of the United States, or not eligible to become such citizen, or by a person not a citizen or resident of this state, as the case may be, the burden shall be upon the party for or on whose behalf such pleading was filed to establish the fact that such right, privilege or license was exercised by the person alleged to have exercised the same, and upon such fact being so established the burden shall be upon such person, or upon any person, firm or corporation claiming under or through the exercise of such right, privilege or license, to establish the fact that the person alleged to have exercised such right, privilege or license was, at the time of so exercising the same, a citizen of the United States, or eligible to become such citizen, or was a citizen or resident of this state, as the case may require, and was at said time legally entitled to exercise such right, privilege or license.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 15, 1933

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 59

(H. B. 33)

AN ACT

Proposing to amend Section 11 of Article VII of the Constitution of the State of Arizona, relative to general elections.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That it is hereby proposed to amend Sec. 11 of Art VII of the Constitution of the State of Arizona to read as follows:

Sec. 11. There shall be a general election on the first Tuesday after the first Monday in November, 1934, and biennially thereafter. At each general election there shall be elected a representative, or representatives, in Congress, and such other officers as by this Constitution, or by law, are required to be elected at such time.

Sec. 2. When said proposed amendment shall be approved by a majority of the members elected to each of the two houses, it shall be entered on the journal of each house, together with the ayes and nays thereon. The secretary of state shall submit such proposed amendment to a vote of the people at the next general election, or at a special election, if the legislature shall call a special election, for the purpose of having proposed amendments voted upon.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 60

(H. B. 12)

AN ACT

Relating to the acceptance of partial payments on taxes and amending Sec. 3094, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 3094, Revised Code of 1928, is hereby amended to read as follows:

Sec. 3094. Extending tax roll; warrant to collector; semi-annual payments and the acceptance of partial payments on taxes. As soon as the board of supervisors shall finally have determined the estimate provided for herein, they shall assess taxes for the amount estimated upon the taxable property of the county, according and in proportion to the individual and particular valuation as specified in the assessment roll for the year; they shall compute and carry out in separate money columns the real and personal taxes and totals of taxes of each person, and shall correctly foot up the several taxes therein levied, and the same shall constitute the assessment and tax roll for the year. No informality in complying with the requirements of this article shall render any proceeding for the collection of taxes illegal. Upon completion of the assessment and tax roll, the chairman of the board of supervisors shall immediately affix thereto, under his hand, a warrant, commanding the county treasurer to collect from the several persons names in said roll, one-half of the taxes set opposite their respective names, on or before the first Monday in November, and the other one-half on or before the first Monday in May, next following. The board shall immediately charge to the county treasurer, in a book kept for that purpose, the totals of all taxes levied on said roll. The said assessment and tax roll and the cross index shall be delivered to the county treasurer on or before the first Monday in September. The term "roll" shall mean the assessment and tax roll. The roll, with the warrant affixed, shall be the authority of the treasurer to collect the taxes therein levied; provided, that at any time before either of said installments becomes delinquent, the county treasurer shall accept a partial payment or payments thereon in an amount not less than ten per cent of such installment, provided, however, that no partial payment shall be accepted in the amount of less than five ($5.00) dollars and shall credit the taxpayer with the same, and if any part of said tax, or of any installment thereof, remains unpaid at the date of delinquency, such delinquency shall relate only to the amount remaining unpaid.

In accepting payments under provisions of the above partial payment plan, the county treasurer shall issue consecutively machine numbered receipts, commencing with number one, to the taxpayer, of his own design, each one stating that it covers a partial payment of taxes. A carbon copy of each of these receipts is to be retained as a permanent record in the treasurer's office. Each payment shall be notated on the back of the receipt provided for in section 3114, Revised Code of 1928, and when final payment has been made said receipt shall be delivered to the taxpayer as set forth in the above section.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 61

(SENATE BILL NO. 105)

AN ACT

Relating to the industrial commission, and amending section 1392, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1392, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1392. Salary, qualifications, bond of commissioners and employees. Each commissioner shall receive an annual salary of four thousand dollars. He shall give a corporate surety bond in the sum of ten thousand dollars, to be approved by the governor and filed with the state treasurer. All employees or deputies of the commission receiving or disbursing funds of the state shall give corporate surety bonds to the state in amounts and with surety to be approved by the commission.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 62

(SENATE BILL NO. 67)

AN ACT

Relating to the registration of electors, and repealing article 2, chapter 22, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Qualifications of electors. Every citizen of the United States, of the age of twenty-one years or over, who shall have been a resident of the state for one year next preceding the election, and of the county and precinct in which he claims the right to vote, thirty days, and who, not being prevented by physical disability from so doing, is able to read the consitution of the United States in the English language in such manner as to show that he is neither prompted nor reciting from memory, and to write his name, shall be deemed to be an elector of the state, and may register to vote at all elections authorized by law, but persons convicted of treason or a felony, unless restored to civil rights, and indiots, insane persons, and persons under guardianship, shall not be qualified to register for any election.

Sec. 2. Registration by county recorder and justices of the peace. On and after July 1, 1933, and continuously thereafter, the county recorder of each county shall register without charge, and in accordance with the provisions of this article, any qualified elector who presents himself for such purpose. Qualified electors may in like manner register before any justice of the peace, who shall promptly return each completed registration to the county recorder of the county in which the elector so registered resides; provided, that no elector shall be registered between five o'clock p. m. of the fifth Monday preceding any primary or general election and six o'clock p. m. of the day thereof. All necessary expenses incurred by the county recorder in carrying out the provisions of this act, including all books, blanks and other supplies, shall be a county charge. County recorders shall supply the necessary blanks to justices of the peace in their respective counties. The registration of electors required by the charter or ordinances of any city or town are not precluded hereby.

Sec. 3. Registration of absent elector. An elector temporarily absent from the state may register by filling out a registration affidavit, as in this act prescribed, which shall be furnished upon application by the county recorder of the county in which such elector has his legal residence, executing the same before any officer authorized to administer oaths and returning it to such county recorder.

Sec. 4. Disabled electors; electors in remote sections. The recorder or any justice of the peace may register an infirm or disabled elector at his home or place of confinement, and the recorder may visit, once during the month of July of any regular election year, any remote section of the county which shall not be within twenty-five miles of the office of such recorder or of a justice of the peace, for the purpose of registering the electors of such community, and the actual and necessary expenses attendant upon such visit, including mileage at the rate of five cents for each mile traveled, shall be a county charge and paid out of the county general fund.

Sec. 5. Affidavit of registration. (a) The affidavit form or registration blank, to be used for the registration of electors, shall contain: 1. The name at length of the elector, including christian or given name and middle name, if any, and if of a woman, preceded by the designation "Miss" or "Mrs." as the case may be; 2. party affiliation; 3. country or state of nativity; 4. occupation; 5. actual and precise place of residence, including post office address at the time of registration, name of city of town, if any, street or other location or dwelling

place, with the number of such dwelling, if the same has a number, and if not, with such description of the place that it can readily be ascertained and identified; 6. if naturalized, the time, place and court of naturalization, as evidenced by the legal proof thereof, exhibited by the elector, unless such proof has been misplaced or lost, in which case such fact shall be established by furnishing the information required on the affidavit of registration; 7. if citizenship is claimed by virtue of father's naturalization the fact must be established that permanent residence began during the applicant's minority; 8. if citizenship by marriage is claimed, the date and place of marriage, and the name of the person to whom married; 9. that the elector is not registered in any other precinct; 10. whether or not the elector is able to read the constitution of the United States in the English language, and to write his name, and whether or not the elector has any physical disability by reason of which he cannot mark his ballot, and if he cannot mark his ballot by reason of physical disability, the nature of such disability; 11. that the elector has resided in the state for a period of one year next preceding the general election, and in the county and precinct thirty days preceding such election, and, 12. that the elector is twenty-one years of age or over.

(b) Said affidavit of registration shall be in substantially the following form:

AFFIDAVIT OF REGISTRATION.

State of Arizona)
)ss.
)
County of .....)

I, the undersigned elector, do solemnly swear (or affirm) that I am a citizen of the United States and will have resided in the state of Arizona one year prior to the next general election.

1. My name is .....
(to be printed by registration officer)
2. I am affiliated with ..... party.
3. State or country of nativity.....
4. My occupation is .....
5. My place of residence is.....
precinct,.....street, city of.....
county of .....,state of Arizona.
6. I was naturalized in .....court, ...
county, ...state, on the .....day of
.....A. D. 1....., as evidenced by certificate of naturalization exhibited herewith.
7. Said certificate of naturalization is.....or out of my possession and has not been revoked.
8. I became a citizen by virtue of the naturalization of my father which took place during my minority, and began to reside permanently in the United States while such minor.
9. I became a citizen by virtue of my marriage on the.....
day of .....A. D. 1..... to .....
(husband) who was then a citizen or who subsequently became a citizen of the United States.

(NOTE: Cross out all of the clauses, 6, 7, 8 or 9 as do not apply.)

10. I am not registered in any other county in this state.
11. I am.... able to read the constitution in the English language because of .....
12. I am .... able to write my name becase of .....
13. I can .... mark my ballot, by reason of physical disability, viz: .....
14. I am a .....man of ....feet....inches in height and weigh approximately .....pounds and am of the age of ..... years.
My color is.....

.....
(Elector sign here.)

.....
(Post office address)

Subscribed and sworn to before me, this ..... day of.....
A. D. 19.....

.....
(Title or designation of officer)

1. Precinct .....
2. Name .....
3. Residence address .....
4. Post office address .....
5. Party .....
6. Nativity .....
7. Occupation .....

(c) Said affidavit of registration shall be on first class record paper ten inches wide and seventeen inches in length, and shall be printed with a margin of one inch at the top, one inch on the right side and one and one-half inch on the left side, and shall be suitably punched for binding. It shall include a three-inch detachable stub at the bottom of the sheet, on which shall appear the name of the elector, the precinct in which registered, residence and post office address, party affiliation, county or state of nativity, and occupation.

Sec. 6. Registration affidavit an official record. When the affidavit of registration form is filled out, subscribed by an elector and attested as provided herein it shall constitute an official public record of the registration of electors.

Sec. 7. Affidavit of registration in general county register; stub to secretary of state. The recorder, upon receipt of an affidavit of registration shall, if the same is in proper form, remove the stub therefrom, assign the affidavit to its proper precinct and alphabetical arrangement, in the general county register, and transmit the stub to the secretary of state.

Sec. 8. Change of registration. (a) Any elector who, not less than thirty days preceding any primary or general election, remove from the precinct in which he or she is registered, to another precinct, before he shall be permitted to vote, shall make application to the recorder or to a justice of the peace for cancellation of the former registration and shall register as a voter of the precinct to which he has removed. In like manner an elector who desires to affiliate with a political party or organization other than the one indicated by the record of his registration may make application for cancellation; provided, that cancellation for such purpose shall not be permitted in a regular election year between the thirtieth day of April and the day following such general election. Cancellation affidavits, if the elector is within the state, shall be executed and subscribed to before the recorder or a justice of the peace, and if without the state, before any officer authorized by law to administer oaths. Such affidavits shall be on blanks furnished by the recorder, and shall be returned to the recorder of the county wherein the elector resides.

(b) Said affidavit of cancellation shall be in substantially the following form:

APPLICATION FOR CANCELLATION OF REGISTRATION
(Change of Address)

State of Arizona,)
) ss.
)
County of .....)

I, ...do solemnly swear that I am the identical person whose name is signed to this application, and that such name and signature is my true name and signature (or, if I did not personally sign, it was because of physical disability, viz: ..... and I requested the attesting officer to sign); that I am an elector of the state of Arizona and the county of .....; that I am registered in .....precinct of said county, where I resided at the date of my registration; that on the ..... day of ....19.....(which was not less than thirty days prior to the next ensuing election), I removed to .....precinct, ...county, Arizona, where I now reside. I therefore apply to have my registration cancelled in said ....precinct, ...county, Arizona.

For purposes of identification, I declare that my sex is .....; I am .....years of age, ...feet .....inches in height and weigh.....pounds.

.....Elector.

Subscribed and sworn to before me, this ..... day of ....A. D. 19.....

.....
Signature of registration officer.

.....
Title or designation of officer.

APPLICATION FOR CANCELLATION OF REGISTRATION
(Change of Party Affiliation)

State of Arizona)
) ss.
County of .....)

I, ... do solemnly swear that I am the identical person whose name is signed to this application, and that such name and signature is my true name and signature (or, if I did not personally sign, it was because of physical disability, viz: .....and I requested the attesting officer to sign); that I am an elector of the state of Arizona and the county of .....; that I am registered in .....precinct of said county; that as indicated by the record of my former registration I was a member of the .....party; that I am now a member of the .....party. I therefore apply to have my former registration cancelled, that I may again register and declare my present party affiliation. For purposes of identification, I declare that my sex is .....; I am ..... years of age; .....feet.....inches in height and weigh..... .....pounds.

..... Elector.

Subscribed and sworn to before me, this ..... day of .....A. D. 19.....

.....
Signature of registration officer.

.....
Title or designation of officer.

(c) The cancellation blank shall conform to the specifications prescribed for the registration blank except that it shall be fourteen inches in length, with one-helf inch margin on bottom.

Sec. 9. Applications for cancellation; how disposed of. (a) Upon receipt of an application for cancellation the recorder shall remove the affidavit of registration to which it relates, from the general county register, stamp the latter "cancelled", and shall place both documents in a cancellation binder provided for such purpose. Applications for cancellation shall be arranged and bound in like manner as affidavits of registration.

(b) Applications for cancellation of registration shall be preserved for two years from the date of their execution, after which they, with all cancelled registrations to which they relate, and all registrations cancelled for failure to vote as hereinafter provided, may be destroyed.

Sec. 10. Binders. Binders for affidavits of registration and applications for registration shall be substantially constructed and of such type as the recorder may specify. Binders for affidavits of registration shall bear the title on the outside fromt cover thereof, "General County Register, ... county, Arizona", and binders for applications for cancellation shall bear the title, "Cancellations of Registration, ... county, Arizona."

Sec. 11. Precinct registers. (a) During the thirty day period preceding any primary or general election, the recorder shall prepare, from the original affidavits of registration four double spaced typewritten lists of all uncancelled registrations of each precinct in the county. Such lists shall be the official precinct register.

(b) The precinct registers shall contain the name in full, party affiliation and residence address of each elector in the respective precincts. The names therein shall have the same alphabetical order or arrangement as the original affidavits of registration, and in the column to the left of the names, shall be numbered consecutively, beginning with number 1 in each precinct register.

Sec. 12. Precinct registers; how used. (a) Upon completion of the precinct registers, the recorder shall certify to their completeness and correctness and shall transmit three of each to the board of supervisors, for delivery to the several election boards. The board of election shall use one of such precinct registers for identifying the electors qualified to vote in such precinct, and shall place the remaining copies in convenient places outside the poll limits for use by the electors.

(b) The inspector of election is charged with the duty of returning the precinct register, with other election supplies.

Sec. 13. Signature roster. (a) In addition to the precinct registers provided for in the preceding section the county recorder shall provide for each election a blank roster, consisting of such number of sheets, horizontally ruled with lines one-half inch apart, as will admit of signatures of electors equal to the number of electors in a given precinct. One such blank roster shall be furnished for each precinct in the county. Before any elector shall be permitted to vote he shall be required to sign his name in full in such roster; provided, that an inspector or judge may sign such roster for an elector who is unable to sign because of physical disability, and in such case the name of the elector shall be written with red ink and no attestation or other proof shall be necessary.

(b) Said roster shall be bound with suitable covers and shall bear on the outside front cover the title, "Signature Roster..... precinct, ...county, Arizona." On the inside of the back cover thereof shall appear (printed or typed) a certificate, to be signed by the inspector, substantially as follows:

CERTIFICATE

I, ...Inspector of the Board of Election of .....precinct, ...county, Arizona, hereby certify that the foregoing (excepting signatures in red) are true and correct signatures of all electors who voted in ....precinct on.....day of.....19.....

.....
(Inspector)

(c) Upon the return of such rosters to the board of supervisors, the board shall immediately return them to the recorder, who shall compare the names and signatures with the names and signatures in corresponding precincts in the general county register, and if the recorder discovers that any person has voted in violation of any provision of this act he shall report such violation to the county attorney.

(d) The inspector of election is charged with the duty of returning the roster of signatures with other election supplies.

(e) The provisions of this section shall not apply to absentee nor to sick and disabled electors.

Sec. 14. Registration necessary to vote. No person shall be permitted to vote unless his or her name appears of record as a qualified elector in both the general county register and in the precinct register or list of the precinct in which such person resides; provided that an elector who removes from one precinct to another within thirty days preceding any primary or general election may

vote in the precinct in which registered.

Sec. 15. Cancellation for failure to vote; notice. Following the general election in each even numbered year the recorder shall procure from the board of supervisors the poll lists containing the names of all electors who voted at such general election, and from such poll lists shall ascertain, cancel and remove from the general county register, the registration of any elector who failed to vote. The recorder shall indicate on the face of such cancelled registration the date of cancellation and the fact that it was for failure to vote, after which he shall file the cancelled registration in its proper place in the cancellation binder. The recorder shall mail a notice to each elector whose registration is so cancelled, advising him of such cancellation, and that it will be necessary for such elector to again register before he will be permitted to vote.

Sec. 16. Precinct registers; disposition of. Precinct registers shall be preserved for a period of four years following the general election, after which three copies of same may be destroyed, and the remaining copy shall be preserved as a permanent record.

Sec. 17. Penalty for violation. Any county recorder, deputy, inspector, judge or clerk of election, or justice of the peace, who shall wilfully disregard any provision of this article, or any person who shall wilfully or fraudulently register more than once, or register under any but his true name, or attempt to vote by personating another who is registered, or knowingly register in any precinct where he is not a resident at the time of such registration, shall be punished by imprisonment in the state prison not less than one year nor more than three years, or by fine not less than one hundred nor more than two thousand dollars, or both such fine and imprisonment.

Sec. 18. Registration which shall be cancelled on register. (a) The recorder shall cancel a registration: 1. At the request of the party registered, because of change of residence from one county to another or because of change of party affiliation; 2. when he knows of the death or removal of the person registered; 3. when the insanity of the person registered is legally established; 4. when the person registered has been convicted of a felony, and the judgment of conviction has not been reversed or set aside; 5. upon the production of a certified copy of a judgment directing a cancellation to be made; 6. upon a certificate of the board of election of any precinct sent up with the election returns, stating the death or removal from the county within their own knowledge of the person registered.

(b) Every judge before whom proceedings are had resulting in a person being declared incapable of taking care of himself and managing his property, and for whom a guardian of his person and estate is appointed, or resulting in such person being committed as an insane person, shall file with the county recorder a certificate of such fact, and the recorder shall cancel the name of such person upon the register.

Sec. 19. Compelling cancellations. Upon demand first being made in writing therefor, and refuaal so to do, any person may bring an action in the superior court to compel the recorder to cancel an entry made on the register illegally, or that should be cancelled by reason of facts occurring subsequent to the time of such entry, but if the person whose name is sought to be cancelled be not a party to the action, the court may order him to be made a party.

Sec. 20. Article 2, chapter 22, Revised Code of 1928, is hereby repealed.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 63

(SENATE BILL 131)

AN ACT

Relating to highways and the Arizona highway patrol, and amending chapter 104, Session Laws 1931.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Chapter 104, Session Laws 1931, is hereby amended to read as follows:

Article 5a. Highway patrol division.

Sec. 1. The Arizona highway department shall maintain a division to be known as the Arizona highway patrol. A patrol superintendent shall be appointed by the Governor. The patrol superintendent may employ such clerical assistants and patrolmen as the business of the division shall require, and appoint not to exceed one highway patrolman for each thirty-five hundred motor vehicles or fraction thereof registered during the preceding calendar year. The patrol superintendent and the said patrolmen shall have been citizens, residents and taxpayers of the state continuously for not less than three years next preceding their appointment. As nearly as may be, the patrolmen shall be appointed equally from the several counties. The patrol superintendent and the highway patrolmen shall be vested with the authority of peace officers for the purpose of enforcing the laws relating to the use of highways and the operation of vehicles thereon, but shall never be used as peace officers in connection with any strike or labor dispute. The compensation of the patrol superintendent, the highway patrolmen and all employees of the division shall be fixed by the state engineer, with the approval of the Arizona state highway commission, and all expenses of the division shall be budgeted and paid from the state highway fund.

Sec. 2. Powers of the division. The highway patrol division shall have power, subject to the approval of the commission: 1. To adopt rules and regulations covering the policy, procedure, and administration of all activities of the patrol; 2. to provide for the training of the patrolmen; 3. to place a speed limit or other restrictions upon any portion of the highways when, in the opinion of the patrol superintendent, congested traffic or other conditions require such restrictions for the public safety; 4. to cause such signs to be erected and maintained as may be necessary to give notice of such special restrictions; 5. to cooperate with the commission of agriculture and horticulture in the enforcement of laws relating to motor vehicles. The division shall issue to each member of the patrol a badge of authority, with the words "Arizona highway patrol" encircling the same, the seal of the state in the center thereof, and the designation of the office or rank of the holder below.

Sec. 3. Impersonation of patrolman. Any person who, without authority, wears the badge of a member of the Arizona highway patrol, or a badge of similar design which would tend to deceive, or who impersonates a member of the patrol with the intent to deceive, shall be guilty of a misdemeanor.

Sec. 4. Duties of patrol. It shall be the duty of the Arizona highway patrol to patrol the highways of the state, both day and night, and enforce the laws relating to the use of the highways; to investigate all accidents which occur upon the highways, and to procure the names of the drivers and the descriptions and license numbers of the motor vehicles involved, and to transmit forthwith to the vehicle superintendent a copy of the report of such investigation.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 64

(SENATE BILL NO. 32)

AN ACT

Relating to industrial railroads, and permitting such railroads to transport the property of others without being considered common carriers, and amending article 2, chapter 15, Revised Code of 1928, by adding a section to be designated section 678a.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Article 2, chapter 15, Revised Code of 1928, is hereby amended by adding thereto a section, to be designated section 678a, and to read as follows:

Sec. 678a. Industrial railroad not a common carrier. Any industrial railroad, owned and operated in connection with and as a part of the operating equipment of an industry in this state, and which is not incorporated as, nor held out to be a common carrier, and which does not come into competition with a common carrier railroad, shall have the right to transport the property of others, either free or under private agreement for compensation, and such railroad shall not by reason thereof be held or construed to be a common carrier.

APPROVED MARCH 15, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 65

(H. B. 253)

AN ACT

Relating to education; providing for evening and night schools; providing for district and county estimates; providing for poling places at school elections; providing limitations of expenditures from county levies; providing for additional and decreased allowances; amending sections 1004, 1030, 1035, 1046, 1071, 1088, 1089, 1090, 1091, and 1094, Revised Code of 1928; amending article 5, chapter 21, Revised Code of 1928, by adding a section to be designated section 1040a; amending article 10, chapter 21, Revised Code of 1928, by adding a new section to be designated section 1090a, and repealing section 1038, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1004, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1004. Election of trustees. The governing body of a school district shall be a board of trustees of three members. An election shall be held in each school district on the last Saturday in October of each year, at which shall be elected one trustee in each district, who shall hold office for three years from the first day of January next succeeding his election. At the first election held in a newly formed district three trustees shall be elected, one for one year, one for two years, and one for three years, from the first day of January next succeeding such election. For the purpose of any such election the board of trustees may divide the school district into voting precincts and shall designate the polling place or places. The district school house, if there be one, shall be designated as a polling place.

Sec. 2. Sec. 1030, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1030. Who entitled to attend; non-residents. All schools other than high schools and evening or night schools, unless otherwise provided by law, must be open for the admission of children between the ages of six and twenty-one years, residing in the district. * * * The Board of Trustees may admit * * * children not residing in the district, but within the state, upon such terms as it may prescribe. The children of non-residents of the state may be admitted upon the payment of a reasonable tuition fixed by the board. The board may exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases, and may arrange for the admission of classes of beginners at regular or stated intervals.

Sec. 3. Sec. 1035, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1035. Truant officers. The board of trustees of any school district may appoint an attendance officer for such district, whose salary shall be fixed by the board of trustees and paid from the funds of the district; provided, that when, in the opinion of the boards of trustees of two or more districts, one officer will adequately serve such districts, then such officer may be appointed by such districts jointly, and his salary may be apportioned in such manner as said boards of trustees shall provide, and paid from the funds of said districts.

Sec. 4. Article 6, chapter 21, Revised Code of 1928, is hereby amended by adding thereto a new section to be designated section 1040a, and to read as follows:

Sec. 1040a. Evening and night schools; establishment; eligibility for admittance; tuition. The board of education of a high school or a union high school, or the board of trustees of a common school may establish an evening or night school when in its judgment such school is necessary or convenient. Any such school must be open for the admission of children between the ages of

fourteen and twenty-one years, but this shall not be construed as a requirement for a full course of study therein nor as requiring the admission of a person to a class beyond his educational attainments. Such schools shall be open to persons over twenty-one years of age only upon the payment of tuition as provided by law.

Sec. 5. Sec. 1046, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1046. Retirement of teachers; method; pension. Any person not less than sixty years of age, who has served for thirty years or more in the aggregate as a teacher in the public schools; fifteen years of which shall be in the public schools of Arizona, or has served as a teacher in the public schools of Arizona for twenty years in the aggregate, and has become incapacitated through physical or mental disability as established by the testimony of three physicians, to perform the duties of a teacher, may, by order of the state board of education, be retired from further service in the schools of Arizona, and from such date the services of such person shall cease, and he shall retire, and thereafter during his lifetime shall be paid an annual pension of six hundred dollars in monthly instalments, as other claims are paid out of the appropriation for the state board of education. The state board shall immediately file with the state auditor a certified copy of the order of retirement, which shall be evidence to said auditor that such person is entitled to said pension; provided, that no person shall receive such pension who is in the service of and receiving remuneration therefor from the federal government or from any state, county, city or municipal government, or school district.

Sec. 6. Sec. 1071, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1071. Tax levy for high schools. In the district or union high school district which has determined to establish such high school an annual tax shall be levied, the amount of which shall be estimated by the high school board of education of said district and certified to the county school superintendent on or before July 1. The proper authority, after deducting the amount allowed from state and county funds, shall levy such rate upon the property of the district or union high school district as will produce the remaining amount so estimated.

Sec. 7. Sec. 1088, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1088. State levy for common and high school education. There shall be appropriated in the general appropriation act, for common and high school education in the state, during each fiscal year, a sum of money not more than twenty dollars per capita per annum on all pupils in average daily attendance in the common and high schools of the state, as shown by the records of the state superintendent of public instruction for the preceding year. All income and money dedicated by the enabling act and the constitution of the state, to the purpose of common and high school education shall be placed to the credit of the state board of education, to be dealt with as provided by law, and shall be in addition to the amount so provided in the general appropriation act.

Sec. 8. Sec. 1089, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1089. Apportionment of fund and payment to counties. After making the necessary allowance for the payment of all amounts made payable from the appropriation for the state board, authorized in the general appropriation bill, the board shall apportion the remainder to the several counties of the state, pro rating the same on the average daily attendance in the common and high schools in each county, as shown by records of the state superintendent for the preceding year. Common schools, as used herein, shall be defined to include the first to eighth grades, inclusive. High schools, within the meaning of this statute, shall be defined to include the grades nine to twelve, inclusive. No state appropriation shall be made for any attendance by high school pupils or adults at schools conducted at night.

A minimum school day's attendance for pupils of first and second grades of the common schools shall be not less than two hundred and forty minutes, including recreational periods, but not including the luncheon period; a minimum school day's attendance for pupils of grades three to eight, inclusive, of the common schools, shall not be less than three hundred and sixty minutes including

recreational periods, but not including the luncheon period. The school day for the common schools shall be divided into two sessions. The attendance of any child shall not be counted unless he is actually and physically present during one or both of said sessions. Attendance at one session only shall be counted as one-half day's attendance.

The attendance of a high school pupil shall not be counted a full day unless such pupil is actually and physically in attendance, enrolled and actually carrying four regular or major subjects, or the equivalent thereof, as defined by the state board of education. The attendance of pupils carrying less than the load prescribed above shall not be counted as a full day's attendance, but shall be pro rated. Such apportionments shall be made on the second Monday in July, October, January and April of each fiscal year and shall be, as nearly as may be determined, equal to one-fourth of the above named amount. The superintendent shall furnish the county treasurer and the county school superintendent with an abstract of such apportionment, and shall certify such apportionment to the state auditor who, upon receipt of such certificate, shall forthwith draw his warrants on the state treasurer in favor of the county treasurer of each county for the amount due said county. The county treasurer shall immediately upon receipt of such warrant notify the county superintendent that such amount, together with any other amounts to the credit of the county school fund, is subject to apportionment.

Sec. 9. Sec. 1090, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1090. County levy for common and high school education. On or before the first day of July of each year the trustees of common school districts and the boards of education of high schools shall file with the county school superintendent an itemized estimate of the amount of money needed for defraying the expenses of the schools within their respective districts for the ensuing year. The county school superintendent, when he files his estimate of the amount needed for the schools of the county, shall transmit to the board of supervisors the estimates of common school districts, high school districts and union high school districts, with such revision as he shall deem proper with reference to the general county school levy. The county school superintendent shall on or before the first day of August of each year, furnish the board of supervisors an estimate in writing of the amount of school funds needed for the ensuing year. In making up his estimate the superintendent shall consider all sums requested by the boards of trustees of common schools and the boards of education of high schools.

The county superintendent shall multiply the sum representing the average daily attendance of the common and high schools of the county, other than one-room and two-room rural schools for the previous year, by such sum as will produce the amount of funds estimated by him to be needed for the ensuing year, less the amount to be received from the state school fund, the forest reserve and other sources; provided, that in no event shall such sum be less than thirty dollars nor more than forty-five dollars. In figuring the average daily attendance as herein provided only the six months of school showing the highest average daily attendance shall be considered. He shall add to this sum a sufficient amount to enable him to apportion to each rural school district maintaining a one-room rural school for a minimum term of eight months, not more than twelve hundred and fifty dollars, and to each rural school district maintaining a two-room rural school for a minimum term of eight months, not more than twenty-five hundred dollars; provided, that the county superintendent may, with the approval of the board of supervisors, estimate the expenses of and make his apportionment to one and two-room school districts on the basis of average daily attendance; provided, that in districts having little or no assessed valuation the boards of trustees may petition the county school superintendent for an additional amount not to exceed two hundred and fifty dollars for a one-room school and five hundred dollars for a two-room school. The amount allowed shall be taken from the reserve fund. The amount received by any county from the apportionment of state per capita levy, together with the amounts to be raised by county levy, as finally determined by the county school superintendent, shall constitute the aggregate sum of money to be raised by state and county taxes for the support of the common and high schools for that year, and shall constitute the county school

fund; provided, that the revised estimate and school fund may contain the reserve fund as hereinafter provided.

The amount received by any county from the apportionment of the state school fund, together with the amounts raised by the county as herein provided, shall constitute the aggregate sum of money to be raised by state and county tax for the support of the common and high schools for that year. This aggregate sum, except the county school reserve fund, shall constitute the county school fund.

Sec. 10. Article 10, chapter 21, Revised Code of 1928, is hereby amended by adding thereto a new section, to be designated section 1090a, and to read as follows:

Sec. 1090a. The board may add to the estimate of the county school superintendent an amount not to exceed six per cent thereof, which amount shall constitute a special county school reserve fund, which shall be deposited in the county treasury and used as hereinafter provided.

Sec. 11. Sec. 1091, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1091. School district levy for common and high school education. The county school superintendent shall determine whether or not his estimate will produce the amount of money asked for by any board of trustees of the common schools or boards of education of the high schools, and if not, he must estimate the additional amount needed for such district or districts and certify the same at the time of certifying to his estimate. The board of supervisors of each county shall annually at the time of levying other taxes, levy a school tax of a rate sufficient to raise the said minimum amount of money, and in addition a rate on the property of any districts in which an additional amount has been asked for by the board of trustees of said district; said tax shall be added to the county tax and collected in the same manner. That portion levied for county school purposes shall be paid into the county treasury to the credit of the county school fund. Such additional portion as has been levied for school purposes in a particular district shall be paid into the school fund of such district.

Sec. 12. Sec. 1094, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1094. Apportionment of school funds; increase and decrease of estimates. (a) The county school superintendent shall apportion all moneys accumulated to the credit of the county school fund. Within the limitations prescribed by law he shall apportion to each rural school district maintaining a one-room or two-room school, a sufficient amount to maintain it in a creditable manner for a minimum term of eight months. After deducting such amount from the total sum of the county school fund, the remainder shall be pro rated among the several common and high school districts other than such rural districts, on the basis of average daily attendance as shown by the records of the county superintendent for the preceding year, and on the basis of the appropriation for one- and two-room rural schools.

(b) Whenever it appears that a common or high school which has been maintained for four months, has an average daily attendance greater than it was during the preceding year, the board of trustees or board of education of such district may present a petition to the county superintendent requesting authority to incur liabilities in excess of the estimate of such district, in such amount as the board shall deem necessary to properly provide for such increased attendance. The county superintendent shall forward such petition, with his recommendation, and a copy of the estimate of the district for that year, to the board of supervisors. The board of supervisors shall hold a hearing on such petition within twenty days after its receipt and shall determine whether the petition shall be allowed, allowed after revision, or denied, but in no event shall an allowance be made which will increase the per capita expenditure per school child allowed by the estimate of such district for that year. If the petition is allowed in whole or in part, the board of trustees or board of directors shall be authorized to incur liabilities in accordance therewith, and the county school superintendent, on presentation of proper vouchers, shall draw his warrants against such additional allowance.

(c) The liability so incurred shall be included as a separate item in the estimate of such district for the succeeding year and shall be raised by county and district levies. The county shall levy the proportion of such sum which the receipts from state and

county sources in the year for which such additional sum is allowed bears to the total amount received by such district exclusive of the additional allowance, and the remainder shall be levied upon the property within the districts; provided, that in the event a credit has been allowed to such district out of the county school fund as hereinafter provided, then the amount to be levied by the county shall be reduced by the amount of such credit.

(d) The county school reserve fund shall be used for paying necessary expenses in newly formed school districts; for the transportation of children to and from one- and two-room rural schools; for the transportation of children in unorganized territory to organized districts, and for the establishment of schools in unorganized territory. The apportionment of such fund may be delegated by the board of supervisors to the county school superintendent. If at the end of any school year any part of the reserve fund remains unexpended, such amount shall be shown in the estimate of the county superintendent for the succeeding year, as a balance of county school funds on hand.

APPROVED MARCH 17, 1933.

CHAPTER 66

(SENATE BILL NO. 11)

AN ACT

Relating to the state bar, and creating a public corporation to be known as "the state bar of Arizona."

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title of act. This act may be known and cited as the state bar act.

Sec. 2. Public corporation created; powers. There is hereby constituted a public corporation to be known as "state bar of Arizona", hereinafter designated as the state bar, which shall have perpetual succession and a seal and may sue and be sued, and which, for the purpose of carrying into effect and promoting the objects of said corporation, may enter into contracts and acquire, hold, encumber, dispose of and deal in and with real and personal property. The term of existence and the powers of said corporation may be changed or terminated at any time by an act of the legislature of the state of Arizona.

Sec. 3. First members. The first members of the state bar shall be all persons now entitled to practice law in this state, and the judges of the supreme court, the superior courts and the United States district court for the district of Arizona.

Sec. 4. Classes of members. Members of the state bar shall be divided into three classes, namely: Active, retired and honorary.

Sec. 5. Classification of members. Active members shall be all those who are not classified either as retired or honorary members. Retired members shall be those who have, as hereinafter provided, requested to be enrolled as retired members. Honorary members shall be the judges of the supreme court, superior courts and the United States district court for the district of Arizona.

Sec. 6. Retired members only by request. Every person not a judge of the supreme court, or of a superior court, or of the United States district court for the district of Arizona, licensed to practice law in this state shall be deemed an active member until at his request he shall be enrolled as a retired member.

Sec. 7. New members. After the organization of the state bar, as herein provided, all persons who are admitted to practice in accordance with the provisions of this act shall, by that fact, become active members of the state bar.

Sec. 8. Retired members, enrollment and privileges. Active members who, after the taking effect of this act, shall retire from practice, shall be enrolled as retired members at their request. Retired members shall not be entitled to hold office or vote. On application and payment of all registration fees required they may become active members. Retired members shall have such other privileges, not inconsistent with this act, as the board of governors may provide.

Sec. 9. Honorary members, their privileges and immunities. Honorary members shall not be entitled to hold office or to vote, nor shall they be required to pay any membership fee. Honorary members shall have such privileges not inconsistent with this act as the board of governors may provide. Upon an honorary member's retirement from the bench, he shall thereupon become an active member and subject to all of the provisions of this act.

Sec. 10. State divided into six bar districts. For the purposes of this act the state is divided into six bar districts, numbered 1 to 6 inclusive, as follows: Mohave, Coconino, Navajo and Apache counties shall be district 1; Yavapai county shall be district 2; Gila, Graham and Greenlee counties shall be district 3; Cochise county shall be district 4; Pinal, Pima and Santa Cruz counties shall be district 5; Yuma and Maricopa counties shall be district 6.

Sec. 11. Board of governors, how constituted. There is hereby constituted a board of governors of the state bar which shall consist of eleven members, to be elected as follows: From bar district 1, one member; from bar district 2, one member; from bar district 3, one member; from bar district 4, one member; from bar district 5, two members; from bar district 6, five members, at least one of whom shall be a resident of Yuma county. Said members shall hold office until the next annual meeting and until their successors are elected and qualified.

Sec. 12. Officers. The officers of the state bar shall be a president, two vice-presidents, a secretary, and a treasurer.

Sec. 13. President and vice-presidents. The president and vice-presidents shall be elected by the board of governors from among the members thereof at the time of the organization meeting of the state bar, as herein provided, and thereafter likewise elected at the time of the annual meetings. The newly elected president and vice-presidents shall assume the duties of their respective offices at the conclusion of the annual meeting at which they are elected.

Sec. 14. Appointment of commissioners. Upon this act becoming effective four commissioners shall be appointed by the chief justice of the supreme court from among those qualified for active membership in the state bar.

Sec. 15. State bar commission. The four members so appointed, with the chief justice of the supreme court, shall constitute a commission to place this act in operation, to organize the state bar, and to adopt such temporary rules and regulations as it may deem necessary to complete such organization, and shall call the organization meeting and generally give effect to this act.

Sec. 16. Election of governors. At the organization meeting a board of governors shall be elected as provided in section 17. At each annual meeting thereafter held during the even numbered years the governors shall be elected from bar districts 1, 3, 4 and 5 for a term of two years, and at the meetings thereafter held during the odd numbered years the governors shall be elected from bar districts 2 and 6 for a term of two years.

Sec. 17. Nominations and elections. Nominations for governors shall be by petition signed by at least five members entitled to vote for such nominees. The election shall be by ballot. The ballots shall be mailed to those entitled to vote at least thirty days prior to the date of canvassing the ballots, and shall be returned by mail, and the ballots shall be canvassed at the ensuing annual meeting. In other respects the election shall be as the board of governors may by rule direct. Only active members shall be entitled to vote for the governor or governors of the bar districts in which they respectively reside.

Sec. 18. Vacancies. Vacancies in the board of governors shall be filled by the remaining members of the board.

Sec. 19. Duties of officers. It shall be the duty of the president to preside at all meetings of the state bar and of the board of governors, and in the event of his absence or inability to act, one of the vice-presidents shall preside. Other duties of the president, vice-presidents, and the duties of the secretary and the treasurer shall be such as the board of governors may prescribe.

Sec. 20. Secretary and treasurer. The secretary and the treasurer shall be selected annually by the board of governors.

Sec. 21. Terms of officers. The officers of the state bar shall continue in office until their successors are elected and qualified.

Sec. 22. State bar governed by board of governors. The state bar shall be governed by the board of governors, which shall have the powers and duties in this act conferred.

Sec. 23. Duties of board. The board shall be charged with the executive functions of the state bar and the enforcement of the provisions of this act.

Sec. 24. Power to appoint committees, etc. The board shall have power to appoint such committees, officers and employees as it may deem necessary or proper, prescribe their duties and fix and pay salaries and necessary expenses.

Sec. 25. Executive committee of board of governors. The board of governors shall have power to appoint from time to time one or more executive committees composed of members of said board and to vest in said executive committees such of the powers and duties by this act conferred upon said board, as the board may determine.

Sec. 26. Power to advance jurisprudence and administration of justice. The board shall have power to aid in the advancement of the science of jurisprudence and in the improvement of the administration of justice.

Sec. 27. Admission to practice. With the approval of the supreme court, and subject to the provisions of this act, the board shall have power to fix and determine the qualifications for admission to practice law in this state, and to constitute and appoint a committee of not more than five members with power to examine applicants and recommend to the supreme court for admission to practice law those who fulfill the requiremants. With the approval of the supreme court the board shall have power to fix and collect fees to be paid by applicants for admission to practice, which fees shall be paid into the treasury of the state bar; provided, that where an applicant, residing within or without the state, who has been a member of the bar of another state or territory, or of the district of Columbia, in good standing and in active practice for at least five years last past, shall furnish the supreme court of the state a certificate of admission to practice in the court of last resort of such state or territory, or of the district of Columbia, and that he is still in good standing in such court, together with the recommendation of at least one of the judges of such court of last resort of such state or territory, or of the district of Columbia, said supreme court of the state may, in its discretion, if fully satisfied as to his qualifications, admit such person to practice on motion made by some member of the bar of said court; provided that an attorney practicing in another state may be permitted on motion to be associated with local counsel in the trial of any particular action in the courts of this state, for the purpose of such trial; and provided, further, that until otherwise fixed and determined by the board, the requirements for admission to practice under this act shall be the same as those now prescribed by law for admission to practice in this state and shall be enforced as the same now are enforced.

Sec. 28. Rules of professional conduct. With the approval of the supreme court, the board shall have power to formulate and enforce rules of professional conduct for members of the bar in the state.

Sec. 29. Disbarment and discipline. Whenever a complaint is filed with the board of governors charging an attorney-at-law with conduct warranting disbarment, suspension or discipline, the board shall fix a day for the hearing of such

charges, and shall give notice in writing to such attorney of the day fixed for the hearing of the charges against him together with copy of the complaint filed. Upon the day fixed for such hearing, or at a day to which such hearing may be continued, the board shall take evidence respecting such charges, which evidence shall be stenographically reported the same as proceedings in a court of record. The hearing by the board shall be private unless the respondent shall demand a public hearing. Upon the conclusion of the hearing, if the board be of the opinion that the charges are without merit, it shall enter upon its records an order dismissing the same. If the board deems the evidence sufficient to merit further action, it shall make a minute entry to that effect in its proceedings and within thirty days from such determination shall file the record of its proceedings with the clerk of the supreme court, together with a reporter's transcript of all the evidence submitted at the hearing. Upon the filing of said record and transcript the supreme court shall cite the respondent to appear before it on a day and at a time fixed by the court, which shall be not less than thirty nor more than sixty days after the filing of said record and transcript, to then show cause why said court should not make and enter an order disbarring, suspending or reproving said respondent. Said citation shall be served upon the respondent and proof of such service made as the supreme court may require. Upon the expiration of the date fixed by the court the matter shall thereupon stand for hearing and determination by the supreme court and for entry of judgment of disbarment, suspension, reproval, or acquittal, as it may deem fit. No further evidence shall be taken by the supreme court unless, in its discretion, the court deems the same necessary to the furtherance of justice. The board shall have power to appoint one or more committees to take evidence and forward the same to the board with recommendation for action. Nothing in this act shall be construed as limiting or altering the power of the courts of this state to disbar or discipline members of the bar as this power at present exists.

Sec. 30. Power to adopt rules. The board shall have power to formulate and declare rules and regulations, not inconsistent with law, necessary or expedient for the carrying out of this act, and shall by rule fix the time and place of the annual meetings of the state bar, the manner of calling special meetings thereof, and determine what number shall constitute a quorum of the state bar.

Sec. 31. Disbursements. The board shall have power to make appropriations and disbursements from the funds of the state bar to pay all necessary expenses for effectuating the purposes of this act, but no member shall receive any other compensation than his necessary expenses connected with the performance of his duties as such.

Sec. 32. Breach of rules. the rules and regulations adopted by the board, when approved by the supreme court, shall be binding upon all members of the state bar, and the wilful breach of any of such rules shall be punishable as the supreme court may direct.

Sec. 33. Local administrative committees. The board shall have power to create such local administrative committees as it may deem advisable. Such committees shall be composed of active members of the state bar, and each member of the board of governors, unless he declines to act shall be ex officio a member of the local administrative committee where he maintains his principal office for the practice of the law.

Sec. 34. Terms of members of local committees. The members of local administrative committees (except ex officio members of the board of governors) shall hold at the pleasure of the board.

Sec. 35. Duties of local committees. It shall be the duty of each local administrative committee, and it shall have the power, to receive and investigate complaints as to the conduct of members, make findings and recommendations and forward its report to the board of

governors for action, and the board may either act upon the report, take additional evidence, or set aside the report and hear the whole case de novo, as it may elect.

Sec. 36. Additional duties. The local administrative committees shall perform such other duties in furtherance of the execution of the provisions of this act as the board may direct.

Sec. 37. Proceedings on disbarment. In all cases involving disbarment, suspension or reproval the hearing shall be held in the county of the residence of the party charged, or where the offense is committed. The board, or any local administrative committee shall, of its own motion and without the filing or presentation of any complaint, or upon any complaint, if a complaint be filed, have power to initiate and conduct investigations of all matters affecting or relating to the state bar, or its affairs, or the practice of the law, or the discipline of the members of the state bar, or any other matter within the jurisdiction of the state bar, and in the conduct of such investigations shall have power to take and hear evidence touching the matters under investigation, administer oaths and affirmations, and upon such investigations, and upon the trial or hearing of all matters, jurisdiction to try or hear which is given the said board or committee, shall have power to compel the attendance of witnesses and the production of books, papers and documents pertaining to the matter under investigation, or to said trial or hearing, by subpoena issued, as hereinafter provided. Whenever any person subpoenaed to appear and give testimony or to produce such books, papers or documents as required by such subpoena, shall refuse to appear or testify before said board or committee, or to answer any pertinent or proper questions, he shall be deemed in contempt of said board or committee, and it shall be the duty of the chairman or presiding officer of said board or committee to report the fact to the superior court of the county in which said investigation, trial or hearing is being held, whereupon the said court shall issue an attachment in the form usual in said court, directed to the sheriff of any county in the state, commanding said sheriff to attach such person and forthwith bring him before said court. On the return of said attachment, and the production of the person attached, the said court shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a superior court of the state of Arizona. Any member of said board or of said local administrative committees shall have power to administer oaths and issue any subpoena herein provided for. Depositions may be taken and used in the same manner as in civil cases provided for. Witnesses subpoenaed as in this act provided shall be entitled to receive and to be paid from the treasury of the state bar the same per diem and mileage as are allowed witnesses in civil cases by the laws of Arizona.

Sec. 38. Rights of respondent. Any person complained against as herein provided, shall be given reasonable notice and have a reasonable opportunity and right to defend against the charge by the introduction of evidence, and the right to be represented by counsel, and to examine and cross-examine witnesses. He shall also have the right to the issuance of subpoenas for the attendance of witnesses to appear and testify or produce books and papers, as above provided.

Sec. 39. Records of hearings. A record of all hearings shall be made and preserved by the board or committee.

Sec. 40. Procedure at hearing. The board of governors, subject to the provisions of this act, may by rule prescribe the mode of procedure in all cases of complaints against members.

Sec. 41. Organization meeting; annual meetings. The organization meeting of the state bar shall be held in the city of Phoenix within ninety days after the taking effect of this act. Thereafter there shall be annual meetings at

times and places to be designated by the board of governors. The first annual meeting shall be held not less than six months nor more than twelve months after the organization meeting.

Sec. 42. Proceedings at annual meetings. At the annual meeting reports of the proceedings of the board of governors since the last annual meeting, reports of other officers and committees and recommendations of the board of governors shall be received. Matters of interest pertaining to the state bar and the administration of justice may be considered and acted upon.

Sec. 43. Special meetings. Special meetings of the state bar may be held at such times and places as shall be provided by the board of governors.

Sec. 44. Organization fee. For the period between the taking effect of this act and January 1, 1934, the fee for each active member shall be the sum of three dollars, payable on or before the date of the organization meeting, and upon payment of such fee he shall receive a certificate issued under the direction of the commissioners; provided, that no member shall vote until such fee shall have been paid.

Sec. 45. Annual fee. After the year 1933, the annual membership fee for active members shall be three dollars, payable on or before February 1; provided, the board of governors, with the consent of the supreme court, shall have power from time to time to increase such fee to a sum not exceeding ten dollars.

Sec. 46. Certificate of payment. Upon the payment of such fee each member shall receive a certificate issued bydirection of the board of governors evidencing such payment.

Sec. 47. Retired members' fee. The annual membership fee for retired members shall be one dollar, payable on or before February 1.

Sec. 48. Suspension for non-payment of fee; funds of state bar. Any member failing to pay any fee after the same becomes due, and after two months' written notice of his delinquency, shall be suspended by the supreme court from membership in the state bar, but may be reinstated upon the payment of accrued fees and such penalties as may be imposed by the board of governors, not exceeding double the amount of the delinquent fees. All fees shall be paid into the treasury of the state bar, and, when so paid, shall become part of its funds.

Sec. 49. Only active members may practice law. No person shall practice law in this state subsequent to the organization meeting of the state bar unless he shall be an active member thereof in good standing as in this act defined.

Sec. 50. Statement of receipts and disbursements. It shall be the duty of the board of governors to submit an annual statement showing the receipts and expenditures of the state bar for the twelve months preceding. Such statement shall be promptly certified by the treasurer to the chief justice of the supreme court.

Sec. 51. Unlawful practice a misdemeanor. Any person who, not being an active member of the state bar, or who after he has been disbarred, or while suspended from membership in the state bar, shall practice law, shall be guilty of a misdemeanor.

Sec. 52. This act shall not be construed to limit the supreme court's common law jurisdiction of the admission and disciplining of members of its bar.

Sec. 53. Legislative intent. If any section, subsection, sentence clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not

affect the validity of the remaining portions. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

APPROVED MARCH 17, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 67

(H.B. 207)

AN ACT

To amend Sec. 3451, Art. 3, Chap. 81, Revised Code of 1928, entitled electrical districts and pertaining to the annual election to fill vacancies, giving notice thereof, defining the qualitications of directors and voters at annual elections providing for the holding of the election and the paying of the expenses thereof.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That Sec. 3451, Art. 3, Chap. 81, Revised Code of 1928, be and the same is hereby amended to read as follows:

Sec. 3451. Annual election to fill vacancies; qualifications of voters and directors; paying expenses. The annual election of directors shall be held on the second Saturday in January of each year for the filling of all vacancies occurring by expiration of terms of office or otherwise and for the replacing of appointees to fill vacancies by the board. Ten days' notice of said election shall be given by the posting of notices thereof in one public place in each township or part of township of each range or part of range, as heretofore defined in the district and not less than three notices in different public places in each county in which any part of the district is located.

Persons qualified to hold the office of director or vote at the election therefor must be resident freeholders of the district and who have been such resident freeholders of the district, and election precinct, if any, for six months immediately preceding the date of the election at which they are to be elected or vote and who have resided continuously for one year immediately preceding such election in the county in which said district or a part thereof may lie. A resident freeholder shall be construed to be any person who resides within the district and owns real property acreage which is, or may be, beneficially served by the district. The board of directors shall have power to determine the place or places of voting at any and all elections and in case more than one place of voting is designated then and in that case the board shall divide the district into election precincts which may be changed from time to time and when changed within ninety days before any election the notice of the next election shall contain an accurate description of the precincts as changed. All election expenses shall be paid by the district.

APPROVED MARCH 17, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 68

(H. B. 163)

AN ACT

Relating to livestock and to amend Sec. 2106, Revised Code of 1928, as amended by Chap. 43, Session laws of 1931.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2106, Revised Code of 1928, as amended by Chap. 43, Session Laws of 1931, is hereby amended to read as follows:

Sec. 2106. Range stock to be branded; seizure. It shall be unlawful for any owner of range livestock to permit such stock, excepting unweaned animals running with their mothers, to roam and feed upon the ranges in this state unless branded and marked as prescribed by law. Every inspector shall seize any livestock, except unweaned animals running with their mothers, wherever found, not branded according to law, or the ownership of which such inspector or other person questions, and any livestock having brands so mutilated, indistinct, burnt or otherwise disfigured as to be difficult of ascertainment, or upon which there is a brand which is not recorded as required by law, or which is freshly branded and not found with its mother, or which has a brand or mark not the recorded brand or mark of the owner, and any animals which are known as "leppys", "orejanas", "sleepers", "dogies", or "mavericks".

APPROVED MARCH 17, 1933.

CHAPTER 69
(H. B. 161)

AN ACT

To amend Sec. 2104, Revised Code of 1928, as amended by Sec. 9, Chap. 43, Session Laws of 1931, Regular Session; Sec. 2145, Revised Code of 1928, as amended by Sec. 1, Chap. 15, Session Laws of 1929, Regular Session, as amended by Sec. 27, Chap. 43, Session Laws of 1931, Regular Session; Sec. 2146, Revised Code of 1928, as amended by Sec. 1, Chap. 13, Session Laws of 1929, Regular Session, as amended by Sec. 28, Chap. 43, Session Laws of 1931, Regular Session; and to amend Sec. 2148 and 2155, Revised Code of 1928, as amended by Sec. 30 and 32, respectively, Chap. 43, Session Laws of 1931, Regular Session, relating to livestock, the livestock industry, the slaughter of animals and the sale of meat.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2104, Revised Code of 1928, as amended by Sec. 9, Chap. 43, Session Laws of 1931, Regular Session, is amended to read as follows:

Sec. 2104. Inspection to be made immediately; fee; certificate. An inspector, upon being advised or informed that any livestock is subject to inspection, shall inspect such livestock immediately. The person in charge of such livestock, shall, when the same has been inspected, pay to the inspector therefor fifteen cents per head for neat animals, horses, mules or asses. The inspector shall thereupon certify in writing to the owner or person in charge, on a form furnished by the board, that such livestock has been inspected, according to law, for brands, earmarks and health.

Sec. 2. Sec. 2145, Revised Code of 1928, as amended by Sec. 1, Chap. 15, Session Laws of 1929, Regular Session, as amended by Sec. 27, Chap. 43, Session Laws of 1931, Regular Session, is hereby amended to read as follows:

Sec. 2145. Slaughter for sale without license prohibited. It shall be unlawful for any person to slaughter any neat animals, horses, mules, asses, sheep or goats for sale or exchange, unless licensed as provided in this chapter, except producers, who may, upon special permit authorized by the board, slaughter not to exceed five head of neat animals, horses, mules or asses, or twenty head of sheep and goats in any one calendar year, and who shall not be subject to the requirements of Sec. 2148 relating to licenses to peddle or retail fresh meats.

Sec. 3. Sec. 2146, Revised Code of 1928, as amended by Sec. 1, Chap. 13, Session Laws of 1929, Regular Session, as amended by Sec. 28, Chap. 43, Session Laws of 1931, Regular Session, is amended to read as follows:

Sec. 2146. Sale or possession of unstamped meat prohibited; penalty; inspectors may search without warrant. It shall be unlawful for any person to have in his possession, or to sell, offer for sale, give or exchange the meat of any neat animal, horse, mule or ass unless the whole hide of such animal has been inspected for marks and brands and the meat thereof stamped as hereinafter provided. The hide of such animal shall be marked, as provided by the board, so that it may be identified, for which the inspector shall collect fifteen cents for each hide so inspected. The inspector shall stamp upon the hind quarter, side, shoulder, neck and shank of both sides of the meat of the carcass the words "brand inspected." Such stamping shall be done with a stamp adopted and furnished by the board. A violation of this section shall constitute a misdemeanor and shall be punishable by a fine of not less than fifty nor more than three hundred dollars, or by imprisonment in the county jail not less than thirty, nor more than one hundred eighty days, or by both such fine and imprisonment; provided, that nothing in this section shall be construed to apply to producers who are slaughtering such animals for their own consumption; and provided, that meat bearing a federal meat inspection stamp, may, at the option of the

possessor, not be stamped as herein provided. Inspectors are hereby authorized to stop and search, without warrant, any vehicle or to search without warrant any container which such inspector suspects contains unstamped meat, and, if any be found, it shall be taken by the inspector and, unless proof be submitted within twelve hours satisfying the inspector that the person from whom the meat was taken is the lawful owner thereof, such meat shall be forfeited to the state and sold or disposed of by the inspector.

Sec. 4. Secs. 2148 and 2155, Revised Code of 1928, as amended by Sec. 30 and 32, respectively, Chap. 43, Session Laws of 1931, Regular Session, are hereby amended to read as follows:

Sec. 2148. License, slaughtering without prohibited; penalty. The board may grant an applicant, upon payment of the fees and presentation of proof of good moral character, a license to slaughter neat animals, horses, mules, asses, sheep or goats, as may be set forth in such license. For a license to slaughter not to exceed forty-five head of neat animals, horses, mules or asses and not to exceed fifty-five head of sheep or goats in any one calendar year the applicant shall pay a license fee of five dollars; for a license to slaughter more than forty-five and not to exceed one hundred fifty head of neat animals, horses, mules or asses and more than fifty-five and not to exceed one hundred sixty head of sheep or goats in any one calendar year, he shall pay a license fee of fifteen dollars; for a license to slaughter more than one hundred fifty head of neat animals, horses, mules or asses and more than one hundred sixty head of sheep or goats in any one calendar year, he shall pay a license fee of eighty dollars. For good cause shown the board may, after a hearing, and after notice to the holder of such license of its intention so to do revoke any license issued hereunder. It shall be a misdemeanor for any person other than producers slaughtering under special permit, to slaughter any neat animals, horses, mules, asses, sheep or goats for sale or exchange or to offer for sale or exchange any portion thereof without first procuring a license.

Every peddler or retailer of fresh meat of any neat animals, horses, mules, asses, sheep or goats, shall, before offering such meat for sale or exchange procure a license therefor from the livestock sanitary board, for which he shall pay an annual license fee of ten dollars for each place of business, store, stand, market or vehicle wherein or wherefrom such meat is to be sold or exchanged, and he shall enter in a book kept by him for that purpose the name and address of each person from whom the purchaser obtained such meat, the date of purchase, quantity purchased, time and place of purchase, and upon the request of an inspector or peace officer he shall exhibit the same to such inspector or peace officer. All licenses issued hereunder shall expire on December thirty-first of the year in which issued. Any one failing to comply with the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty nor more than one hundred dollars for each offense or by imprisonment for not less than twenty nor more than one hundred days, or by both such fine and imprisonment.

Sec. 2155. Inspection of animals and hides at slaughter houses. Any person carrying on the business of slaughtering livestock shall notify the nearest inspector of the location of his slaughter house and of the time when it is proposed to slaughter any such animals, and no livestock shall be slaughtered until inspected, unless such inspection before slaughter be waived by the board. When any such animals are slaughtered, the inspector shall inspect the hides for brands and marks, charging therefor fifteen cents for each hide inspected, and tag or mark the same in a manner prescribed by the board, unless such tagging or marking be waived by the board.

APPROVED MARCH 17, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 70

(H. B. 191)

AN ACT

To promote the development of the Arizona citrus fruit industry in this state, and in interstate and foreign markets; to protect the state's reputation in these markets; to establish standards and standard containers for certain fruits; to prevent fraud and deception in the receiving, packing, sale and accounting of sales of certain fruits; to prescribe penalties for the violation of the provisions of this act, and to provide a method of enforcement of the terms and provisions of this act; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Citation. This act shall be designated as the Arizona Citrus Fruit Standardization Act.

Sec. 2. Purpose of act. To promote the development of the Arizona citrus fruit industry, and to prevent deception in the packing, marking, shipping or sale of citrus fruits which are packed, marketed, sold or shipped from this state to other states or imported from other states into this state, or which, in packages and in bulk are sold in this state.

Sec. 3. Enforced by supervisor of inspection. The provisions of this act shall be enforced by the supervisor of inspection created by Sec. 4 of Chap. 95, Session Laws of 1929, and under the terms and conditions, as provided by Secs. 4, 5, 6, 7 and 8, Chap. 95, Session Laws of 1929. It shall also be the duty of the state entomologist and his deputies and of the state quarantine inspectors to enforce this act. Said supervisor and his deputies and the state entomologist and his deputies and the state quarantine inspectors are hereinafter called the enforcing officers.

In addition to the deputies and clerks, the appointment of whom is provided by said Chap. 95, Session Laws of 1929, there shall be appointed by the supervisor of inspection an inspector from among the employees of each citrus fruit packing plant or citrus fruit packer in the state of Arizona, or from among other suitable persons, which employee or other person shall be designated by the person, frim or corporation operating such citrus packing plant, and who shall be compensated by such firm, person or corporation, for his services as inspector. Such inspector so appointed, shall take oath in form to be prescribed by the attorney general and shall execute a surety bond in the penal sum of two thousand dollars, ($2,000.00), and upon a form to be approved by the attorney general. With the approval of the supervisor of inspection the employer of such inspector may become surety on such bond. The bond shall be conditioned that the inspector will comply with the provisions of this act, and will conduct and transact his business honestly and without fraud of any kind. In the event any person so appointed as inspector, under the provisions of this act, shall wilfully or negligently fail to comply with the regulations hereof, the supervisor or any person injured by such violation shall have a right of action in the name of the state of Arizona for the use and the benefit of such person so injured.

The supervisor of inspection and the state entomologist shall instruct their deputies and the inspectors herein above mentioned with regard to the inspection of citrus fruits under the terms of this act and shall instruct them with regard to the method of determining maturity and condition of citrus fruits, as provided by Sec. 21 of this act.

Sec. 4. Powers of enforcement officers. Every enforcement

officer shall have the power to enter and inspect every place or vehicle within the state where citrus fruits are produced, received, packed, delivered, loaded, shipped, offered for sale or sold, whether for intrastate or interstate shipment, and to inspect such places and all such citrus fruits and the containers. He shall have the same powers in the performance of his duties as possessed by other peace officers, and shall have the right, while exercising such police powers, to seize or hold as evidence such part of any pack, load, lot, consignment or shipment of citrus fruits packed, delivered for shipment, loaded, shipped, or being transported, offered for sale or sold in violation of this act as may in his judgment be necessary to secure the conviction of the party or parties he knows or has good reason to believe is violating any of the provisions of this act.

Sec. 5. County attorney to prosecute. It shall be the duty of the county attorney of each county in which any violation of this act may occur to prosecute any person, firm, company, organization, or corporation accused of such violation, and also at the request of the enforcing officer or his duly authorized agents, to institute and prosecute such action as may be authorized under the provisions of this act.

Sec. 6. Duties of supervisor and enforcing officers. The supervisor is hereby empowered to define and promulgate such rules and regulations as may be deemed necessary to carry out the provisions of this act, which shall not conflict with anything provided in this act, and when so defined and promulgated, it shall be the duty of all enforcing officers to enforce such rules and regulations.

Sec. 7. Bond and license. No person shall act as a citrus fruit broker, dealer, packer, shipper or commission merchant within the meaning of this act, without first having given bond and obtained a license. The fee for such license shall be one dollar (1.00) per annum, such license shall expire on August first of each year, and must be renewed annually, and shall be valid only so long as the bond hereinafter provided is in force.

Any person, desiring to act as a citrus fruit broker, dealer, packer, shipper, or commission merchant within the meaning of this act, (excluding retail dealers) shall make written application for a license therefor to the supervisor stating the name and residence of the applicant, his principal office or place of business in this state, the names and addresses of five residents of this state for reference as to character, standing and reputation of the applicant; if the applicant is a corporation, the names and addresses of the officers and directors; if a co-partnership, the names and addresses of the partners. All applications shall be accompanied by a surety bond in the penal sum of ten thousand dollars ($10,000.00), and upon a form to be approved by the attorney general.

The bond shall be conditioned that the applicant will comply with the provisions of this act, and will conduct and transact his business honestly and without fraud of any kind.

In the event that any person licensed under the provisions of this act shall wilfully or negligently fail to comply with the regulations hereof, or neglect or refuse to pay the inspection fees authorized by this act, after being notified by the supervisor or any of his deputies of such failure, neglect or refusal, the supervisor or any person injured by such violation shall have a right of action based thereon upon such bond.

Sec. 8. Dealers to keep records. Every person licensed under this act shall keep an accurate and complete record in which shall be truly recorded the amount and character of all citrus fruit received from any person for payment or sale, with the date of receiving, the name of the consignee, and the condition of the shipment when received in the city or town in which it is to be sold by such licensee if arriving in other than good condition, the date when the same is sold, together with the price for which it sold. The records of any such licensee pertaining to the receipt, packing, loading, shipment and sale of citrus fruits affected by this act shall at all times be open and subject upon demand to the inspection of any consignor as to any entry concerning any citrus fruits received by the licensee from such consignor.

Sec. 9. Penalty for wrong or improper inspection. Any inspector or enforcing officer employed under this act who shall knowlingly make a wrong or improper inspection of any citrus fruit or knowlingly and improperly certify that the grade, quality or condition of the same does or does not conform to the standards established under this act, or shall fail to bring action to prosecute any violators of this act, or shall accept money or other consideration directly or indirectly for an incorrect or improper performance of his duty, and any person who shall improperly influence, or attempt to improperly influence, any such inspector or enforcing officer in the performance of his duty, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars ($500.00), or be imprisoned for not more than one year, or both.

Sec. 10. Penalty for violation. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500.00), or be imprisoned not more than one year, or both.

Sec. 11. Appeals to supervisor. Whenever any citrus fruit product shall have been inspected, and a question arises as to whether the product conforms to the standards provided in this act, an appeal may be taken to the supervisor, who shall cause such tests to be applied as he may deem necessary, to determine a true finding of the grade or classification of the product, and after such appeal the decision of the supervisor shall be final and binding.

Sec. 12. Supervisor to promulgate and enforce rules. The supervisor is empowered to promulgate and enforce such rules and regulations as he may deem necessary to carry out the provisions of this act, which do not conflict with any provided for in this act.

Sec. 13. Supervisor to establish grading rules. The supervisor is empowered to establish and enforce such additional grades, grading rules and regulations, as may be deemed necessary on citrus fruits including those not named in this act, which shall not conflict with any provided for in this act, after a thorough investigation has been made of the needs of the particular citrus fruit for which grades, grading rules and regulations are contemplated. Such grades, grading rules and regulations must, before they become effective, be submitted for approval at one or more public meetings called for that purpose, and attended by representative growers and shipppers of the localities interested in the industry affected. Such meetings shall be advertised at least once in a newspaper published in such localities, one week or more prior to the meeting; said meetings shall be presided over by the supervisor, or any of his duly authorized agents, and shall, insofar as possible and practicable, be conducted at such place or places as can be conveniently reached by the representatives of those persons interested in the citrus fruit industry. Grades, grading rules and regulations, established in accordance with the provisions of this section, shall not be modified during the current shipping season of the citrus fruit for which they are established, excepting as hereinafter provided. In like manner the supervisor may provide for standard packages other than those established in this act, but no standard packages shall be eliminated or changed without two years' notice to the industry involved.

Sec. 14. Definitions. When used in this act, the words herein mentioned shall be defined as follows: "Containers" or "Packages", shall mean any container used for packing, shipping or selling citrus fruits. "Pack", "Packing", or "Packed" shall mean the regular compact arrangement of all or part of the citrus fruit in any container used for the purpose of sale or transportation. "Deceptive pack", shall mean any container of citrus fruits which has in the outer layer or any exposed surface, citrus fruits which are so superior in quality, size or condition to those in the interior of the container or the unexposed portion, as to materially misrepresent the entire content. "Deceptive Arrangement" or deceptive display" of citrus fruits shall mean any bulk load, arrangement or display of such products which has in the outer layer, or exposed portion, citrus fruits which are so superior in quality, size or condition to any of those which are concealed, or the un-

exposed portion, as to materially misrepresent any of the lot. "Citrus fruit" shall mean the fruit of any tree of the orange, lemon, lime, grapefruit, tangerine, cumquat or other citrus tree which produces edible citrus fruit suitable for human consumption. "Mature", excepting when otherwise specifically defined, shall mean having reached the state of maturity which will indicate the proper completion of the repening process. "Overripe" shall mean having reached an advanced stage of maturity which causes the product to be undesirable or unfit for human consumption in a fresh state. "By-products" shall mean any product commercially processed or manufactured for resale from citrus fruits.

Sec. 15. Scope of act. All citrus fruits within the meaning of this act, when being packed or placed in any container, or after packing, or when delivered for shipment, loaded, shipped, or being transported, offered for sale or sold in bulk, or in any container including citrus fruit offered for sale in bulk by the grower thereof to dealers for resale in bulk at retail or otherwise, shall conform to the provisions of this act.

Sec. 16. Marking of packages. Excepting as hereinafter specifically exempted, all containers of citrus fruits within the meaning of this act, shall bear upon them in plain sight and in plain letters on the outside thereof the following: The name of the person who shall have first packed or authorized the packing of same; or, the name under which such packer shall be engaged in business, together with a sufficiently explicit address to permit ready location of such packer.

All markings required by this act, except net weight, shall be plainly and conspicuously stamped, stenciled, printed, labeled, or branded on one end or side of each container.

Sec. 17. False labeling or pack. No containers of citrus fruits within the meaning of this act shall bear grade or other designations that are in any way false or misleading; nor shall the same contain any deceptive pack, deceptive arrangement, or deceptive display. This provision shall be construed to prohibit the repeated use of any container of citrus fruits bearing any markings required by this act, or any designations of brands, quality or grade, unless all such markings which do not properly and accurately apply to the products repacked or replaced therein shall first be completely removed, erased or obliterated. Nothing in this act shall be construed to conflict with any Arizona or federal laws or regulations regarding net weight markings on containers.

Sec. 18. Unlawful pack or sell fruit not in conformity. It shall be unlawful for any person to pack or cause to be packed, sell, offer for sale, deliver for shipment, load, ship or transport for shipment, whether packed, shipped, or sold or offered for sale in domestic, interstate or foreign commerce any citrus fruits within the meaning of this act, which do not conform with the requirements of this act. It also shall be unlawful to prepare, deliver for shipment, load, ship, transport, offer for sale or sell for shipment from the state, in interstate commerce or foreign commerce or for domestic sale, a deceptive pack, load, arrangement or display of citrus fruits within the meaning of this act, or to mislabel any container or display of such citrus fruits.

Sec. 19. Selling in bulk. No provision of this act shall be construed to prevent a grower of citrus fruits in the state from selling or delivering the same unpacked and unmarked, as a part of his crop in bulk, to a packer for grading, packing or storage; or to prevent a grower or packer from manufacturing the same into any by-product, or from selling the same unpacked or unmarked to any person actually engaged in the operation of a commercial by-products factory for the sole and express purpose of being used in the state in the manufacture of a by-product for resale.

Any enforcement officer may require from the owner and/ or shipper of citrus fruits such written or other proof as may be reasonably necessary that such citrus fruits will be used only as permitted by this section and shall hold such fruit until satisfactory proof is given that the same will be so used.

Sec. 20. Common carriers may reject shipments. It shall be lawful for any forwarding company, person or common carrier to decline to ship, transport or accept for shipment from the state any citrus fruit within the meaning of this act, when notified by an enforcement officer that such products are found to be delivered for shipment in violation of any of the provisions of this act, and any such forwarding company, person, or common carrier may reserve the right in any receipt, bill of lading or other writing given to the consignor thereof, to reject for shipment and to return to such consignor or hold at the expense and risk of the latter, all citrus fruits which, upon inspection, are found to be delivered for shipment in violation of any of the provisions of this act.

Sec. 21. Fruit to be free from decay; color definition. Citrus fruits shall be mature; free from decay; and free from serious damage caused by freezing, drying at the stem or blossom end (resulting from causes other than freezing), blossom end deline of lemons, splits, bruises or punctures. Damage by drying at the stem or blossom end resulting from causes other than freezing shall not be deemed serious unless twenty per cent or more of the pulp shows a marked drying or desiccation. Damage by blossom end decline in lemons shall not be deemed serious unless twenty per cent or more of the pulp shows a marked drying or characteristic staining or discoloration. Damage from freezing to any one fruit shall not be deemed serious unless it causes a drying or desiccation in twenty per cent or more of the exposed pulp as shown on a transverse cut through the center, or causes before the drying process develops a water soaked appearance, or evidence of previous water soaking, or the presence of crystals or crystalline deposits, on the two surface membranes on each of two or more segments, as shown on the separation of the segments one from another, of a section not less than one inch or more than one and one-half inch in thickness, of the central portion of the fruit, obtained by cutting off a portion of each end- the evidence of freezing injury to show for the entire length but not necessarily the entire area of the surface membranes.

The percentage of serious damage to citrus fruits in containers, or in bulk, may be established by inspection of a representative sample which shall consist of not less than one hundred fruits, Damage caused by splits, bruises, or punctures in any citrus fruit shall not be deemed serious if the injury is well healed and free from mold or decay.

Oranges shall not be deemed mature unless the juice contains soluble solids, as determined by a Brix scale hydrometer, equal to or in excess of eight parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization, and unless they have attained at least twenty-five per cent of yellow or orange color before picking. No oranges may be accelerated in color unless the juice contains soluble solids, as determined by a Brix scale hydrometer, equal to or in excess of eight parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization, and unless they have attained at least twenty-five per cent of yellow or orange color before picking.

Grapefruit shall not be deemed mature unless the juice contains soluble solids, as determined by a Brix scale hydrometer, equal to or in excess of six parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization, and unless they have attained at least twenty-five per cent characteristic yellow color before picking. No grapefruit may be accelerated in color unless the juice contains soluble solids, as determined by a Brix scale hydrometer, equal to or in excess of six parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization, and unless they have attained twenty-five per cent characteristic yellow color before picking.

Color Definition.

"Twenty-five per cent of characteristic yellow color" in the case of oranges is defined as that color designated by the Munsell color notation as hue (four) one and fourteen hundredths green yellow, value (four) five and twenty-three hundredths, chroma (three, (4GY4/3,) four and three- tenths

(1.14GY5.23/4,3). Oranges shall be considered as having exceeded twenty-five per cent color if the average hue of the surface of each fruit is numerically less than (four) 1.14 green-yellow regardless of the other components of the color.

"Twenty-five per cent characteristic yellow color" in the case of grapefruit is defined as that color designated by the Munsell color notation as hue three and three one-hundredths green yellow, value five and sixty-one one-hundredths, chroma four and nine-tenths (3.03 G Y 5.61/4.9). Grapefruit shall be considered as having exceeded twenty-five per cent color if the average hue of the surface of each fruit is numerically less than three and three-hundredths green-yellow, regardless of the other components of the color.

In order to allow for the variation incident to proper grading and handling, not more than ten per cent by count of the citrus fruits in any one container or in any lot in bulk may be below these requirements but not over five per cent for any one cause. In case of damage caused by freezing, drying at stem, or blossom end (resulting from causes other than by freezing), and blossom end decline in lemons, not more than fifteen per cent by count may be below these requirements. Packed, wrapped citrus fruit which fails to meet the requirements of this standard only by reason of blue mold or green mold which has occurred after packing shall not be held for violation of the provisions of this act on account of such deterioration.

Provided however, that on and after December 15, of each year all citrus fruit excepting valencia oranges shall be deemed to be mature within the meaning of this act and no inspection or certificate shall be required as to maturity of citrus fruit, except as to valencia oranges, picked after December 15.

Sec. 22. Standard packages. Standard packages are hereby established as follows:

	Depth inside in inches	Width inside in inches	Length inside in inches
Standard Orange Box	11½	11½	24 5/8
Half Orange Box	5 3/4	11½	24 5/8
Standard Lemon Box	10	13	25 5/8
Half Lemon Box	5	13	25 5/8
Jumbo Lemon Box	11 1/8	13½	25 5/8
Half Jumbo Lemon Box	5 9/16	13½	25 5/8
Standard Grapefruit Box	11½	11½	24 5/8
Half Grapefruit Box	5 3/4	11½	24 5/8

Sec. 23. Interstate shipment. All citrus fruits when being packed or placed in any container, or after packing, or when delivered for shipment, loaded, shipped, or being transported, offered for sale or sold in bulk, or in any container shall conform to the provisions of this act. It shall be unlawful for any person, firm, company, organization or corporation to import from another state for sale, or to transport for delivery or to deliver for sale, or to sell within the state of Arizona any load or lot of citrus fruits unless such citrus fruits shall conform to the grades and standards of maturity, condition and pack established herein. It shall be the duty of the state quarantine inspectors to examine each load or lot of citrus fruits entering the state and to ascertain whether or not such fruit conforms to the standards herein established. Provided, however, that cirtus fruits which are grown in states which enforce grading standards equivalent to those established herein may be permitted to enter the state of Arizona if and when accompanied with an inspection certificate issued by the state or county enforcement authority in which the citrus fruits were grown showing that the said load or lot conforms to the legally established standards in that state. Such certificates shall be surrendered to the state quarantine inspectors or to the supervisor of inspection. Citrus fruits which enter the state in carlots shall be accompanied by an inspection certificate which will be surrendered to the supervisor of inspection by the receiver thereof. Upon all shipments coming into the state of

Arizona by truck or by other conveyance the same shall be inspected at the point of regular inspection by the state quarantine inspectors and the certificates shall there be taken up by the quarantine inspector. If coming in by railroad the same shall be inpsected and the certificate be taken up by the enforcing officer at the point of destination.

Whenever any motor vehicle shall be detained and its contents found not to comform to the standards established herein the supervisor of inspection or the state entomologist or any of their duly authorized deputies or other enforcing officers shall refuse entry of such citrus fruits into the state. Provided, however, that any load or lot of citrus fruits while in transit and consigned to a destination not within the state of Arizona shall be exempt from the above regulations when complying with the state quarantine requirements. Provided, further, that citrus fruits may be offered for sale, sold, or transported in, into or through the state of Arizona, in irregular containers, other than standard packages, when such irregular containers are so marked as to clearly indicate that the same are not standard packages as herein described.

Sec. 24. Funds for enforcement, revolving fund. To provide the necessary funds for the enforcement of the provisions of this act, there is hereby authorized a charge of not to exceed one cent per standard container of citrus fruit within the meaning of this act up to and including one hundred standard containers in any one shipment, with a maximum charge of one ($1.00) dollar for shipments of any one lot at any one time. When shipped in quantities of more than one car load or truck load, each car load or truck load shall be considered a separate lot. Upon bulk shipments there is hereby authorized a charge at the rate of fifty cents per net ton of two thousand pounds of citrus fruit, with a minimum charge of ten cents in any given lot, and a maximum charge of one ($1.00) dollar in any given lot. Any citrus fruit shipped in other than standard containers shall be charged for on the basis of net weight. Such charge shall be paid into a fund, to be known as the citrus fruit revolving fund, in weekly installments by the shipper, and each installment therefor shall be a full payment of the charges accruing against shipments for the current week. Payment shall in all cases be made to the supervisor of inspection, and the supervisor is hereby authorized and empowered to fix, within the limit provided, and collect all such moneys or fees. The supervisor is authorized to examine the shipment records of any licensee, to verify or determine the correct amount of fees due from said licensee. The supervisor shall pay out of the moneys so collected the reasonable expenses incident to the enforcement of this act, and shall make a detailed accounting to the dean of agriculture once each year, of all receipts and disbursements of this fund, on or before August first; and to the accounting so made shall be attached a certified public accountant's report covering the fiscal year, ending June 30 of each year. Any part of the citrus fruit revolving fund exceeding one thousand ($1,000.00) dollars remaining unused at the end of the fiscal year shall be returned pro rata to the persons from whom it was collected.

Sec. 25. Emergency. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

Sec. 26. Validity. If any section, sub-section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act, and each section, sub-section, sentence, clause or phrase, thereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional.

Sec. 27. Acts in conflict repealed. All acts and parts of acts in conflict with this act are hereby repealed.

APPROVED MARCH 17, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 71

(H. B. 123)

AN ACT

Relating to public works, and providing for the payment thereon of not less than the general prevailing rate of wages; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Wages on public work; applicable to whom. Every contract in excess of one thousand dollars in amount, to which the state of Arizona, or any political subdivision thereof, is a party, which requires or involves the employment of laborers or mechanics in the construction, alteration or repair of any public buildings, or other improvements of the state of Arizona or any political subdivision thereof, shall contain a provision to the effect that the rate of wages for all laborers and mechanics employed by the contractor or any subcontractor on such public buildings or improvements, shall be not less than the prevailing rate of wages for work of a similar nature in the county, city, town, village, or other civic division of the state in which the public building or improvement is located, provided that for the purpose of said act every person, while performing work of a laborer or mechanic on the public work covered by such contract, is to be regarded as employed as a laborer or mechanic by the contractor or subcontractor, regardless of any contractual relationship alleged to exist between the contractor or subcontractor and such laborer or mechanic, and a provision that in case any dispute arises as to what constitutes the prevailing rate of wages for work of a similar nature applicable to the contract, which cannot be adjusted by the contracting state agency, the matter shall be referred to the Arizona industrial commission for determination, and its decision thereon shall be conclusive on all parties to the contract. Laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works within the state of Arizona, to which the state or any of its political subdivisions is a party, shall be deemed to be employed on public works.

Sec. 2. Exemptions. This act shall not affect any contract entered into before the date it becomes effective, nor shall it apply to any contract that may thereafter be entered into pursuant to calls for bids that may be legally outstanding at the time it becomes effective.

Sec. 3. Prevailing wage, obligation to determine, specify, and pay. The officer or state agency awarding any contract for public work in behalf of the state, or any political subdivision thereof, or otherwise undertaking any public works, shall ascertain the general prevailing rate of per diem wages from the industrial commission of Arizona, for each craft or type of workmen, or mechanics needed to execute the contract, and shall specify in the call for bids for said contract, and in the contract itself, what the general rate of per diem wages in the said locality is, for each craft or type of workmen needed to execute the contract, and it shall be mandatory on the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rate of wages to all laborers, workmen and mechanics employed by the said contractor, or by any subcontractor in the execution of the contract.

Sec. 4. Definition of terms. The term "locality in which the work is performed" shall be held to mean the city and county or counties in which the building, excavation, or other structure, project, development or improvement is situated, in all cases in which the contract is awarded by the state, or any officer or agency thereof, and shall be held to mean the limits of the county, city, town, township, district, or other political subdivision on behalf of which the contract is awarded. The term "general prevailing

rate of per diem wages" shall be the rate determined upon by the industrial commission of Arizona, whose decision in the matter shall be binding and final upon all parties. For the purpose of determining such rate of wages the industrial commission of Arizona shall ascertain and keep on record at all times the rates or scale of per diem wages for each craft or type of workman required to be paid to each craft or type of workman belonging to or affiliated with the American Federation of Labor, the Arizona State Federation of Labor, or any other state or national labor organization similarly constituted, such rate being disclosed to be the rate prevailing in the locality in which the public work is to be performed. If the foregoing method of arriving at the general prevailing rate of per diem wage cannot reasonably and fairly be applied in any political subdivision of the state, by reason of the fact that no such organization is maintained in such political subdivision, the industrial commission shall determine the prevailing rate to be the rate so required to be paid to each craft or type of workman of the same or most similar class, working in the same or most similar employment in the nearest and most similar neighboring locality, and affiliated with any such labor organization. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman, or mechanic employed on any public work, as aforesaid, more than the said general prevailing rate of wages, nor shall anything in this act be construed to permit any over-time working in violation of law.

Sec. 5. Penalties for violation; collection of; inspection of records. The contractor shall forfeit as a penalty to the state or the political subdivision, district or municipality, in behalf of which the contract is made or awarded, five dollars for each laborer, workman, or mechanic employed for each calendar day or portion thereof that such laborer, workman, or mechanic is paid less than the designated rates for any work done under said contract, by him or by any subcontractor under him, and said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect.

It shall be the duty of any public body awarding a contract, and its officers and agents, to take cognizance of complaints of violations of the provisions of this act committed in the course of the execution of such contract, and when making payments to the contractor of money becoming due under said contract, to withhold and retain therefrom all sums forfeited pursuant to the provisions of this section and the further terms of this act; provided that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by the industrial commission, or other enforcement officer of the state, or by said awarding body; and provided, further, that in all cases of contracts with assessment or improvement districts where full payment is made in the form of a single warrant, or other evidence of full payment, after completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld, retained or forfeited under the provisions of this section, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act, and if payment has already been made to him, the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and the industrial commission, its deputies and agents.

Sec. 6. Constitutionality clause. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act.

Sec. 7 Repealing clause. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 8. Emergency clause. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 17, 1933

CHAPTER 72

(H. B. 116)

AN ACT

Relating to the sale of property for delinquent taxes, and amending Section 18, Chapter 103, Session Laws 1931; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 18, chapter 103, Session Laws 1931, is hereby amended to read as follows:

Sec. 18. (a) All real property upon which the taxes, including personal property taxes secured thereby, are unpaid and delinquent, shall be subject to sale as herein provided. The county treasurer shall prepare a list of all real property upon which the taxes are unpaid and delinquent, describing such real estate as the same is described on the tax roll, with an accompanying notice stating that so much of each tract of real property as may by him be deemed necessary for the purpose will, on a day specified, and succeeding days, be sold by him at public auction at the county treasurer's office, for the taxes, penalties, interest and charges thereon, and taxes, penalties, interest and charges assessed against the owner thereof for personal property. The said treasurer shall send, by letter mail, to the owner of each parcel of said property, if the owner be known, at his last known address, a copy of said notice of proposed sale. Such notice may be in the following form:

Treasurer's Office, ...County, Arizona.
Public notice is hereby given that I will offer at public sale at the office of the treasurer of ..... county, Arizona, on the ..... day of ....., 193..., and on succeeding days, so much of the following described real property, upon which there are delinquent taxes, as shall be deemed necessary to pay the taxes hereinbelow set down, together with the interest, penalties and charges thereon, to-wit:

	Name of Owner If Known	
	Name of mining claim or description of Property	
	Part of Section or lot	
	Section or Block	
	Township, City or Town	
	Range, Division or Addition	
	Number of Acres	
	Dollars	Valuation
	Cents	
	Dollars	Amount of Taxes
	Cents	

The county treasurer shall cause said list and notice to be published in two consecutive weekly issues of a newspaper which has been designated by the board of supervisors as the official paper of the county, the first of which publications shall not be less that two weeks nor more than three weeks prior to the day of sale prescribed therein, and shall also cause to be posted near the outer door of the county treasurer's office a correct copy of said list and notice, which shall remain so posted for a period of not less than two weeks before the date of such sale. If there be no newspaper published in the county, notice given by posting as herein provided shall be sufficient. In the event the board of supervisors, by resolution, elect to pursue any other remedy at law existing under the Revised Code of 1928, this notice may be dispensed with. Such action shall not, however, in any wise affect the following section.

(b) All taxes now levied against real property which shall be delinquent on June 1, 1933, may be paid in twenty equal semi-annual instalments during and within a period of ten years, beginning on the first Monday in November, 1933, provided that such real property taxpayer at the time of any such semi-annual due date shall not then be delinquent in the payment of any current state, county, city or town tax levied after the date of the passage and approval of this act against the property involved. Where not supplied by existing records, county treasurers shall provide lists of taxpayers in their respective counties entitled to proceed as provided in this act, and shall compute the amount of delinquent taxes in their respective counties falling electively within the purview of this act. The amount or amounts of any such taxes so delinquent on said date of June 1, 1933, upon which the taxpayer shall elect to pay the taxes as provided herein, shall bear interest at the rate of 6% per annum. Any taxpayer may pay the entire amount or amounts due at any time, and if so paid the interest shall be computed only to the date of payment. If any taxpayer, having elected to comply with the provisions of this act, shall become delinquent in two or more of such semi-annual payments, then the entire amount of such delinquent taxes shall become due, and the county treasurer shall proceed with the sale of such property, as provided in paragraph (a) of this section. The taxes on any real property which shall have been advertised or sold for taxes prior to June 1, 1933, and upon which the period of redemption shall not have expired, may, except where sale has been made to private persons and certificate of purchase issued, be paid within the times, under the conditions, and in the manner herein provided for the payment of taxes delinquent on June 1, 1933, and the period of redemption on any such real property is hereby extended accordingly. A compliance with the terms hereof by a purchaser of real estate at a foreclosure sale shall be sufficient compliance with the terms of section 3116 of the Revised Code of 1928 as to entitle such purchaser to a certificate of purchase, and to a deed thereto upon the expiration of the period of redemption, in the event such property is not redeemed.

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 17, 1933.

State of Arizona
Eleventh legislature
House of Representatives
Regular Session

CHAPTER 73

(H. B. 71)

AN ACT

To provide funds for county scholarships.

Be it enacted by the Legislature of the State of Arizona:

Section 1. There is hereby appropriated, out of the general fund, the sum of $20,667.68, or so much thereof as may be necessary, for the University of Arizona, for the payment of county scholarship claims, as authorized by Secs. 1146 to 1151 inclusive, and Sec. 1155, Revised Code 1928, for the twentieth and twenty-first fiscal years; and for the redemption of certificates of indebtedness therefor issued by the state auditor.

Sec. 2. To preserve the public peace, health, and safety, it is necessary that this act shall become immediately operative. It is therefor declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 17, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 74

(SENATE BILL NO. 136)

AN ACT

Relieving county officers from liability on account of travelling expenses and mileage heretofore paid such county officers, and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. No action shall be instituted or maintained under Sections 790 and 791, Revised Code of Arizona, 1928, to recover any actual and necessary expenses and mileage paid county officers prior to November 23, 1932.

Sec. 2. Nothing herein contained shall be construed to repeal Sections 790 and 791, Revised Code of Arizona, 1928, and except as herein expressly modified said sections shall remain in full force and effect.

Sec. 3. Whereas an early operation of this Act is necessary to preserve the public peace, health and safety, an emergency is hereby declared to exist and this Act shall be in full force and effect from and after its passage and approval by the Governor, and is hereby exempted from the referendum provisions of the State Constitution.

APPROVED MARCH 17, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 75

(SENATE BILL NO. 80)

AN ACT

Relating to county advertising and printing, and amending section 778, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 778, Revised Code of 1928, is hereby amended to read as follows:

Sec. 778. Advertising and printing by annual contract. The board of supervisors shall let all advertising, publications and printing required or authorized to be done or made by them, by contract annually. Written notices of the letting of such contract shall be deposited in the post office by the clerk of the board, postage prepaid, addressed to the office of each qualified newspaper within the county, at least ten days prior to the opening of bids, calling for written bids for the advertising and publications to be done or made by the county during the ensuing year, and stating on what day the bids received will be opened. The contract shall be made with the lowest and best bidder, in the discretion of the board, and to a newspaper which for at least one year has been admitted to the United States mail, as second class matter, under the act of Congress approved March 3, 1879, and whose bid is within the legal rate; and to such contractor shall be given, during the existence of the contract, all advertising and publications ordered by the board, upon the terms and conditions of such contract. The newspaper having such advertising contract may be referred to as the official newspaper of the county.

APPROVED MARCH 17, 1933.

CHAPTER 76

(H. B. 129)

AN ACT

Relating to the manufacture and sale of spirituous liquors and imposing a tax thereon.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Definitions. The term "spirituous liquor" shall be construed to embrace alcohol, brandy, whiskey, rum, gin, wine, porter, ale, beer; all malt liquors; all malt beverages, absynthe and all compounds or mixtures of any of them; all compounds or mixtures of any of them with any vegetable or other substances; alcohol bitters, bitters containing alcohol; also all liquid mixtures or preparations whether patented or otherwise which shall produce intoxication; fruits preserved in ardent spirits and all beverages containing more than one-half of one percent of alcohol by volume. The word "beer" means any beverage obtained by the alcoholic fermentation or the infusion or decoction of barley malt and/or hops, and/or other ingredients not drinkable. The word "meal" means the consumption of food of a nature and quantity sufficient for the maintenance of the consumer. The word "commission" means the commission created by this act under the name of the Temperance Enforcement Commission. The word "sell" includes to solicit or receive an order for; to keep or expose for sale; to deliver for value; to peddle; to keep with intent to sell; to traffic in. The word "person" may extend to and include a partnership, association, company or corporation as well as a natural person. The word "company" or "association", when used in reference to a corporation, embraces the words "successors or assigns of such company or association", the same as if such words or words of similar import were expressed. Words singular number or masculine gender may extend to or be applied to several persons or things, or females, and similarly the plural number may include the singular. The requirement of an "oath" will be complied with by affirmation in judicial form. The word "traveler" means a person who in consideration of a given price per day, or fraction of a day, on the American or European plan, or per meal, is furnished by another person with food or lodging, or both, or is in transit on a public conveyance. The word "restaurant" means any establishment provided with special space and accomodations for not less than ten guests at one time, where in consideration of payment, food, without lodging, is habitually furnished to travelers or patrons. The word "hotel" means any establishment provided with special space and accomodations, where in consideration of payment, food or lodging are habitually furnished to travelers. The word "vehicle" means any means of transportation by land or by water, or by air, and includes everything made use of in any way whatever for such transportation. The word "retailer" means any person maintaining and operating a grocery store, or drug store, or pharmacy, engaged in the sale of beverages in regular packages to consumers with intent that such packages shall be taken away from the premises of such retailer in broken packages; such beverages to be consumed off the premises of such retailer.

Sec. 2. Tax commission to enforce law. The state tax commission is hereby authorized and empowered to enforce the provisions of this act, and for such purpose shall have the powers, duties and functions: (a) to make such regulations as are necessary and feasible for carrying out the provisions of this act, and such regulations shall have the full force and effect of law; (b) to prescribe forms and applications and licenses, and such other forms

as are necessary to carry out the provisions of this act; (c) to establish rules and regulations for the conduct of the business carried on by each specific licensee under the license, and such rules and regulations, if not obeyed by each respective licensee, shall be grounds for the revocation of the license of that licensee who violates any of such regulations; (d) to examine books, records and papers of each licensee, and to hear and determine complaints against any licensee; (e) to issue subpoenas and all necessary processes, and to send for and require the presence of persons, and the production of papers, and to administer oath, take testimony and punish for contempt; (f) To employ necessary deputies and assistants, and pay the compensation thereof, and the expenses necessary in carrying out the provisions of this act from the taxes collected hereunder; provided that the total amount so expended in any fiscal year shall not exceed fifteen thousand dollars.

No member of the tax commission shall be interested, directly or indirectly, in any business licensed under the provisions of this act. Violation of this provision shall create a vacancy in the office.

Sec. 3. Manufacture or sale of liquor without license illegal. It shall be unlawful for any person to buy, sell or deal in spirituous liquors in the state of Arizona without first having procured a license issued by the state tax commission as herein provided. Provided, however, that the provisions of this act shall not apply to drug stores selling only spirituous liquors upon prescription.

Sec. 4. License to be issued. Any person desiring a license to sell or deal in spirituous liquors shall make application therefor to the state tax commission upon form to be provided by said tax commission. License shall be issued by the state tax commission when a proper showing has been made as to the capability and reliability of the applicant, provided, however, that the tax commission may regulate the number of licenses issued in each class provided for in section 12 of this act." A separate license may be issued for each specific business and in each license issued the particular liquor or beverage which the applicant or licensee shall be authorized to handle or deal in shall be named and/or described, and separate license shall be issued by the commission: (a) for sale of beer; (b) sale of wine; (c) retail liquor stores selling liquor of high alcoholic content; (d) sale of industrial alcohol; (e) sale of medicinal alcohol; (f) special license for wholesale dealers, selling to the trade only; (g) hotel license for selling alcoholic liquors in package and retail stores maintained in specified hotels; (h) restaurant license. Each license shall specify the place where and the quantity and kind of beverage to be manufactured, sold or otherwise dealt with and the purpose for which the same were manufactured or sold. Every license shall be issued for a period of the calendar year and will give to the person named therein the right to manufacture, sell or deal in spirituous liquors at the place and in the manner provided in said license. No license shall be issued to any person who, within one year prior to the application therefor or issuance thereof, shall have violated the terms or provisions of any license theretofore issued under this act, or who has prior to the filing of the application violated any law of the United States or of any state and no license shall be granted to any person who is not a qualified elector of the state of Arizona. All licenses shall be revocable for any violation thereof upon due notice to the licensee and a hearing before the board of tax commissioners. No license shall be issued to any applicant who theretofor had a license revoked by the commissioners. No license shall be valid in the hands of any person who secures the same under an assumed name.

Revocation Licenses

Sec. 5. Distillers, winers and brewers. It shall be unlawful for any distiller, winer or brewer to sell, dispose of or give away any spirituous liquors to be consumed on his premises.

Sec. 6. Wholesalers. It shall be unlawful for any wholesaler to sell spirituous liquors to any consumer, or to allow any such spirituous liquors to be consumed on his

premises.

Sec. 7. Retailers. Licenses to sell spirituous liquors at retail shall be issued only to persons operating bona-fide groceries, drug stores or other regularly established retail stores selling commodities other than spirituous liquors. Retailers shall sell spirituous liquors only in the original container, and shall not permit such liquors so sold to be consumed on the premises.

Sec. 8. Restaurants. Any person owning or operating a bona-fide restaurant and desiring to sell and serve spirituous liquors to his patrons shall first apply to the tax commission for a license. Before issuing such license, the tax commission shall satisfy itself that such applicant is maintaining and operating a bona-fide restaurant, is of good moral character, a law abiding person, and not liable to violate the provisions of this act. It shall be lawful for any licensee holding a restaurant license to sell or serve spirituous liquors to patrons of such restaurant to be served and consumed only with meals furnished in good faith to such patrons. It shall be unlawful for any restaurant owner or operator to serve, sell or furnish spirituous liquors, except as herein provided, or to serve, sell or furnish spirituous liquors to any intoxicated or disorderly person, or to allow or permit any such intoxicated or disorderly person to come into or remain in or about such premises.

Sec. 9. Hotels. Any person owning, operating or conducting hotels and desiring to sell or dispense spirituous liquors shall apply to the tax commission for a license so to do. Before issuing such license, the tax commission shall ascertain whether such person is operating a bona-fide hotel, is a person of good moral character, is a law abiding person, and not liable to violate the provisions of this act. It shall be lawful for the licensee holding a hotel license to serve, sell or furnish spirituous liquors to any of its bona-fide guests in their rooms in said hotel, or to any of the guests or patrons of any dining room under and operated by such hotel, and which may be a part thereof, and to be consumed only with meals served in good faith to patrons of such dining room. It shall be unlawful for any licensee holding a hotel license to sell or dispose of any spirituous liquors to any person who shall appear to be in an intoxicated or disorderly condition, or to allow or permit any such intoxicated or disorderly person to come into or remain in or about such hotel.

Sec. 10. Sale to minors illegal. It shall be unlawful for any licensee under this act, or any other person, to sell, dispose of, or give any spirituous liquors to any person under the age of twenty-one years.

Sec. 11. Reports required. Every person to whom a license is issued under the provisions of this act shall, on or before the 5th day of each month, make a report to the tax commission for the preceding calendar month upon forms to be prescribed by the tax commission, showing the exact amount of spirituous liquors manufactured by said licensee in this state during said preceding calendar month, and the character thereof; the exact amount of spirituous liquors purchased or otherwise received by such licensee during said preceding calendar month, and from whom purchased or received; showing the exact character of said liquors, and whether manufactured within or without this state; the exact amount of spirituous liquors sold or otherwise disposed of by said licensee during said preceding calendar month, and the exact character of such liquors; the inventory of licensee at the end of said month, showing the exact character of liquors in inventory. The commission shall have the right at any time to make an examination of the books and records of any licensee, and of his premises and to otherwise check the accuracy of the report herein required.

Sec. 12. Penalty. Any person violating any of the provisions of this act shall be guilty of a misdemeanor.

Sec. 13. License fees. Every licensee shall pay at the time his application for license is filed, and annually thereafter on or before the 10th day of January of each year, license fees as follows:

For distiller's license	- $250.00
For winer's license	- $250.00
For brewer's license	- $250.00
For wholesaler's license to sell liquors other than beer and wine	- $100.00
Wholesaler's license to sell beer and wine	- $ 50.00
Hotel license to sell beer and wine	- $ 50.00
Hotel license to sell liquors other than beer and wine	- $100.00
Restaurant license to sell liquors other than beer and wine	- $100.00
Restaurant license to sell beer and wine	- $ 50.00
Retailer's license to sell liquors other than beer and wine	- $ 25.00
Retailer's license to sell beer and wine	- $ 25.00

Sec. 14. Exemption. Nothing in this act shall be construed to impose a license fee, fine or other penalty upon the manufacture of beer or other beverage taxed under this act by any person for home consumption.

APPROVED MARCH 18, 1933.

CHAPTER 77

(SENATE BILL NO. 4)

AN ACT

Relating to municipal corporations engaging in business; providing for the construction, purchase or lease of public utilities, and amending section 409, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 409, Revised Code of 1928, is hereby amended to read as follows:

Sec. 409. Municipality may own public utility; issue of bonds therefor. Every municipal corporation may engage in any business or enterprise which may be engaged in by any person by virtue of a franchise from such municipal corporation, and may construct, purchase, acquire, own and maintain within or without its corporate limits, any such business or enterprise, and may purchase, acquire, and own real property for sites and rights of way for public utility and public park purposes, and for the location thereon of water works, electric light and gas plants, municipal quarantine stations, garbage reduction plants, electric lines for the transmission and transportation of electricity, pipe lines for the transmission and transportation of oil, gas, water and sewage, and for any plant for the manufacture of any material for public improvement purposes or public buildings. For all such purposes, it may exercise the right of eminent domain, either within or without its corporate limits, and may establish, lay and operate any such plant, electric line or pipe line upon any land or right of way taken thereunder, and may manufacture any material for public improvement purposes and barter or exchange the same for other material to be used in public improvements in such municipal corporations, or sell the same to other municipal corporations for like purposes, and for any and all such purposes, such municipal corporation may issue and sell bonds bearing interest not to exceed six per cent per annum. When such enterprise or public improvement shall have been purchased or constructed by means so derived from the sale of bonds, it shall fix the rates charged for service to the public as nearly as practicable so as to pay the interest and not less than three per cent per annum on the principal of such bonds, in excess of the expense of maintenance and operation. Whenever it shall be found impracticable to issue such bonds for such improvement or enterprise deemed necessary for the public welfare, such municipal corporation may lease at a stipulated rental such public improvement or utility from any person; provided, that such rental contract shall reserve to the municipal corporation the option to purchase such improvement or utility in the future.

Sec. 2. Before any construction, purchase, acquisition or lease, by any municipal corporation, as authorized in section 1, of any plant or property, or any portion thereof, devoted to the business of or services rendered by a public utility, shall be undertaken, such construction, purchase, acquisition or lease must be authorized by the affirmative vote of a majority of the qualified electors, who are taxpayers, of such municipal corporation voting at a general or special municipal election duly called and held for the purpose of voting upon such question.

Sec. 3. Where a municipal corporation and the citizens thereof are being served under an existing franchise by any public utility, such municipal corporation, before constructing, purchasing, acquiring or leasing, in whole or in part, any plant or property devoted to the business of or services rendered by such public utility, shall first purchase and take over the property and plant of such public utility. The said property and plant shall become the property of the municipal corporation in the event of and upon the payment by the municipal corporation of the fair valuation thereof, within eighteen months after the determination of such valuation in the manner hereinafter provided. The fair valuation of such public utility shall be the equivalent of the compensation to be paid for the taking of private property for public use under the

provisions of chapter 23, Revised Code of 1928, and such amount shall be determined by one of the following methods: 1. by agreement between the municipal corporation and the public utility; 2. by arbitrators to be chosen in such manner as may be agreed upon at the time by the municipal corporation and the public utility; or, 3. by a court of competent jurisdiction, sitting to ascertain the compensation for the taking of private property for public use under the provisions of chapter 23, Revised Code of 1928. Both the municipal corporation and the public utility shall have full rights of appeal, as provided by said chapter 23.

Sec. 4. Where any public utility operating under an existing franchise wilfully and persistently violates any of the provisions of such franchise, such municipal corporation shall be thereby relieved from purchasing or taking over the property or plant of such public utility.

Sec. 5. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 18TH, 1933.

CHAPTER 78

(SENATE BILL NO. 31)

AN ACT

Relating to motor vehicles, special engine numbers, new blocks, changing motors, and seizure of motor vehicles or motors, and amending Sec. 1643, Revised Code of 1928, and the further amendment of Art. 5, Chap. 31, Revised Code of 1928, by adding thereto a section to be designated Sec. 1643a.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1643, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1643. Special engine numbers; new blocks; changing motors; seizure. Any person the owner of or having possession of a motor vehicle, the original engine number of which has been destroyed, altered or defaced, shall apply to the superintendent, on a form prescribed by him, for permission to stamp on the engine of such motor vehicle a special engine number. Upon receipt of such application, sworn to by the applicant, with the required information, together with the fee, the superintendent shall issue to said applicant written permission to stamp on the engine of such motor vehicle a special number designated by the superintendent, and when stamped or placed on the engine it shall thereafter be the lawful engine number of such motor vehicle, and the owner thereof may sell or transfer the same under said number. The superintendent shall require of the applicant a statement that the special number has been put on in a workmanlike manner, and this statement shall be certified to by a peace officer. Before placing a new block in any motor vehicle, or changing a motor from one vehicle to another, the owner shall make application to the superintendent as is herein provided for numbering motors.

The vehicle superintendent shall have the authority, and he is hereby empowered, to seize any vehicle, or motor, the motor, serial or other identification number or mark of which has been removed, defaced, obliterated or changed, or any vehicle in which a new block or motor, or a block and motor, taken from any other vehicle has been placed, when no application has been made to him, as herein provided.

Sec. 2. Art. 5, Chap. 31, Revised Code of 1928, is hereby amended by adding thereto a section to be designated Sec. 1643a.

Sec. 1643a. Sale of seized vehicles or motors. Any vehicle or motor seized under the provisions of this chapter and held for a period of six months, without compliance by the owner with the provisions of law under which such vehicle or motor was seized, including the payment of all fees, penalties, costs and expenses of seizure, shall be sold by the vehicle superintendent. Such sale shall be at public auction, and notice thereof shall be given by registered mail not less than five nor more than twenty days prior to sale, directed to the last known address of the owner of the vehicle or motor to be sold, when such owner is known, otherwise by publication in a newspaper of general circulation in the county in which the vehicle or motor was seized. If published in a weekly newspaper, such publication shall be made once in each week for two consecutive weeks, and if in a daily newspaper, six consecutive times. The last publication shall be not less than five nor more than ten days prior to the date of sale. The proceeds from such sale, after the fees, penalties, costs and expenses of seizure and sale are deducted, shall be paid to the owner from whom the vehicle or motor was seized, if he be known; otherwise the same shall be transmitted to the state treasurer and by him credited to the highway fund.

Sec. 3. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.
APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 79

(SENATE BILL NO. 91)

AN ACT

Relating to arson; defining the degrees thereof; fixing penalties, and repealing article 1, chapter 108, and section 4795, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Arson, first degree. Any person who wilfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any dwelling house, whether occupied, unoccupied or vacant, or any kitchen, shop, barn, stable or other outhouse that is parcel thereof, or belonging to or adjoining thereto, whether the property of himself or of another, shall be guilty of arson in the first degree, and upon conviction thereof shall be sentenced to the penitentiary for not less than two nor more than twenty years.

Sec. 2. Arson, second degree. Any person who wilfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any building or structure of whatsoever class or character, whether the property of himself or of another, not included or described in the preceding section, shall be guilty of arson in the second degree, and upon conviction thereof shall be sentenced to the penitentiary for not less than one nor more than ten years.

Sec. 3. Arson, third degree. Any person who wilfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any personal property of whatsoever class or character (such property being of the value of twenty-five dollars and the property of another person), shall be guilty of arson in the third degree, and upon comviction thereof shall be sentenced to the penitentiary for not less than one nor more than three years.

Sec. 4. Arson, fourth degree. (a) Any person who wilfully and maliciously attempts to set fire to or attempts to burn or to aid, counsel or procure the burning of any buildings or property mentioned in the foregoing sections, or who commits any act preliminary thereto or in furtherance thereof, shall be guilty of arson in the fourth degree, and upon conviction thereof shall be sentenced to the penitentiary for not less than one year nor more than two years or fined not to exceed one thousand dollars.

(b) The placing or distributing of any flammable, explosive or combustible material or substance, or any device in any building or property mentioned in the foregoing sections in an arrangement or preparation with intent to eventually wilfully and maliciously set fire to or burn same, or to procure the setting fire to or burning of same shall, for the purposes of this act, constitute an attempt to burn such building or property.

Sec. 5. Burning to defraud insurer. Any person who wilfully and with intent to injure or defraud the insurer sets fire to or burns or attempts so to do, or who causes to be burned, or who aids, counsels or procures the burning of any building, structure or personal property of whatsoever class or character, whether the property of himself or of another, which shall at the time be insured by any person, company or corporation against loss or damage by fire, shall be guilty of a felony, and upon conviction thereof shall be sentenced to the penitentiary for not less than one nor more than five years.

Sec. 6. Article 1, chapter 108, and section 4795, Revised Code of 1928, are hereby repealed.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 80

(SENATE BILL NO. 100)

AN ACT

Relating to the importation of motor vehicle fuel in vehicle tank, and amending article 6, chapter 31, Revised Code of 1928, as amended by chapter 16, Session Laws 1931-32 (1st special).

Be it enacted by the Legislature of the State of Arizona:

Section 1. Article 6, chapter 31, Revised Code of 1928, as amended by chapter 16, Session Laws 1931-32 (1st special), is hereby amended so that subsection 1678b (designated as section 1678b) of section 1 of said chapter 16, Session Laws 1932 (1st special), shall read as follows:

Sec. 1678b. Importing in fuel tank; payment of tax. Any owner or operator of a motor vehicle who shall import motor vehicle fuel into this state in the fuel tank or tanks of, or in any other container in or drawn by such vehicle, in a quantity exceeding the capacity of the fuel tank or tanks of such vehicle according to the manufacturer's stock specifications thereof, shall upon demand of the vehicle superintendent or his duly authorized agent pay to said superintendent or agent on such excess motor vehicle fuel the license tax required to be paid by distributors. Any person violating the provisions of this section shall be guilty of a misdemeanor.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 81

(SENATE BILL NO. 116)

AN ACT

Relating to the Municipal Charter of the City of Prescott, Arizona in amending Act number 37, Laws of the Territory of Arizona 1883.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 21, Article 10 of act 37, laws of the territory of Arizona 1883 entitled, "an Act to incorporate the city of Prescott, to define its limits and rights, to specify its privileges and powers and provide for an efficient government for the same," is hereby amended so as to read as follows:

In addition to what may be especially required by other provisions of this Act to be published, the following proceedings and acts of said municipal authorities shall be published in English by at least three insertions in some newspaper printed and published in said city:

First: All ordinances adopted in accordance with the provisions of this Act.

Second: All resolutions of the common council required by this Act to be in writing.

Sec. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

APPROVED MARCH 18, 1933.

CHAPTER 82

(SENATE BILL NO. 158)

AN ACT

To amend sections 1309, 1311. and 1312, article 12, Revised Code of 1928, relating to absentee voting.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1309, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1309. Duties of county recorder. Upon receipt of the envelope containing such ballot, the county recorder shall compare the signature on such envelope with the signature of elector or his or her original affidavit of registration in the general county register and if satisfied that such signatures correspond and that the affidavit is sufficient the recorder shall forthwith enclose the same unopened together with the original application of such voter, in a large envelope securely sealed and indorsed with the name or number of the voting precinct in which the voter is registered, the name and official title of the recorder, and the words, "This envelope contains an absent or disabled voter's ballot and must be opened only on election day at the polls while the same are open," and the recorder shall thereafter safely keep the same in his office until delivered, and file the duplicate application in his office.

Sec. 2. Sec. 1311, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1311. Casting of ballot by election board. The judges of election, at any time between the opening and closing of the polls, shall in the following manner cast the absent or disabled voter's ballot which has been received: The outer envelope shall be opened by the judges and the name on voter's affidavit checked with the precinct register and if such judges find that the applicant is a duly qualified elector of such voting precinct and has not voted at said election, they shall open the envelope containing the ballot, in such manner as not to destroy the affidavit thereon, and take out the ballot without unfolding the same or permitting it to be opened or examined, and having indorsed the stub in the same manner that other ballots are indorsed, deposit the ballot in the ballot box, and show by the records of such election that such elector has voted. If the affidavit is insufficient, *** or the applicant is not a duly qualified elector of said voting precinct, such vote shall not be allowed, but without opening the envelope containing the absent or disabled voter's ballot, the judges of election shall mark across the fact thereof, "rejected as defective," or "rejected as not an elector," as may be. When the vote is allowed the envelope in which the ballot was enclosed shall be deposited in the ballot box containing the general or party ballots, and when the ballot is rejected, the envelope and its contents shall be deposited in the ballot box, and preserved as official ballots.

Sec. 3. Sec. 1312, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1312. Voter expecting to be absent. Any elector who has reason to believe that he will be absent from the county *** on election day, who is present in such county and precinct at any time after the official absent and disabled voter's ballots are printed and available, may vote before leaving home, in like manner as an absent voter, and if he has marked and delivered his ballot, and returns to the precinct in which such voter is registered, before or on election day, he shall be permitted to vote in person, providing his ballot has not already been deposited in the ballot box, and the envelope containing his absent voter's ballot shall be marked "rejected, previously voted" by the election board.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 83

(H. B. 25)

An Act

Requiring payment during a certain period and in certain proceedings initiated by the Arizona Corporation Commission, or its successors, of the cost of investigation of the books, accounts, practices, activities and /or appraisals of the properties of public utilities by the public utility investigated or appraised, and repealing all acts and parts of acts in conflicts herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Public utility survey; provision for; corporation commission empowered to make; expenses, payment of. Whenever, at any time prior to June 30, 1937, the Arizona corporation comcission, or its successors, in a proceeding upon its own motion, or upon petition of ten per cent of the people served by said utility, shall deem it necessary to investigate the books, accounts, practices and activities, and /or make appraisals of the property of any public utility, except common carriers, such public utility shall pay the reasonable expenses attributable to such investigation or service; provided, that such utility shall not pay any part or portion of the compensation, salary or expenses of any members of the Arizona corporation commission, or its successors, or any person who is related by blood or marriage within the third degree to any member of the corporation commission, or its regular employees, or of any state officer, his deputies, assistants or employees; and provided, further, that the total amount which any such public utility shall be required to pay under the provisions of this act and during the period covered by this act shall not exceed the following percentages of the gross intrastate revenue of such utility during the twelve months period immediately preceding the commencement of the first proceeding hereunder involving such utility; where such gross revenue does not exceed two hundred thousand dollars, two per cent; for the next eight hundred thousand dollars, or any part thereof, one per cent; for all in excess of one million dollars, three-fourths of one per cent; and provided, further, that the commission shall, on the fifteenth and last day of each month during which any proceeding hereunder shall be had, ascertain the amount of the accrued and unpaid expenses chargeable hereunder against such utility, and shall render an itemized bill therefor by registered mail to such utility; and provided, further, that in no event shall any public utility be required to pay any such expenses in more than one proceeding hereunder involving a general appraisal or valuation of its properties, Upon bill rendered as hereinbefore provided, such public utility shall, within ten days, pay the amount thereof to the commission, and such payment, when made, shall be paid and applied by the commission upon the accounts of those (exclusive of members of the commission, its regular employees, state officers, their deputies, assistants and employees) who have performed services or who have furnished supplies or made other proper expenditures for such investigation or service. Upon written request of the public utility, the commission shall afford the utility an opportunity during such ten day period to be heard with respect to the correctness and /or propriety of such bill or any item included therein. All moneys collected under this act are to be made payable to the state treasurer and are to be disbursed by the state auditor in accordance with the provisions of this act.

Sec. 2. Collection of expenses; action for. Amounts assessed against any public utility under the provisions of this act, not paid within ten days after the receipt of a registered letter notifying the public utility of the amount assessed against it, shall draw interest at the rate of eight per cent per annum, and upon failure to pay the same the attorney general shall proceed, by action in the name of the state against such public utility, to

collect the amount due, together with interest and costs of the suit. In such action the defendant shall be entitled to present every relevant issue of law, but the commission's findings of fact made pursuant to this section shall be prima facie evidence of the facts therein stated.

Sec. 3. Repeal. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 4. Emergency. Whereas an early operation of this act is required to preserve the public peace, health and safety, and it is immediately necessary for the welfare of the people of this state, an emergency is hereby declared to exist, as contemplated in the state constitution, and this act shall become immediately operative and in full force and effect from and after its approval by the Governor, and is hereby declared to be exempt from the operation of the referendum provisions of the state constitution.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 84

(H. B. 46)

An Act

Relating to the basic sciences; defining the same and creating a board of examiners therein; providing for the examination and registration of practitioners of the healing arts; and providing penalties for the violation hereof.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Basic sciences defined; practicing healing and practice of healing defined. Wherever the term "Basic Sciences" is used in this act and not otherwise specifically defined, the same shall be understood and construed to mean and include all matter pertaining to gross anatomy, physiology, pathology, chemistry, bacteriology and hygiene. Wherever the term "Practicing Healing" or "Practice of Healing" is used in this act, unless otherwise specifically defined, the same shall be understood and construed to mean and include any person not hereinafter excepted from the provisions of this act who shall in any manner, for any fee, gift, compensation or reward, or in expectation thereof, engage in, or hold himself out to the public as being engaged in the practice of medicine or surgery, the practice of osteopathy, the practice of chiropractic, analysis, treatment, correction or cure of any disease, injury, defect, deformity, infirmity, ailment or affliction of human health or disease, or who shall for any fee, gift, compensation or reward, or in anticipation thereof, suggest, recommend, or prescribe any medicine, diet or any form of treatment, correction or cure therefor; also any person or persons not herein after excepted from the provisions of this act who, individually or collectively, maintain an office for the reception, examination, diagnosis or treatment of any person for any disease, injury, defect, deformity or infirmity of body or mind, or who attaches the title of doctor, physician, surgeon, specialist, M. D., M. B., D. C., D. O., N. D., or any other word, abbreviation or title to his name, indicating or designed to indicate that he is in the practice of healing.

Sec. 2. Board of examiners in basic sciences. There is hereby created and established a board to consist of five members, citizens of the state of Arizona, to be known and designated as the state board of examiners in the basic sciences.

Sec. 3. Same; members, appointment, terms of office; vacancies; oath of office. The board of regents of the university of Arizona shall appoint from the professors associate professors or assistant professors of the faculty of the university, five persons to serve as members of the board of examiners in the basic sciences. The first appointments shall be made as soon as may be practicable after this act shall take effect. The terms of office of the members first appointed shall begin when they are appointed and qualify and shall continue thereafter for the following periods: Two members until January 1st, 1934; two members until January 1st, 1936; and one member until January 1st, 1938. Upon the expiration of such terms and of all terms thereafter, the board of regents shall appoint, for a term of six years, a successor to the member whose term expires. Vacancies in said board shall be filled, for the balance of the unexpired term, by appointment by the board of regents within sixty days after such vacancies occur, and each member shall serve until his successor qualifies; each member of the board before entering upon the discharge of his duties shall take, subscribe and file with the secretary of state, the oath of office prescribed by the constitution.

Sec. 4. Organization of board; duties. Within thirty days after the appointment of the members of the state board of examiners in the basic sciences, as provided in Section 3 of this article,

they shall assemble and organize by the election from their members of a president, a vice-president, and a secretary-treasurer, each of whom shall serve for one year or until their successors are elected and qualify. Said board shall have authority to prescribe such reasonable rules and regulations relative to the examination of applicants in the basic sciences as may be found necessary for the performance of its duties. As to any matter coming within its jurisdiction, the board in session may take such testimony as it may deem necessary in the exercise of its powers and the performance of its duties under the provisions of this act, and any member of said board shall have the power to administer oaths in the taking of such testimony. Three members of the board shall constitute a quorum for the transaction of business. Said board shall have a common seal which shall be kept by the secretary, whose duty it shall be to keep a record of all proceedings of the board, including the register of all applicants for examination therein, preserving the names, ages, addresses, educational qualifications, and the result of their examinations, which shall at all times be available for inspection by any parties in interest. Said board shall meet at the university of Arizona and there conduct examinations in the basic sciences four times each year, respectively on the third Tuesday in December, March, June and September, and may hold such other meetings at such times and places as the board may determine. Notice of such meetings shall be sent by registered mail to members of the board. Said board may appoint and fix the salaries of an assistant secretary and other necessary employees. Such employees shall hold their positions at the pleasure of the board. The compensation of each member of the board shall be ten dollars for each day actually spent in the performance of his duties, together with actual necessary expenses, payable out of the general fund of the University. Examinations shall be in the basic sciences.

Sec. 5. Examinations. Examinations will be written and consist of ten questions on each subject and be of such a nature as to constitute an adequate test as to whether the person so examined has such knowledge of the elementary principles of such basic science as is taught at the university of Arizona in one years's instruction of thirty-six weeks, or as is taught in one year's instruction of thirty-six weeks at any college or university accredited by the university of Arizona, or the equivalent thereof.

Sec. 6. Fees. Any person not hereinafter excepted from the provisions of this act desiring to practice healing in this state shall apply to the secretary of the state board of examiners in the basic sciences, on blank forms prepared and furnished by said board, to be examined in the basic sciences at the next examination therein following the making of such application and for a certificate of registration in the basic sciences, accompanying such application with a fee of twenty dollars and sufficient and satisfactory proof that the applicant is twenty-one years of age or over, is of good moral character and possesses an education equivalent to graduation from an accredited high school of this state; provided, that no applicant shall be required nor requested to disclose in such application the professional college or university he may have attended nor the branch or system of healing which he intends to pursue.

Sec. 7. Certificate of registration. If in such examination the applicant attains a grade of seventy-five per cent in each subject he shall receive a certificate of registration in the basic sciences, signed by the president and secretary and sealed with the seal of said board. If he fails in one or two subjects only, he may be reexamined in the subject or subjects in which he failed at any examination within one year without further application or examination fee, and upon attaining a grade of seventy-five per cent therein, he shall receive his certificate of registration in the basic sciences. If he fails in three or more of the subjects, he may make a new application for examination in all subjects and again pay the secretary-treasurer of said board the examination fee of twenty dollars.

Sec. 8. Certificate without examination. Any person not hereinafter excepted from the provisions of this act, who was lawfully authorized to practice healing, as by this act defined, in this state on the date this act takes effect, and who was on that date regularly licensed or registered in the manner then by law provided, shall upon application as herein provided, receive from the state board of examiners in the basic sciences a certificate of

registration in the basic sciences without examination therein; provided, however, that on or before January 1st, 1934, every such person shall apply to the secretary of said board for such certificate of registration, accompanying such application with sufficient and satisfactory evidence that he was, on the effective date of this act, lawfully authorized to practice healing or regularly licensed or registered according to law in the particular branch or system of healing by him pursued and specifying in said application the branch or system of healing pursued by the applicant, the school from which he graduated, if any, and the date of graduation from said school, together with a fee of three dollars. Such certificate of registration shall recite that registration is made solely as a person lawfully authorized to practice healing or licensed or registered according to law on the date this act takes effect, and that same was issued without examination in the basic sciences. Any person entitled to a certificate of registration in the basic sciences without examination therein pursuant to the provisions of this section, who fails to apply for same in the manner herein provided shall not receive such certificate of registration except upon application for examination and actual examination in the basic sciences as hereinbefore provided; provided, however, said State Board of Examiners in the basic sciences shall after the first day of January, 1934, upon payment to it of a fee of twenty-five dollars issue a certificate of registration in the basic sciences without examination to any person who would have been entitled thereto pursuant to the provisions of this section upon applying therefor on or before the first day of January, 1934, and who makes application therefor in the manner herein provided and shows good cause why said application was not made on or before the first day of January, 1934.

Sec. 9. Disposal of fees. The secretary-treasurer of the board of examiners in the basic sciences shall on or before the third Tuesday in December, March, June and September, transmit to the bursar of the university of Arizona a record of all expenditures of the board for the previous quarter, with all fees collected during such previous quarter, the same to be credited to the general fund of the University.

Sec. 10. Appeal from board's decision. Any applicant who has been denied examination by the board or feels aggrieved by the board's decision may within thirty days after such denial or notice of his failure to pass the examination appeal to the superior court of any county and such court shall on such appeal inquire into the cause of such denial or failure. If in the opinion of the court admission to the examination was refused or certificate withheld without just cause, the court may order the board to examine the applicant or to issue a certificate. Notice of an appeal from the denial by the board of the right to examination or of the failure to issue a certificate shall be served by leaving with the secretary of the board an attested copy thereof within thirty days after said board has notified the applicant of its refusal to examine him or his failure in the examination as the case may be. Hearings of such appeals shall proceed in accordance with such rules as the court may determine.

Sec. 11. Void certificates; cancellation. Any basic science certificate which is issued contrary to the provisions of this act shall be void. The certificate issued by the state board of examiners in the basic sciences shall be automatically revoked by the revocation of any license issued to such person to practice the healing art or any branch thereof.

Sec. 12. Recording of certificates. Each certificate issued by the board of examiners in the basic sciences shall be recorded by the secretary of such board with the secretary of the state board of health.

Sec. 13. Practicing without certificate; penalty. Any person who shall practice the healing art or any branch thereof without having obtained a valid certificate from the state board of examiners in the basic sciences, except as otherwise authorized by section 19 of this act, shall be guilty of a misdemeanor, and shall be punished therefor by a fine not exceeding one hundred dollars or imprisonment in the county jail not more than three months, or by both such fine and imprisonment.

Sec. 14. Fraudulent certificate; penalty. Any person who shall obtain or attempt to obtain a basic science certificate by any dishonest or fraudulent means, or who shall forge, counterfeit or fraudulently alter any such certificate, shall be guilty of a misdemeanor and shall be punished therefor by a fine not exceeding one hundred dollars or imprisonment in the county jail not more than three months, or by both such fine and imprisonment.

Sec. 15. Obtaining license without certificate; penalty. Any person who shall obtain or attempt to obtain a license to practice the healing art or any branch thereof from any board authorized to issue any such license, without presenting to said licensing board a valid certificate issued by the state board of examiners in the basic sciences as by this act required, shall be guilty of a misdemeanor and shall be punished therefor by a fine not exceeding one hundred dollars or imprisonment in the county jail not more than three months, or by both such fine and imprisonment.

Sec. 16. Issuing invalid certificate; penalty. Any person who knowingly issues or participates in the issuance of a license to practice the healing art or any branch thereof to any person who has not presented to the licensing board a valid certificate from the state board of examiners in the basic sciences, or to any person who has presented to such licensing board any such certificate obtained by dishonesty or fraud, or any forged or counterfeit certificate, shall be guilty of a misdemeanor and shall be punished therefor by a fine not exceeding one hundred dollars or by imprisonment in the county jail not more than three months, or by both such fine and imprisonment.

Sec. 17. Investigation: duties of officers. The secretary of the state board of health shall investigate any supposed violation of this act and report to the proper county attorney of the causes that in his judgment warrant prosecution. Every police officer, sheriff and peace officer shall investigate supposed violations of this act and apprehend and arrest all violators thereof. It shall be the duty of the attorney-general and of the several county attorneys to prosecute violations of this act, provided that this power shall not authorize any discrimination or preference to be made between nor among medical doctors, osteopaths, chiropractors, naturopaths, christian scientists or other persons regularly licensed to practice the healing arts in the state of Arizona.

Sec. 18. Callings exempt. This act shall not be construed as applying to optometrists, dentists, midwives, or nurses practicing within the limits of their respective callings; nor to affect the practice of their religious tenents by members of any church, provided they do not administer drugs or medicine nor perform surgical or physical operations nor assume the title of or hold themsleves out to be physicians or surgeons. Nor shall any provision of this act be construed to prohibit the rendering of first aid by any person at the scene of an accident; provided further that the provisions of this act shall not be construed to affect and there is hereby exempted persons engaged in the operation of public or private laboratories doing pathological, clinical, serological, chemistry, assaying, bio-chemistry and other kindred, incidental or usual sciences and research usually allied or carried on therewith.

Sec. 19. Limitation of provisions. No provision of this act shall be construed as repealing any statutory provisions in force at the time of its passage with reference to the requirements governing the issuance of licenses to practice the healing art or any branch thereof, except as herein provided.

Sec. 20. Unconstitutionality. Should any section, paragraph, sentence, clause, or phrase of this act be declared unconstitutional or invalid for any reason, the remainder of said act shall not be affected thereby.

REFERENDUM ORDERED
To be submitted to vote of people.
October 3,1933.

APPROVED MARCH 18, 1933.

CHAPTER 85

(H. B. 72)

AN ACT

To amend Secs. 176, 177, 189 and 191, Revised Code of 1928, relating to assignments for the benefit of creditors, and to repeal all acts in conflict herewith.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 176, Revised Code of 1928, is hereby amended to read as follows:

Sec. 176. Form of assignment; effect. Every assignment made by an insolvent debtor, or in contemplation of insolvency, for the benefit of his creditors shall provide, except as herein otherwise provided, for a distribution of all his real and personal property, other than that which is by law exempt from execution, among all his creditors in proportion to their respective claims, and, however made or expressed, shall have the effect aforesaid and shall be construed to pass all such property, whether specified therein or not. Every assignment shall be acknowledged and recorded in the same manner as is provided by law in conveyances of real or other property.

Assignments for the benefit of creditors under the common law are hereby declared to be contrary to the public policy of this state and are abolished, and all assignments for the benefitof creditors shall be void and of no force and effect unless made in accordance with the provisions of this chapter.

Sec. 2. Sec. 177, Revised Code of 1928, is hereby amended to read as follows:

Sec. 177. Verified inventory to be filed with clerk of superior court. The debtor shall forthwith file with the clerk of the superior court in the county where the principal place of business of the debtor is located, a copy of said assignment to which shall be annexed an inventory containing: A true and full account of all the creditors of such debtor or debtors; the place of residence of each creditor, if known to such debtor or debtors, and if not known, that fact to be so stated; the sum owing to each creditor and the nature of each debt or demand, whether arising on written security, account or otherwise; the true cause and consideration of such indebtedness in each case and the place where such indebtedness arose; any judgment, mortgage, collateral or other security for the payment of such debt; a full and true inventory of all such debtor's property at the date of such assignment, both real and personal, in law or equity, and the encumbrance existing thereon, and of all vouchers and securities relating thereto, and the value of such property according to the best knowledge of such debtor.

An affidavit shall be made by such debtor, and annexed to and delivered with such inventory or schedule, that the same is in all respects just and true according to his best knowledge and belief. Nothing contained in this chapter shall affect the assignor's right to retain such property as is by the laws of this state exempt from execution. Such list and inventory shall not be conclusive except as against the debtor making the same. The clerk shall docket the assignment as an action in probate. The qualifications of an assignee shall be those prescribed for an administrator of estates.

Sec. 3. Sec. 189, Revised Code of 1928, is hereby amended to read as follows:

Sec. 189. Relations of court and assignee. The relations between the court and the assignee shall be the same as the relations of a court and receiver under the laws now existing, and the court shall have the same authority and jurisdiction over the assignee as it has over a receiver appointed by the court. If the assignee becomes unsuitable to perform the trust,

refuses or neglects so to do, or mismanages the property, the superior court may, upon the application of the assignor or a creditor, upon reasonable notice to all parties interested, by publication or otherwise, as the court may direct, remove such assignee, and in case of vacancy by death or otherwise, shall appoint another in his place who shall have the same powers and be subject to the same liabilities as the original assignee.

Sec. 4. Sec. 191, Revised Code of 1928, is hereby amended to read as follows:

Sec. 191. Final discharge; report. When the assignee has fully performed the duties of his trust and desires to be finally discharged therefrom, he may make a report under oath of his proceedings under the assignment, showing the money and assets that have come into his hands, and how the same may have been disbursed and disposed of, and file the same in the office of the clerk of the superior court having jurisdiction of the insolvent estate, and a hearing shall be held thereon after notice mailed to each known creditor at least ten days before such hearing. Approval of such report by the court shall be conclusive in favor of the assignee to the same extent as the approval of the report of any other trust; and when the trust has been fully executed, he may be discharged. Any moneys or funds on hand at final settlement shall be deposited in the superior court subject to the judgment of said court.

Sec. 5. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 6. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 18, 1933.

RECEIVED

OCT 17 1933

STATE TAX COMMISSION
OF ARIZONA

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 86

(H. B. 99)

AN ACT

Relating to Insurance agents and Insurance solicitors and amending Sec. 1817, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1817, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1817a. Agents' licenses. Annually on or before the first day of April, each agent representing companies other than those organized under the laws of this state shall procure an agent's license from the commission, and the company represented by him shall pay the prescribed license fee. Should the same person represent several companies, each company so represented must pay a like fee.

1817b. An insurance agent is hereby defined to be an individual authorized in writing, by an insurer lawfully authorized to transact business in this state to act as its representative for a specified territory, with authority to solicit, negotiate and effect contracts of insurance, on behalf of any insurer; or any member of a co-partnership or association, or any stockholder, officer or agent of a corporation, so authorized and permitted by law to solicit, negotiate and effect insurance contracts. Only persons as herein defined, and who are residents of this state, or whose principal office is maintained in this state, shall sign, countersign or issue any policy of insurance for or on behalf of any insurer, on any property, or insurable business activities or interests, located within, or transacted within this state.

1817c. An insurance solicitor is hereby defined to be an individual employed by and officing with a duly licensed insurance agent to solicit contracts of insurance on behalf of such agent.

1817d. All such agents and solicitors shall be liable to all the duties, requirements, liabilities and penalties herein provided.

1817e. The word insurance whenever used in this act shall be held to include the soliciting, negotiating or effecting contracts of indemnity, fidelity or surety.

1817f. The Corporation Commission is hereby empowered to prescribe all rules and regulations respecting and controlling the appointment or licensing of agents or solicitors negotiating or effecting contracts of indemnity, fidelity or surety. Any individual hereafter desiring to engage in the insurance business as agent or solicitor, as herein set out, shall first apply to the Corporation Commission of this state for a license authorizing him or her to engage in and transact such business respectively, which may lawfully be written in this state. Such application shall be in writing on forms and supplements prepared by the Corporation Commission, and shall be accompanied by an examination fee of $10.00 to be paid by the applicant. The applicant shall make sworn answers to such interrogatories as the Corporation Commission may require in such application, and the application shall include a certificate by a representative of any insurer lawfully authorized to transact business in this state, or by a licensed insurance agent of this state, certifying:

(1) That the applicant is a resident of this state or that his principal office is maintained in this state;

(2) That the applicant is personally known to him;

(3) That the applicant has had experience or instruction in the general or some mentioned special lines of insurance for which he or she may be specifically licensed;

(4) That the applicant is of good business reputation and is worthy of a license. It shall be unlawful for any insurance company, directly or indirectly, to pay the examination fee herein provided.

1817g. After receipt of such application in due form, properly verified and certified, it shall be the duty of the Corporation Commission, or of a deputy of said commission delegated for such purpose, at reasonable times and in reasonably accessible places, in order to determine the trustworthiness and competency of an applicant for a license, to subject each first time applicant for license if deemed necessary any applicant for renewal of license, to personal written examination as to his or her qualifications to act as such agent or solicitor; and when it is shown from such application and examination that the applicant is intending in good faith to act as an insurance agent or solicitor, and is of good business reputation and has had experience or training, or is otherwise qualified in the line or lines of insurance for which he or she desires to be licensed and is a resident of this state or maintains his or her principal offices in this state and is reasonably familiar with the insurance laws of this state and with the provisions, terms and conditions of the policies or contracts he or she is proposing to solicit, negotiate or effect, and if a resident of a city or town of this state of five thousand population or more, that he or she is principally engaged in the insurance business, and if a resident of a town of less than five thousand persons, that he or she is engaged in the insurance business, the Corporation Commission, or its deputy for such purpose, shall issue to the applicant a license to transact business in this state as an insurance agent or solicitor. Such license shall expire annually in accordance with the rules or regulations of the Corporation Commission, unless sooner revoked for cause by the Corporation Commission. The fee to be paid to the Corporation Commission for each license issued shall be $2.50 annually for a solicitor's license, and $5.00 annually for an agent's license, to be paid by the licensee. It shall be unlawful for any insurance company, directly or indirectly, to pay any such license fee or fees.

1817h. Any insurance company lawfully authorized to transact business in this state may contract with and appoint as its representative in this state any individual or individuals as its agent or agents who hold an unexpired agent's license issued under the provisions of section 1817 of the Revised Code of 1928, which said section 1817 shall be continued in force and effect, by filing with the Corporation Commission a certificate showing the names and addresses of such appointments, and by paying a fee of $2.00 for each agent so appointed.

1817i. In the event of the death or the inability further to act, if an insurance agent holding a certificate of authority from any insurer where no other agent in the co-partnership, association or corporation is authorized to represent such insurer, the Corporation Commission may issue a temporary license to another person or individual duly authorized and appointed by the co-partnership association or corporation enabling such other person to represent any such insurer, upon an application being made in conformity with subdivision 1817f and the additional information required by this section. Such temporary license shall continue only until the licensee is afforded an opportunity to take the examination provided in subdivision 1817g.

1817j. Renewal of all expiring licenses shall be issued by the Corporation Commission upon application in writing, subject to the conditions of examination of such applicants as set forth in subdivision 1817g and upon payment of the annual license fee of $5.00 for an agent and $2.50 for a solicitor's license.

1817k. The Corporation Commission shall revoke any license should investigation disclose that such license was obtained by fraud or misrepresentation, or that premiums received by the agent or solicitor to which the insurance company is legally entitled, which are hereby declared to be trust funds, are illegally withheld, or that the licensee has directly or indirectly rebated any portion of the premiums named in any policy of insurance, or violated any provisions of the insurance laws of this state, or that the interest

of the insurer or the insurable interest of the public have not been properly served by said licensee. Before revoking any license the Corporation Commission shall give the agent or solicitor and the company or companies represented by such agent or solicitor thirty days notice of its intention to revoke such license. The Corporation Commission shall have the right to immediately suspend any license for cause, and retain all fees paid for such licenses.

1817(l). Within sixty days after revocation, suspension or refusal to license, the person aggrieved shall have the right to petition the superior court of Maricopa county, where the main office of the Corporation Commission is located, to require said Corporation Commission to show cause why the license should not be reinstated or issued.

1817m. No insurer shall pay any money or commission, or give or allow any valuable consideration to any person, partnership, association or corporation, not a duly licensed agent or solicitor as herein defined, for or because of service in negotiating or effecting a contract of insurance; nor shall any insurer negotiate, effect or issue any such contract of insurance except through a duly licensed insurance agent as herein defined.

1817n. It shall be unlawful for any person, without conforming to the provisions of this act, directly or indirectly to represent himself or herself to be the agent of any insurer, or the solicitor for any agent.

1817o. This act shall not apply to the life insurance business.

1817p. The Corporation Commission is hereby authorized and empowered to use so much of the funds collected by it under and by virtue of this act as may be necessary to defray the expense of the enforcement and administration of the provisions of this act. Any surplus remaining in the hands of the Corporation Commission after the cost of enforcement and administration of this act has been paid, shall be paid by it to the Treasurer of the state of Arizona at close of each fiscal year, and shall be credited to the general fund of the state of Arizona.

1817q. Any person, persons, or corporation violating any of the provisions of this act shall be guilty of a misdemeanor.

1817r. If any portion of this act is invalid, the legislature hereby declares that had it known of the invalidity of the portion at the time of this enactment, it would have passed the remainder of this act without invalid portion, and that it is the intention of the legislature that the remainder of this act operate in the event of the invalidity of any portion thereof.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 87

(H. B. 86)

AN ACT

Relating to the construction of an irrigation dam in the San Pedro river in Cochise county, authorizing the Arizona state highway commission to procure funds for such purpose, and to cause the construction of the said dam.

Be it enacted by the Legislature of the State of Arizona:

Section 1. For the purpose of relieving unemployment in this state, the Arizona state highway commission is hereby authorized to procure from the Arizona reconstruction finance corporation commission, out of any funds in the hands of such commission for such purpose, or from the reconstruction finance corporation or any other agency of the United States government having the administration of funds for the relief of unemployment, the sum of forty thousand dollars, or such other sum as may be necessary, for the construction of a diversion dam in the San Pedro river in Cochise county, within or near section 33, township 19 south, range 21 east, Gila and Salt river base and meridian, and enlarging the irrigation ditch appurtenant thereto.

Sec. 2. When the said funds are secured, the state highway commission, through the state highway engineer, shall cause the construction of the said dam and the enlargement of the said canal, either by contract or force account, as may be approved by the Arizona reconstruction finance corporation or the federal agency supplying the said funds.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 88

(H. B. 115)

AN ACT

Relating to judgment of foreclosure, and amending Sec. 2324, Revised Code of 1928.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2324, Revised Code of 1928, is hereby amended to read as follows:

Sec. 2324. Judgment of foreclosure. When a mortgage or deed of trust is foreclosed, the court shall render judgment for the entire amount found to be due, and must direct the mortgaged property, or so much thereof as is necessary, to be sold to satisfy the same; provided, that when a note, secured by a first mortgage or deed of trust on real property, is foreclosed and the property sold to satisfy such judgment, no deficiency judgment can be had against the defendant unless the complaint specifically asks for a deficiency judgment. If such deficiency judgment is contested by the defendant, the plaintiff must prove on the trial that at the time the note and mortgage, or deed of trust, were executed the real property was not of a value in excess of the amount remaining due on the note or that the depreciation in value wascaused by some act of the defendant or the original mortgagor, and the question of such value shall be a question of fact. If the court or a jury selected to try the action finds that the plaintiff has failed to establish such fact, then the judgment shall state that no deficiency can be had against the defendant should the sale of the real property not be sufficient to satisfy the amount of the note and mortgage, or deed of trust, or other sums mentioned in said mortgage or deed of trust. When such value is contested and judgment is in favor of the plaintiff, then the court or the jury shall find the value of the real property at the time the mortgage or deed of trust was given, and the plaintiff shall not be entitled to a deficiency judgment for an amount greater than the difference between the value so found and the amount due on the note and mortgage, or deed of trust.

APPROVED MARCH 18, 1933.

REFERENDUM ORDERED
To be submitted to vote
of people. October 3,1933.

State of Arizona
House of Representatives
Eleventh Legislature
Regular Session

CHAPTER 89

(H. B. 142)

An Act

Relating to banks and banking; state banking department; records of department; stock in other corporations; borrowing by savings banks; savings banks loans; penalties; membership in federal home loan bank; amending Secs. 213, 224, 230, 231 and 268 by adding a new section to Sec. 268, to be numbered 268(a); and declaring an emergency.

Be it enacted by the Legislature of the state of Arizona:

Section 1. Sec. 213, Revised Code of 1928, is hereby amended to read as follows:

Sec. 213. Records of department not public documents. The records of the department shall not be deemed public documents nor be open to the inspection of the public; provided, however, the superintendent, his agents and employees may furnish to the federal home loan bank board or to any federal home loan bank, or to examiners duly appointed by the federal home loan bank board or any federal home loan bank, copies of any instruments concerning, and may disclose to such federal home loan bank board, federal home loan bank, or examiner, any information with reference to the condition or affairs of any bank, trust company or loan association. Every official report made by the superintendent and every report duly verified of an examination made, shall be prima facie evidence of the facts therein stated, in any action or proceedings wherein the superintendent is a party.

Sec. 2. Sec. 224, Revised Code of 1928, is hereby amended to read as follows:

Sec. 224. Stock in other corporations. No bank, trust company or loan association, may purchase, own, hold, or sell or otherwise dispose of the shares of the capital stock of any other corporation, unless such purchase shall be authorized by the executive committee or approved by the board of directors; and if the purchase is of stock in a bank the approval of said puchase must also be had from the superintendent; provided, however, any bank, trust company or loan association may purchase, own and hold shares of the capital stock of a federal home loan bank of which such bank, trust company or loan association may be eligible to become a member, without the approval of the superintendent.

Sec. 3. Sec. 230, Revised Code of 1928, is hereby amended to read as follows:

Sec. 230. Borrowing by savings banks. No savings bank shall borrow money, or pledge or hypothecate any of its securities, except to meet the immediate demands of its own depositors, and then only in pursuance of a resolution adopted by a vote of a majority of its board of directors or executive committee entered upon their minutes wherein shall be recorded the ayes and nays upon each vote; provided, that savings banks may receive the public moneys of the state, counties, cities, towns and county school districts, on deposit, and pledge its securities therefor in accordance with the laws of the state; provided, further, that any savings bank may borrow money from a federal home loan bank and pledge or hypothecate any of its securities and none of the limitations or restrictions provided in the laws of this state pertaining to borrowings of savings banks shall apply to borrowings from such federal home loan bank.

Sec. 4. Sec. 231, Revised Code of 1928, is hereby amended to read as follows:

Sec. 231. Savings banks loans; penalties. A savings bank may invest the capital and deposits and the income derived there-

from; 1. In first lien mortgages upon real property, such loan shall not exceed at the date it is made sixty percent of the market value of the real property mortgaged, and at least fifty percent of such loans shall at all times be upon real property situated in this state.

Liens of the federal government on any United States reclamation project or liens of the state government on any project organized under the laws of Arizona shall not be considered a first lien under the provisions hereof. The mortgage or assignment thereof shall be immediately recorded in the office of the county recorder; 2. In the interest bearing bonds of, or other securities issued by this state, or of any county, city, town, school or road district therein, or any securities issued by authority of law for local improvements, that may have been lawfully issued, or in any bonds, debentures and notes issued by any federal home loan bank, or in capital stock issued by any federal home loan bank, of which such savings bank may be eligible to become a member.

Sec. 5. Sec. 268, Revised Code of 1928, is hereby amended by adding a new section to be numbered 268 (a).

Sec. 268 (a). Membership in federal home loan bank. Any bank, trust company, or loan association, is hereby authorized and empowered to become a member of the federal home loan bank.

Nothing in the laws of this state shall prohibit any bank, trust company, or loan association from becoming a member of the federal home loan bank in the manner provided in the federal home loan bank act; nor from investing any part of its capital or surplus or funds in the capital stock of said federal home loan bank in accordance with the terms and provisions of such federal home loan bank act.

Any bank, trust company, or loan association joining or associating itself with such federal home loan bank shall have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member bank, trust company, or loan association, by the provisions of the federal home loan bank act, and the regulations of the federal home loan bank board. Such member bank, trust company, or loan association and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by the laws of this state.

Any bank, trust company or loan association which shall have become a member of a federal home loan bank shall be subject to such examinations, inspections and regulations as may be required under the terms of the federal home loan bank act or may be required by the federal home loan bank board or by the federal home loan bank of which such bank, trust company, or loan association is a member.

Sec. 6. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 18, 1933.

C O P Y

EXECUTIVE OFFICE

STATE HOUSE

PHOENIX, ARIZONA

March 20, 1933

Hon. James H. Kerby
Secretary of State
State Capitol
Phoenix, Arizona

Dear Mr. Kerby:

I am herewith transmitting to you House Bill 146, known as the Privilege Sales Tax, bearing my signature.

This bill has been signed by me in the realization that it is far from a perfect bill, but realizing also that Arizona must have additional sources of revenue if we are to preserve the financial integrity of the state.

It is unfortunate that matters of this kind cannot be handled by the legislature during the early days of its session so that when bills come to my desk which seem to need changes they could be re-referred to the legislature for correction. Under the circumstances it was impossible to do that with this particular bill. Consequently I am approving it rather than put the state to the expense of calling a special session of the legislature for reconsideration and changes in this particular measure.

Sincerely yours,

(SIGNED) B. B. Moeur

B. B. Moeur, Governor

M:McM

CHAPTER 90

(H. B. 146)

AN ACT

To provide for the raising of additional public revenue by imposing a tax upon the privilege of engaging in certain businesses in Arizona; to provide for the ascertainment, assessment and collection of said taxes; to provide for the time of payment of the tax; to provide for correcting assessments and examination of records; and providing for procedure when the returns are not filed; for the enforcement of collection and for penalties; providing for hearings, rehearing and appeal; providing for the manner in which the tax may be paid; providing for a penalty for the filing of false or fraudulent returns; providing for the relief of unemployment and the disposition of the proceeds of the tax; repealing all laws in conflict herewith and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Definitions. When used in this act, the term "person" or the term "company", herein used interchangeably, includes any individual, firm, co-partnership, joint adventure, association, corporation, estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by context.

The terms "tax commission" and "the Commission" mean the state tax commission of the state of Arizona, and any board, commission, official, or officials upon whom the duties and powers exercised by said state tax commission under existing laws may hereafter devolve.

The term "tax year" or "taxable year" means either the calendar year, or the taxpayer's fiscal year when permission is obtained from the tax commission to use same as the tax period in lieu of the calendar year.

The term "sale" or "sales" includes the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale.

The word "taxpayer" means any person liable for any tax hereunder.

The term "gross income" means the gross receipts of a taxpayer received as compensation for personal services for the exercise of which a privilege tax is hereby imposed in this state and the gross receipts of the taxpayer derived from trades, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and without any deduction on account of losses.

The term "business" when used in this act shall include all activities or acts engaged in (personal, professional and corporate), or caused to be engaged in with the object of gain, benefit or advantage either direct or indirect.

The term "gross proceeds of sales" means the value preceding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expenses of any kind, or losses; provided, however, that cash discounts allowed and taken on sales shall not be included as gross income. But the words "gross income" and "gross proceeds of sales" shall not be construed to include goods, wares or merchandise, or the value thereof, returned by customers when the sale price is refunded either in cash or by credit; nor

the sale price of any article accepted as part payment on any new article sold, if and when the full sale price of the new article is included in the "gross income" or "gross proceeds of sales", as the case may be.

The term "engaging" as used in this act with reference to engaging or continuing in business shall also include the exercise of corporate or franchise powers.

The term "auditor" as used in this act means the state auditor of the state of Arizona.

Sec. 2. Tax levied after April 30, 1933. From and after the 30th day of April, one thousand nine hundred thirty-three, there is hereby levied and shall be collected, annual privilege taxes, measured by the amount or volume of business done, against the persons, on account of the business activities, and in the amounts to be determined by the application of rates against values or gross income, or gross proceeds of sales, as the case may be, as follows:

Sec. 2a. Upon any person engaging or continuing within this state in the business of mining, quarrying, smelting, extracting, manufacturing, compounding, or preparing for sale, profit, or use, any article or articles, substance or substances, commodity or commodities, the amount of such tax to be equal to the value of the articles manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person producing, compounding, or preparing the same (except as hereinafter provided), multiplied by the rate of one-half of one per cent.

The measure of this tax is the value of the entire product hereafter manufactured, produced, compounded, or prepared for sale, profit or use in this state, regardless of the place of sale or the fact that deliveries may be made to points outside the state. But the actual freight charges prepaid by the taxpayer, or included in the invoice price, on such manufactured products, to the place of delivery, shall be deducted in determining the value of such manufactured products to be used as the measure of the tax imposed in this section, and in the case of ore or products therefrom shipped and sold to customs smelters, the net smelter returns from such ore or products from ores shall be used as the measure of said tax.

The measure of this tax upon persons operating a mine or mines under lease upon a share or royalty basis, shall be as follows: The net smelter returns received by the lessor under the lease agreement shall be the measure of his tax, and the net smelter returns received by the lessee under the lease agreement shall be the measure of his tax. In all cases the gross sale of any ores or mine products sold shall be computed and arrived at after deducting the cost of smelting, transportation, refining or such other processing as is necessary to perform prior to the actual sale of the metal derived therefrom.

Persons subject to a privilege tax under Sec. 2-a of this act, whose income, in whole or in part, is derived from service and/or manufacturing charges instead of from sales of the products manufactured or handled, shall make return of their gross income derived from such manufacturing and/or service charges, and the same shall be the measure of the tax imposed upon them by this act, with respect to that part of the business so conducted by such persons. If any such person shall fix his service or manufacturing charge upon a cost-plus basis and shall include and collect as part of such cost the amount of the tax imposed upon him under this section, then the person for whom such service was rendered and who shall have paid such tax as a part of the cost assessed against him, shall be entitled to deduct an equal amount from his return of gross income from the products se serviced or manufactured.

If any person liable for any tax under sections 2-a, 2-b, or 2-c of this act shall ship or transport his products or any part thereof out of the state without making sale of such products, or shall ship his products outside of the state in an

unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out of the state and before they enter interstate commerce, shall be the basis for assessment of the tax imposed in said sections; and the commission shall prescribe equitable and uniform rules for ascertaining such value, except the value of ores or products therefrom smelted within the state shall be valued on the basis of the net smelter returns as above provided.

In determining value as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the commission shall prescribe uniforn and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by the other taxpayers where no common interest exists between the buyer and seller, but otherwise under similar circumstances and conditions.

Provided, however, that any person exercising any privilege taxable under section 2-a of this act and engaging in the business of selling his natural resource products or manufactured products at retail in this state shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed in section 2-c of this act for the privilege of engaging in the business of selling such natural resource products or manufactured products at retail in this state. But any such person exercising any privilege taxable under section 2-a of this act and engaging in the business of selling his natural resource products or manufactured products to wholesalers or jobbers or retailers or manufacturers shall not be required to pay the tax imposed in section 2-c of this act for the privilege of selling such natural resource products or manufactured products at wholesale.

Provided, further, that any person exercising any privilege taxable under section 2-a of this act, who shall engage also in the sale of goods and/or merchandise not of his own production or manufacture shall be required to make separate return of the gross proceeds of such sales and to pay the tax imposed in section 2-c of this act for the privilege of engaging in the business of selling such products.

Persons exercising any privilege taxable under section 2-a of this act shall not be required to pay the tax imposed in section 2-c of this act for the privilege of selling their products for delivery outside of this state, but the gross income derived from the sale of such products outside of this state shall be included in determining the measure of the tax imposed on such manufacture in said section 2-a.

Sec. 2-b. Upon persons who produce for sale or use, live stock, poultry, and other products of the ranch, farm, grove, or garden, a tax equivalent to one-half of one per cent of the gross proceeds of the sales of their said products, less the cost of transporting the said products to the place of delivery, if paid by the producer or included in the invoice price, and in the case of products of the soil, less the cost of packing, baling, ginning, threshing or otherwise preparing said products for the market.

Sec. 2-c. Upon every person engaging or continuing within this state in the business of selling any tangible personal property whatsoever, (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied and shall be collected, a tax equivalent to two percent of the gross proceeds of sales of the business; provided, however, that in the case of a wholesaler or jobber, the tax shall be equal to one-half of one per cent of the gross proceeds or sales of the business. The classification of wholesaler or jobber shall be used only by any person doing a regularly organized wholesale or jobbing business, known to the trade as such.

Provided, however, that any person engaging or continuing in business as a retailer and a wholesaler or jobber shall pay the tax required on the gross proceeds of sales of each such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer.

Sec. 2-d. Upon every person engaged or continuing within this state in the business of furnishing to consumers, for profit, electricity, electric lights, current, power or gas, natural or artificial, there is hereby levied a tax equivalent to one-half of one per cent of the gross income of such business from sales for industrial purposes and for pumping water for irrigation, and a tax equivalent to two per cent of the gross income of such business from sales for any and all other purposes.

Upon every person engaging or continuing within this state in the business of owning and/or operating a telegraph business, and/or owning and/or operating a telephone business for the transmission of messages and/or conversations to, from, through, in or across this state, there is likewise hereby levied and shall be collected a tax, on account of the business engaged in equal to one half of one per cent of the gross income of the business.

Upon every person engaging or continuing within this state in the business of operating a railroad for the transportation of freight and/or passengers for hire, there is likewise hereby levied and shall be collected a tax, on account of the business engaged in equal to one half of one per cent of the gross income of the business.

Upon every person engaging or continuing within this state in the business of operating a pipe line for transporting in or through this state, oil and/or natural gas and/or artificial gas through pipe and/or conduits in this state, there is likewise hereby levied and shall be collected a tax, on account of the business engaged in, equal to one half of one per cent of the gross income of the business.

Upon every person engaging or continuing within this state in the business of operating motor vehicles on the public highways of this state between fixed termini or over a regular route for the transportation of persons or property for compensation or hire, there is likewise hereby levied and shall be collected a tax, on account of the business engaged in, equal to one half of one per cent of the gross income of the business, but this shall not apply to persons engaged in transporting school children under contract with counties or school districts. Provided, however, that said tax shall not be levied upon or collected from such persons if they shall be required to pay a tax of not less than the rate above named upon their gross income, under the provisions of the motor vehicle laws of the State.

There shall be excepted from the gross income so to be taxed so much thereof as is derived from business conducted in commerce between this state and other states of the United States, or between this state and foreign countries, which the state of Arizona is prohibited from taxing under the constitution of the United States of America. Nothing in this section shall be construed to levy a tax upon the operation of municipal corporations of any electric, gas, or water system owned by the municipality operating it.

Sec. 2-e. Upon every person engaging or continuing within this state in any business, profession, trade or calling not included in the preceding sections, except as hereinafter provided, there is likewise hereby levied and shall be collected, a tax equal to two per cent of the gross income of any such business.

Sec. 2-f. Any person engaging in two or more forms of business of like character, taxable under this act, shall file a consolidated return covering all business activities of such like character engaged in within this state and shall be entitled

to deduct the amount of exemption allowed in section 4 from the gross income of the business as a whole, as shown in such consolidated return.

Sec. 2-g. All taxes collected under the provisions of this act shall be assumed and borne by the consumer and shall be added by the seller as a separate item in addition to the selling price of the property or article purchased.

Sec. 2-h. In computing the amount of tax levied hereunder, however, for any year, there shall be excepted from the values or from the gross income of the business, or gross proceeds of sales, as the case may be, all sums received or collected as taxes levied by the United States Government or the state of Arizona.

Sec. 2-i. In computing the amount of tax levied under this act, there shall be excepted from the gross income of the business, or gross proceeds of sales, as the case may be, so much thereof as is derived from business which the state of Arizona is prohibited from taxing under the constitution of this state or the constitution of the United States.

Sec. 3. Must obtain license from the commission. If any person, after the 30th day of April, 1933, shall have a gross income, upon which a privilege tax is imposed by this act, as a condition precedent to engaging or continuing in such business, he shall apply for and obtain from the tax commission, upon the payment of the sum of one dollar ($1.00), a license to engage in and to conduct such business for the current tax year, upon the condition that he shall pay the tax accruing to the state of Arizona under the provisions of this act; and he shall thereby be duly licenses to engage in and conduct such business. Said license shall be renewed annually, and shall expire on the 30th day of April next succeeding the date of its issuance.

Sec. 4. Certain persons exempt from provisions. There are, however, exempt from this act:

(a) Insurance companies which pay the state of Arizona a tax upon premiums levied under the provisions of the laws of the state.

(b) Building and loan associations which are operated exclusively for the equal benefit of all their depositors, and state and national banks.

(c) Labor, agricultural and horticultural societies and organizations not operated for profit; cemetery associations and companies which are organized and operated exclusively for the benefit of their members; fraternal benefit societies, orders or associations operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under a lodge system, and providing for the payment of death, sick, accident or other benefits to the members of such societies, orders or associations and their dependents; corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific or educational purposes; business leagues, chambers of commerce, boards of trade, civic leagues and organizations operated exclusively for the common good and for the promotion of social welfare; none of which companies, organizations, corporations, or societies named in clause (c) of this section are organized for profit and no part of the income of which inures to the benefit of any private stockholder or individual.

(d) Prospectors and mining companies, owning prospecting and developing mining properties that are non-producing properties.

(e) Amounts derived from the sale of school books where the sale price is fixed by state contract or by state law.

(f) In computing the amount of tax levied, under the provisions of this act for any year, there shall be deducted from the values or from the gross income or receipts of the business, as the case may be, an exemption of twelve hundred dollars ($1,200.00) of the amount of such values of gross income or

receipts. Every person exercising any privilege taxable hereunder for any fractional part of the tax year shall be entitled to an exemption of that part of the sum of twelve hundred dollars ($1,200.00) which bears the same proportion to the total sum that the period of time during which such person is engaged in such business bears to a whole year. Where monthly or quarterly returns are filed as provided in this act, a proportionate part of the exemption granted in this section may be claimed and allowed on each monthly or quarterly return.

(g) Amounts received by non-profit hospitals, infirmaries and/or sanitaria, whether as compensation for services rendered or for medical or surgical supplies sold to, or meals given patients in such institutions.

(h) Sales of gasoline upon which a state tax in Arizona has been levied by the provisions of the motor vehicle act. All dealers in gasoline shall nevertheless obtain the annual license provided by section 3 hereof.

(i) Amounts received under contracts issued by insurance companies or benefits received from the state compensation fund.

Sec. 5 Assessors to report to tax commission. It shall be the duty of the several county assessors to report to the tax commission the names and addresses of every person, company, firm or corporation in their respective counties engaged in a business subject to the payment of the license fee and privilege tax herein imposed, and the first of such reports shall be made to the state tax commission within thirty days after the effective date of this act, and annually thereafter on or before the 15th day of March of each year.

The taxes levied hereunder shall be due and payable in monthly installments, on or before the 15th day of the month next succeeding the month in which the tax accrues. The taxpayer shall on or before the 15th day of the month make out a return, showing the amount of the tax for which he is liable, for the preceding month, and shall mail the same together with a remittance, in the form required by section 14 of this act, for the amount of the tax, to the office of the commission. Such monthly return shall be signed by the taxpayer or a duly authorized agent of the taxpayer, but need no be verified by oath.

Provided, however, that any person taxable under this act, having cash and credit sales, may report such cash and credit sales separately, and upon making application therefor may obtain from the commission an extension of time for the payment of taxes due on such credit sales. Such extension shall be granted by the commission, under such rules and regulations as the commission may prescribe. When such extension is granted, the taxpayer shall thereafter include in each monthly report, all collections made during the month next preceding, and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of credit sales be included in determining the measure of the tax to be paid until collection of such credit sales shall have been made.

Provided, however, that when the total tax for which any person is liable under this act does not exceed the sum of ten dollars ($10.00) for any month, a quarterly return and remittance in lieu of the monthly return may be made on or before the 15th day of the month next succeeding the end of the quarter for which the tax is due.

Provided, further, that when the total tax for which any person is liable under this act does not exceed the sum of ten dollars ($10.00) in any quarter year he shall not be required to make either monthly or quarterly returns, but an annual return and remittance shall be required, under rules and regulations to be prescribed by the Commission, such annual return and remittance to be made on or before the 30th day of the month next succeeding the end of the tax year for which tax is due.

The monthly, quarterly, and annual returns required under this act shall be made upon forms to be prescribed by the commission.

The commission, for good cause, may extend the time for making any return required under the provisions of this act, and may grant such reasonable additional time within which to make such return as it may deem proper, but the time for filing such return shall not be extended beyond the 15th day of the month next succeeding the regular due date of such return.

Sec. 6. Returns to be made--when--how made. On or before thirty days after the end of the tax year, each person liable for the payment of a privilege tax under section 2 and succeeding sections of this act shall make a return showing the gross proceeds of sales, or gross income of business, and compute the amount of tax chargeable against him in accordance with the provisions of this act, and deduct the amount of monthly or quarterly payments (as hereinbefore provided), if any, and transmit with his report a remittance in the form required by section 14 of this act, covering the residue of the tax chargeable against him to the office of the commission. Such return shall be verified by the oath of the taxpayer, if made by an individual, or by the oath of the president, or other duly authorized officer or agent of a corporation, if made on behalf of a corporation. If made in behalf of a partnership, joint adventure, association, trust, estate, or any other group or combination acting as a unit, any individual delegated by such firm, co-partnership, joint adventure, association, trust, estate, or any other group or combination acting as a unit shall make the oath on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to make the oath, the same may be made by any duly authorized agent. The commission for good cause shown may extend the time for making the annual return on the application of any taxpayer and may grant such additional time within which to make the same as may by it be deemed advisable.

Sec. 7. Commission to correct error. If the taxpayer shall make any error in computing the tax assessable against him, the commission shall correct such error or reassess the proper amount of taxes, and notify the taxpayer of this action by mailing to him promptly a copy of the corrected assessment, and any additional tax for which such taxpayer may be liable shall be paid within ten days after the receipt of such statement.

Sec. 8. Taxpayer must keep records--failure to make returns--duty and power of commission. It shall be the duty of every person engaging or continuing in this state in any business for which a privilege tax is imposed by this act to keep and preserve suitable records of the gross income, gross receipts and/or gross receipts of sales of such business and such other books or accounts as may be necessary to determine the amount of tax for which he is liable, under the provisions of this act. And it shall be the duty of every person to keep and preserve, for a period of two years, all invoices of goods and merchandise purchased for resale, and all such books, invoices and other records shall be open for examination at any time by the commission or its duly authorized agent.

If any person fail, or refuse to make a return, the commission shall proceed, in such manner as may seem best, to obtain facts and information on which to base the assessment of tax herein prescribed; and to this end, the commission or its duly appointed agent, may make examination of the books, records and papers of any such person, and may take the evidence, on oath, of any person who he or they may believe shall be in possession of facts or information pertinent to the subject of inquiry, which oath the commission or any agent appointed by it may administer. As soon as possible after procuring such information as may be obtained with respect to any person failing or refusing to make a return, the commission or agent, shall proceed to determine, and assess the tax against such person, and shall notify him of the amount thereof, and this action shall be final as to any person who refused to make a return.

Sec. 9. Tax shall be lien. The tax imposed by this act shall be a lien upon the porperty of any person subject to the provisions hereof, who shall sell out his business or stock of goods, or shall quit business, and such person shall be required to make out the return provided for under section 6 within thirty days after the date he sold out his business or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said taxes due and unpaid until such time as the former owner shall produce a receipt from the commission showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided and the taxes shall be due and unpaid after the thirty-day period allowed, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner.

Sec. 10. Aggrieved person may file petition. If any person, having made the return and paid the tax as provided in this act, feels aggrieved by the assessment made upon him for any year by the commission, he may apply to the tax commission by petition, in writing, within thirty days after the notice is mailed to him, for a hearing and a correction of the amount of the tax so assessed upon him by the commission, in which petition he shall set forth the reasons why such hearing should be granted, and the amount in which such tax should be reduced. The tax commission shall promptly consider such petition, and may grant such hearing or deny the same. If denied, the petitioner shall be forthwith notified thereof; if granted, the tax commission shall notify the petitioner of the time and place fixed for such hearing. After such hearing the tax commission may make such order in the matter as may appear to it just and lawful, and shall furnish a copy of such order to the petitioner. Any person improperly charged with any tax and required to pay the same, may recover the amount paid, together with interest, in any proper action or suit against the commission, and the superior court of the county in which the taxpayer resides or is located shall have original jurisdiction of any action as a proceeding in equity to recover any tax improperly collected. It shall not be necessary for the taxpayer to protest against the payment of the tax, but he shall make written demand to have the same refunded in order to maintain such suit. In any suit to recover taxes paid or to collect taxes, the court shall adjudge costs to such extent and in such manner as may be deemed equitable.

Either party to such suit shall have the right to appeal to the supreme court of Arizona as now provided by law. In the event a final judgment is rendered in favor of the taxpayer in a suit to recover illegal taxes, then it shall be the duty of the state auditor, upon receipt of a certified copy of such final judgment, to draw a warrant directed to the state treasurer in favor of such taxpayer to pay such judgment, interest and costs. It shall be the duty of the state treasurer to honor such warrant and pay such judgment out of the general fund in the state treasury.

No injunction shall be awarded by any court or judge to restrain the collection of the taxes imposed by this act, or to restrain the enforcement of this act.

It shall be the duty of the county attorney of any county of the state of Arizona and/or the attorney general to represent the commission, or any agent or employee, and/or the state of Arizona in all legal matters relating to the enforcement, construction, application and administration of this act, and in any litigation which may be instituted by the commission and in which they may become involved, upon the order and under the direction of the commissioners.

Sec. 11. Collection of delinquent taxes.

(a) If any tax imposed by this act or any portion thereof be not paid within thirty days after the same becomes delinquent, the commission shall issue a warrant under the hand of its chairman and its official seal, directed to the sheriff of any county, commanding him to levy upon and sell the real and personal property of the delinquent taxpayer

found within his county, for the payment of the amount of such tax, with the added penalties, interest, and the cost of executing the warrant, and to return such warrant to the commission and pay to it the money collected by virtue thereof by a time to be therein specified, not less than sixty days from the date of the warrant. The sheriff shall, within five days after the receipt of the warrant, file with the clerk of the superior court a copy thereof, and the clerk shall thereupon enter in the judgment docket, in the column of judgment debtors, the name of the delinquent taxpayer mentioned in the warrant, and in appropriate columns the amount of the tax or portion thereof and penalties and interest for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to any interest in real or personal property of the delinquent taxpayer against whom it is issued, in the same manner as a judgment duly docketed in the office of the clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to execution issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In its discretion, the commission may issue a warrant of like terms, force, and effect, directed to any agent authorized to collect mercantile license taxes, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the commission shall have the same remedies to enforce the claim for taxes against the delinquent taxpayer as if the people of the state had recovered judgment against the delinquent taxpayer for the amount of the tax.

(b) Every tax imposed by this act, and all increases, interest and penalties thereon, shall become, from the time the same is due and payable, a personal debt from the person liable to the state of Arizona.

(c) An action may be brought at any time by the attorney general, at the instance of the commission, in the name of the state, to recover the amount of any taxes, penalties and interest due under this act.

Sec. 12. Annual return--when to be made. The assessment of taxes herein made and the returns required therefor shall be for the year ending on the 31st day of December; provided, however, that if the taxpayer in transacting his business keep the books reflecting the same on a basis other than the calendar year, he may, with the assent of the commission, make his annual returns and pay taxes for the year covering his accounting period, as shown by the method of keeping the books of his business.

Sec. 13. Is additional tax. The tax imposed by this act shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business taxable hereunder, except as in this act otherwise specifically provided.

Sec. 14. Remittances--how made. All remittances of taxes imposed by this act shall be made by bank draft, check, cashier's check, money order, or money, to the commission, who shall issue its receipts therefor to the taxpayers, when requested, and shall deposit all moneys received in some bank or banks in this state, qualified as a state depository; provided, no remittance other than cash shall be final discharge of liability for the tax herein assessed and levied unless and until it has been paid in cash to the commission.

Sec. 14a. Records and accounts shall be kept by the commission showing separately the taxes collected under each of the classifications prescribed in sections 2a, 2b, 2c and 2d, and the county entitled to credit as the county of origin of each such collection, to be determined in the manner hereinafter provided. On or before the fifth day of each month the commission shall

deliver a statement to the state treasurer, and a duplicate thereof to the state auditor, showing all collections, made during the preceding month under the provisions of this act, and the amounts credited as aforesaid to each county, under each of said classifications. At the same time the commission shall pay into the state treasury all moneys collected during the month covered by such report.

The state treasurer shall place three-fourths of the sum received from the commission to the credit of the general fund; and one-fourth thereof in a "county privilege tax fund", credited to the several counties in the proportion that the collections from each county, as shown by the commission's statement, bears to one-fourth of the total collections. The state auditor shall thereupon draw his warrants against the said "county privilege tax fund", in favor of the several county treasurers, for the amounts which said counties are entitled to receive, and said county treasurers shall place the same in the general funds of their respective counties.

In determining the county entitled to receive credit as the county of origin of any tax collected under the provisions of sections 2a, 2b, and 2d, the following rules shall govern:

Sec. 14-b. Ten per cent of the state's portion of the tax moneys collected under this act for any calendar manth may be diverted by the governor to the purpose of relieving unemployment or for any other public welfare relief when in his opinion an emergency exists warranting such expenditure. And such funds so diverted shall in every case be expended by and through such public welfare organizations as may be designated by the governor, or directly by the governor for the purpose of furnishing employment in connection with any state, county or municipal work or improvement. The governor shall declare such emergency by proclamation duly attested by the secretary of state, and upon such proclamation being filed with the state auditor the auditor shall draw his warrant or warrants upon the state treasurer in the manner provided for by law, payable in such amounts and to such organizations or other agencies provided for hereunder as shall be designated by the governor, against that portion of the fund diverted under the provisions hereof.

Sec. 14-c. At the end of each month the auditor shall carefully check the books and records of the commission and his accounts with the bank or banks, and shall verify the amounts paid or to be paid into the state treasury.

Sec. 14-d. The commission shall keep full and accurate records of all moneys received by it, and how disbursed; and shall preserve all returns filed with it under sections 5 and 6 of this act for a period of three years.

Sec. 15. Contents of report not to be divulged. Unless in accordance with the judicial order or as herein provided, the members of the state tax commission, its agents, clerks, or stenographers shall not divulge the gross income, gross proceeds of sales or the amount of tax paid by any person as shown by the reports filed under the provisions of sections 5 and 6 of this act, except to members and employees of the state tax commission, for the purpose of checking, comparing and correcting returns, or to the governor, or to the attorney general, or any other legal representative of the state in any action with respect to the amount of tax due under the provisions of this act.

Sec. 15-a. The corporation commission shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state, until the receipt of a notice from the commission to the effect that the tax levied under this act against any such corporation has been paid, if any such corporation is a taxpayer under the law, or until he shall be notified by

the commission that the applicant is not subject to pay a tax hereunder.

Sec. 16. Unlawful to refuse to make returns-penalty. It shall be unlawful for any person to fail or refuse to make the return provided to be made in sections 5 and 6 of this act, or to make any false or fraudulent return or false statement in any return, with intent to defraud the state or to evade the payment of the tax, or any part thereof, imposed by this act; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this act; or for the president or other officer or agent of any company to make or permit to be made for any company or association any false return or any false statement in any return required by this act with the intent to evade the payment of any tax hereunder; or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the commission or its duly appointed agent, as required by this act; or to fail or refuse to permit the inspection or appraisal of any property by the commission or its duly appointed agent, or to refuse to offer testimony or produce any record as required in this act. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and on conviction thereof shall be fined not more than five hundred dollars ($500.00), or imprisonment not exceeding six months in the county jail, or punished by both such fine and imprisonment, at the discretion of the court within the limitations aforesaid. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury, and on conviction thereof, shall be punished in the manner provided by law. Any company for which a false return shall be made, or a return containing a false statement as aforesaid, shall be guilty of a misdemeanor and may be punished by a fine of not more than five hundred dollars ($500.00).

Sec. 17. Administration of act vested in state tax commission. The administration of this act is vested in and shall be exercised by the state tax commision, except as otherwise herein provided, and the enforcement of any of the provisions of this act in any of the courts of the state shall be under the exclusive jurisdiction of the state tax commission who may require the assistance of and act through the county attorney of any county, but the county attorney shall receive no fees or compensation for services rendered in enforcing this act in addition to the salary paid to such officer. The state tax commission shall appoint, as needed, such agents, clerks, and stenographers as authorized by law, who shall serve under it, shall perform such duties as may be required, not inconsistent with this act, and are hereby authorized to act for the commission, as it may prescribe and as provided herein. Each such agent shall execute a bond in the sum of five thousand dollars ($5,000.00) for the faithful discharge of his duties. All of such agents, clerks, and stenographers may be removed by the state tax commission for cause, of which the commission shall be the final judge. In case of violation of the provisions of this act, the commission may decline to prosecute for the first offense, if in its judgment such violation is not wilful or flagrant.

Sec. 18. Commission to make regulations. The commission shall from time to time promulgate such rules and regulations not inconsistent with this act, for making returns and for the ascertainment, assessment, and collection of the tax imposed hereunder as it may deem necessary to enforce its provisions; and upon request shall furnish any taxpayer with a copy of such rules and regulations. All forms necessary and proper for the enforcement of this, shall be prescribed, printed and furnished by the commission.

Sec. 19. Commission or agent may examine books, etc. The commission or its authorized agents, may examine any books papers, records, or other data bearing upon the correctness of any return, or for the purpose of making a return where none has been made, as required by sections 5 and 6 of this

act, and may require the attendance of any person and take his testimony with respect to any such matter, with power to administer oaths to such person or persons. If any person summoned as a witness shall fail to obey any summons to appear before the commission, or its authorized agent, or shall refuse to testify or answer any material question or to produce any book, record, paper or other data when required to do so, such failure or refusal shall be reported to the attorney general or county attorney, who shall thereupon institute proceedings in the superior court of the county where such witness resides to compel obedience to any summons of the commission or its authorized agent. Officers who serve summons or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the justice of the peace courts, to be paid from the proper appropriations for the administration of this act.

Sec. 20. Excess payment-refund. If, upon examination of any monthly or quarterly return made under this act, it appears that an amount of tax has been paid in excess of that properly due, then the amount in excess shall be credited against any tax or installment thereof then due from the taxpayer, under any other subsequent monthly or quarterly return; and any balance of such excess at the end of the year and upon the filing of its annual return, shall be immediately refunded to the taxpayer by certificate of overpayment issued by the commission to the state auditor which shall be investigated and approved by the attorney general, and the auditor shall draw his warrant on the treasurer, which shall be payable out of the general fund. Any taxes recovered by suit by any taxpayer shall be refunded in like manner, but shall be accompanied by a copy of the order or decree of the court issuing such order or decree.

Sec. 21. Taxpayer in default may be enjoined from continuing business. Any person against whom a tax is assessed as herein provided shall be restrained and enjoined by proper proceedings instituted in the name of the state of Arizona at the request of the commission, by the attorney general or any county attorney from engaging and/or continuing in the business for which a privilege tax is required by the provisions of this act, until the taxes have been paid and until such person shall have complied with the provisions of this act.

Sec. 22. Invalidity of part of act not to invalidate entire act. If any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 23. This act shall take effect and be in force from and after the 30th day of April, 1933.

Sec. 24. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is, therefore, declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

Sec. 25. This act shall be self sustaining and there is hereby appropriated a sum not to exceed five per cent of any one month's revenue for the enforcement of this act.

Sec. 26. All acts and parts of acts in conflict with this act are hereby repealed.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 91

(H. B. 144)

Relating to dependent and delinquent minors, and providing a penalty for contributing to the delinquency or dependency of such minors.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Dependent person; definition. (a) The words "dependent person" shall mean any person under the age of eighteen years; 1. who is found begging, receiving or gathering alms, whether actually begging or under the pretext of selling or offering anything for sale; 2. who is found in any street, road or public place for the purpose of begging, gathering or receiving alms; 3. who is a vagrant; 4. who is found wandering and not having any home, or any settled place of abode, or any proper guardianship, or any visible means of subsistence; 5. who has no parent or guardian willing to exercise, or capable of exercising proper parental control; 6. who is destitute; 7. whose home, by reason of neglect, cruelty, or depravity of his parents or either of them, or on the part of his guardian, or on the part of the person in whose custody or care he may be, is an unfit place for such person; 8. who frequents the company of reputed criminals, vagrants, or prostitutes; 9. who is found living or being in any house of prostitution or assignation; 10. who habitually visits, without parent or guardian, any saloon, or place where any spirituous, vinous or malt liquors are sold, bartered or given away; 11. who persistently refuses to obey the reasonable and proper orders or directions of his parent or guardian; 12. who is incorrigible, that is, beyond the control and power of his parents, guardian or custodian by reason of the vicious conduct or nature of said person; 13. whose father is dead or has abandoned his family or is an habitual drunkard, or whose father or mother does not provide for such person, and it appears that such person is destitute of a suitable home or of adequate means of obtaining an honest living, or who is in danger of being brought up to lead an idle, dissolute and immoral life; or where both parents are dead, or the mother or father, if living is unable to provide proper support and care of such person; 14. who, being under eighteen years of age, habitually visits, without parent or guardian, any billiard room or pool room; 15. who, being not over the age of fourteen years, refuses to attend public or private school, as directed by his parent, duly authorized guardian or legal custodian; 16. who habitually uses intoxicating liquor as a beverage or habitually smokes cigarettes or who uses opium, cocaine, morphine or any other similar drug, without the direction of a competent physician; 17. who from any cause is in danger of growing up to lead an idle, dissolute or immoral life.

(b) The words "delinquent person" shall include any person under the age of eighteen years who violates any law of this state, or any ordinance of any town, city, or county, of this state, defining crime.

(c) The term "delinquency" shall mean any act which tends to debase or injure the morals, health or welfare of a child.

Sec. 2. Contributing to delinquency and dependency; penalty; procedure. Any person who shall by any act, cause, encourage or contribute to the dependency or delinquency of a child, as these terms with reference to children are defined by the preceding section, or who shall for any cause be responsible therefor, shall be guilty of a misdemeanor, and upon trial and conviction thereof, shall be punished by a fine not to exceed three hundred and fifty dollars or by imprisonment in the county jail for a period not exceeding one year, or by both such fine and imprisonment. The prosecution shall be the same as in other criminal cases. When the charge against any person concerns the dependency of a child or children, the offense for convenience may be termed contributory dependency and when it concerns the delinquency of a child or children for convenience it may be termed contributory delinquency.

Sec. 3. Construction. This act shall be liberally construed in favor of the state for the purpose of the protection of the child from neglect or omission of parental duty toward the child by the parents, and also to protect the children of the state from the effects of the improper conduct, acts, or the bad example of any person or persons whomsoever, which may be calculated to cause, encourage or contribute to, the dependency or delinquency of children, although such persons are in no way related to the child.

Sec. 4. Necessary proof. In order to find any person guilty of violating the provisions of this act, it shall not be necessary to prove that the child has actually become dependent or delinquent, provided it appears from the evidence that through any act of neglect or omission of duty or by any improper act or conduct on the part of any such person the dependency or delinquency of any child may have been caused or merely encouraged.

Sec. 5. Similar crimes; laws not repealed. Nothing in this act shall be construed to be in conflict with or repeal or prevent proceedings under any act or statute of this state which may have otherwise defined any specific act of any person as a crime of any character which act might also constitute contributory dependency, or to prevent or interfere with proceedings under any such act, nor shall it be construed to be inconsistent with or to repeal any act providing for the support by the parent or parents of their minor children; or any act providing for the punishment of cruelty to children, or the taking of indecent liberties with, or selling liquor, tobacco, or firearms to children, or permitting them in evil or disreputable places, and nothing in any such acts or similar acts shall be construed to be inconsistent with or to repeal this chapter or prevent proceedings hereunder, but in all cases where there shall be more than one prosecution for the same offense under any acts of the character herein described the fact may be given in evidence to the judge of the court, and may be considered in the discretion of the court in mitigation of any sentence in any such case.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 92

(H. B. 176)

An Act

To amend Sec. 3, Chap. 43, Session Laws of 1929, relating to land settlement.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 3, Chap. 43, Session Laws of 1929, be and the same is hereby amended to read as follows:

Sec. 3. On all contracts now in existence, by virtue of and under the conditions of this act, the time of the first payment on the purchase price of the land, including reclamation costs and costs of improvements, unless the same has already been paid, may be extended until January first, 1938, at the discretion of the land settlement board, and each annual payment of principal and interest shall be made on January the first of each year and every year thereafter until a total of thirty payments have been made. The board may at its discretion reform any and all contracts now in existence by reducing the purchase price of the land to not less than one hundred dollars per acre, and may add to the terms of the contract the sum or sums of any short time loans which may have heretofore been made.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 93

(H. B. 204)

AN ACT

Relating to fish and game preservation and amending section 4, chapter 97, Session Laws of 1931; sections 1, 13, 14, 29 and 36, chapter 84, Session Laws of 1929; sections 23, 25 and 31, chapter 97, Session Laws of 1929.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1, Chap. 84, Session Laws of 1929, is hereby amended to read as follows:

Sec. 1. Definitions. Terms as used herein shall mean: To "take" birds, animals, or fish, or birds' nests or eggs, or spawn or eggs of fish, shall mean the pursuit, hunting, capture, or killing of birds, animals, or fish, or collection of birds' nests or eggs, or spawn or eggs of fish, and shall include pursuing, shooting, hunting, killing, capturing, taking, snaring, netting, and all lesser acts, such as disturbing or annoying, or placing or using any net or other device. "Trap or trapping" shall mean taking in any manner except with gun or implement in hand. "Angling" is the taking of fish by hook and line in hand, or rod in hand. "Open season" is the time during which birds, animals or fish may be lawfully taken, and includes the first and last days thereof. "Closed season" is the time during which birds, animals, or fish may not be taken. "Game" includes game animals, game birds and game fish. "Game animals" are: Deer, elk, antelope, mountain sheep, buffalo, peccary or javelina, tree squirrels, rabbits and bears of all kinds. "Big game" are: Wild turkey, deer, elk, antelope, mountain sheep, buffalo, peccary or javelina and bear. "Small game" are game birds of all kinds except wild turkey and all game animals not listed as big game. "Fur bearing animals" are: Muskrats, raccoons, opposums, otters, mink, martins, beavers, badgers and ringtail cats. "Predatory animals" are: Foxes, skunks, mountain lions, coyotes, wolves, jaguars, weasels, bobcats, lynx-cats, and ocelots. "Non-game animals" are all wild animals except game animals, fur bearing animals and predatory animals. "Upland game birds" are: Quail, partridge, wild turkey, grouse, pheasants. "Migratory game birds" are: Anatidae or water fowl, including brant, wild ducks, geese and swans, gruidae or cranes, including little brown and sand hill and whooping cranes, rallidae or rails, including coots, gallinules and sora and other rails, limicolae or shore birds, including avocets, curlews, dowitchers, godwits, white-winged doves and mourning doves, knots, oyster catchers, phararopes, plovers, sandpipers, snipes, stilts, surf birds, turnstones, willets and yellow-legs; and columbidae, or pigeons, including doves and wild pigeons. "Non-game birds" are: All wild birds except upland game birds and migratory game birds. "Game fish" are: Trout of all species, including charrs, small and large mouthed black bass, crappie, yellow perch and cat fish; and the wild bullfrog. "Non-game fish" are: All the species of fish except game fish.

Sec. 2. Sec. 4, Chap. 97, Session Laws of 1931, is hereby amended to read as follows:

Sec. 4. General powers and duties of commission. The commission shall meet at the capitol within thirty days after this act takes effect and organize, and thereafter at least one meeting shall be held annually; other meetings may be held at the call of the chairman or a majority of the commission. The commission shall make such rules and regulations and establish such services as it may deem necessary to carry out the provisions and purposes of this act.

The commission shall have charge, control, and management of the propagation and distribution of wild birds, wild animals, and

fish. It shall have the conduct and control of all hatching stations and game farms owned, operated, or hereafter acquired by the state, may issue permits and licenses to persons to operate game farms and fish hatcheries, regulate the same and revoke such permits or licenses for non-compliance with its orders. It shall have charge of the enforcement of all laws for the protection of wild birds, wild animals and fish. It shall have the exclusive power to expend for the protection, preservation, or propagation of game birds, game animals, and fish, all funds of the state acquired for the protection, preservation, or propagation of birds, animals, or fish, arising from appropriations, licenses, gifts, or other sources. It may in the name of the state, with the approval of the governor, acquire by purchase, gift, or condemnation, lands and water for the use as fish hatcheries or game farms, and areas suitable for game refuges, hunting ground, or for any other purpose necessary to carry out the provisions of this act. It may purchase animals, birds, and fish and fish spawn or eggs for the purpose of stocking public lands and waters of the state, and sell fish fry and fingerlings to stock private waters, and may take at any time in any manner animals, birds' eggs, fish and eggs and milt of fish for propagation and re-stocking purposes, or for use at a state game farm or fish hatchery.

The commission may by order close, shorten, or alter the open season or bag limits prescribed by this act for any species of game animal, game bird, or game fish whenever it has good reason to believe that such species of animal, bird, or fish is threatened by depletion or requires additional or other protection than that specifically afforded by the provisions of this act; such order may be made to apply throughout the state, or to a particular part thereof, or to a particular stream or lake or part thereof. The commission may establish and open refuges and safe sanctuaries in which game, fur bearing animals, and birds may breed and replenish adjacent areas, and may designate certain areas as rest grounds, for migratory birds, in which hunting shall be forbidden or restricted at such times as the commission may designate, endeavoring as much as possible to establish small refuges rather than large preserves, not to close large areas to hunting, nor to interfere unnecessarily with the hunting of migratory birds, but to provide havens in which they can rest and feed without molestation. The preceding sentence shall not apply to the Blue Range game preserve until two years after the effective date of this act. The commission may remove or permit to be removed from public or private waters fish which hinder or prevent the propagation of game or food fish, and fish so taken may be disposed of in such manner as it may designate.

No person shall plant any game fish or other fish, fish fry, or spawn in any of the bodies of water in the state, nor introduce nor liberate any game birds or game animals, or any other wild animals, on the lands or in the coverts of the state without the written consent of the commission. The commission may enter into cooperative agreement with any federal department having jurisdiction over any federally controlled game refuges in Arizona, in carrying out such rules and regulations as may be established by such department for the protection and perpetuation of game animals thereon, or for the disposition of surplus game animals therefrom, and it shall be lawful to possess, or remove from the state any animals killed or captured in compliance with such agreement or regulation, when such animals are tagged or marked as to establish their identity as animals taken on such federal land.

When it is proven to the satisfaction of the commission that game birds or game animals or furbearing animals are materially destroying property, or otherwise becoming a nuisance, or the sexes are not balanced properly, or the natural food supply is insufficient or that hunting or trapping in addition to the regular open season, provided by this and other acts heretofore, may be permitted without jeopardizing the future supply of game or furbearing animals of any kind in any section of the state, the commission may at any time remove or have removed such animals or birds from that section, or may direct or authorize the taking of such birds or animals, or grant an extension of the open season, or permit additional hunting or trapping, under such rules governing seasons, bag limits, methods of taking and other regulations as the case may require, regardless of protection afforded or open

seasons or bag limits fixed by this and other acts heretofore.

Sec. 3. Sec. 5, Chap. 97, Session Laws of 1931, is hereby amended to read as follows:

Sec. 5. Publication of orders and regulations of commission; signboards of refuges; posted lands. Rules, regulations, and orders of the commission having general application throughout the state shall be published in such manner as the commission may determine so as to give them general publicity; those of special character having local application only shall be published once in some newspaper published in and having general circulation in the locality wherein such rules, regulations, and orders are applicable and a copy of such rules, regulations, and orders shall be posted in three conspicuous places in the locality in which they are applicable. Notices or signboards not less than one foot square shall be conspicuously posted by the commission close to and along the entire boundary of any refuge, sanctuary, rest ground, lake or stream or portion thereof closed to hunting or fishing by orders of the commission, warning all persons against hunting, fishing, or trespassing therein. As many of such notices or signboards shall be posted as the commission may determine to be best calculated to give public notice of the location of the boundaries of such refuge, sanctuary, rest ground, or other closed area. An order of the commission closing any area to hunting or fishing shall not become effective until such order has been published as herein required, and a certified copy of the order filed in the office of the recorder of the county or counties in which such closed area is located.

No person shall take or destroy any animal, bird, or fish, or bird's nest or egg, or eggs or spawn of fish, on any refuge, sanctuary, rest ground, or other area closed to hunting or fishing by order of the commission; provided, it shall be lawful for a duly accredited employee of the state, or of the federal government, to take predatory animals or rodents on any such closed area.

It shall be unlawful to carry firearms on any refuge, sanctuary, or rest ground closed to hunting by order of the commission except under seal, or by written consent, of the commission or except while in transit on such highway or highways as may traverse such area; but this shall not prohibit real property owners residing permanently on any refuge, sanctuary, or rest ground, nor cattle or sheep owners, or their employees whose range is on any refuge, sanctuary or rest ground from possessing firearms thereon, nor shall it apply to areas on which certain game animals or game fish or game birds are allowed lawfully to be taken. Landowners desiring to prohibit hunting or shooting on their lands shall post such lands, using a notice or signboard not less than one foot square with the wording of the same plainly legible. Such notices or signboards shall be placed in such manner as to be most conspicuous and at not more than quarter-mile intervals. State lands under lease may not be posted except by consent of the commission.

Sec. 4. Sec. 13, Chap. 84, Session Laws of 1929, is hereby amended to read as follows:

Sec. 13. Manner of taking small game animals, birds and fish. Small game animals and game birds shall be taken only in day time between one half hour before sunrise and before sunset with a gun not larger than No. 12 gauge, unless otherwise herein specifically permitted, except that game animals may also be taken with a rifle, without using steel or hard-point bullet. No person shall take any game animal, game bird, or game fish, by the aid or with the use of any jack-light, or other artificial light, net, trap, snare, salt-lick, scaffold, deadfall, pit, explosive, bird lime or poison, nor shall any person use part of any protected bird, game animal, or fish as bait in taking any wild animal; nor shall birds or animals be taken from any vehicle, automobile, aircraft, powerboat, sailboat and boat under sail, or any floating device towed by power boat or sailboat, nor shall any person shoot any firearm upon, from or across any public highway or railway. A person may take game animals and game birds during the open season therefor from blinds, and with the aid of dogs and use of decoys, unless specifically prohibited herein. Fish may be taken only by angling.

No person shall bait waters for the purpose of entrapping migratory water fowl.

Sec. 5. Sec. 14, Chap. 84, Session Laws of 1929, is hereby amended to read as follows:

Sec. 14. Silencer on firearms prohibited; single charge; rifles of certain calibre prohibited; confiscation. It shall be unlawful for any person to take into the field or forest, or to have in his possession, while hunting wild animals or birds, any device designed to silence, muffle or minimize the report of any firearm, whether separated from or attached to such firearm. It shall be unlawful to kill or attempt to kill any deer, bear, peccary or javelina except through the use of a gun propelling one ball or bullet at a single charge. Provided, however, that no ball or bullet weighing less than 87 grains may be used in taking deer, elk, antelope, mountain sheep, peccary or javelina, or bears at any time. The gun or implement used by any person in illegally killing any song or insectivorous bird is a nuisance and may be seized by any peace officer and confiscated by the warden for not more than one year.

Sec. 6. Sec. 23, Chap. 97, Session Laws of 1931, is hereby amended to read as follows:

Sec. 23. License fees. Licenses shall be divided into classes and fees paid therefor as follows: Class "A", resident general hunting and fishing license, two dollars and fifty cents; class "B", resident fishing license, one dollar and twenty-five cents; class "C", nonresident general hunting and fishing license, twenty-five dollars; class "D", nonresident fish and small game license, ten dollars; class "E", nonresident fishing license, three dollars; class "F", nonresident trapping license, twenty-five dollars; class "G", alien general hunting and fishing license, seventy-five dollars; class "H", alien fish and small game license, thirty dollars; class "I", special license, alien applicant for citizenship, for general hunting, twenty-five dollars; class "J", special license, alien applicant for citizenship, fishing and small game, ten dollars. Classes "A", "C", "G", and "I" include all varieties of fish and game; classes "D", "H", and "J" include all fish and small game; class "F" includes all varieties of predatory and fur bearing animals; and class "E" includes all kinds of fish that may be taken under this act. An alien applicant for citizenship may not receive during the pendency of his application more than two class "I" or "J" licenses. A resident for the purpose of this act is defined to be a citizen of the United States who has resided in this state for one year immediately preceding application for license. A complimentary license may be issued by the commission to a pioneer seventy years of age or older who has been a resident of this state for twenty-five or more consecutive years.

Sec. 7. Sec. 25, Chap. 97, Session Laws of 1931, is hereby amended to read as follows:

Sec. 25. Form and contents of license; shipping coupons; exhibiting license; minors. The form of license shall be determined and the license blanks prepared by the commission and by it furnished and charged to the person authorized to issue licenses. Each license shall be accompanied by a shipping permit, authorizing the licensee, if a resident, to ship either within or out of the state not to exceed one day's bag limit of game or fish, and, if a nonresident, to ship either within or out of the state not to exceed one day's bag limit of game or fish, which permit or coupon thereof must be attached to the shipment. If a resident desires, and is entitled, to make an additional shipment within the state; or a nonresident desires, and is entitled, to make additional shipment either within or out of the state, he shall first secure from the commission an additional permit authorizing the shipment and which shall be attached to it. The commission shall provide the state game and fish warden and his deputies with coupon or shipping permit blanks, which shall be issued by them, in accordance with the provisions of this section, upon payment of a fee of twenty-five cents each. The licenses shall be issued in the name of the commission, sealed with its seal and countersigned by the officer issuing the same. Each license shall be signed by the licensee in ink on the face thereof, and there shall be issued with each license authorizing the killing or taking of deer or wild turkeys, suitable blank forms for attaching to any deer or wild turkey when killed or taken

and for reporting the same to the state game warden, All persons killing or taking any deer or wild turkey shall make report thereof on such forms to the state game warden and failure to do so shall be unlawful. Each license shall be void after the thirty-first day of December next, succeeding its issuance. No person shall take fish, birds, or animals in this state, unless, at the time of such taking, he shall have such license on his person and shall exhibit the same upon request for inspection to any person. This section shall not apply to an american-born resident of the state under sixteen years of age, but such resident may take birds, animals, or fish when accompanied by a person holding a valid license.

Sec. 8. Sec. 29, Chap. 84, Session Laws of 1929, is hereby amended to read as follows:

Sec. 29. Wild deer; bear; bag limit. Any one person may take from October sixteenth to November fifteenth, only one wild male deer having prong-horns. Such wild animal, or part thereof, shall not be transported unless it bear evidence from which the sex of the animal may be determined; one grown bear, may be taken from October sixteenth to November fifteenth; but no bear cubs shall be taken at any time.

Sec. 9. Sec. 31, Chap. 97, Session Laws of 1931, is hereby amended to read as follows:

Sec. 31. Tree squirrels; rabbits. There shall be no open season on Kaibab or white-tailed squirrels, Chiricahua squirrels, nor on Arizona tree squirrels in that part of Arizona lying south of the Gila and Salt river base and meridian. A person may take not to exceed six spruce squirrels, Abert squirrels, or tasseleared gray squirrels (except Kaibab squirrels) in any one day between October sixteenth and November fifteenth. The season and bag limit on cottontail rabbits shall be set by the commission. Any person, except minors under the age of sixteen years, taking rabbits must possess a proper and valid license therefor; provided, however, that a farmer may take rabbits on his own land without license and at any time and in any number if these animals are working damage to his crops or trees.

Sec. 10. Sec. 36, Chap. 84, Session Laws of 1929, is hereby amended to read as follows:

Sec. 36. Fish; taking season; limit. Trout of all kinds may be taken from June first to September thirtieth; bag limit, twenty individual fish, or fifteen pounds of fish and one fish in one day or in possession at one time. All other kinds of fish may be taken from January first to December thirty-first; bag limit, thirty individual fish, or not to exceed twenty-five pounds and one fish in one day, or in possession at one time, including all kinds except trout. No game fish less than seven inches long may be taken. The season and bag limit on the wild bullfrog shall be set by the commission.

Sec. 11. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 94

(H. B. 245)

AN ACT

To provide for conventions to pass on amendments to the Constitution of the United States proposed by the Congress of the United States for ratification by conventions in the several states.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Whenever the Congress of the United States shall propose an amendment to the Constitution of the United States, and shall propose that it be ratified by conventions in the several states, the governor shall fix by proclamation the date of an election for the purpose of electing the delegates to such convention in this state. Such election may either be at a special election or may be held at the same time as a general election, but shall be held at least as soon as the next special or general election occurring more than three months after the amendment has been proposed by the Congress.

Sec. 2. At such election all electors who have registered may vote. Should a special election be called, registration of voters shall be re-opened by the county recorder on the third Monday preceding such special election, and shall be closed at five o'clock P. M. on the Saturday following next thereafter. All electors who were registered at the last general election, or who are registered during the period registration is re-opened for such special election may vote at such special election.

Sec. 3. Except as in this act otherwise provided, such election shall be conducted and the results thereof ascertained and certified in the same manner as in the case of the election of state officers in this state, and all provisions of the laws of this state relative to elections except so far as inconsistent with this act are hereby made applicable to such election.

Sec. 4. The number of delegates to be chosen at such convention shall be eleven to be elected from the state at large.

Sec. 5. Candidates for the office of delegate to the convention shall be qualified electors of this state. Nominations shall be by petition signed by not less than one thousand qualified electors, and not otherwise. Nominations shall be without party or political designation, but the nominating petitions shall contain a statement by the nominee to the effect that he favors ratification, or that he opposes ratification, and no nominating petition shall be accepted unless such statement is contained therein. No nomination shall be effective except those of the eleven nominees in favor of the ratification and the eleven nominees against ratification whose nominating petitions were first filed with the secretary of state. Within ten days after the petitions are filed, the secretary of state shall certify the candidates of each group to the board of supervisors of the respective counties of this state. All petitions shall be filed with the secretary of state not less than twenty days before the proclaimed date of the election.

Sec. 6. The election shall be by ballot, separate from any ballot to be used at the same election, which shall be prepared as follows: It shall first state the substance of the proposed amendment. This shall be followed by appropriate instructions to the voters. It shall then contain perpendicular columns of equal width, headed respectively in plain type, "For Ratification", and "Against Ratification". In the column headed "For Ratification" shall be placed the names of the nominees nominated as in favor of ratification. In the column headed "Against Ratification" shall be placed the names of the nominees nominated as against ratification. The voter shall indicate his choice by making one or more cross marks in

the appropriate spaces provided on the ballot. No ballot shall be held void because any such cross mark is irregular in character. The ballot shall be so arranged that the voter may, by making a single cross mark, vote for the entire group of the nominees whose names are comprised in any column. The ballot shall be in substantially the following form:

PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

The Congress has proposed an amendment to the Constitution of the United States which provides (insert here the substance of the proposed amendment).

The Congress has also proposed that the said amendment shall be ratified by conventions in the states.

INSTRUCTIONS TO VOTERS

Do not vote for more than eleven (11) candidates.

To vote for all candidates in favor of ratification, or for all candidates against ratification, make a cross-mark in the CIRCLE at the head of the list of candidates for whom you wish to vote. If you do this, make no other mark.

To vote for an individual candidate make a cross-mark in the SQUARE at the left of the name.

For Ratification	Against Ratification
○	○
▱ John Doe	▱ Charles Coe
▱ Richard Roe	▱ Michael Moe
▱	▱

Sec. 7. The eleven nominees who shall receive the highest number of votes shall be the delegates at the convention. If there shall be a vacancy in the convention caused by the death or disability of any delegate, or any other cause, the same shall be filled by appointment by the majority vote of the delegates comprising the group from which such delegate was elected and if the Convention contains no other delegate of that group, shall be filled by the governor. Delegates elected upon a platform or nomination petition statement as for or against ratification must vote at such convention in accordance with such platform or nomination petition statement, and upon failure to do so will be guilty of a misdemeanor, his vote not considered, and his office will be deemed vacant to be filled as herein provided for filling vacancies.

Sec. 8. The delegates to the convention shall meet at the capitol on the twenty-eighth day after their election at 10:00 o'clock A. M. and shall thereupon constitute a Convention to pass upon the question of whether or not the proposed amendment shall be ratified.

Sec. 9. The convention shall be the judge of the election and

qualification of its members; and shall have power to elect its president, secretary and other officers, and to adopt its own rules.

Sec. 10. The convention shall keep a journal of its proceedings in which shall be recorded the vote of each delegate on the question of ratification of the proposed amendment. Upon final adjournment the journal shall be filed with the secretary of state.

Sec. 11. If the convention shall agree, by vote of a majority of the total number of delegates, to the ratification of the proposed amendment, a certificate to that effect shall be executed by the president and secretary of the convention and transmitted to the secretary of state of this state, who shall transmit the certificate under the great seal of the state to the secretary of state of the United States.

Sec. 12. Delegates shall receive ten dollars, and shall also receive mileage one way by the shortest practical route at the rate of twenty cents per mile.

Sec. 13. If at or about the time of submitting any such amendment, Congress shall either in the resolution submitting the same or by statute, prescribe the manner in which the conventions shall be constituted, and shall not except from the provisions of such statute or resolution such states as may theretofore have provided for constituting such conventions, the preceding provisions of this act shall be inoperative, the convention shall be constituted and shall operate as the said resolution or act of Congress shall direct, and all officers of the state who may by the said resolution or statute be authorized or directed to take any action to constitute such a convention for this state are hereby authorized and directed to act thereunder and in obedience thereto with the same force and effect as if acting under a statute of this state.

APPROVED MARCH 18, 1933.

REFERENDUM ORDERED
Refrained by court action from submitting certification and to vote of people.
October 3,1933.

CHAPTER 95

(H. B. 200)

AN ACT

Making appropriations for the various departments of state, for the state institutions, for public schools, for state departments, activities, agencies, and purposes appurtenant thereto; and for the interest on and redemption of the public debt; providing the manner in which appropriations for labor shall be expended and the manner in which and conditions under which all appropriations herein shall be paid, all for the fiscal year beginning July 1, 1933, and ending June 30, 1934, hereinafter designated as the 22nd fiscal year, and beginning July 1, 1934 and ending June 30, 1935, hereinafter designated as the 23rd fiscal year, all of which constitute a general appropriation bill for said fiscal years.

Be it enacted by the Legislature of the State of Arizona:

Section 1. The following sums herein set forth are hereby appropriated for the fiscal years beginning July 1, 1933 and ending June 30, 1934, hereinafter designated as the 22nd Fiscal Year, and beginning July 1, 1934 and ending June 30, 1935, hereinafter designated as the 23rd Fiscal Year, for the several purposes and objects as hereinafter specified, and the state auditor is hereby authorized and directed to draw warrants on the state treasurer to and not to exceed the amounts herein set forth and for the purpose herein specified; and the state treasurer is hereby authorized and directed to pay said warrants out of the general fund of the state and the appropriation for the respective state agencies herein made.

Subdivision 1. UNIVERSITY OF ARIZONA.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For salaries and wages; for operation; for travel; for capital investment; for repairs and replacements:		
Total Appropriation----------	$627,680.00	$627,680.00

In addition to the above appropriation, the amount of all federal aid funds, county extension funds, farm sales funds, dormitory funds, matriculation funds, student breakage funds, timber rental funds, and all other receipts received by and for the university is hereby appropriated for the improvement, support and maintenance of the University of Arizona; and the University of Arizona is authorized to designate the fund to which any of the above receipts shall be credited and the auditor and treasurer are directed to so credit receipts. No part of the foregoing appropriation shall be used for the construction of new buildings.

Subdivision 2. ARIZONA STATE TEACHERS COLLEGE AT FLAGSTAFF.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For Salaries and Wages; for operation; for travel; for capital investment; for repairs and replacements:		
Total Appropriation----------	$159,524.00	$158,324.00

Subdivision 3. ARIZONA STATE TEACHERS COLLEGE AT TEMPE.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For Salaries and Wages; for operation; for travel; for capital investment; for repairs and replacements:		
Total Appropriation----------	$169,658.00	$169,658.00

Subdivision 4. SUPERINTENDENT OF PUBLIC INSTRUCTION AND COMMON SCHOOLS. For the board of education: For the support of the primary, elementary, grammar, four-year high school grades of the public schools and Vocational Education, that the sum of money which shall be equal to twenty dollars per capita on all pupils in average daily attendance in the common and high schools of the state, as shown by the records of the state superintendent of public instruction for the preceding year. This amount shall include the following items:

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For the Superintendent of Public Instruction--		
For Salaries and wages; for operation; for travel; for capital investment; for repairs and replacements:		
For Vocational Education and to match Federal Funds: Provided, however, that no salaries in excess of $2,800.00 per annum shall be allowed from the combined State and Federal funds.		
For Civilian Rehabilitation: For Salaries and Wages, operation, travel, and capital investment:		
For Vocational Agriculture: For Salaries and Wages, Operation, Travel, and Capital Investment:		
For Trade and Industrial Education: For Salaries and Wages, Operation, Travel and Capital Investment.		
For Home Economics Education, including Reimbursement to Schools:		
For Salaries and Wages, Operation, Travel, and Capital Investment:		
For Teacher Training:		
For Salaries and Wages, Operation, Travel, and Capital Investment:		

The above appropriations are made subject to the condition that, at least, like amounts shall be allotted to this state by the Federal Government and expended concurrently with these appropriations. The appropriation for reimbursement to schools is made subject to the condition that it be used only for reimbursing schools for salaries of such regularly approved, certified vocational teachers as are reimbursable from federal funds.

Total Appropriation ----------	$172,515.50	$208,615.00

The balance of the per capita tax, together with the amount of all moneys received from National Forests, interest collected on deferred payments on the purchase of state lands, the rentals collected from leases of state lands, the income from the investment of permanent funds as prescribed by the enabling act and the state constitution, the income from toll roads, bridges, ferries, etc., and all moneys received by the superintendent of public instruction from whatever source, during each of the fiscal years, when paid into the state treasury, are hereby appropriated for apportionment to the various counties in accordance with law. No expenditure shall be made except as specifically authorized above.

Subdivision 5. ARIZONA STATE SCHOOL FOR THE DEAF AND BLIND.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For salaries and wages; for operation--supplies; for travel; for capital investment; for repairs and replacements:		
Total Appropriation	$ 67,250.00	$ 67,250.00

Subdivision 6. INDUSTRIAL SCHOOL.

For Salaries and Wages for the following positions:		
Superintendent	$ 3,000.00	$ 3,000.00
Ass't. Supt. and Teacher	1,800.00	1,800.00
Teacher	1,500.00	1,500.00
Teacher	1,500.00	1,500.00
Bookkeeper and Stenographer	1,500.00	1,500.00
Detail officer	1,500.00	1,500.00
Teacher	1,380.00	1,380.00
Guard	1,140.00	1,140.00
Guard	1,140.00	1,140.00
Guard, night	1,140.00	1,140.00
Guard	1,140.00	1,140.00
Truck driver	1,140.00	1,140.00
Dairyman	1,380.00	1,380.00
Farmer	1,380.00	1,380.00
Engineer	1,500.00	1,500.00
Cook	720.00	720.00
Cook	720.00	720.00
Nurse-Postmaster	1,140.00	1,140.00
Doctor	600.00	600.00
Dentist	180.00	180.00
Total Salaries and Wages	$25,500.00	$25,500.00
For Operation	20,000.00	20,000.00
For Insurance	--- --	2,000.00
For Travel	400.00	400.00
Capital Investment	2,850.00	700.00
Repairs and Replacements	1,000.00	1,000.00
Total Appropriation	$49,750.00	$49,600.00

Subdivision 6a. STATE GIRLS' SCHOOL AT RANDOLPH.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For Salaries and Wages; food for girls; clothing for girls; upkeep of school and grounds; light and power for pumping plant; fuel for heating plant; gasoline for tractor, truck and car; emergency fund:		
Total Appropriation	$ 10,350.00	$ 10,350.00

Subdivision 7. PIONEERS HOME.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For Salaries and Wages for the following positions:		
Superintendent	$ 3,000.00	$ 3,000.00
Bookkeeper	1,200.00	1,200.00
Nurse	1,080.00	1,080.00
Nurse	900.00	900.00
Nurses (2) @ $780.00 each	1,560.00	1,560.00
Waiters, (3) @ $600.00 each	1,800.00	1,800.00
Cooks, (2) @ $1,000.00 each	2,000.00	2,000.00
Dish washer	600.00	600.00
Engineer (1)	1,200.00	1,200.00
Janitors (2) @ $600.00 each	1,200.00	1,200.00
Kitchen helper (1)	600.00	600.00
1 Dentist and Oculist (Periodic)	550.00	550.00
Barber (1)	660.00	660.00
Physician (1)	1,200.00	1,200.00
Housekeeper (1)	720.00	720.00

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
Baker (1)	$ 900.00	$ 900.00
Orderlies (2) @ $600.00 each	1,200.00	1,200.00
Total Salaries and Wages	$20,370.00	$20,370.00
For Operation	51,359.50	50,784.50
For Travel	200.00	200.00
For Capital Investment	3,016.79	1,000.00
For Repairs and Replacements	1,000.00	500.00
Total Appropriation	$75,946.29	$72,854.50

Subdivision 8. PRISON.

For Salaries and Wages for the following positions:

Superintendent	$ 3,600.00	$ 3,600.00
Assistant Superintendent	2,400.00	2,400.00
Secretary	2,000.00	2,000.00
Physician	2,000.00	2,000.00
Steward	1,800.00	1,800.00
Engineer	1,800.00	1,800.00
Farm Superintendent	1,600.00	1,600.00
Teacher	1,200.00	1,200.00
Matron	900.00	900.00
Chaplains, (2) @ $200.00 each	400.00	400.00
Dentist (Periodic)	600.00	600.00
Yard Captain	1,620.00	1,620.00
Guards, (40) @ $1,440.00 each	57,600.00	57,600.00
Temporary Guards (Periodic)	1,800.00	1,800.00
Parole Clerk	2,000.00	2,000.00
Assistant Physician and Nurse(Periodic)	400.00	400.00
Total Salaries and Wages	$81,720.00	$81,720.00
For Operation	91,000.00	95,000.00
For Travel	2,000.00	2,000.00
For Capital Investment	6,000.00	2,000.00
For Repairs and Replacements	1,000.00	1,000.00
Total Appropriation	$181,720.00	$181,720.00

Subdivision 9. STATE HOSPITAL FOR THE INSANE.

For Salaries and Wages for the following positions:

Superintendent	$ 3,600.00	$ 3,600.00
Physicians (2) @ $2,400.00 each	4,800.00	4,800.00
Physician	1,800.00	1,800.00
Technician	1,200.00	1,200.00
Steward	1,800.00	1,800.00
Bookkeeper	1,200.00	1,200.00
Stenographer	1,080.00	1,080.00
Clinical Stenographer	1,080.00	1,080.00
Storekeeper	1,200.00	1,200.00
Information Clerk	960.00	960.00
Telephone Operators (2) @ $780.00 each	1,560.00	1,560.00
Carpenter	1,500.00	1,500.00
Assistant Carpenter	1,080.00	1,080.00
Plumber	1,440.00	1,440.00
Watchman and night supervisor	900.00	900.00
Cook	1,200.00	1,200.00
Cook	1,020.00	1,020.00
Mechanic	1,200.00	1,200.00
Truck Driver	900.00	900.00
Farmer	1,500.00	1,500.00
Assistant Farmer	900.00	900.00
Farm Detail (2) @ $780.00 each	1,560.00	1,560.00
Gardener	1,080.00	1,080.00
Dairyman	1,080.00	1,080.00

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
Poultryman	$ 960.00	$ 960.00
Canner (Periodic)	300.00	300.00
Baker	1,200.00	1,200.00
Waiter	900.00	900.00
Waitress	720.00	720.00
Supervisor	1,080.00	1,080.00
Matron Registered Nurse	1,200.00	1,200.00
Matron, Night	900.00	900.00
Seamstress	900.00	900.00
Laundryman	1,080.00	1,080.00
Laundress	840.00	840.00
Assistant Laundress	720.00	720.00
Engineer	1,800.00	1,800.00
Assistant Engineer and Electrician	1,140.00	1,140.00
Assistant Engineers (2) @ $900.00 each	1,800.00	1,800.00
Attendants (Periodic)	42,500.00	42,500.00
Dentist (Periodic)	1,200.00	1,200.00
Miscellaneous Day Labor (Periodic)	500.00	500.00
Total Salaries and Wages	$95,380.00	$95,380.00
For Operation	92,500.00	95,000.00
For Travel	1,000.00	1,000.00
For Capital Investment	6,225.00	2,585.00
For Repairs and Replacements	7,000.00	7,000.00
Total Appropriation	$202,105.00	$200,965.00

Subdivision 10. CAPITOL BUILDING AND GROUNDS.

For Salaries and Wages; for Operation; for capital investment; for repairs and replacements: Total Appropriation	$ 36,444.00	$ 36,444.00

Subdivision 11. BOARD OF DIRECTORS OF STATE INSTITUTIONS.

For Salaries and Wages; for operation; for travel; for capital investment: Total Appropriation	$ 11,100.00	$ 11,100.00

Subdivision 12. ARIZONA FISH AND GAME COMMISSION.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Arizona Fish and Game Commission, during each of said fiscal years, when paid into the state treasury is hereby appropriated for the payment of salaries and wages, operation, travel, capital investment, and repairs and replacements. The amount of five per cent of all such fees and receipts shall be retained by the state treasurer and credited to the general fund.

Subdivision 13. ATTORNEY GENERAL.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For Salaries and Wages; for operation; for travel; for capital investment; library; contingent: Total Appropriation	$ 27,490.00	$ 27,490.00

Subdivision 14. AUDITOR.

For Salaries and Wages; for operation; for capital investment; to defray the expense of employing a certified public accountant and assistants: Total Appropriation	$ 25,062.00	$ 25,062.00

The state auditor is hereby directed to forthwith audit, investigate and examine the departments, institutions, boards, and commissions of the state and prepare reports thereof and submit same to the governor and the Twelfth State Legislature.

Subdivision 15. BANKING DEPARTMENT

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For salaries and wages; for operation; for travel for capital investment:		
Total Appropriation----------	$ 18,977.00	$ 18,852.00

Subdivision 16. BOARD OF BAR EXAMINERS.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Board of Bar Examiners, during each of said fiscal years, when paid into the state treasury, is hereby appropriated for the payment of salaries and wages, operation, travel, capital investment, and repairs and replacements. The amount of five per cent of all such fees and receipts shall be retained by the state treasurer and credited to the general fund.

Subdivision 17. BOARD OF BARBERS AND COSMETICIANS.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Arizona State Board of Barbers and Cosmeticians, during each of said fiscal years, when paid into the state treasury, is hereby appropriated for the payment of salaries and wages, operation, travel, capital investment, and repairs and replacements. The amount of five per cent of all such fees and receipts shall be retained by the state treasurer and credited to the general fund.

Subdivision 18. BOARD OF CHIROPRACTIC EXAMINERS.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Board of Chiropractic Examiners, during each of said fiscal years, when paid into the state treasury, is hereby appropriated for the payment of salaries and wages, operation, travel, capital investment, and repairs and replacements. The amount of five per cent of all such fees and receipts shall be retained by the state treasurer and credited to the general fund.

Subdivision 19. BOARD OF DENTAL EXAMINERS.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For salaries and wages; for operation; for travel:		
Total Appropriation----------	$ 750.00	$ 750.00

Subdivision 20. BOARD OF EMBALMING EXAMINERS.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Board of Embalming Examiners, during each of said fiscal years, when paid into the state treasury is hereby appropriated for the payment of salaries and wages, operation, travel, capital investment, and repairs and replacements. The amount of five per cent of all such fees and receipts shall be retained by the state treasurer and credited to the general fund.

Subdivision 21. BOARD OF HEALTH, CHILD HYGIENE AND CHILD WELFARE.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For salaries and wages for the following positions:		
Superintendent and Registrar----------	$ 3,600.00	$ 3,600.00
Other salaries & wages----------	7,780.00	7,780.00
Total salaries & wages for Board of Health & Vital Statistics----------	$ 11,380.00	$ 11,380.00
For operation----------	3,775.00	3,775.00
For travel----------	250.00	250.00
For Capital investment----------	350.00	350.00
Total for Board of Health & Vital Statistics----------	$ 15,755.00	$ 15,755.00

FOR CHILD HYGIENE.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
Salaries and wages for Child Hygiene	$ 10,890.00	$ 10,890.00
For operation	350.00	350.00
For travel	1,400.00	1,400.00
For capital investment	250.00	250.00
Total for Child Hygiene	$ 12,890.00	$ 12,890.00

This appropriation is made subject to the condition that, at least, a like amount be expended within this state by some cooperating agency.

If the necessity arises, the amounts appropriated for operation and travel may be interchangeable between the Board of Health and Vital Statistics and Child Hygiene, for convenience.

Subdivision 21a. CHILD WELFARE BOARD.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For salaries and wages; for operation; travel for investigator; travel for Board and secretary; capital investment: Total Appropriation	$ 27,500.00	$ 27,500.00
Total Appropriation for Board of Health and Vital Statistics, Child Hygiene and Child Welfare Board	$ 56,225.00	$ 56,225.00

Subdivision 22. BOARD OF MEDICAL EXAMINERS.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Board of Medical Examiners, during each of said fiscal years, when paid into the State Treasury is hereby appropriated for the payment of salaries and wages, operation, travel, capital investment, and repairs and replacements. The amount of five per cent of all such fees and receipts shall be retained by the State Treasurer and credited to the general fund.

Subdivision 23. BOARD OF NURSE EXAMINERS.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Board of Nurse Examiners, during each of said fiscal years, when paid into the State Treasury is hereby appropriated for the payment of salaries and wages, operation, travel, capital investment, and repairs and replacements. The amount of five per cent of all such fees and receipts shall be retained by the State Treasurer and credited to the general fund.

Subdivision 24. BOARD OF OPTOMETRY EXAMINERS.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Board of Optometry Examiners, during each of said fiscal years, when paid into the State Treasury is hereby appropriated for the payment of salaries and wages, operation, capital investment, and repairs and replacements, and all travel subject to Sec. 2803, Revised Code of 1928, or as amended. The remaining five per cent is hereby made part of the general fund.

Subdivision 25. BOARD OF PARDONS AND PAROLES.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For salaries and wages; for operation; for travel; and for capital investment: Total Appropriation	$ 2,070.00	$ 2,070.00

Subdivision 26. BOARD OF PHARMACY.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Board of Pharmacy, during each of said fiscal years, when paid into the State Treasury is hereby appropriated for the payment of salaries and wages, operation, travel, capital investment, and repairs and replacements. The amount of five per cent of all such fees and receipts shall be retained by the State Treasurer and credited to the general fund.

Subdivision 27. BOARD OF REGISTRATION.

The amount of ninety-five per cent of all fees and receipts from whatever source received by the Board of Registration, during each of said fiscal years, when paid into the State Treasury is hereby appropriated for the payment of salaries and wages, operation, capital investment, and repairs and replacements, and all travel subject to Sec. 2803, Revised Code of 1928, or as amended. The remaining five per cent is hereby made part of the general fund.

Subdivision 28. BUREAU OF CRIMINAL IDENTIFICATION.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For Salaries and Wages for the following positions:		
Superintendent		$ 3,600.00
Assistant Superintendent		2,400.00
Total Salaries and Wages		$ 6,000.00
For Operation		340.00
For Capital Investment		324.60
Total Appropriation	$ 6,315.40	$ 6,664.60

Subdivision 29. CORPORATION COMMISSION.

For salaries and wages; for operation; for travel; for capital investment:		
Total Appropriation	$ 63,503.00	$ 63,503.00

Subdivision 30. FAIR COMMISSION.

For Salaries and wages for the following positions:		
Caretaker	$ 1,200.00	$ 1,200.00
Secretary	2,400.00	2,400.00
Total salaries and wages	$ 3,600.00	$ 3,600.00
For operation	750.00	500.00
For repairs and replacements	100.00	100.00
Total Appropriation	$ 4,450.00	$ 4,200.00

Subdivision 31. FREE EMPLOYMENT.

For salaries and wages for the following positions:		
Director	$ 2,100.00	$ 2,100.00
Other salaries and wages	1,350.00	1,350.00
Total salaries and wages	$ 3,450.00	$ 3,450.00
For operation	1,550.00	1,550.00
Total Appropriation	$ 5,000.00	$ 5,000.00

Subdivision 32. GOVERNOR

For salaries and wages for the following positions:		
Governor's salary	$ 7,500.00	$ 7,500.00
Other salaries	12,600.00	12,600.00
Total salaries and wages	$ 20,100.00	$ 20,100.00
For operation	6,000.00	6,000.00
For travel	1,600.00	1.600.00
For capital investment - miscellaneous	500.00	500.00
For contingent	5,000.00	5,000.00
For rewards	1,000.00	1,000.00
Total Appropriation	$ 34,200.00	$ 34,200.00

Subdivision 33. INDUSTRIAL COMMISSION.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For Salaries and Wages for the following positions:		
Commissioners (3) @ $5,000.00 each----	$ 15,000.00	$ 15,000.00
Total Salaries and Wages----------	$ 15,000.00	$ 15,000.00
FOR ENFORCEMENT OF LABOR LAWS.		
Salaries and Wages (Labor Laws)-------	$ 8,640.00	$ 8,640.00
For Operation----------	700.00	700.00
For Travel----------	2,500.00	2,500.00
Total Labor Laws----------	$ 11,840.00	$ 11,840.00
Grand Total Appropriation----------	$ 26,840.00	$ 26,840.00

Subdivision 34. INSURANCE PREMIUMS, STATE EMPLOYEES.

For premiums, exclusive of State highway department----------	$ 12,000.00	$ 12,000.00
Total Appropriation----------	$ 12,000.00	$ 12,000.00

Subdivision 35. INTEREST ON THE PUBLIC DEBT.

Interest on:		
State and Territorial Bonds, Tax Anticipation Bonds, Registered Warrants---------	$100,000.00	$100,000.00
Total Appropriation----------	$100,000.00	$100,000.00

Subdivision 36. LABORATORY.

For salaries and wages; for operation; for travel; for capital investment:		
Total Appropriation----------	$ 9,061.00	$ 9,061.00

Subdivision 37. LAND COMMISSION

For salaries and wages; for operation; for travel; for capital investment:		
Total Appropriation----------	$ 35,035.00	$ 35,035.00

Subdivision 38. LAW AND LEGISLATIVE REFERENCE LIBRARY.

For salaries and wages; for operation; for travel; for capital investment:		
Total Appropriation----------	$ 12,708.00	$ 12,708.00

Subdivision 39. LIVESTOCK SANITARY BOARD.

For salaries and wages; for operation; for travel:		
Total Appropriation----------	$ 84,160.00	$ 84,160.00

Subdivision 40. LOAN COMMISSION.

For operation; for travel:		
Total Appropriation----------	$ 900.00	$ 900.00

Subdivision 41. MINE INSPECTOR.

For salaries and wages; for operation; for travel; for capital investment:		
Total Appropriation----------	$ 14,315.50	$ 14,315.50

Subdivision 42. NATIONAL GUARD.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For salaries and wages for the following positions:		
Adjutant General	$ 3,600.00	$ 3,600.00
Other salaries and wages	11,067.50	11,067.50
Total Salaries and wages	$ 14,667.50	$ 14,667.50
For Operation	6,000.00	6,000.00
For Travel	1,500.00	1,500.00
For Capital Investment	250.00	250.00
For company and battery allowance	10,320.00	10,320.00
For officers' clothing allowance	3,000.00	3,000.00
For repairs and replacements, armories	1,000.00	1,000.00
For contingent property allowance	2,000.00	2,000.00
For rent company quarters	4,080.00	4,080.00
For 158th infantry allowance	2,700.00	2,700.00
Total Appropriation	$ 45,517.50	$ 45,517.50

For emergencies not provided for, viz: Courts Martial, investigations, funerals, etc., and to equalize errors in estimates, the auditor and treasurer are authorized upon request of the adjutant general, approved by the governor, to transfer not to exceed five per cent of money appropriated under any heading, excepting salaries, to any other account, in order that no deficiency may be necessary at the close of the fiscal year June 30, 1935.

Subdivision 43. STATE HISTORY.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year.
STATE HISTORIAN.		
For salaries and wages; for publication of Arizona Historian's Magazine; for operation and travel: Total Appropriation	$ 3,125.00	$ 3,125.00
PIONEERS' HISTORICAL SOCIETY.		
For salaries and wages:	1,265.00	1,265.00
PRESCOTT HISTORICAL SOCIETY.		
For salaries and wages:	510.00	510.00
Total Appropriation	$ 4,900.00	$ 4,900.00

Subdivision 44. REDEMPTION OF PUBLIC DEBT.

For bond redemption	$ 20,000.00	$ 20,000.00
Total Appropriation	$ 20,000.00	$ 20,000.00

Subdivision 45. SECRETARY OF STATE.

For salaries and wages; for printing session laws; for operation; for initiative and referendum expense: Total Appropriation	$ 20,404.00	$ 24,054.00

Subdivision 46. SHEEP SANITARY COMMISSION.

For salaries and wages; for operation; for travel: Total Appropriation	$ 5,890.00	$ 5,890.00

Subdivision 47. STATE EXAMINER.

For salaries and wages; for operation; for travel; for capital investment: Total Appropriation	$ 11,888.00	$ 11,888.00

Subdivision 48. STATE LOAN BOARD.

For salaries and wages; for operation; for travel: Total Appropriation	$ 7,809.00	$ 6,809.50

Subdivision 49. SUPERIOR COURTS.

	For the 22nd Fiscal Year	For the 23rd Fiscal Year
For salaries and wages for the following positions:		
Superior Court Judges	$ 41,750.00	$ 41,750.00
Court Commissioners (periodic)	250.00	250.00
Total Appropriation	$ 42,000.00	$ 42,000.00

Subdivision 50. SUPREME COURT.

For salaries and wages; for operation; for capital investment; for travel for superior court judges:		
Total Appropriation	$ 37,500.00	$ 37,500.00

Subdivision 51. TAX COMMISSION.

For salaries and wages; for operation; for travel; for capital investment:		
Total Appropriation	$ 23,319.00	$ 23,319.00

Subdivision 52. TREASURER.

For salaries and wages; for operation; for travel; for capital investment:		
Total Appropriation	$ 20,525.00	$ 20,525.00

Subdivision 53. VETERANS' RELIEF COMMISSION.

For the relief of Veterans pursuant to law	$ 8,500.00	$ 6,500.00

Subdivision 54. VETERANS' SERVICE OFFICER

For salaries and wages; for operation; for travel;		
Total Appropriation	$ 4,890.00	$ 4,890.00

Subdivision 55. VETERINARIAN.

For salaries and wages; for operation; for travel:		
Total Appropriation	$ 3,950.00	$ 3,950.00

Subdivision 56. VETERINARY BOARD.

For Salaries and Wages for the following positions:		
Per diem, Board Members (Periodic)	$ 40.00	$ 40.00
Total Salaries & Wages	$ 40.00	$ 40.00
For Travel	125.00	125.00
Total Appropriation	$ 165.00	$ 165.00

Subdivision 57. COMMISSION OF AGRICULTURE AND HORTICULTURE.

For salaries and wages; for operation; for travel; for capital investment;

FOR ROAD SALARIES AND OPERATION;

For Salaries; for operation; for capital investment; for travel;

FOR DATE PALM SCALE ERADICATION;

For salaries and wages; for operation; for travel:

	For the 22nd Fiscal Year	For the 23rd Fiscal Year

The appropriation for Date Palm Scale Eradication is made subject to the condition that the expenditures therefrom be made under a cooperative agreement with the United States Department of Agriculture.

Total Appropriation----------	$ 81,723.25	$ 77,609.15

Subdivision 58. DAIRY COMMISSIONER.

For salaries and wages; for operation; for travel; for capital investment:		
Total Appropriation----------	$ 9,238.50	$ 9,238.50

Subdivision 59. INSPECTOR OF WEIGHTS AND MEASURES.

For salaries and wages for the following positions:		
Inspector----------	$ 1,920.00	$ 1,920.00
Total Salaries and Wages----------	$ 1,920.00	$ 1,920.00
For Operation----------	600.00	600.00
For Travel----------	1,200.00	1,200.00
Total Appropriation----------	$ 3,720.00	$ 3,720.00

Subdivision 60. COUNTY SCHOLARSHIPS.

For the University of Arizona:

For the purpose of county scholarships heretofore awarded pursuant to law----------	$ 10,500.00	$ 7,000.00
Total Appropriation----------	$ 10,500.00	$ 7,000.00

Subdivision 61. WATER COMMISSION.

For salaries and wages; for operation; for travel:		
Total Appropriation----------	$ 5,565.00	$ 5,565.00

Section 2. The appropriations herein made are subject to the provisions of the State Financial Code. All salaries, unless specified "periodic", are the annual salaries and the monthly salary shall never exceed one-twelfth of the annual salary. Periodic salaries may be drawn as needed; no claim for salary, or travel shall be paid from any fund other than that appropriated under the provisions of this act for salary or travel, except the appropriation for the Governor. Any person receiving salary or wages under the provisions of this act is thereby precluded from accepting any other salary or wage or office or employment for profit under the state. Provided, however, that physicians at state institutions, persons employed under cooperative agreements with the federal government, and employees of the University of Arizona may draw specified salaries from more than one source.

Section 3. In all cases where money appropriated under the provisions of this act, is or shall be expended for labor, only citizens of the United States or wards of the United States shall be employed and actual bona fide resident citizens of the state shall be given the preference whenever such labor as may be required can be found within this state, and before any labor can be sought outside of this state, either directly or indirectly, the person, contractor, firm or corporation shall file with the state auditor a verified written statement setting out in detail the effort put forth, showing the inability to secure labor as is required within this state, and if the auditor is satisfied of such inability, then the auditor may execute a release permitting the bringing into this state of such citizens only of the United States as may be needed for such work. Before any money herein appropriated shall be paid out for labor or construction a verified statement shall be filed with the auditor, showing strict compliance with the provisions of this section. If the provisions of this section are not complied

with, it shall be unlawful to pay out any of the moneys appropriated herein; and any contract entered into wherein the provisions of this section have not been complied with shall be void; provided that nothing herein shall be construed to prevent the working of prisoners of the state.

Section 4. All claims for moneys appropriated or the disposition of which is provided for by the provisions of this act shall be itemized and accompanied by proper vouchers and each claim shall be audited by the state auditor, who shall reject any voucher or claim or any part thereof, the money for which has not been previously appropriated by law. All said claims shall be verified and the forms of said claims and the verification thereof, shall be prescribed by the state auditor. The state auditor is hereby authorized and directed to draw his warrant upon the proper fund for the amount audited by him and the state treasurer is hereby authorized and directed to pay said warrant out of the fund upon which it is drawn, provided, that all claims for moneys appropriated by this act, shall be fully itemized and that no items shall be grouped under the word "incidentals" or other general term covering more than one item; should any such items be grouped under the head of "incidentals" or other general term the state auditor is hereby authorized and directed to reject such claim until it is properly itemized.

Section 5. In addition to all other powers conferred upon him by the Constitution or by law, and if in his judgment it is necessary to preserve the financial stability of the state government, the Governor is hereby authorized to reduce by written order to any department of state, any item in this act, not to exceed twenty (20%) per cent.

Section 6. Provided that each and every sum hereby and herein appropriated for the purpose of Operation and/or Travel, excepting the respective sums appropriated for Operation and/or Travel to the University of Arizona, Arizona State School for the Deaf and Blind, Arizona State Teachers' College at Flagstaff, and Arizona State Teachers' College at Tempe, and Attorney General shall be under the direct control and supervision of the Governor. No person, officer, agent, agency, commission, institution or department of state, except those institutions herein excepted, shall expend or contract any obligation of any character whatsoever against any sum herein appropriated for Operation and/or Travel until a proper requisition therefor has been made to the Governor, in such form as he may require and the Governor has been shown to his full satisfaction that a necessity exists for such expenditure or the contracting of such obligation, at which time, if he deems such expenditure or obligation necessary, he shall grant such requisition, and the auditor shall draw his warrant for such amount only after being properly presented with a claim therefor, duly approved by the Governor.

Subdivision 1. For the salary of a secretary to the Governor to assist in the disbursement of appropriations for Operation and/or Travel, as in this section provided, the sum of Three Thousand Six Hundred ($3,600.00) Dollars per year for each of the twenty-second and twenty-third fiscal years, is hereby appropriated. For the purpose of providing the necessary supplies for the disbursement of appropriations for Operation and/or Travel during the twenty-second and twenty-third fiscal years, the sum of Two Hundred and fifty (250.00) Dollars per annum is hereby appropriated.

Section 7. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

APPROVED MARCH 18TH, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 96

(H. B. 274)

AN ACT

Relating to the licensing of stores, and repealing Chap. 9, Session Laws of 1931-32 (1st special.)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Chap. 9, Session Laws of 1931-32 (1st special), is hereby repealed.

APPROVED MARCH 18, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 97

(SENATE BILL NO. 84)

AN ACT

Relating to banks and banking, building and loan associations and security companies; and to amend sections 209, 211, 215, 216, 219, 222, 223, 228, 235, 238, 239, 249, 250, 251, 270 and 271, Chap. 8, Revised Code of 1928, and to further amend said Chap. 8 by adding thereto nine sections to be designated sections 219a, 223a, 245a, 245b, 245c, 245d, 246a, 270a and 272a, respectively.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 209, Revised Code of 1928, is hereby amended to read as follows:

Sec. 209. Definition of terms. As used in this chapter, the term "bank" shall include commercial banks, savings banks and trust companies; the term "commercial bank" means any bank authorized by law to receive deposits of money, deal in commercial paper, or to make loans thereon, to lend money on real or personal property, to discount bills, notes, or other commercial paper, and to buy and sell securities, gold and silver bullion or foreign currency or bills of exchange; the term "savings bank" means a bank organized for the purpose of accumulating and loaning its funds, receiving deposits of money, loaning, investing and collecting the same with interest and repaying depositors with or without interest and having power to invest said funds in such property, securities, and obligations, as may be prescribed by its board of directors, and to pay a stipulated rate of interest on deposits made for a stated period or upon special bonds; the term "trust company" means any bank authorized by law to take, acquire, execute trusts committed to it, and to act as trustee or fiduciary, and to receive deposits of money and other personal property and issue its obligations therefor, and to lend money; the term "security company", as used in this chapter, shall mean any investment trust, or any Morris Plan Company, or any person, receiving money on deposit and issuing certificates of deposit or pass books, or any evidence of deposit therefor whether such money is paid in in cash or by regular or irregular instalments or otherwise, or any person receiving money from the public and investing the same, other than banks and building and loan associations.

Sec. 2. Sec. 211, Revised Code of 1928, is hereby amended to read as follows:

Sec. 211. Examiners and other employees. The superintendent shall appoint such examiners and other employees, within the limit of appropriation for such purpose, as may be necessary to carry out the provisions of this chapter. No person shall be eligible for appointment as an examiner unless he is an experienced accountant and has had at least five years experience in general banking in the state of Arizona, or has had at least two years experience in this state as an examiner. Each examiner shall qualify by taking the oath of office and shall file with the secretary of state a bond, to be approved by the governor, in the sum of ten thousand dollars, conditioned upon the faithful discharge of his duties as such examiner and, generally, upon faithful compliance with all laws of this state. Each examiner shall perform such duties as are prescribed by this chapter or that may be assigned him by the superintendent.

Sec. 3. Sec. 215, Revised Code of 1928, is hereby amended to read as follows:

Sec. 215. Institutions subject to examination. All banks, building and loan associations, all loan and trust companies and all security companies shall be under the jurisdiction and supervision of and subject to examination by the superintendent or an examiner.

Sec. 4. Sec. 216, Revised Code of 1928, is hereby amended to read as follows:

Sec. 216. Duties of superintendent and examiners; examinations and reports; publications. The superintendent or an examiner shall visit and examine every commercial bank, at least twice in each year, and shall visit and examine, every savings bank, building and loan association or security company, at least once in each year. At every such examination the examiner shall carefully inquire into the condition and resources of the bank, building and loan association or security company, the mode of conducting and managing its affairs; the official conduct of its directors and the investment and disposition of its funds, whether or not it is violating any laws of this state and into any other matters as the superintendent may prescribe. If any security company or building and loan association is engaged in the business of issuing certificates or evidences of indebtedness to the public, he shall inquire into the plan and contract under which such certificates or evidences are issued and sold, and the probable value thereof; the liability of the security company under such certificates or evidences of indebtedness and all matters relating to or affecting the value of such certificates or evidences of indebtedness.

Sec. 5. Sec. 219, Revised Code of 1928, is hereby amended to read as follows:

Sec. 219. Examination fees. For each examination, the bank examined shall pay the superintendent a fee as follows: When the aggregate assets of the institution are one hundred thousand dollars or less, thirty-five dollars; when more than one hundred thousand dollars and not to exceed two hundred and fifty thousand dollars, forty-five dollars; when more than two hundred and fifty thousand dollars but not to exceed more than five hundred thousand dollars, sixty dollars; when more than five hundred thousand dollars, but not to exceed seven hundred and fifty thousand dollars, eighty dollars; when more than seven hundred and fifty thousand dollars, but not to exceed one million dollars, one hundred dollars; when more than one million dollars, but not to exceed two million, five hundred thousand dollars, one hundred and twenty dollars; when more than two million five hundred thousand dollars, but not to exceed five million dollars, one hundred and fifty dollars; when more than five million dollars, but not to exceed seven million, five hundred thousand dollars, one hundred and seventy-five dollars; when more than seven million, five hundred thousand dollars, but not to exceed ten million dollars, two hundred dollars; when more than ten million dollars, two hundred and fifty dollars, and for the examination of each branch bank, thirty-five dollars.

Building and loan associations and security companies for each examination shall pay the superintendent the cost of such examination.

Sec. 6. Chapter 8, Revised Code of 1928, is hereby amended by adding thereto a section to be designated section 219a.

Sec. 219a. Employment of appraisers. The superintendent shall have the authority to employ appraisers to appraise real property owned by or pledged to any bank, building and loan association or security company once in any one calendar year, and the expense and compensation of such appraisers shall be paid by the bank, building and loan association or sedurity company owning or holding such real property as pledgee; provided, however, that not more than one appraisal shall be made in any one year and the cost thereof shall not exceed the sum of ten dollars for each loan secured by real estate so appraised.

Sec. 7. Sec. 222, Revised Code of 1928, is hereby amended to read as follows:

Sec. 222. Loans to officers, procedure, records. No officer or director of any bank shall borrow or use, directly or indirectly, money or other property from such bank to exceed ten per cent of its capital stock and surplus, and the stock of the corporation shall not be taken as security for any loan. The office of any person who shall violate this section shall thereupon become vacant and the loan shall immediately become due and payable. No bank shall loan any of its

funds to any of its officers or directors unless he furnish security in twice the amount of the funds loaned and in no case shall any loan be made to an officer or director of the bank without the approval of a majority of the other members of the board of directors and the officer or director receiving the loan shall not participate in the vote. The total amount loaned to all active salaried officers or directors of any bank shall not exceed twenty-five per cent of the capital and surplus of such bank. Where a loan is made to an active salaried officer or director it must first be approved by a majority of the board of directors except the person receiving the loan if he be a director, said approval to be in writing, and a copy of said approval shall be immediately forwarded to the superintendent of banks. The approval shall be signed by each person voting and shall show that they constitute a majority of the board of directors except the person receiving the loan if he be a director; that said loan is not more than ten per cent of the capital and surplus of the bank; and that said loan will not make the aggregate of loans to active salaried officers or directors, more than twenty-five per cent of the capital and surplus of the bank, Every bank or officer thereof knowingly violating the provisions of this section shall for each offense forfeit to the state the amount loaned. Any director or officer of a bank may relieve himself from the liability or responsibility imposed by this section by dissenting from the action giving rise to such liability or responsibility and having his dissent entered in the minutes of the meeting at which such action is taken.

Sec. 8. Sec. 223, Revised Code of 1928, is hereby amended to read as follows:

Sec. 223. Loans other than to officers. The total liability to any bank of any person for money borrowed directly or indirectly shall at no time exceed fifteen per cent of the amount of the capital stock paid in and of the surplus earned and set aside as a surplus fund of such bank; provided that loans may be made up to twenty-five per cent of the capital stock and surplus when secured by readily marketable non-perishable, staple commodities in warehouse or in transit. The discount of bills of exchange drawn in good faith against existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, shall not be construed as borrowing money; deposits of commercial or savings banks, with commercial banks, or the commercial department of banks having commercial and savings departments, on open accounts to facilitate business transactions shall be permitted and shall not be construed as loans. If the superintendent finds that a bank has allowed loans to be made in excess of the amount provided for in this section, he shall immediately instruct the officers and directors of said banks to charge off enough of said loan or loans to bring it within the required limitation, and he may, if deemed by him necessary, levy an assessment against the stockholders of said bank, in an amount sufficient to reduce the loans to the required limit, such levy to be made in the manner hereinafter provided for the levying of assessments by him. All unsecured loans in excess of five hundred dollars shall be supported by a sworn financial statement of the borrower, made not more than six months prior to the date of the note, and if the note is made for longer than six months, a new statement must be required so that at all times the financial statement must give the true standing of the borrower. In a continuing loan, revised statements must be taken at least once a year, and the old statements retained in the files so that the directors and examiners may note the progress or decline of the borrower and make their classification accordingly.

No commercial bank shall loan or invest more than twenty-five per cent of its total demand deposits, exclusive of public funds on deposit, in real property. Where a loan is secured by mortgage on real property, the borrower shall furnish a written application for the loan, a financial statement, a written appraisal of the security made by a competent appraiser, a complete abstract of title, together with the written opinion of the title by an attorney based upon an examination of the abstract, or a title insurance policy, or an unlimited certificate of title. Such papers in connection with the loan shall be on file with the bank and at all times open to inspection of the superintendent. When buildings are included in the mortgage they shall be insured by the mortgagor for the benefit of the bank, or if the mortgagor neglect to do so, then by the bank at

the expense of the mortgagor.

No bank, building and loan association or security company shall laon any of its funds and take as security therefor real property located without the United States.

Sec. 9. Chapter 8, Revised Code of 1928, is hereby amended by adding thereto a section to be designated section 223b, and to read as follows:

Sec. 223a. Commissions and gifts to officers, directors or employees for procuring loans. Any officer, director, employee or attorney of any bank who stipulates for, receives or consents or agrees to receive any fee, commission, gift or thing of value from any person for procuring or endeavoring to procure for such person, or for any other person, any loan from any bank for the purpose of discounting any paper, note, draft, check or bill of exchange by such bank, shall be deemed guilty of a felony and upon conviction shall be imprisoned for not more than one year or fined not more than five hundred dollars, or by both such fine and imprisonment.

Sec. 10. Sec. 228, Revised Code of 1928, is hereby amended to read as follows:

Sec. 228. Liability of transferor. The stockholder of any bank who has transferred his shares or registered the transfer thereof, within one year last before the date of the failure of such bank to meet its obligations or with knowledge of such impending failure, shall be liable to the same extent that the subsequent transferee fails to meet such liability, but this provision shall not be construed to affect in any way, any recourse which such shareholder might otherwise have against those in whose names such shares are registered at the time of such failure. Upon the transfer of any shares of stock of any bank, the transferee shall, within thirty days thereafter, record in the office of the county recorder of the county in which the bank or any branch thereof is located, notice of such transfer. Notice of such transfer shall also within such time, be given by the transferor to the superintendent of banks. No bank stock shall be transferred to or purchased in the name of a minor. Any violation of the provisions of this section shall be a misdemeanor, punishable by three months in prison or one thousand dollars fine or by both such fine and imprisonment.

Sec. 11. Sec. 235, Revised Code of 1928, is hereby amended to read as follows:

Sec. 235. Legal reserve. Commercial banks shall at all times maintain as a reserve, an amount equal to fifteen per cent of the aggregate amount of their deposits and demand liabilities, to be known as its legal reserve; provided, that in cities having a population of fifty thousand or more a legal reserve of not less than twenty per cent shall be maintained. Not less than one-third of such legal reserve shall consist of lawful money of the United States on hand, and the remainder in credits in solvent banks, other than savings banks. Savings banks shall at all times maintain a legal reserve equal to ten per cent of their deposit liabilities, of which at least one-fourth shall be in lawful money of the United States and the remainder in credits in solvent banks other than savings banks. The superintendent shall notify any bank, whose legal reserve shall be below the amount herein required to make good such reserve, and if it shall fail for thirty days thereafter to make good such reserve, such bank may be deemed insolvent and may be proceeded against under the provisions of this chapter. Any bank may keep the legal reserve on deposit in a depository or depositories designated by it, and which, except as otherwise provided in this section, shall be a bank, trust company or a national banking association approved by the superintendent; not more than twenty-five per centum of its legal reserve on deposit shall be kept in any one depository, having a capital stock and surplus of less than two hundred thousand dollars, and said reserve on deposit shall not exceed fifteen per centum of the capital stock and surplus of the reserve depository. Two banks shall not be reciprocal reserve depositories for each other. A bank, before receiving appointment from the superintendent as a reserve depository, shall furnish to the superintendent such information or statements as he may require and shall agree to maintain the reserve prescribed by law at all times. The

superintendent may reject an application and cancel any such appointment. No new loans shall be made during any impairment of the legal reserve. Banks having both commercial and savings departments shall maintain the legal reserve for each department.

Sec. 12. Sec. 238, Revised Code of 1928, is hereby amended to read as follows:

Sec. 238. Borrowing restricted. All certificates or evidence of deposit made by the proper officers of a bank shall be as effectual to bind the bank as if made under the common seal thereof. A bank shall not issue any bill, note, or certificate intended to circulate as money, nor issue post notes, except under such terms, conditions and limitations as the superintendent may prescribe. Commercial banks may, upon the written consent of the superintendent, borrow money for temporary purposes and may pledge assets of the bank as security for such loan but, at no time shall the amount for which the bank is liable as borrower be in excess of its combined capital and surplus. Nothing herein contained shall prevent a bank from rediscounting in good faith and indorsing its negotiable notes. It shall be unlawful for a bank to issue its certificates of deposit for the purpose of borrowing money from any other bank, nor shall any bank make partial payments upon certificates of deposit. Outstanding demand certificates of deposit for money borrowed issued by a bank prior to the effective date of this act must be paid and cancelled within three months from that date, and must be paid at maturity; provided, that the superintendent may, in his discretion, permit an extension of time for such payment. If the superintendent finds that a bank has issued its certificates of deposit for the purpose of borrowing money as prohibited in this section, he shall immediately instruct the officers and directors of the bank to cancel said certificates of deposit and may, if by him deemed necessary, levy an assessment against the stockholders of said bank in an amount sufficient to pay said certificates, in the manner hereinafter provided for the levying of assessments by the superintendent.

Sec. 13. Sec. 239, Revised Code of 1928, is hereby amended to read as follows:

Sec. 239. Loan committee; directors' meetings. Any bank may have a loan committee which shall consist of not less than three members, two of whom shall not be active officers of the bank but who shall be directors thereof. Such committee shall have the authority to pass on all loans, except loans to officers and directors of the bank, and shall maintain and keep a permanent record of its actions. Not less than three-fourths of the members of the board of directors of every bank shall meet at least once in each month and shall, at such meeting, examine the loans and investments made by the officers of the bank since the last meeting of the board, and review the other transactions of the officers for the bank. It shall cause to be spread upon the records of the bank, in a book kept for that purpose, the minutes of each meeting and all actions of the board, including the approval of loans required to be approved by the board. Such minutes shall be signed by the presiding officer and the secretary of the meeting. If any director shall fail for a period of six months to meet as above prescribed, his term shall thereupon terminate and the office of such director become vacant and said vacancy shall be filled, as prescribed by the articles of incorporation or by-laws of the corporation.

Sec. 14. Chapter 8, Revised Code of 1928, is hereby amended by adding thereto a section to be designated section 245a, and to read as follows:

Sec. 245a. Insolvent building and loan associations. Whenever it shall appear to the superintendent that any building and loan association or security company has violated the provisions of its articles of incorporation, its by-laws, or any law of this state, or is conducting business in an unsafe or unauthorized manner, or if any such association or company shall refuse to submit its books, papers and records to the inspection of the superintendent or any examiner, or if any officer thereof shall refuse to be examined upon oath touching the affairs of such association or company, or if

from an examination or report provided for, the superintendent shall have reason to conclude that such association or company is in an unsound or unsafe condition to transact business, or that it is unsafe and inexpedient for such association or company to continue business, the superintendent shall notify the association in writing specifically setting forth the irregularities and matters complained of by him and at the same time the superintendent shall forward a copy of the objections to the attorney general of the State of Arizona. After such notice shall have been served, if the association fails for a period of thirty days after receipt thereof to correct the irregularities and matters contained in such notice, the superintendent of banks shall advise the attorney general of the failure of the association to correct such irregularities. If, in the opinion of the attorney general, the irregularities are sufficient to justify an action in the superior court for the correction thereof or for the appointment of a receiver, he may bring an action in the name of the superintendent of banks in the superior court of Arizona in the county in which the principal place of business of the association is conducted for the correction of such irregularities and matters complained of and for such other relief as the court deems necessary for the benefit of the shareholders; which said court shall limit the time to plead or answer and such suit shall have precedence over all other actions on the court's calendar. In the event the court grants the petition for receivership, the superintendent of banks shall be appointed as receiver and may forthwith take possession of the property and business of such association and retain such possession until such association shall resume business or its affairs be finally liquidated. The liquidation of any such association or company shall be conducted and carried out in the same manner as provided in this chapter for liquidation of an insolvent bank.

In the matter of the liquidation of the assets of any insolvent building and loan association or security company, the superintendent of banks shall have the authority and power, and shall perform the duties granted to him and prescribed in this chapter as in the case of the liquidation of an insolvent bank.

The procedure provided for in this act for the liquidation of building and loan associations and security companies shall be exclusive, and no receiver shall be appointed by any court of this state to take charge of the affairs of any such association of any such company after the effective date of this act, except as herein provided.

Section 245b. Consolidation of associations. Any two or more building and loan associations may unite and become incorporated in one body, with or without any dissolution or division of assets of such association, or any or either of them, or any such association may transfer its engagements, assets and property to any other association but any of such act shall require a vote of two-thirds of the shareholders of any such association so to be consolidated or whose assets are to be transferred, as well as the approval, in writing, of the superintendent of banks.

Sec. 245c. Relief in case of sickness or death. In the event of the sickness or death in the immediate family of a shareholder, the board of directors of such association may, with the written consent of the superintendent of banks, advance or loan, to be charged against such shareholder's interest, a sum of money not exceeding one hundred dollars in any one month.

Sec. 245d. Any person who wilfully makes, circulates or transmits to any other person, except to any public officer, any statement written, printed or by word of mouth, which is untrue in fact and known by such person to be untrue or which is directly derrogatory to the financial condition or affects the solvency or financial standing of any building and loan association is guilty of a misdemeanor.

Sec. 15. Chapter 8, Revised Code of 1928, is hereby amended by adding thereto a section to be designated section 246a, and to read as follows:

Sec. 246a. Loans to insolvent banks. The superintendent of banks, in conducting, managing or liquidating the affairs of any insolvent bank, shall have the authority, by and with the consent and approval of the superior court in the county in which such bank is

located, to borrow money and to mortgage, pledge or hypothecate any or all property and assets of such bank to secure the repayment thereof. Such loans may be obtained for the purpose of facilitating liquidation, protecting or preserving the assets of such bank, expediting the making of distributions to depositors and other creditors, providing for the expenses of administration and liquidation, and aiding in the reopening or reorganization of such bank, or its merger or consolidation with another bank, or the sale of all of the assets of such bank. The superintendent and none other shall make application to said superior court for approval of such loan and shall set forth in such application all the terms and conditions thereof. Notice of such application shall be given by publication in a newspaper of general circulation in the county in which said court is located. If published in a weekly newspaper, such publication shall be made once in each week for two consecutive weeks, and if published in a daily newspaper, ten consecutive times. The hearing on such application shall be held not less than five days after the day on which the last publication of such notice is made. At such hearing any stockholder, depositor or other creditor of such bank shall have the right to appear and be heard thereon. Subject to the approval of said court the superintendent may make application and negotiate for any loan.

Sec. 16. Sec. 249, Revised Code of 1928, is hereby amended to read as follows:

Sec. 249. Duties of attorney general; notice and proof of claims. The attorney general shall be the attorney for the state banking department and for the superintendent of banks, acting as ex officio receiver of any insolvent estate by law required to be liquidated by the superintendent of banks. The monthly compensation paid to the assistants assigned by the attorney general to advise the superintendent and his deputies in the liquidation of such insolvents shall be fixed by superintendent of banks and the attorney general, and shall be paid from the estate or estates of such insolvents, in such proportion as said superintendent shall determine. The superintendent may employ such expert assistance and clerks as may be necessary. He shall require from a special deputy and from assistants such security for the faithful discharge of their duties as he may deem proper, but in a sum not less than twenty-five thousand dollars. He shall cause notice to be given by advertisement in such newspapers as he may direct weekly for eight consecutive weeks, calling on all persons who may have claims against it to present the same to him and make legal proof thereof at a fixed place and time and shall mail a similar notice to all persons whose names appear as creditors. If the superintendent doubts the justice and the validity of any claims, he may reject the same and serve notice of such rejection upon the claimant, either by mail or personally. An affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the superintendent. An action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the notice fixed for creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the superintendent equitably applicable thereto. The superintendent shall prepare from the books of the bank a list of its creditors, showing the amount due each, and file such list in the court. Creditors whose names appear on such list shall, for the amount shown thereon, receive distribution though no further legal proof of claim be made or filed with the superintendent, unless any items on said list be objected to as other claims.

Sec. 17. Sec. 250, Revised Code of 1928, is hereby amended to read as follows:

Sec. 250. Inventory; list of claims; fees. Upon taking possession of the property or assets of such bank, the superintendent shall make an inventory of the assets in duplicate; one to be filed in his office and one in the office of the clerk of the superior court of the county in which the said bank was doing business, and the clerk shall docket the same as an action. Upon the expiration of the time fixed for the presentation of claims the superintendent shall make in duplicate a full and complete list of the claims presented and specifying such claims as have been rejected by him, one to be filed in his office and one in the office of said clerk.

The compensation of the special deputy superintendent, employees and assistants, and all expenses of liquidation shall be fixed by the superintendent subject to the approval of the court on notice to the officers of such bank, and shall, upon the certificate of the superintendent, be paid out of the funds of such bank.

Sec. 18. Sec. 251, Revised Code of 1928 is hereby amended to read as follows:

Sec. 251. Deposit of collections; dividends; objections to claims. The moneys collected by the superintendent shall be from time to time deposited in one or more banks, and in case of the suspension of insolvency of the depository, such deposit shall be preferred before all other deposits or claims. At any time after the expiration of the date fixed for presentation of claims the superintendent may, out of the funds remaining in his hands after the payment of expenses, declare one or more dividends, and after the expiration of one year from the first publication of notice to creditors may declare a final dividend; such dividend to be paid to such persons and in such amount and upon such notice as may be directed by the court. Objections to any claim not rejected by the superintendent may be made by any party interested by filing a copy of such objection with the superintendent, who shall present the same to the court at the time of the next application to declare a dividend. The court may provide for unproved or unclaimed deposits.

Sec. 19. Sec. 270, Revised Code of 1928, is hereby amended to read as follows:

Sec. 270. Taking mortgages, holding property. No bank shall own, acquire or take as collateral any mortgages other than a first mortgage on any kind or class of property, unless it is necessary to further secure a debt previously contracted and owing to the bank. Whenever any bank shall acquire any real property, an appraisal thereof shall be immediately made by a majority of the directors of such bank, and a copy of such appraisal signed by all such directors, together with a statement setting forth the date, method and manner of such acquisition shall, within ten days from such acquisition, be transmitted to the superintendent of banks. All real property purchased by a bank or taken by it in satisfaction of debts due it, shall be conveyed to it directly by name and the conveyance shall be immediately recorded in the office of the recorder of the county in which such property is located. Real property purchased or acquired by a bank, shall be sold by it within five years from the date on which it shall have been acquired unless there shall be a building thereon occupied by the bank as an office, or the superintendent on application of its board of directors, shall extend the time within which such sale shall be made.

Sec. 20. Chapter 8, Revised Code of 1928, is hereby amended by adding thereto a section to be designated section 270a, and to read as follows:

Sec. 270a. Notice of actions pending. Whenever any bank shall become a party to any action in any court of record when the subject matter of such litigation exceeds the sum of five hundred dollars, a true copy of all pleadings in such action shall by such bank be promptly forwarded to the superintendent of banks.

Sec. 21. Sec. 271, Revised Code of 1928, is hereby amended to read as follows:

Sec. 271. Dividends; surplus fund. The board of directors of a bank may, as they shall deem expedient, declare a dividend of the net profits of the bank provided all expenses, losses, interest and taxes accrued or due from said bank are provided for; but of the funds available for dividends, not less than twenty-five per cent of such net profits of the bank for the preceding half year or for such period as is covered by the dividend, shall first be carried to a reserve fund until such reserve fund shall equal its capital stock. Such reserve fund shall not be loaned but shall be invested in interest bearing bonds of the United States, or of the State, or any county, city, road district or school district of this state, or other bonds authorized by the superintendent. Said reserve fund shall not be depleted or said bonds sold or disposed of except with

the approval of the superintendent; and if such funds are at any time so withdrawn from said reserve fund with the approval of the superintendent, not less than twenty-five per cent of the net profits of said bank available for dividends shall thereafter each succeeding half year be carried to said reserve fund until said reserve fund shall again amount to its capital stock.

Sec. 22. Chapter 8, Revised Code of 1928, is hereby amended by adding thereto a section to be designated section 272a, and to read as follows:

Sec. 272a. Penalties. Any person and any officer, director or employee of any bank, building and loan association, security company or other corporation or institution under the jurisdiction and supervision of the superintendent of banks, violating any provision of this chapter for which no other penalty is prescribed, shall be guilty of a felony and upon conviction shall be punished by imprisonment for not less than six months, nor more than five years, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or by both such fine and imprisonment. Any person, bank, building and loan association or security company or other corporation, or institution, under the jurisdiction and supervision of the superintendent of banks which shall fail for a period of thirty days to comply with and carry out any lawful order issued by the superintendent of banks, may be fined by said superintendent in an amount not to exceed five hundred dollars. All fines imposed by the superintendent of banks shall, when paid, be transmitted to the state treasurer and by him credited to the general fund.

APPROVED MARCH 20, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 98

(SENATE BILL NO. 87)

AN ACT

To amend Sec. 2967 of the Revised Code of 1928, relating to grazing and agricultural lands.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That sec. 2967, Revised Code of 1928, be and the same is hereby amended to read as follows:

Sec. 2967. Minimum rental. No lease shall be executed for an annual rental of less than one cent per acre on grazing lands and not less than five cents per acre on agricultural lands; provided, however, that no existing lease shall be amended until a classification of the land shall have been made.

Any lessee of state land may file application with the commissioner for a classification of his lease holdings, upon receipt of which the commissioner shall estimate the expense involved which shall then be paid by said applicant. Thereafter the commissioner or his duly appointed representative shall investigate and classify said land and shall assess a fair and equitable rental thereon; said rental shall be paid in advance, annually or for such other period not exceeding two years as the commissioner may fix.

APPROVED MARCH 20, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 99

(SENATE BILL NO. 47)

AN ACT

Relating to the protection of native Arizona plants, and amending chapter 8, Session Laws 1929.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Chapter 8, Session Laws 1929, is hereby amended to read as follows:

Sec. 1. The following plants shall constitute the protected group, and the botanical names shall govern in all cases: 1. All species of the following families: polypodiaceae (fern family); liliaceae (lily family); iridaceae (iris family); amaryllidaceae (amaryllis family); orchidaceae (orchid family); crassulaceae (orpine family); saxifragaceae (saxifrage family); cactaceae (cactus family). 2. All species of the following genera: aquilegia (columbine); lobelia (lobelia); dodecatheon (shooting star); primula (primrose); fouquieria (ocotillo); washingtonia (fan palm). 3. The following species: gilia aggregata (scarlet gilia); atriplex hymenolytra (desert holly); cercis occidentalis (western red-bud); parosela spinosa (smoke tree); holacantha emoryi (crucifixion thorn); fremontia californica (flannel bush). 4. All plants growing within two hundred yards of any highway.

Sec. 2. (a) Except as in this act provided, no person shall destroy, mutilate, or remove or employ any person to destroy, mutilate, or remove, any living plant, except seeds, of the protected group from any public, state, or private land without first obtaining a written permit from the owner and the approval upon the said permit of the Arizona commission of agriculture and horticulture and filing a verified copy thereof with the county recorder of the county wherein said plants grow.

(b) The Arizona commission of agriculture and horticulture may permit, in writing, a person to take a definite number of specified plants in the protected group, from areas specified by the commission, for scientific or educational purposes.

(c) No permit as provided by subsections (a) and (b) shall be issued for more than one shipment of plants nor good for more than thirty days.

(d) Nothing herein shall be construed to prevent the clearing, cleaning, or removal of plants from any canal, lateral ditch, survey line or public road or highway, when necessary to the full and proper use thereof, or land being cleared for homes or for agricultural purposes by the owners of said land; nor to prohibit the use of dead cacti for business or other purposes.

Sec. 3. The Arizona commission of agriculture and horticulture shall collect a fee of five dollars for each permit issued, except permits for scientific and educational purposes.

Sec. 4. No person or common carrier shall transport any plant, or any part thereof, belonging to the protected group, nor receive or possess the same for transportation within or without the state, unless the person offering the same for shipment exhibits to the person or to the common carrier a valid, written permit for the taking of said plant or part thereof, and has securely attached thereto a valid shipping permit issued by the commission, or a coupon detached from such permit, and if for transport without the state, must also bear a certificate of inspection by the commission of agriculture and horticulture.

Sec. 5. The Arizona commission of agriculture and horticulture is empowered to issue permits for the transportation of plants

belonging to the protected group, to points within or without the state, and to make all necessary rules and regulations, not in conflict with this act, for the enforcement of the provisions thereof.

Sec. 6. Any peace officer or any officer or employee of the Arizona commission of agriculture and horticulture shall have power, in the enforcement of this act, to make arrest without warrant for any violation of this law which he may witness, and to confiscate any plants or parts thereof belonging to the protected group, unlawfully cut or removed.

Sec. 7. The board of supervisors of each county is authorized to adopt and enforce ordinances, not in conflict with law, for the preservation of plants.

Sec. 8. Any person violating the provisions hereof shall be guilty of a misdemeanor and fined not more than three hundred dollars, and each violation shall constitute a separate offense.

Sec. 9. If any section or part of this act shall be declared unconstitutional, the validity of the remainder of this act, if susceptible of enforcement, shall not be affected thereby. The legislature declares it would have passed the said act, irrespective of the section or part held to be void.

APPROVED MARCH 21, 1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 100

(SENATE BILL 123)

AN ACT

Relating to the transportation by motor vehicles of persons and property over the public highways, providing for the licensing, regulation and taxation of motor carriers and the regulation of private motor carriers, and repealing Art. 3 of Chap. 15 and Art. 7 of Chap. 31, Revised Code of 1928, and making provision for the validity of the remainder of the law, if part thereof is held unconstitutional.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Definition of terms. In this act, unless the context or subject matter otherwise requires, "motor vehicle" shall mean any automobile, truck, truck tractor, trailer, semi-trailer, motor bus, or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting persons or property; "public highway" shall mean any public street, alley, road, highway or thoroughfare of any kind used by the public, or open to the use of the public as a matter of right for the purpose of vehicular travel; "commission" shall mean the Arizona corporation commission; "common motor carrier of property" shall mean any person engaged in the transportation on any public highway by motor vehicle of property, for compensation as a common carrier; "common motor carrier of passengers" shall mean any person engaged in the transportation on any public highway by motor vehicle of passengers for compensation, as a common carrier;"contract motor carrier of property" shall mean any person engaged in the transportation on any public highway by motor vehicle of property, for compensation, and not included in the term common motor carrier of property; "contract motor carrier of passengers" shall mean any person engaged in the transportation on any public highway by motor vehicle of passengers for compensation, and not included in the term common motor carrier of passengers; "motor carrier" shall mean any common motor carrier of property or passengers, or any contract motor carrier of property or passengers;"private motor carrier" shall mean any person, other than a common motor carrier or contract motor carrier, who shall engage in the transportation of property on any public highway in the furtherance of any private commercial enterprise; "superintendent" shall mean the superintendent of the motor vehicle division, Arizona state highway department. The transportation for more than one consignor, or to more than three consignees, by any motor carrier, shall be prima facie evidence that such motor carrier is acting as a common carrier.

Sec. 2. Carriers regulated. No motor carrier or private motor carrier shall operate any motor vehicle on any public highway except in accordance with the provisions of this act. The provisions of this act shall not, however, apply to the transportation of children to or from school when the motor vehicles in which such children are transported belong to the school.

Sec. 3. Authority of commission. The commission is vested with the power and authority, and it shall be its duty, to supervise and regulate all motor carriers and private motor carriers.

Sec. 4. Regulation of common motor carriers. In the regulation of common motor carriers of property or passengers, the commission shall have the authority to fix, alter, regulate and determine just, reasonable and sufficient rates, fares,charges and classifications;to regulate the facilities, service and safety of operations of each such carrier; to regulate operating and time schedules so as to meet the needs of the public, and so as to insure adequate transportation service through the territory traversed or served by such carriers so as to prevent unnecessary duplication of service; to prescribe a uniform system and classification of accounts to be used; to require the filing of annual and other reports, tariffs, schedules and other data by such common motor carriers; and to supervise and regulate such

common motor carriers in all matters affecting the relations between such carriers and the public, and between such carriers and other common motor carriers, to the end that the provisions of this act may be fully carried out.

Sec. 5. Common motor carrier rates, etc. All rates, fares and charges made by any common motor carrier shall be just and reasonable, and shall not be unlawfully discriminatory, prejudicial nor preferential. No such carrier shall charge, demand, collect or receive a greater or less, or different, remuneration for the transportation of passengers or property, or for any other service in connection therewith, from the rates, fares and charges which have been legally established and filed with the commission for such carrier, nor shall any such carrier refund or limit in any manner, or by any device, any portion of the rates, fares and charges required to be collected by the tariffs on file with the commission, or ordered by the commission; provided, that nothing in this act shall prohibit any common motor carrier from extending reduced or free transportation to its officers, agents, and employees and their families, or interchanging such reduced or free transportation with other common carriers.

Sec. 6. Common motor carrier certificates; application therefor. No common motor carrier shall operate within this state as such carrier without first having obtained from the commission a certificate of public convenience and necessity. Application for such certificate shall be made to the commission in duplicate, in writing, shall be verified, and shall contain the name and address of applicant, and the names and addresses of its officers, if any; the principal place of business of applicant; the public highways over which, and the fixed termini or regular route, if any, between or over which applicant desires to operate; the kind of transportation. whether for property or passengers, together with the description and character of the vehicles which applicant proposes to use, including the seating capacity thereof, if for passenger transportation, or the tonnage thereof, if for property transportation; the proposed time schedules, and a schedule of tariffs showing the fares or rates to be charged between the several points to be served, and such other information as the commission may require, and shall be upon such forms as the commission may prescribe.

The commission, upon the filing of an application for such certificate, shall fix a time and place for hearing thereon, and which said time shall be not less than ten days after such filing. The commission shall cause notice of such hearing to be mailed to every common carrier that is operating, or has applied for a certificate to operate, in the territory proposed to be served by the applicant, and on other interested parties as determined by the commission, and such common carrier or interested party may attend such hearing and offer testimony for or against the granting of such certificate. Notice of said hearing shall also be given by the applicant at least three full days prior to said hearing by publication in a newspaper of general circulation in the county in which the hearing is to be held. If, after a hearing on the application, the commission finds from the evidence that the public convenience and necessity requires the proposed service, or any part thereof, and that the applicant is a fit and proper person to receive such certificate, it may issue the certificate as prayed for, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the right granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require; provided, that when an applicant requests a certificate to operate over a route, or routes, or in a territory already served by a common motor carrier, the commission shall have power, after hearing, to issue such certificate only when the existing common motor carrier operating over such route, or routes, or serving such territory, will not provide such service as shall be deemed satisfactory by the commission.

Sec. 7. Contract motor carriers; extent of regulation; permits; application therefor. No contract motor carrier shall operate within this state as such carrier, without first having obtained from the commission a permit authorizing such operation. Application for such permit shall be made to the commission in duplicate, in writing, shall be verified, and shall contain the name and address of applicant, and the names and addresses of its officers, if any; the principal place of business of applicant; the public highways over which applicant desires to operate; the kind of transportation, whether for property or passengers, together with the description and character of the vehicles which applicant proposes to use, including the seating capacity thereof, if for passenger transportation, or the tonnage thereof, if for property transportation, and such other information as the

commission may require; and shall be on such forms as the commission may prescribe.

The commission, upon the filing of an application for such permit, shall fix the time and place for hearing thereon, and which said time shall be not less than ten days after such filing. Notice of said hearing shall be given by the applicant at least three full days prior to said hearing, by publication in a newspaper of general circulation in the county in which said hearing is to be held. Any interested person may attend such hearing and offer testimony for or against the granting of such permit. If, after a hearing on the application, the commission finds that the privilege sought will not endanger the safety of the public or interfere with the public use of the public highways, or impair the condition or maintenance of such highways, directly or indirectly, by impairing the efficient public service of any authorized common motor carrier then adequately serving the same territory, and that the applicant is a fit and proper person to receive such permit, the permit may be granted upon such limitations, terms and conditions as the commission may prescribe.

Sec. 8. Term of certificates and permits; renewal. No certificates or permit shall be granted for a term exceeding ten years, but upon the expiration thereof the same shall, at the request of the holder thereof, be renewed for a period of time equal to that named in the original certificate or permit, unless good cause be shown for the refusal thereof.

Sec. 9. Hearings; record. The commission may designate any of its employees to take testimony and evidence at the hearing on any application for a certificate or permit, and submit the same to the commission. A complete record of all hearings held by the commission, or by any of its employees, pursuant to the provisions of this act shall be made, including a transcript of the testimony offered by any witness at such hearing.

Sec. 10. Interstate motor carriers. No person shall operate as a common motor carrier of interstate commerce within this state without first having furnished the commission in duplicate, in writing; full information concerning the financial condition of such person, and the ownership of the equipment and physical property to be used in such operation; the complete route, or routes, over which applicant desires to operate; the proposed rates, schedule, or schedules, and the time cards of the carrier, and such other information as the commission may require for the enforcement of the laws of this state regarding taxation, and in the interest of public health and safety. The commission shall have the authority to make such necessary and reasonable rules and regulations in respect to the operation of interstate motor carriers as it may deem necessary and proper.

Sec. 11. Assignment and revocation of certificates; permits. No certificate or permit issued in accordance with the provisions of this act shall be construed to be either a franchise or irrevocable, or to confer any property right upon the holder thereof, nor shall any such certificate or permit be assigned or otherwise transferred, without the consent and approval of the commission. Upon the assignment or transfer of any certificate or permit, the commission shall issue a new certificate or permit to the assignee or transferee only for the unexpired period of the transferred certificate or permit. The commission may, at any time, for good cause, suspend and, upon not less than five days notice to the grantee of any certificate or permit, after an opportunity to be heard, revoke or amend any certificate or permit.

Sec. 12. Abandonment or privileges granted. No. common motor carrier authorized to operate under the provisions of this act shall abandon or discontinue any service established under such provisions without an order of the commission, unless his authority to operate has expired or is revoked or suspended. Every contract motor carrier who shall cease operations or abandon his rights under any permit issued to him, shall notify the commission within thirty days of such cessation or abandonment.

Sec. 13. Existing certificates. Certificates or permits heretofore issued by the commission shall not be affected by the provisions of this act, except that any such certificates or permits shall be renewed only in conformity with the provisions of this act, and that common motor carriers now holding vicinity certificates or permits issued by the commission, shall, within sixty days after the effective date of this act, file with the commission the description of

the territory over which the holder thereof intends to operate, and it shall be unlawful for any such carrier thereafter to operate outside of such territory, except upon compliance with the provisions of this act.

Sec. 14. Insurance, financial responsibility. No certificate or permit shall be issued by the commission to any common motor carrier or contract motor carrier unless and until such carrier shall have filed with the commission a liability insurance policy or policies with an insurance company authorized to transact business in this state, in such amounts as the commission may deem necessary to protect adequately the interests of the public, with due regard to the number of persons and amount of property involved, and which liability insurance shall bind the insured thereunder to pay compensation for injuries to persons and for loss or damage to property resulting from the negligent operation of such carrier, provided that any such carrier may in lieu of filing such policy or policies of insurance, file with the commission satisfactory proof of his ability to respond in damages in the amount of ten thousand dollars, when but one motor vehicle is used or operated by such carrier, and five thousand dollars additional for each motor vehicle in excess of one, but a proof of ability to respond in damages in the amount of one hundred thousand dollars shall be sufficient for any number of motor vehicles. The commission shall cancel the certificate or permit of any carrier who shall fail to comply with the provisions of this section.

Sec. 15. Records; retention and inspection thereof. For the purpose of the enforcement of the foregoing provisions of this act, every motor carrier shall maintain and keep within this state such books, records and other data as the commission may require. Such books, records and other data shall not be destroyed for a period of three years, and shall at all times be open to the inspection of the commission of a member thereof, or the superintendent.

Sec. 16. Commission may make rules and regulations. In the enforcement of the foregoing provisions of this act the commission shall have the authority, and it shall be its duty, to make and adopt such reasonable rules and regulations as it may deem proper, and to prescribe such forms as may be necessary.

Sec. 17. License tax; determining gross receipts. In addition to all other taxes and fees every common motor carrier of property and every contract motor carrier of property shall pay to the state, on or before the fifteenth day of each month, a license tax of two and one-half per cent of the gross receipts from his operations within this state for the next preceding calendar month, as such carrier.

When any carrier shall operate partly within and partly without this state, the gross receipts of such carrier within this state shall be deemed to be all receipts of business beginning and ending within this state, and a proportion based upon the proportion of the mileage within this state to the entire mileage over which business is done, of receipts on all business passing through, into, or out of the state. Upon receipt of such taxes the vehicle superintendent shall forthwith transmit the same to the state treasurer, who shall credit such taxes to the state highway fund.

Sec. 18. Commission to furnish names of certificate and permit holders; payment of tax; reports. The commission shall weekly furnish to the superintendent the name of every motor carrier licensed by it as a common motor carrier or contract motor carrier, together with such other information as the superintendent may require. The taxes prescribed in the next preceding section shall be paid to the superintendent on or before the fifteenth day of each month for the next preceding calendar month, and a sworn statement shall be filed therewith by each motor carrier, on forms prescribed by the superintendent, showing the receipts of such carrier for each month on business beginning and ending in this state; the gross receipts from all business passing through, into or out of this state; the number of vehicles operated in this state; total mileage operated in this state, and such other information as the superintendent may require. If any person shall operate both as a common motor carrier of property and passengers or both as a contract motor carrier of property and passengers, he shall file separate reports on each of such operations. Every motor carrier shall also file with the superintendent, within ten days from the date any return or report is by him filed with any officer of any state adjoining this state, on his operations as a motor carrier of passengers or property between any such state and this state, a copy of such return or report.

Sec. 19. Failure to file report or pay tax. If any motor carrier

shall fail or refuse to pay the tax or to file any report provided for or required under the provisions of this act, within five days from the date when such tax or report is due, the certificate or permit issued to such carrier shall be revoked by the commission, A penalty of twenty-five per cent shall be added to any tax not paid on or before the day prescribed for the payment thereof. Upon the failure of any motor carrier to pay said license tax, the superintendent shall inform himself as best he may, and fix the amount of such license tax due the state from such motor carrier for such calendar month, and such tax so fixed by him shall be the tax due to the state from such motor carrier; provided, that when said superintendent, upon such failure or refusal, shall have fixed the amount of such tax, he shall notify the affected motor carrier of his action and direct such motor carrier to be and appear before him on a day not less than ten days from such notice, and then and there to be heard, if such motor carrier so desires, in the matter of such assessment. After such hearing said superintendent may alter, change or modify his order fixing such tax in such manner as he may determine warranted by the facts adduced at such hearing. No motor carrier upon whom a tax is imposed under the provisions of this act shall be permitted to test the validity thereof, either as plaintiff or defendant, unless such tax, together with all penalties thereon, shall have first been paid to the superintendent. No injunction shall issue from any court against the superintendent to prevent or enjoin the collection of such license tax. After payment, an action may be maintained to recover any tax illegally collected. If the tax found to be due shall be less than the amount paid, the excess shall be refunded by the superintendent. The amount of such refund shall be paid from any license tax receipts in the possession of the superintendent, but the fact of such refund and deduction shall be certified to the state treasurer by said superintendent and the Arizona state highway engineer immediately thereupon. In the event any false or erroneous report shall be filed with said superintendent, or in the event that any tax paid to said superintendent shall not be correct and proper in amount, he shall proceed in determining the true amount of such tax as though no report whatsoever had been filed or no tax paid; provided that upon a final determination of the amount of such license due, the superintendent shall credit the amount of tax paid by any motor carrier on the total amount of such tax found to be due from him. Any action to recover such license tax shall be filed in any court of competent jurisdiction, and shall be commenced within thirty days from the payment thereof, and the trial shall conform as nearly as may be to other trials in civil actions. Judgment shall be rendered affirming. modifying or setting aside the order of the superintendent fixing the amount of such tax.

Sec. 20. Reports from private motor carrier. Every private motor carrier shall on or before the fifteenth day of each month file with the superintendent for the next preceding calendar month a verified report on the forms prescribed by him showing the total number of vehicles operated by such carrier, a particular description of each vehicle operated, the total mileage travelled by each vehicle for such month, and such other information as the superintendent may require.

Sec. 21. Failure of private motor carrier to file report. If any private motor carrier shall fail for a period of fifteen days after any report is due from him, under the provisions of this act, to file such report, the superintendent may after notice and hearing revoke the registration on any motor vehicle registered in the name of such private motor carrier, and such motor vehicles shall be re-registered only upon payment of the registration fee thereon.

Sec. 22. Tax lien on property. If any motor carrier shall fail, neglect, or refuse to pay the license tax imposed under the provisions of this act, the amount of such tax, including the penalty thereon, together with any costs that may accrue in addition thereto, shall be a lien in favor of the state upon all franchises, property and rights to property, whether real or personal, belonging to or thereafter acquired by such motor carrier, whether such property is employed by such motor carrier in the prosecution of business, or is in the hands of an assignee, trustee or receiver for the benefit of creditors, and also upon any motor vehicles leased by such motor carrier, from the date said taxes are due and payable, as provided in this act. Such lien shall have priority over any other lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that such lien shall not be valid as against any bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the time when the vehicle superintendent shall have filed notice of such lien in

the office of the recorder of the county in which the principal place of business of such motor carrier is located, or in the county, or counties, in which such motor carrier operates, or in the county, or counties, in which such property is located. Such lien shall continue until the amount of said tax, together with the penalty accruing thereon, is paid. The superintendent may issue a certificate of release of lien when the amount of such tax, together with any penalties accruing thereon, has been satisfied by such motor carrier, and such motor carrier may record the same with the recorder of the county in which the notice of lien was filed

No sheriff, receiver, assignee, master or other officer, shall sell the property or franchise of any motor carrier who is delinquent to the superintendent in payment of the tax imposed under the provisions of this act, nor any motor vehicle leased to such motor carrier, without first filing with the superintendent a statement containing the following information:

1. Name or names of the plaintiff or party at whose instance, or upon whose account, sale is made.
2. Name of the person whose property or franchise is to be sold.
3. The time and place of sale.
4. The nature of the property and the location of the same.

It shall be the duty of the superintendent, after receiving notice as aforesaid, to furnish the sheriff, receiver, trustee, assignee, master or other officer having charge of the sale, a certified copy, or copies, of any taxes, penalties and interest on file with the division as liens against such motor carrier, and in the event there are no such liens, a certificate showing that fact, which certified copy, or copies, of certificates shall be publicly read by such officer at or immediately before the sale of the property or franchise of such motor carrier. The superintendent shall furnish to any person applying therefor a certificate showing the amount of all liens, taxes and penalties that may be of record in his files against any person under the provisions of this act.

The title to any vehicle registered in the name of any motor carrier, in default of payment of the tax imposed under the provisions of this act, shall not be transferred by the superintendent unless and until such tax, together with the penalty thereon, is paid.

Sec. 23. When tax payment is in default; procedure. If any motor carrier shall be in default in the payment of any taxes and penalties thereon, payable under the provisions of this act, the superintendent shall issue a warrant under the official seal of his office directed to the sheriff of any county of the state commanding said sheriff to levy upon and sell the goods and chattels of such motor carrier, without exemption, found within his jurisdiction, for the payment of the amount of such delinquency, with the added penalties and cost of executing the warrant, and to return such warrant to said superintendent, and to pay said superintendent the money collected by virtue thereof within the time to be therein specified, which shall be not less than twenty nor more than sixty days from the date of the warrant. The sheriff to whom any such warrant shall be directed shall proceed upon the same in all respects, and with like effect and in the same manner as prescribed by law in respect to executions issued against goods and chattels upon judgment by a court of record, and shall be entitled to the same fees for his services in executing the warrant, and to be collected in the same manner; provided, that nothing in this section shall be construed as forfeiting or waiving any rights to collect such taxes by an action upon any bond that may be filed with said superintendent under the provisions of this act, or by suit or otherwise, and in case such suit, action or other proceeding shall have been instituted for the collection of said tax, such suit, action or other proceeding shall not be construed as waiving any other right herein provided.

Sec. 24. Bonds required of motor carrier. The superintendent shall require every motor carrier to furnish a bond, or bonds, on forms to be approved by him, and with a surety company authorized by the commission to transact business in this state as surety thereon, and upon which such motor carrier shall be the principal obligor and the state of Arizona shall be the obligee, conditioned upon the filing of true reports and the payment by such motor carrier to the superintendent of any and all taxes imposed hereunder, together with any and all penalties thereon, and generally upon faithful compliance with the seven next preceding sections of act. The total amount of the bond, or bonds, required of any motor carrier shall be fixed by the superintendent and increased or reduced by him at any time. In fixing the total amount of such bond, or bonds, the superintendent

shall require a bond, or bonds, equivalent in total amount to not less than one and one-half times his estimate of the motor carrier's monthly license tax, determined in such manner as the superintendent may deem proper; provided, that the total amount of the bond, or bonds, required of any motor carrier shall never be less than ten dollars nor more than two thousand dollars. Any judge of a court of record, or any justice of the peace, shall when requested by the superintendent or any of his employees, or agents, fix the amount of bond, or bonds, to be required of any motor carrier, and in so doing shall have the same authority as the superintendent. Any surety on any bond, or bonds, furnished by any motor carrier shall be released and discharged of any and all liability to the state accruing on such bond, or bonds, at the expiration of sixty days from the date upon which such surety shall have filed with the superintendent a written request to be released and discharged; provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue before the expiration of said sixty day period. Whenever any bond, or bonds, furnished by any motor carrier is insufficient or the surety thereon shall re-request to be released and discharged, as herein provided, such motor carrier shall forthwith give such additional or other bond, or bonds, as shall be required by the superintendent. Any motor carrier may in lieu of giving the bond required herein deposit with the superintendent lawful money of the United States in the total amount of the bond directed to be furnished. The commission shall not issue a certificate or permit to any motor carrier unless and until such carrier shall have filed with the superintendent the bond, or bonds, required under the provisions of this section.

Sec. 25. Way bills, bills of lading, manifests, etc. required; inspection. Every common motor carrier of property, and every contract motor carrier of property, shall at all times have in his possession on the vehicle in which property is being transported, way bills, bills of lading or manifests showing the consignor, consignee and date of shipment of each separate item of property aboard, together with a statement of the amount of compensation received, or to be received, for transporting the same. Every common carrier transporting persons for compensation shall at all times have in his possession, on the vehicle in which such persons are transported, a statement or record showing the total number of passengers carried, the point of boarding of each such passenger and his destination.

All such way bills, bills of lading, manifests, statements or records may be inspected by the vehicle superintendent, or his agents, at any time.

Sec. 26. Exchange of information among states. The superintendent shall, upon request duly received from the officials to whom are entrusted the enforcement of the motor vehicle tax laws of any other state, forward to such officer any information which he may have in his possession relative to the operation by any person in this state as a motor carrier or as a private motor carrier.

Sec. 27. Highway patrol; duties; authority. The superintendent shall have the authority to require the highway patrol division of the Arizona state highway department to assist in the enforcement of the provisions of this act, and said highway patrol division shall have full authority in the enforcement of the provisions of this act. The superintendent shall also have authority to employ assistants and delegate authority for the enforcement of the provisions of this act.

Sec. 28. Records; retention thereof. For the purpose of enforcement of the eleven next preceding sections of this act, every motor carrier shall maintain and keep within this state books of account, daily and other records adequately showing his gross receipts as such motor carrier, and such books and records shall be in such form as the superintendent may prescribe. If a motor carrier shall also engage in any business other than that of a motor carrier, he shall maintain and keep separate and distinct books of account showing separate receipts from his business as such motor carrier and the services reasonably and necessarily incident thereto. The superintendent, or any deputy, employee, or agent authorized by him shall have the right and authority during the usual business hours of the day to examine any records, books or other data required to be kept by any motor carrier, under the provisions of this act, and any other books of account, records and other data kept by any motor carrier in any other business in which he shall also engage, and any equipment of any motor carrier to verify the truth and accuracy of any statement, report or return, or to ascertain that the tax im-

posed by this act has been paid. The records, books of account and other data required to be kept by any motor carrier under the provisions of this act shall not be destroyed for a period of three years.

Sec. 29. Hearings; forms. The superintendent shall have the power in the enforcement of the provisions of the twelve next preceding sections of this act to hold hearings, take testimony, and for such purpose, shall be authorized to issue subpoenas and compel the attendance of witnesses, and shall have the power to conduct such investigations as he may deem necessary; provided, that it shall be unlawful for any person to disclose the information acquired by said superintendent, or the commission, under the provisions of this act, except when required to do so in a court of law; provided, further, that this provision shall not be construed to mean that such information or evidence is privileged when used for the state or any officer thereof, in any proceeding for the collection of the tax, or any prosecution for violation of any of the provisions of this act. If any witness shall fail to appear at the time and place designated in the subpoena directed to him and issued by the superintendent, or shall fail to answer questions relating to the subject matter of the inquiry before said superintendent, or fail to produce any document directed by the superintendent to be produced, said superintendent may, by affidavit setting forth the facts, apply to the superior court of the county wherein such hearing is held, and the court shall thereupon proceed as though such failure or refusal had occurred in an action pending before it.

The superintendent shall have the authority to prescribe forms upon which reports shall be made to him, and such other forms as he shall deem necessary in the enforcement of the provisions of this act.

Sec. 30. Penalties. Any person who shall violate or fail to comply with, or aids or abets in the violation of any provision of this act, or who shall fail to observe, or properly comply with any rule or regulation of the commission or of the superintendent, or any provision thereof, or who aids or abets any person in his failure to properly observe any of such rules or regulations, or any provision thereof, is guilty of a misdemeanor, and shall be punished by a fine not to exceed one thousand dollars, or by imprisonment not to exceed one year, or by both such fine and imprisonment.

Sec. 31. Interstate and foreign commerce. Neither this act nor any provision thereof, shall apply, or be construed to apply, to commerce with foreign nations, or commerce among the several states of this nation, except insofar as the same may be permitted, under the provisions of the Constitution of the United States and the Acts of Congress; provided, however, that with reference to motor carriers and private motor carriers operating solely in interstate commerce between any point, or points, within this state, and any point, or points, in any other state, or in any foreign nation, the commission shall have the power to prescribe such reasonable, uniform and nondiscriminatory rules and regulations in the interest and aid of public health, security, safety, convenience and general welfare, as shall, in its opinion, be required by public convenience and necessity.

Sec. 32. Art. 3, Chap. 15, and Art. 7, Chap. 31, Revised Code of 1928, are hereby repealed.

Sec. 33. If any section, phrase or sentence of this act shall be declared unconstitutional it shall not affect the constitutionality or validity of the remainder of the act.

APPROVED MARCH 18,1933.

State of Arizona
Eleventh Legislature
Senate
Regular Session

CHAPTER 101

(SENATE BILL NO. 33)

AN ACT

Relating to irrigation; and providing for the organization of irrigation water delivery districts and the conduct thereof.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Purpose. Whenever the owners of a majority of the acreage in a subdivision of lots or tracts, contiguous or noncontiguous, of land entitled to or capable of receiving irrigation water from the same ditch, or ditch system, pipe line, or system of pipes, desire to provide for the delivery of irrigation water to their said lands, they may propose the organization of an irrigation water delivery district under the provisions of this act, and when so organized, such district shall have the powers conferred or that may hereafter be conferred by law upon such districts.

Sec. 2. Organization; petition to board of supervisors. For the purpose of organizing an irrigation water delivery district, as provided in this act, a petition shall be filed in the office of the board of supervisors of the county in which the lands proposed to be so organized are situate. Said petition shall state that it is the purpose of the petitioners to organize an irrigation water delivery district under the provisions of this act, and shall contain a general description of the proposed boundaries of the district or of the land proposed to be included in said district, an estimate of the acreage to be included in said district, the location at which irrigation water will be obtained, the approximate distance and the means by which such water will be carried, and the names of three landowners within the district who shall constitute a committee to file said petition with the board of supervisors and represent the petitioners in the organization of said district. Said petition shall be signed by the owners of the majority of the acreage within the proposed district. Each signer shall set the description and approximate acreage of his land opposite his signature, and all signatures shall be verified by the affidavit of an owner of the land within the proposed district. No land shall be included in the proposed district, which is embraced within any irrigation, electrical or agricultural improvement district theretofore organized under the laws of this state relating to such districts, without the consent in writing of such district.

Sec. 3. Notice of hearing. When said petition is filed with the board of supervisors, the board shall examine the same and investigate the signatures thereto, and if it finds that the petition conforms to the provisions of this act, it shall fix the amount of probable expenses that will be incurred in the organization of the district, and the committee named in the petition shall thereupon provide a bond, which shall be subject to approval by the board, for not less than twice the amount so fixed, guaranteeing repayment to the county of said expenses. The expense of organization shall be paid out of county funds, but in the event the district is not organized, the county shall be reimbursed by the makers of the bond. In the event the district is organized, said expense shall become a proper charge against the district and be paid as soon as funds are available for the purpose. Upon approval of the aforesaid bond, the board shall set said petition for hearing at a time not less than twenty nor more than forty days thereafter, and shall publish the petition, together with notice of the date fixed for hearing thereof, not less than twice, the last publication to be not less than ten days before the hearing, in a daily or weekly newspaper published in said county, and shall post the same not less than fifteen days before the hearing, at conspicuous places within the proposed district, not less than five copies of said petition, together with notice of date of hearing thereof, for every one hundred acres or fraction thereof, within the proposed district.

Sec. 4. Hearing; proceedings to complete organization. At

the time fixed for the hearing, any owner of land within the proposed district may appear and object to the organization thereof, or to the proposed boundaries thereof, or to the inclusion of his land therein. The board of supervisors shall hear and consider all of said objections, and may continue the hearing from time to time, and at the conclusion of the hearing shall make its findings in writing. In said findings, it may refuse to organize said districts, or may declare that it intends to organize the same with the boundaries proposed in the petition, or may declare that it intends to modify the proposed boundaries and proceed to organize said district with such modified boundaries. If it decides to proceed, it shall publish and post in the same manner as for the petition and notice of hearing, a notice stating that it has decided to proceed with the organization of the district, briefly describing the boundaries of the district or the lands to be included within the district as determined by it, and fixing a date, not less than twenty days after the completion of such publication and posting, on or before which a written protest against the organization of said district may be filed by the owners of a majority of the acreage within the district. If such protest is filed, the district shall not be organized. If no such protest is filed, or, if one is filed and found insufficient by the board of supervisors, an order shall be entered by the board declaring said district to be organized, describing its boundaries, or all of the lands included in the district, and appointing three trustees to serve until the first biennial election and until their successors are elected and qualified. Said order shall be recorded and a map of the district filed in the office of the county recorder, and upon such recording and filing the organization of said district shall be completed and said district shall assume its functions. Such districts, as organized in any county, shall be designated by consecutive numbers in the order of their organization.

Sec. 5. Further proceedings not required if original petition signed by all landowners. When a petition, filed as provided in section 2, purports to be signed by the owners of the entire acreage in the proposed district and the board of supervisors finds that it is in fact signed by the owners of all of said acreage, the board may immediately enter an order declaring said district duly organized, and such order shall have the same effect as if entered in pursuance of the provisions of section 4.

Sec. 6. "Owner" defined. The term "owner" as used in this act shall mean the person who appears from the records of the office of the county recorder to be the holder of legal title in fee simple; provided, that when it appears from the records of the clerk of the superior court of said county that such record owner is deceased and distribution of his estate has not been made, the owner shall be deemed to be the executor or administrator of his estate if one has been appointed. Executors, administrators, guardians of estates of minors and incompetents, and trustees holding legal title shall have power to sign any petition, consent, waiver or protest provided for by this act, with the approval of the superior court in which such estate, guardianship or trusteeship is pending, and where a trusteeship exists without any proceeding pending in court, such approval may be given by the superior court of the county in which said land is situated upon written application therefor. No notice shall be required to be given by any executor, administrator, guardian or trustee, of an application for such order of approval unless the court to whom the application is made shall so order.

Sec. 7. Action attacking validity; limitation. The validity of the organization of an irrigation water delivery district, as herein provided, shall not be questioned in any court, except by the state of Arizona, unless the proceeding in which the same is questioned is filed within one year after the order declaring said district to be organized is filed in the office of the county recorder.

Sec. 8. Rights and powers; lands taxed for operation. Irrigation water delivery districts shall be bodies corporate for the purposes herein specified and shall have the rights, privileges and powers conferred by law, but such districts shall not be considered municipal corporations. They shall have perpetual succession; the right to exercise the power of eminent domain under the constitution and general laws of the state; to contract and be contracted with, sue and be sued in their corporate names; to acquire, hold and dispose of, for the benefit of the district, all

real and personal property which shall be needful or useful in the conduct of their business; and may adopt and use a seal and do all things lawful and reasonably useful in carrying out the purposes of this act. Property owned or used by districts organized under this act shall be exempt from taxation insofar as the same shall be used for district purposes. The expense of providing a supply of water at the head of the district ditch or conduit system and of maintaining said system, including reasonable overhead and office expense and including sums contracted to be paid to any irrigation project for or in connection with any such services, shall be provided for by taxes levied and collected as hereinafter prescribed. The cost of distributing and measuring water to the several lots or tracts receiving the same, including the actual operation of the head-gates and other works of the district and the necessary expense of keeping such records in connection with such operation as the board of trustees shall prescribe shall be paid out of money collected from water charges imposed upon lands for the delivery of water. All such charges shall be paid before delivery of water to the lands upon which they are imposed. The district may provide by contract with any irrigation project or United States reclamation project, for the performance of any service which it is authorized by this act to perform.

Sec. 9. Delivery of water. The delivery of water to land owners hereunder shall be subject to the laws of Arizona with respect thereto, to the provisions of this act, and to such rules and regulations, not inconsistent with law, as the board of trustees may adopt or any contract made by the district may provide.

Sec. 10. Irrigation works; how provided and maintained. Every land owner within an irrigation water delivery district shall immediately after the organization thereof, put the ditch, pipe line, or conduit and other facilities connected therewith, through which irrigation water is delivered to his lot or tract, in fair condition, and if no such ditch, pipe line or conduit exists he shall at his own expense construct one, together with the usual appurtenances thereto, and thereafter all such ditches, pipe lines, conduits and other facilities shall be operated and maintained by the district. If any landowner shall neglect or refuse to comply with this provision, the delivery of water to his land may be refused until he complies, or the district may proceed to construct or repair such ditch, pipe line, conduit and other facilities, and the amount so expended by the district for the benefit of any land owner shall be assessed against the landowner and collected in addition to the charge for delivery of water. The district shall have the right to condemn rights of way for the purposes of this act by compliance with the laws of the state relating to eminent domain.

Sec. 11. Right to use roads and streets. Any irrigation water delivery district shall have the right to use the public highways, roads, streets and alleys in or outside the district, which may be needed for rights of way, subject to such reasonable restrictions as may be imposed by the board of supervisors of the county or by the authorities of a city or town, within their respective jurisdictions, and in case of controversy over the exercise of such right, the question shall be submitted to and decided by the Arizona corporation commission.

Sec. 12. Service to non-resident lands. Any irrigation water delivery district may contract to provide irrigation service to non-district lands, at charges which shall be not less and on terms not more favorable than for similar service to district lands, including all overhead expense and all costs provided for by taxation and otherwise.

Sec. 13. Board of trustees; attorneys; engineers. The management and control of the business of an irrigation water delivery district shall be vested in a board of trustees, consisting of three persons who are landowners within the distrct. The board may employ all help necessary to perform the work of the district. Attorneys and engineers shall not be employed on a salary basis, but they may be employed to perform specific services and be paid therefor out of district funds.

Sec. 14. Powers and duties of board. The board shall have power to borrow money, incur indebtedness, and issue warrants against the district treasurer for the payment of the compensation of employees, purchase of material or equipment, payment of obligations of the

district incurred under contracts for water service, or other district expense; and may issue time warrants, when and if required, for any of such purposes, in anticipation of the collection of taxes, which time warrants shall be registered, on request of the holder, with the treasurer, and shall bear interest at the rate of seven per cent per annum from the date of registration until paid. The members of the board shall serve without compensation. Two members shall constitute a quorum for the transaction of business, and all warrants, contracts and instruments involving the payment of money by or creating any obligation binding upon the district shall be signed by at least two members.

Sec. 15. Trustees to give bond. Before entering upon his duties, each member of the board shall execute a bond in the sum of one thousand dollars, conditioned upon the faithful performance of his duties and accounting for and turning over to the proper officers all district funds or property coming into his possession, said bond to be in accordance with and subject to the provisions of law relating to bonds of county officers.

Sec. 16. Secretary. Immediately after qualifying, the members of the board shall meet and elect a secretary, who may be one of their number. If the secretary shall be absent from any board meeting, either member present may be appointed to act in his stead. The secretary shall keep minutes of all board meetings, which shall, when approved by the board, be signed by at least two members thereof.

Sec. 17. Treasurer. The treasurer of the county in which the district lies shall be treasurer ex officio of the district. He shall keep all moneys of the district in a separate fund, or, upon the direction of the board of trustees, in more than one separate fund, and shall pay out the same only on warrants drawn on such fund or funds and signed by at least two board members. All district moneys shall within two weeks of the receipt thereof by the board be deposited with the treasurer by the secretary of the district.

Sec. 18. Election of trustees. The trustees appointed at the organization of the district, or elected thereafter, shall hold office for two years from January 1 following their appointment or election, and until their successors are elected or appointed and qualified. The office of a trustee who removes from the district or who ceases to possess the qualifications of a trustee, as herein prescribed, shall become vacant, in which event the remaining members shall, within thirty days, appoint a successor to fill such vacancy for the unexpired term, and issue a certificate of appointment. The regular election for trustees shall be held biennially on the third Wednesday in November next prior to the expiration of the regular term of the incumbent board. Such election shall be held at a convenient place within the district, or in proximity thereto, to be determined by resolution of the board, after notice thereof posted in three conspicuous places within the district, for ten days next preceding the election. Prior to the time for posting election notices, the board shall appoint one inspector, one judge and one clerk, who shall constitute a board of election. If the board of trustees fail to appoint such election board, or if the persons appointed, or any of them, do not attend at the opening of the polls on the morning of the election, the electors present at that hour may appoint members to fill such vacancies. The board of trustees shall prescribe the form of ballot, poll lists and tally lists, and shall furnish the necessary number thereof for the conduct of such election. The polls must be open at nine o'clock in the forenoon and be kept open until four o'clock in the afternoon, when they shall be closed. Members of the election board shall be qualified to administer oaths in connection with the election, substantially as required by law for elections in similar districts. Every owner of land within the district shall be qualified to vote at said election and shall be entitled to cast one vote for each one-fifth acre of land owned by him. The conduct of elections, the determination and certification of results and other details not specifically provided for herein, shall be substantially in accordance with the procedure prescribed in sections 3486 to 3489, both inclusive, Revised Code of 1928. The expense of elections shall be a district charge. If for any reason an election shall not be held

on the day appointed therefor, or any trustee shall fail of election thereat, the board of supervisors upon petition of the owners of the majority of the acreage in the district shall appoint a trustee or trustees to fill the vacancy or vacancies. Until such appointment is made, the former trustee or trustees shall continue to hold the office or offices.

Sec. 19. Annual budget; taxes. On or before July 1 of each year the board of trustees shall estimate the amount of money necessary to be raised by taxation, to defray the district expense, including assessments and charges to irrigation projects, if any have been assessed, up to the time when funds will be available from the next like tax levy as hereinafter provided. Such estimate shall take into account any deficit or surplus from the preceding year or years. The board shall certify said estimate to the board of supervisors, and said board shall annually, at the time county taxes are levied, levy a tax sufficient to raise the sum of such estimate, plus not less than fifteen per cent for anticipated delinquencies. District taxes shall be assessed and levied only on lands within the district and shall be apportioned among the several lots and tracts of land on an acreage basis. If the trustees of any district shall fail to certify said estimate to the board of supervisors, it shall be the duty of said board to make a levy for the amount of the estimate certified the preceding year, plus the allowance of fifteen per cent for delinquencies. Except as herein otherwise provided, such taxes shall be assessed, levied and collected as county taxes. In order to entitle any lot or tract of land to water service, district taxes against such lot or tract may be paid to the treasurer separately from other taxes, and it shall be the duty of the county treasurer to issue proper receipt therefor when so paid, in such form that such receipt may be presented to the authorized representative of the district and recognized as authority to make delivery of water to such lot or tract as hereinafter provided; provided that if said district taxes against any lot or tract of land shall not be so paid separately, the county treasurer shall not omit the collection thereof at the time payment is made of other taxes for the same period against such lot or tract.

Sec. 20. Credit on district taxes for irrigation project charges. (a) If any lot or tract of land within an irrigation water delivery district is part of an established irrigation project organized under any law of this state relating to irrigation, electrical, or agricultural improvement districts, or of any reclamation project of the United States, and subject to project taxes, assessments or charges payable directly to such district or project (exclusive of charges for service to such lot or tract under any contract or arrangement between such district or project and the irrigation water delivery district), the owner of such lot or tract shall be entitled to a credit on district taxes for any year, equal to the amount of such assessments and charges paid to such district or project for that year, and the county treasurer shall accept the receipt of any such project or district as evidence of such payment, and shall give credit therefor by suitable notation on his records. In the preparation of the annual budget as aforesaid, all such credits shall be anticipated by the board of trustees and a corresponding adjustment made in the estimate of cash revenue necessary to meet the expense of the district.

(b) Any irrigation water delivery district may contract with an irrigation project within which any or all of the district lands are included, to pay project taxes, assessments or charges of such project on behalf of any or all of the lands of such irrigation water delivery district, and in the event of any such contract the amount of such assessments and charges shall be added to the district budget and assessed and levied as district taxes against the lands for and on account of which they are contracted to be paid.

Sec. 21. Service charges payable other than by taxation. The board of trustees, at the time of making the annual budget, shall estimate the amount of district expense for a like period, not to be paid from taxes, which estimate shall be based on subsisting contracts for furnishing or distributing water, costs of similar items in previous years, and other available information, and shall fix a service charge, as uniformly distributed according to acreage as may be practicable, over the lots or tracts of land which the board anticipates will actually demand and receive irrigation service during such period, allowing a reasonable margin, not less

than fifteen per cent, for unforeseen contingencies and inaccuracy of estimate. The board may adopt a sliding scale of rates, according to the cost of serving different sized tracts, as it may deem equitable. In the event that the operation of the district's irrigation system should be provided for by contract with any individual, organization or irrigation project, the board of trustees shall fix such service charges in conformity with the terms of such contract. Rates for water service to district lands shall not be subject to regulation by the corporation commission.

Sec. 22. Taxes and service charges to be paid in advance. Before any particular lot or tract of district land shall be entitled to irrigation service, all district taxes, service charges and charges for the construction or repair of facilities, standing against such lot or tract, whether for the current year or carried forward from previous year or years, together with all penalties and interest for failure to make payment when due, must be paid in full. Any trustee who knowingly authorizes and effects the delivery of water to any lot or tract of district land on which such taxes and charges have not been paid, shall be personally liable for the payment thereof. Similarly, in the event that an individual, organization or irrigation project, having a contract with the district, shall deliver water to any lot or tract of district land for or on account of which such charges and taxes have not been paid, shall be liable to the district in the sum involved and the district may withhold such sum from any payments due such individual, organization or project, until the payments mentioned shall have been made.

Sec. 23. Consolidation of districts; changing boundaries or area. Upon application signed by a majority of the trustees and by the owners of the lots or tracts proposed to be admitted or excluded, additional lands may be included within a district or excluded from the district by order of the board of supervisors. Upon application signed by a majority of the trustees of each district, the board of supervisors may enter an order consolidating two or more districts. Such order shall be recorded in the office of the county recorder.

Sec. 24. Dissolution. The board of supervisors shall have power to dissolve any district organized under the provisions of this act. Such dissolution shall be ordered only upon filing of a petition similar to that required upon organization, except that said petition need not describe the boundaries of nor the lands within the district, but may refer to the district by number or other appropriate designation, which petition shall state that it is the purpose of the petitioners to dissolve the district. No district shall be dissolved unless the petition for dissolution thereof shall be signed by the owners of all lands within the district or the board of supervisors shall find that the dissolution of the district will not work a hardship upon the landowners in the district who have not signed the petition.

Sec. 25. Suspension of functions. The board of supervisors shall have power to suspend the functions of delivering and distributing irrigation water and of maintaining the ditches, pipe lines and other facilities for delivering irrigation water of any irrigation water delivery district upon application in the same form and by the same procedure as prescribed for the dissolution of a district, except that the petition shall state that the purpose of the petitioners is to suspend the functions of delivering water and maintaining water delivery facilities. Before ordering the suspension of such functions, the board of supervisors must ascertain that a hardship will not thereby be worked upon any land owner not a signatory to the petition. The order of the board of supervisors shall state that such functions of the district are suspended until the further order of the board. Whenever such functions are suspended by order of the board of supervisors they may be reinstated only upon petition signed by the owners of a majority of the acreage in the district and notice and opportunity to protest given as provided in the case of organization, or upon petition signed by all land owners in the district. During the suspension of the said powers, the district shall possess and may continue to exercise all powers conferred upon it by law which are not suspended by the order of the board of supervisors. If requested in the petition for organization, the said powers may be suspended by the order organizing the district, and in such event the district shall not exercise such suspended powers until authorized to do so by order of the board of supervisors, made upon majority petition and notice, or upon unanimous petition, as above

provided.

Sec. 26. Water rights on unirrigated areas. Failure to use irrigation water for five or more years shall not cause the abandonment or forfeiture of water rights pertaining to lands included within an irrigation water delivery district so long as the district taxes shall be paid thereon.

Sec. 27. Laws relating to similar districts not affected. This act is not inconsistent with and shall not be held to repeal any other act, statute or section of statute providing for the organization of irrigation or other similar districts.

Sec. 28. Emergency. To perserve the public peace, health and safety it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 21, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 102

(H. B. 166)

AN ACT

Relating to the control, inspection and marketing of fruits and vegetables to regulate dealers engaged in shipping such products.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Definitions. (a) For the purpose of this act the term "produce dealer" shall include every person, firm, exchange, association, or corporation receiving fruits or vegetables from the owner or producer thereof, to be sold on commission or contract or accepted in trust for resale, or who shall sell or offer for sale on commission or shall solicit consignments of such fruits or vegetables, or who shall handle in any way for the account of or as agent of the owner or producer any such fruits or vegetables for interstate shipment or otherwise.

(b) The term "consignor" shall include every person, firm, exchange, association or corporation, who shall ship, deliver, consign, let or otherwise transfer possession of any fruits or vegetables to any produce dealer for resale or shipment, wherein the full and complete cash price is not paid therefor at time of delivery.

(c) The term "consignee" shall include every person, firm, exchange, association or corporation who shall purchase, receive, handle or otherwise procure from any produce dealer for resale or otherwise any fruits or vegetables.

Sec. 2. Produce dealers' licenses. On and after the effective date of this act no person, firm, exchange, association or corporation shall act as a produce dealer without having first obtained a license as provided in this act. Every person, firm, exchange, association or corporation, acting as a produce dealer as herein defined shall file an application with the commission of agriculture and horticulture, for a license to transact the business of a produce dealer, and such application shall be accompanied by the license fee as herein provided.

Sec. 3. Application for license. Such application shall state the class or classes of fruits or vegetables the applicant proposes to handle, the full name of the person, firm, exchange, association or corporation, the full name of each member of the firm or corporation, exchange, association, including the name of all officers, together with the name or names of any person, firm, exchange, association, or corporation with which he or it is in any way affiliated or associated, whether located in Arizona or elsewhere. Such application shall further state the principal place of business of the applicant, and its associates in Arizona or elsewhere, and the names of persons who are authorized to receive and accept service of summons or legal notices of all kinds for the applicant. Such applicant shall further satisfy the commission of agriculture and horticulture of his or its character, responsibility, and good faith in seeking to carry on the business of produce dealer in Arizona.

Sec. 4. Issuance of license. The commission of agriculture and horticulture shall, upon the execution and delivery of a bond and the payment of the fee as hereinafter provided, issue to such applicant a license entitling the applicant to conduct the business of produce dealer at the place or places named in the application until the first day of January next following, or until the same shall have been revoked for cause.

Sec. 5. List of dealers; rules and regulations; license to be posted. The commission of agriculture and horticulture shall annually publish in pamphlet form a list of licensed produce dealers, accompanied by rules and regulations concerning standard pack, grades, and all matters relating to the enforcement of this act.

Each licensed produce dealer shall post his or its license or a copy thereof on a bulletin board in the packing shed, and in the office, of said produce dealer, in plain view of the public, together with a copy of this act, which shall be furnished by the commission of agriculture and horticulture, and shall also display the United States market reports of sales and prices received each day during the current shipping period.

Sec. 6. Fees for license. The fee for a produce dealer's license shall be one hundred dollars for each year or part thereof for dealers handling lettuce, cantaloupes, citrus fruits, or other vegetables for interestate shipment; for all other dealers, the fee shall be twenty-five dollars per year or part thereof.

Sec. 7. Powers of inspector. The fruit and vegetable inspector shall at all times have the power to enter upon and inspect every place, field, shed, house, car or vehicle where fruits or vegetables are produced, received, packed, graded, delivered, loaded, shipped, offered for sale, or sold in interstate shipment, and to inspect such places and the fruit and vegetables therein or thereat, according to the uniform standards now in force or which shall hereafter be enforced or promulgated by the commission of agriculture and horticulture, the state of Arizona or the government of the United States, and shall have access to all records, books, papers, bills of lading, consignments, or reconsignments for the purpose of auditing, inspecting, and making reports to the commission of agriculture and horticulture, and the same police powers as are possessed by the commission of agriculture and horticulture, or by other peace officers of the state.

Sec. 8. Applicant for license must furnish bond; actions for damages. Each applicant for a license to deal in fruits and vegetables for interstate shipment shall, before such license shall be issued, furnish a satisfactory surety bond, in the sum of five thousand dollars, and all other dealers shall furnish a satisfactory surety bond in the sum of twenty-five hundred dollars, conditioned upon compliance with the provisions of this act and upon the faithful and honest handling of fruits and vegetables in accordance with the terms of this act. Such bond shall be payable to the state of Arizona in favor of any consignor, owner or producer of fruits or vegetables claiming to be injured by the fraud, deceit or negligence of any such produce dealer, and any such consignor, owner or producer may bring action upon such bond against both principal and surety in any court of competent jurisdiction, for damages caused by such fraud, deceit, improper accounting, or negligence, or the failure of such produce dealer to fully comply with the provisions of this act.

Sec. 9. Action by commission. In case of the failure of such produce dealer to pay such consignor, owner or producer for farm products received, the commission of agriculture and horticulture shall proceed forthwith to ascertain the names and addresses of all consignors, owners and producers of such fruits or vegetables consigned, delivered, or otherwise turned over to such produce dealer, together with the amounts due, becoming due, or owing to them by such dealer or his consignees. Thereupon the commission is authorized to and shall proceed to bring an action upon the bond in behalf of such consignor, owner or producer. Upon any action being filed or commenced, the commission of agriculture and horticulture shall require the filing of a new bond, or upon failure to do so shall revoke the license of such produce dealer.

Sec. 10. Copies of contracts to be filed; commission upon charges prohibited. Each produce dealer shall file with the commission of agriculture and horticulture, as and when requested, copies of his contracts with each consignor, owner or producer, showing the charges for services in connection with the handling of produce and schedules showing his maximum and minimum charges for services in selling and handling said fruits or vegetables, and all other charges for services. In no case shall the produce dealer charge the consignor, owner, or producer a commission upon the charges for transportation, supervision, inspection or packing, and all such charges must be deducted before any commission is charged for selling such produce.

Sec. 11. Investigations by commission. For the purpose of enforcing the provisions of this act, the commission of agriculture and horticulture is authorized to receive verified complaints against any produce dealer, firm, exchange, association or corporation, and its officers and managers, or persons assuming or attempting to act as such, and upon receipt of such verified complaint the commission shall have full authority and power to make necessary investigations relative to such complaint. It shall at all times have free and unimpeded access to all fields, buildings, yards, sheds, warehouses, storage, vehicles, railroad cars, transportation records, bills of lading, manifest bank records, drafts, checks and shippers orders, whether in possession of the produce dealer, the carrier, the banks or otherwise, together with all consignments or reconsignments, and records or other data relating to any fruits or vegetables shipped, packed, or contracted, and shall have authority to issue subpoenas, require the attendance and testimony of witnesses, administer oaths, compel the production of books, records, bills of lading, shippers orders, consignments or reconsignments, memoranda, papers, statements, and reports from consignees, or otherwise, and other documents or instruments, and to require the disclosure by witnesses of all facts known to them relative to the matters under investigation. Any person disobeying any summons or orders issued under the authority of this act shall be guilty of contempt of the superior court, and upon determination by the superior court of any county, of any such act, it shall punish the offender as for contempt. Copies of records, bills of lading, shippers orders, inspection certificates, certified reports from consignees, and all papers on file in the office of the commission of agriculture and horticulture shall be prima facie evidence of the matters therein contained.

Sec. 12. United States standards. The commission of agriculture and horticulture shall have authority to regulate the standards of grades and containers of fruits and vegetables packed, graded, shipped, or otherwise handled in accordance with provisions fixed by the United States government.

Sec. 13. Investigation of transactions. Upon the verified complaint of any party, the commission of agriculture and horticulture shall, or on its own motion may investigate any transaction involving solicitations, money advances, receipts of produce, sale or attempted solicitation, and sale, of fruits or vegetables by any person or persons acting or assuming to act as a produce dealer; failure to make proper and true account of sales and settlement thereof; the intentional making of false or misleading statements as to market conditions; failure to make prompt payment for products, or any other injurious transaction. In furtherance of such investigation the commission of agriculture and horticulture or its inspector, or authorized representative, shall examine all books, ledgers, accounts, memoranda, and all other documents and papers, railroad bills of lading, manifest routing cards, consignments or reconsignments, the products themselves, scales and all weighing and measuring devices, and all other articles and things, whether in possession of the produce dealer or the carrier, or consignee, which relates to the transaction involved.

Sec. 14. Complaint against produce dealer. When a consignor, owner or producer of fruits or vegetables fails to obtain prompt and satisfactory settlement of any transaction, a verified complaint may, after notice to the produce dealer, be filed with the commission of agriculture and horticulture, which shall immediately undertake to effect a settlement, and in the event it shall fail to do so it shall cause a verified complaint to be served upon such produce dealer. Such service shall be made at least ten days before the hearing, which shall be held in the office of the commission of agriculture and horticulture, or some more convenient place to be designated by the commission.

Sec. 15. Hearing upon complaint. At the time and place appointed for the hearing, the commission of agriculture and horticulture or its designated referee shall hear the parties to such complaint, and after consideration shall render a decision, dismissing the complaint or setting forth the facts established at the hearing, and a copy of the decision shall be furnished to each of the litigants. Appeal may be had from the decision to the superior court of the

county wherein said hearing is held; provided, that if the decision is against the produce dealer, the license of such dealer shall be suspended until the claim is settled.

Sec. 16. Grounds for refusing or revoking license. The commission of agriculture and horticulture shall refuse to grant a license to, and shall revoke the license of a produce dealer when it shall be satisfied that such produce dealer has: 1. made fraudulent charges or returns; 2. been guilty of negligent handling or packing, or negligent rendering of any service in connection with his contract; 3. failed or refused to render a true and correct account of sales, as to amount received, quality of grades, quantity, or pack, or to make a settlement thereon within the time and manner by this act required; 4. in any manner commingled the produce consigned with that of his own or with others without the written consent of the consignor, owner or producer; 5. intentionally made or entered, or negligently made or entered any false or misleading statement as to the condition of the market, the pack, quality or quantity of the produce, mis-marked or mislabled cars for a consignor, or is otherwise guilty of collusion to defraud the consignor, owner or producer; 6. reconsigned produce to another dealer for the purpose of receiving or giving an additional commission or charge for resale, or more than one commission upon the sale of produce, without the written consent of the consignee, owner or producer; 7. been guilty of fraud or deception in obtaining his license; 8. failed or refused to file with the commission a copy of his contract with consignors, owners and producers, showing fully the commissions charged or to be charged, and his minimum and maximum charges for commission; 9. directly or indirectly charged a commission upon the transportation charges, packing or handling; 10. violated any of the provisions of this act or the rules and regulations issued by the commission.

Sec. 17. Records to be kept by produce dealer. It shall be the duty of every produce dealer to keep a complete and accurate record of all fruits or vegetables received by him, showing the grade, pack, storage, and the number of cars in which each particular product is placed, and showing in detail the following information with reference to the handling of all fruits or vegetables received by him, whether received on consignment, his own produce, or otherwise; 1. the name and address of each consignor, owner or producer, whether the produce received from him was received on consignment or otherwise, whether grown by the produce dealer, or bought outright by him, and the grade, pack, car or refrigerator car numbers, the date received, date packed, and date shipped, each of which items must be kept separate and not commingled with each other; 2. the grade, quality and quantity upon arrival at destination, with date of sale and delivery of any such shipment; 3. the gross price for which the same was sold and to whom sold, including each item of expense and charges; 4. any facts with regard to reconsignment; 5 copies of all statements received from the purchaser, showing gross receipts, all of which shall be filed with the commission of agriculture and horticulture; 6. a record of any guaranteed advances made by the produce dealer to the consignor, owner or producer; 7. each lot of fruits or vegetables handled by such produce dealer shall be given a lot number or other identification mark which shall accompany it to final destination, which said number shall appear upon all records, sales tags, or any other essential record needed to show what the produce actually brought at sale.

Sec. 18. Guaranteed advances chargeable only to consignments. The produce dealer may make guaranteed advances to the consignor, owner, or producer, which said advances, if made for the payment of water, lease, use of land, or growing charges, shall be made by the produce dealer under the condition that said advances are made as a guaranteed advance upon and are charged to the particular tract or tracts of land from which fruits or vegetables were consigned, and that no part of the said advances shall be later charged against any other tract of land.

Sec. 19. Other advances chargeable only to related lots; deficiency to be borne by produce dealer. Advances for crates, picking, handling, packing, drayage, sales charges and freight shall be charged only to the particular lot, pool or individual shipment to which such advance relates, and shall not be deducted from any ship-

ment prior or subsequent thereto. A copy of the record and account of sales, together with remittances in full for the amount realized from such sales, less the amount of advances actually made, charges for packing and transportation, and the agreed commissions, shall be delivered to the consignor, owner or producer upon the consummation of the sale, within ten days after the receipt of said funds by the produce dealer. Every contract between the producer and produce dealer shall provide that when the producer believes that the market will not meet the costs of picking, harvesting, shipping, marketing, crates, packing, freight and other charges and leave to the producer at least ten cents per crate, he may refuse to deliver the crop to the shipper, and in the event such shipment does not bring the costs charged against same that the loss shall be at the expense of the shipper and not charged to the producer or deducted from the profits of any prior or subsequent shipment. The produce dealer shall retain a complete copy of all records or consignments, and before he is fully released from the obligations of his bond he must deliver to the commission of agriculture and horticulture a copy of all records kept by him.

Sec. 20. Penalty for violations. Any person, firm, exchange, association or corporation, its managers, officers, and agents, assuming or attempting to act as a produce dealer as defined by this act, or any other person, firm, exchange, association or corporation, its agents, manager or officers, who shall: 1. make any false charges for handling or services in connection with fruits or vegetables; 2. fail to promptly account and make full and correct settlement as herein provided; 3. intentionally make false or misleading statements as to market conditions or prices received; 4. make fictitious sales, or be guilty of collusion to defraud the consignor, owner or producer of any farm products; 5. directly or indirectly purchase for his or its own account produce received upon consignment for resale without written authority from such consignor, owner, or producer; 6. intentionally make false or misleading statements as to grade, quantity, or quality of produce, marking or changing of number of consignment or of cars for transporting the same, or commingling the products of a consignor, owner or producer with those of his own or others; 7. or otherwise violate any provision of this act, shall be guilty of a felony, and upon conviction shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by confinement in the county jail not to exceed one year, or by both such fine and imprisonment.

Sec. 21. County attorneys to prosecute. It is hereby made the duty of the several county attorneys to prosecute all violations of this act subject to prosecution in their several counties. Civil suits and criminal prosecutions arising by virtue of any provision of this act may be commenced and tried either in the county where the products are received by the produce dealer, or within the county in which the violation occurs.

Sec. 22. Produce dealers books open for inspection. Produce dealers' books, bank records, and the books and records of all transportation companies or lines and of the consignees of said produce dealers, pertaining to the receipt, packing, loading, shipment, delivery and sale of all produce affected by this act shall at all times be open and subject to inspection upon demand of the commission of agriculture and horticulture, or its inspector or agents as to any entry concerning any produce received by the produce dealer and shipped to market, for sale upon consignment or otherwise, and for the purpose of carrying out this act the commission, any commissioner, or any deputy thereof, or the inspector of fruits and vegetables, shall have the same powers as possessed by peace officers.

Sec. 23. Validity. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

APPROVED MARCH 20, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 103

(H. B. 118)

AN ACT

Relating to the sale in the open market of goods, wares and merchandise manufactured, produced or mined by convicts or prisoners.

Be it enacted by the Legislature of the State of Arizona:

Section 1. No goods, wares or merchandise manufactured, produced or prepared wholly or in part by convicts or convict labor, except convicts or prisoners on parole or probation, shall be sold or exchanged on the open market within the state of Arizona.

Sec. 2. The sale of goods, wares or merchandise prohibited by Sec. 1 of this act shall extend to and apply to all goods, wares or merchandise prepared, produced or manufactured wholly or in part by convicts or prisoners of other states and the same shall be subject to the operation and effect of the laws of this state upon arrival and delivery within the state of Arizona to the same extent and in the same manner as though such goods, wares and merchandise had been manufactured, produced or mined within the state of Arizona, and shall not be exempt by reason of being introduced in the original package or otherwise.

Sec. 3. It shall be unlawful for any board, commission or officer of the state of Arizona or any of its subdivisions to enter into any contract for the expenditure of any public moneys to be paid for any goods, wares or merchandise prepared or manufactured wholly or in part by convicts or prisoners except convicts or prisoners on parole or probation.

Sec. 4. Sale upon the open market as outlined in Secs. 1 and 2 of this act shall not include sales or exchanges between any penal or charitable institutions maintained wholly by the state of Arizona or its political subdivisions for use in any of such institutions or by the wards thereof.

Sec. 5. Any person or any manager or agent for any person or corporation who shall violate the provisions of this act shall, upon conviction, be punished by a fine of not less than one hundred ($100.00) dollars and not more than one thousand ($1,000.00) dollars and by imprisonment in the county jail for a period of not less than ninety (90) days nor more than one (1) year.

Sec. 6. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED MARCH 20, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Regular Session

CHAPTER 104

(H. B. 178)

AN ACT

To amend Secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Chap. 102, Session Laws of 1931, and add thereto Secs. 9-a and 10-a, relating to and regulating the business of contracting, and repealing all laws and parts of laws in conflict with the provisions of this act.

Be it enacted by the Legislature of the State of Arizona:

Section 1. That sec. 1, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 1. Necessity for securing license. It shall be unlawful for any person, firm, copartnership, corporation, association or other organization, or any combination of any thereof, to engage in the business or act or offer to act in the capacity or purport to have the capacity of contractor within this state without having a license therefor as herein provided, unless such person, firm, copartnership, corporation, association or other organization is particularly exempt as provided in this act. Evidence of the securing of any permit from a governmental agency or the employment of any person on a construction project shall be accepted in any court as prima facie evidence of the existence of a contract.

Sec. 2. That Sec. 2, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 2. Subjects act does not apply to. This act shall not apply to:

(a) An authorized representative or representatives of the United States government, the state of Arizona, or any county, incorporated city or town, irrigation district, or other municipality or political subdivision of this state;

(b) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts or to farming, dairying, agriculture, viticulture, horticulture or stock or poultry raising;

(c) Trustees of an express trust, or officers of a court, providing they are acting within the terms of their trust or office respectively;

(d) Public utilities operating under the regulations of the state corporation commission, on construction, repair or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning or other operation of any petroleum or gas well, when performed by an owner or lessee;

(e) Sole owners of property, building thereon structures, intended for the use and occupancy of such owners and their families.

Sec. 3. That Sec. 3, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 3. Contractor defined. A contractor within the meaning of this act is a person, firm, copartnership, corporation, association, or other organization, or any combination of any thereof, who for either a fixed sum, price, fee, percentage, or other compensation other than wages, undertakes or offers to undertake or purports to have the capacity to undertake to construct, alter, repair, add to or improve any building, highway, road, railroad, excavation, or other structure, project, development or improvement, other than to personalty, or any part thereof; provided, that the term contractor, as used in this act, shall include sub-contractor, but shall not

include anyone who merely furnishes materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the contractor as herein defined.

Sec. 4. That Sec. 4, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 4. Appointment of registrar--term of office. The Governor is hereby empowered to appoint a contractor as registrar of contractors for the purpose of this act, hereinafter referred to as the registrar. The term of office of the registrar shall be for two years coterminous with that of the governor; or until his successor has been duly appointed and qualified. The registrar shall, upon receiving notice of his appointment, deliver to the secretary of state a bond of five thousand dollars payable to the state. The registrar is empowered to employ such assistance and procure such equipment and records as may be necessary to carry out its provisions. He shall receive a salary of ten dollars per diem for such time as actually employed.

Sec. 5. That Sec. 5, Chap. 102, Session Laws of 1931, be and the same is hereby amended to read as follows:

Sec. 5. Acts before obtaining license; qualifications for holding license; creation of special fund. To obtain a license under this act the applicant shall submit, on such forms as the registrar shall prescribe and in accordance with such rules and regulations as may be adopted by the registrar a duly verified application including a complete statement of the general nature of his contracting business, and if an individual, his name and address, if a copartnership, the names and addresses of all the partners, and if a corporation, association, or other organization, the names of the president, vice-president, secretary and chief construction managing officer or officers, and if a corporation not organized under the laws of this state, a statement showing that said corporation is qualified to do business by completing all of the acts required for such qualification in this state and in each county in which the contract or any part thereof is to be performed. Such application shall contain the certification of two reputable citizens of the county in which the applicant resides, that he is of good reputation, and recommending that license be granted, and containing the statement that the applicant desires the issuance of a license under the terms of this act. No license shall be issued until the registrar has satisfied himself upon evidence presented and recorded as to the integrity of the applicant and that said applicant is qualified in the following respects to hold a license.

(a) That the applicant is of good reputation, and that he must have had experience in the kind of work he proposes to contract.

(b) That the applicant has never been refused a license or had a license revoked for reasons that should preclude the granting of a license; provided, that no license shall be refused by the registrar without providing an opportunity to the applicant within thirty days from the filing of the application to be heard and produce evidence in support of his application; and be it further provided that no license shall be refused upon grounds of lack of experience in the kind of work that the applicant proposes to contract until all records and evidence in the case shall have been submitted to a committee, appointed by the governor, of three reputable persons who are residents of the county in which the applicant resides, well versed in the kind or kindred work to which the application relates, who shall serve without remuneration. Their recommendations shall be certified to the registrar who shall act in accordance therewith.

No license shall be issued to a foreign corporation which has not complied with the state laws requiring qualifications to do business in this state.

It shall be the duty of the registrar to adopt and promulgate such rules and regulations as he may deem necessary to carry out the provisions of this act.

Said application shall be accompanied by a fee of fifteen dollars and not to exceed five per cent of said license fee may be expended by the registrar for publicity and educational purposes in

connection with the administration of this act. The fees received under this act shall be paid to the state treasurer and by him placed in a special fund to be known as the "contractors' license fund"; and no money shall be placed to the credit of nor paid out from said fund, except as provided in this chapter, provided that five per cent of each deposit made by the registrar for the credit of said fund shall inure to and be immediately transferred to the general fund, and the remainder is hereby appropriated to carry out the purposes of this act. The surplus remaining in said fund at the end of the fiscal year shall be credited to the said contractors' license fund for the succeeding fiscal year.

Sec. 6. That Sec. 6, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 6. Duty of registrar to issue license. Upon receipt of said application and of said fee it shall be the duty of the registrar within ten days therefrom to issue a license to the applicant permitting him to engage in business as a contractor, under the terms of this act, for the balance of the fiscal year following the application, provided the applicant has furnished such complete information and in such manner as may be required by the registrar in accordance with Sec. 5 of this act. The license, under this act, shall be signed by the licensee, shall be non-transferable, and satisfactory evidence of the possession thereof shall be exhibited by him upon demand.

Sec. 7. That Sec. 7, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 7. Expiration of licenses. All licenses issued under the provisions of this act shall elapse and expire on June thirtieth of each year. Applications for renewal of a current license accompanied by a fee of ten dollars before the expiration date shall authorize operation as a contractor by such licensee until actual issuance of such renewal license for the ensuing fiscal year. All applications for renewal of license shall be filed with the registrar not later than July thirtieth of each year; otherwise such licenses shall be ipso facto suspended and shall be renewable only on the payment of a fee of twenty dollars, and unless so renewed shall remain suspended during the remainder of the fiscal year. After a license has been suspended, as in this section provided, for a period of one or more fiscal years, a new application for license must be made and a new license issued in accordance with the provisions of Sec. 5 of this act.

All licensees shall report all changes of personnel and addresses under this act, within thirty days after the same shall occur, on such forms as the registrar shall provide in such cases.

Sec. 8. That Sec. 8, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 8. Office of registrar; registration deemed notice; duties and rights of registrar. The registrar shall maintain an office in Phoenix, open to public inspection during office hours; a complete indexed record of all applications and all licenses issued and of all renewed licenses under this act, and of all terminations, cancellations and suspensions thereof; and shall furnish a certified copy of any license issued or of the cancellation or suspension thereof, upon receipt of the sum of fifty cents, and such certified copy shall be received in all courts and elsewhere as prima facie evidence of the facts stated therein. The registration of a contractor at the office of the registrar of contractors is notice to all people doing business with said contractor that he is duly licensed.

Whenever funds are available for that purpose, it shall be the duty of the registrar to furnish a list of contractors, with their addresses, registered under the provisions of this act, and of licenses issued, suspended or revoked, to such public works and building departments and public officials or public bodies as in his judgment may be deemed advisable. Said lists of registered contractors, and of licenses issued, suspended or revoked, shall, whenever funds are available for that purpose, be furnished to the public officials hereinbefore mentioned at intervals of ninety days or less; such intervals to be as frequent as the registrar shall deem necessary. Copies of said lists may be furnished by the registrar upon request to any firm or individual upon payment of such reason-

able fee or fees as may be determined by the registrar.

Sec. 9. That Sec. 9, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 9. Grounds for revocation of license. The registrar of contractors may upon his own motion, and shall upon the verified complaint in writing of any person investigate the actions of any contractor within the state and shall have power to temporarily suspend or permanently revoke a license issued under the provisions of this act if the holder, while a licensee hereunder, is guilty of or commits any one or more of the following acts or ommissions:

(a) Abandonment of any contract without legal excuse.

(b) Diversion of funds or property received for prosecution or completion of a specific contract, or for a specified purpose in the prosecution or completion of any contract, and their application or use for any other contract, obligation or purpose.

(c) Fraudulent departure from or disregard of plans or specifications in any material respect, without consent of the owner or his duly authorized representative.

(d) Wilful and deliberate disregard and violation of the building code of the federal government or of the state or of any political subdivision thereof, or of the safety laws or labor laws of the federal government or of the state.

(e) Failure to keep records showing all receipts and disbursements of the licensee in all of his transactions an a contractor as that term is defined in this act.

(f) Misrepresentation of a material fact by the applicant in obtaining a license.

(g) The doing of any wilful, fraudulent act by the licensee as a contractor in consequence of which another is substantially injured.

Sec. 10. That a new section be and is hereby added to Chap. 102, Session Laws of 1931, to be known as Sec. 9-a, to read as follows:

Sec. 9-a. Procedure for revocation of license. Upon the filing with the registrar of a verified complaint charging a licensee with the commission within two years prior to the date of filing of such complaint of any act which is cause for suspension or revocation of license, the registrar must forthwith issue a citation directing the licensee, within ten days after service of the citation upon him, to appear by filing with the registrar his verified answer to the complaint showing cause, if any he has, why his license should not be suspended or revoked. Service of the citation upon the licensee shall be fully effected by mailing a true copy thereof, together with a true copy of the complaint, by United States registered mail, in a sealed envelope with postage fully prepaid thereon addressed to the licensee at his latest address of record in the registrar's office. Service of said citation shall be complete at the time of said deposit subject to the provisions of Secs. 3758, 3764, 3765, and 3766, Revised Code of 1928.

Failure of the licensee to answer shall be deemed an admission by him of the commission of the act or acts charged in the complaint and thereupon the registrar shall have power forthwith to suspend or revoke the license.

Upon the filing of the answer, the registrar shall fix a time and place for the hearing and give the licensee and the complainant not less than five days' notice thereof. The notice may be served by depositing in the United States mail a true copy of the notice inclosed in a sealed envelope with postage thereon fully prepaid and addressed to the licensee and to the complainant, respectively, at his last known address. With the notice to the complainant there shall be attached or inclosed a copy of the answer. If either party has appeared by counsel, the notice shall be given, in like manner, to counsel instead of to the party.

Upon the hearing, the registrar shall hear all relevant and competent evidence offered by the complainant and by the licensee, and shall have power to continue the hearing from time to time as in his judgment may be necessary and proper. After the hearing is concluded and the matter submitted, the registrar shall, within ten days after such submission render his decision in writing, suspending or revoking the license or dismissing the complaint, with a brief statement of his reasons therefor. He shall give to the complainant and the licensee, or their respective attorneys, notice of the decision, by mail, in the same manner as prescribed herein for the giving of notice of hearing. A decision of the registrar suspending or revoking a license shall not take effect until twenty days after such service of notice of the decision of the registrar suspending or revoking a license, the licensee may apply for a rehearing by filing with the registrar his petition in writing therefor. Within five days after such filing, the registrar shall cause notice thereof to be served upon the complainant by mailing a copy of the petition for rehearing to the complainant in the same manner as herein prescribed for the giving of notice of hearing. The filing of a petition for rehearing as to the registrar's action in suspending or revoking a license suspends the operation of such action and permits the licensee to continue to do business as a contractor pending denial or granting of the petition, and if the petition be granted, pending decision of the registrar upon rehearing. In his order granting or denying a rehearing, the registrar shall set forth a statement of the particular grounds and reasons for his action on the petition and shall forthwith mail a copy of the order to the parties who have appeared in support of any opposition to the petition for rehearing. If a rehearing be granted the registrar shall set the matter for further hearing on due notice to the parties, given in the same manner prescribed herein for the giving of notice of an original hearing. Within ten days after submission of the matter upon rehearing, the registrar shall render his decision in writing and give notice thereof in the same manner as if a decision rendered upon an original hearing. Within thirty days after service of notice of the order denying the rehearing or of the decision rendered upon the rehearing, any party aggrieved by the order or decision of the registrar may appeal therefrom to the superior court of the state of Arizona, and in and for the county in which the person affected by such decision resides or has his place of business under the terms of this act, by serving upon the registrar a notice of such appeal and a demand in writing for a certified transcript of all the papers on file in his office affecting or relating to such decision and all the evidence taken on the hearing, and paying therefor at the rate of ten cents per each folio of the transcript and one dollar for the certification thereof. Thereupon, the registrar shall, within thirty days, make and certify such transcript, and the appellant shall, within five days after receiving the same, file the same and the notice of appeal with the clerk of said court. Upon hearing of such appeal, the court shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the registrar in making such decision.

When an appeal is taken to said superior court from the order or decision of the registrar suspending or revoking a license, such order or decision shall remain in effect pending final determination of the matter, unless the applicant shall file with the court a bond in a sum to be fixed by the court or by judge thereof in favor of the people of the state of Arizona and conditioned upon the faithful performance of all the obligations of said appellant as a contractor pending the final decision of the matter on appeal and until the fulfillment by the contractor of any condition imposed by such order or decision of the registrar. Such bond shall be for the benefit of any person having dealings with said appellant in his capacity as a contractor, and any person so dealing with said appellant in such capacity shall have the right to commence and maintain an action thereon in his name against such contractor and his sureties on said bond. If such superior court shall determine that a contractor's license should be suspended or revoked, it shall by its judgment suspend or revoke such license, The clerk of such superior court shall within ten days after the entry of any such judgment on appeal transmit to the registrar, by United States mail, a notice containing information as to the affirmance, modification or reversal of the order or decision of the registrar in said matter.

The suspension or cancellation of license as in this act provided may also be embraced in any action otherwise proper in any court involving the licensee's performance of his local obligation as a contractor.

Sec. 11. That Sec. 10, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 10. Appeal from judgment. A judgment of suspension or cancellation of a license by the superior court shall be subject to appeal or review in accordance with the provisions of law as to appeal from or review of judgments of superior courts, but there shall be no stay of execution or enforcement of such judgment pending such proceedings on appeal or review unless the appellant or applicant for review shall file a bond in all respects conditioned as, and similar to, the bond required by Sec. 9-a of this act.

The clerk of the court wherein said judgment has become final shall, within ten days after the entry of such final judgment, transmit, by United States mail, to the registrar, a notice containing information as to the affirmance, modification or reversal of the judgment of the superior court in said matter.

Sec. 12. That a new section be and is hereby added to Chapter 102, Session Laws of 1931, to be known as Sec. 10-a, to read as follows:

Sec. 10-a. Powers of registrar in legal procedings. In any investigation or proceeding or hearing which under the proceedings of this act he is empowered to institute, conduct or hold, the registrar, deputy registrar, and investigators shall have the power to administer oaths, certify to official acts, issue subpoenas for the attendance of witnesses and the production of books, papers and records, and exercise all of the powers conferred upon the commission or commissioner by the provisions of Secs. 708, 710, and 4470, Revised Code of 1928. All of the provisions of said sections are incorporated herein with the same force and effect as if herein set forth at length and wherever in said sections the term "commission" or "commissioners" or similar designation occurs, the same, for the purpose of this reference, means the "registrar of contractors".

Sec. 13. That Sec. 11, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 11. Rights after suspension of license. After suspension of the license upon any of the grounds set forth in Sec. 9 of this act, the registrar shall renew the same upon proof of the compliance by the contractor with any provisions of the judgment as to renewal of such license, or in the absence of such judgment or any provisions therein as to renewal, in the sound discretion of the registrar. After cancellation of a license upon any of the grounds set forth in Sec. 9 of this act, such license shall not be renewed or reissued within a period of one year after final determination of cancellation and then only in proper showing that all loss caused by the act or omission for which the license was cancelled has been fully satisfied.

Sec. 14. That Sec. 12, Chap. 102, Session Laws of 1931, be and is hereby amended to read as follows:

Sec. 12. Penalty. Any person who acts in the capacity of a contractor within the meaning of this act without a license as herein provided, and any person who conspires with another person to violate any of the provisions of this act is guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars nor to exceed five hundred dollars, or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment, in the discretion of the court.

No contractor as defined by Sec. 3 of this act shall act as agent or bring or maintain any action in any court of the state for the collection of compensation for the performance of any act for which a license is required by this act without alleging and proving that such contractor was a duly licensed contractor at the time the alleged cause of action arose.

The word "person" as used in this section includes an individual, a firm, copartnership, corporation, association or other organization.

Sec. 15. If any section, sub-section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

Sec. 16. Neither this entire amendment nor any section thereof is enacted for the purpose of aiding, conflicting with or amending or repealing the present mechanic's lien law of the state of Arizona, or any part thereof.

Sec. 17. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

APPROVED MARCH 22, 1933.

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ORDER OF ACTS

FIRST SPECIAL SESSION OF THE
ELEVENTH LEGISLATURE
STATE OF ARIZONA

CHAPTER			
1	H. B. 14	Making an appropriation for the current and contingent expenses of carrying on, conducting and defraying the expenses of the special session of the eleventh legislature of the state of Arizona; and declaring an emergency. Approved June 10, 1933.	1
2	H. B. 1	To provide for conventions to pass on amendments to the Constitution of the United States proposed by the Congress of the United States for ratification by conventions in the several states, repealing Chapter 94, (House Bill 245), laws of the Eleventh Legislature, Regular Session, 1933, and declaring an emergency. Approved June 14, 1933.	3
3	H. B. 6	To provide a special appropriation to the board of directors of state institutions for the repair and reconstruction of the sewer system to the state prison, and declaring an emergency. Approved June 22, 1933.	6
4	H. B. 22	Relating to the registration and qualifications of voters for special elections and for other purposes, and providing for the conduct of special elections, and declaring an emergency. Approved June 23, 1933.	7
5	H. B. 8	To provide for a special election to vote upon proposed constitutional amendments, and declaring an emergency. Approved June 23, 1933.	8
6	H. B. 31	Proposing to amend Article XIX, Constitution of Arizona, relating to the office of mine inspector, and providing for a special election thereon. Approved June 23, 1933.	9
7	H. B. 25	Relating to child hygiene and child welfare, making an appropriation therefor, and declaring an emergency. Approved June 23, 1933.	10
8	S. B. 1	Relating to taxation and providing for a graduated tax on net incomes; repealing Chapter 39, (S. B. 16) Session Laws of 1933 (Regular Session); and declaring an emergency. Approved June 26, 1933.	11
9	H. B. 43	Relating to the manufacture and sale of spirituous liquors and imposing a tax thereon, amending Section 13, Chapter 76, Session Laws of 1933, Regular Session, and declaring an emergency. Approved June 26, 1933.	29

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10	H. B. 2	Relating to common and contract motor carriers of property and passengers; amending Chapter 100, Session Laws of 1933 (Regular Session) by adding a section to be designated Sec. 16a; amending Sec. 17, Chapter 100, Session Laws of 1933 (Regular Session); and declaring an emergency. Approved June 26, 1933.	30
11	S. B. 13	Amending Sections 1395, 1414, 1417, 1422, 1434 and 1438, Article 5, Chapter 24, Revised Code of 1928, relating to workmen's compensation law; and declaring an emergency. Approved June 26, 1933.	32
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14	S. B. 16	Relating to the grading and sale of Arizona fresh eggs. Approved June 26, 1933.	44
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16	S. B. 2	Relating to taxation, and to provide for a classified tax on intangible property; and declaring an emergency. Approved June 27, 1933.	46
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18	S. B. 17	Relating to emergency taxation, and to provide for the raising of additional public revenue by imposing a privilege tax on the privilege of engaging in certain businesses; and imposing a tax on the sale of certain luxuries; and declaring an emergency. Approved June 28, 1933.	65
19	H. B. 34	Relating to the protection of the horticultural industry; regulating the sale of citrus fruit; providing a penalty for unlawful sale. Approved June 28, 1933.	69

State of Arizona
Eleventh Legislature
House of Representatives
First Special Session

CHAPTER 1

(H. B. 14)

AN ACT

Making an appropriation for the current and contingent expenses of carrying on, conducting and defraying the expenses of the special session of the eleventh legislature of the state of Arizona; and declaring an emergency.

Be it enacted by the legislature of the State of Arizona:

Section 1 That the sum of thirty-two thousand dollars ($32,000.00), or so much thereof as may be necessary, is hereby appropriated out of the general fund now in the hands of the state treasurer of the State of Arizona, for the several objects and purposes hereinafter named:

(1) The sum of thirteen thousand, two hundred eighty dollars ($13,280.00), or so much thereof as may be necessary, is hereby appropriated for the payment of the salaries of the members of the eleventh legislature of the State of Arizona.

(2) The sum of five thousand, nine hundred twenty dollars ($5,920.00), or so much thereof as may be necessary, is hereby appropriated for the payment of employees of said legislature; one thousand, five hundred sixty dollars ($1,560.00), or so much thereof as may be necessary, for the payment of the employees of the Senate; and four thousand, three hundred sixty dollars ($4,360.00), or so much thereof as may be necessary, for the payment of the employees of the House.

(3) The sum of one thousand, eight hundred dollars ($1,800.00), or so much thereof as may be necessary, is hereby appropriated for the payment of mileage of the members of said legislature.

(4) The sum of eleven thousand dollars ($11,000.00), or so much thereof as may be necessary, is hereby appropriated for the payment of the contingent expenses of said legislature; four thousand, five hundred dollars ($4,500.00), or so much thereof as may be necessary, for the payment of the contingent expenses of the Senate; six thousand, five hundred dollars ($6,500.00), or so much thereof as may be necessary, for the payment of the contingent expenses of the House.

Sec. 2. All claims for salaries of and mileage for members of the respective houses of said legislature shall be honored by the state auditor upon the presentation of a certificate signed by the presiding officers of the respective houses of said legislature, whereupon said state auditor shall issue his warrant upon the state treasurer for the payment of the same, and said treasurer, upon presentation, shall pay the same out of the appropriation herein provided for and from the general fund of the State of Arizona.

Sec. 3. That all salaries for clerks and employees of said respective houses of said legislature shall be paid in like manner as provided in Sec. 2 of this act.

Sec. 4. The salaries of said members of said legislature and the salaries of the said employees thereof, shall be payable on Monday of each and every week during the session of said legislature. The incidental expenses of said legislature shall be payable whenever the proper voucher shall be presented.

Sec. 5. The foregoing appropriations are made subject to the condition that they shall be exempt from the provisions of the finance code, and balances shall not revert at the end of the fiscal year.

Sec. 6. Whereas, an urgent necessity exists for the appropriation of funds to pay the salaries and mileage of the members of the legislature, and to provide funds for the contingent expenses of said legislature, the provisions of this act are necessary for the expenses and maintenance of said legislature, to keep it intact and preserve the public peace, health and safety, an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval by the governor, and is hereby exempt from the provisions of referendum provided for in the Constitution of the State of Arizona.

APPROVED JUNE 10, 1933.

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STATE TAX COMMISSION
OF ARIZONA

State of Arizona
Eleventh Legislature
House of Representatives
First Special Session

CHAPTER 2

(H. B. 1)

AN ACT

To provide for conventions to pass on amendments to the Constitution of the United States proposed by the Congress of the United States for ratification by conventions in the several states, repealing Chapter 94 (House Bill 245), laws of the Eleventh Legislature, Regular Session, 1933, and declaring an emergency.

Be it enacted by the legislature of the State of Arizona:

Section 1. Whenever the Congress of the United States shall propose an amendment to the Constitution of the United States, and shall propose that it be ratified by conventions in the several states, the governor shall fix by proclamation the date of an election for the purpose of electing the delegates to such convention in this state. Such election may either be at a special election or may be held at the same time as a general election,but shall be held at least as soon as the next special or general election occurring more than three months after the amendment has been proposed by the Congress.

Sec. 2. Except as in this act otherwise provided, such election shall be conducted and the results thereof ascertained and certified in the same manner as in the case of the election of state officers in this state, and all provisions of the laws of this state relative to elections except so far as inconsistent with this act are hereby made applicable to such election.

Sec. 3. The number of delegates to be chosen for such convention shall be fourteen to be elected from the state at large.

Sec. 4. Candidates for the office of delegate to the convention shall be qualified electors of this state. Nominations shall be by petition signed by not less than one thousand electors of the state qualified to vote at such election; filed with the secretary of the state, and not otherwise. Nominations shall be without party or political designation, but the nominating petitions shall contain a statement by the nominee to the effect that he favors ratification, or that he opposes ratification, and no nominating petition shall be accepted unless such statement is contained therein. No nomination petition shall be effective except those of the fourteen nominees in favor of ratification whose nominating petitions were first filed with the secretary of state and who are residents each of a county different from the other, and those of the fourteen nominees against ratification whose nominating petitions were first filed with the secretary of state and who are residents each of a county different from the other. Within ten days after the petitions are filed, the secretary of state shall certify the candidates of each group to the board of supervisors of the respective counties of this state. All petitions shall be filed with the secretary of state not less than twenty days before the proclaimed date of the election.

Sec. 5. The election shall be by ballot, separate from any ballot to be used at the same election, which shall be prepared as follows: It shall first state the substance of the proposed amendment. This shall be followed by appropriate instructions to the voters. It shall then contain perpendicular columns of equal width, headed respectively in plain type, "For Ratification," and "Against Ratification." In the column headed "For Ratification" shall be placed the names of the nominees nominated as in favor of ratification. In the column headed "Against Ratification" shall be placed the names of the nominees nominated as against ratification. The voter shall indicate his choice by making one or more cross marks in the appropriate spaces provided on the ballot. The ballot shall be so arranged that the voter may, by making a single cross mark, vote for the entire

group of the nominees whose names are comprised in any column. The ballot shall be in substantially the following form:

PROPOSED AMENDMENT TO THE CONSTITUTION
OF THE UNITED STATES.

The Congress has proposed an amendment to the Constitution of the United States which provides (insert here the substance of the proposed amendment).

The Congress has also proposed that the said amendment shall be ratified by conventions in the states.

INSTRUCTIONS TO VOTERS

Do not vote for more than fourteen (14) candidates.
To vote for all candidates in favor of ratification, or for all candidates against ratification, make a cross-mark in the CIRCLE at the head of the list of candidates for whom you wish to vote. If you do this, make no other mark.

To vote for an individual candidate make a cross-mark in the SQUARE at the left of the name.

For Ratification	Against Ratification
○	○
▱ John Doe	▱ Charles Coe
▱ Richard Roe	▱ Michael Moe
▱	▱

Sec. 6. The fourteen nominees who shall receive the highest number of votes shall be the delegates at the convention. If there shall be a vacancy in the convention caused by the death or disability of any delegate, or any other cause, the same shall be filled by appointment by the majority vote of the delegates comprising the group from which such delegate was elected and if the convention contains no other delegate of that group, shall be filled by the governor. Delegates elected upon a platform or nomination petition statement as for or against ratification must vote at such convention in accordance with such platform or nomination petition statement, and upon failure to do so will be guilty of a misdemeanor, his vote not considered, and his office will be deemed vacant to be filled as herein provided for filling vacancies.

Sec. 7. The delegates to the convention shall meet at

Sec. 9. The convention shall keep a journal of its proceedings in which shall be recorded the vote of each delegate on the question of ratification of the proposed amendment. Upon final adjournment the journal shall be filed with the secretary of state.

Sec. 10. If the convention shall agree, by vote of a majority of the total number of delegates, to the ratification of the proposed amendment, a certificate to that effect shall be executed by the president and secretary of the convention and transmitted to the secretary of this state, who shall transmit the certificate under the great seal of the state to the secretary of state of the United States.

Sec. 11. Delegates shall receive ten dollars, and shall also receive mileage one way by the shortest practical route at the rate of twenty cents per mile.

Sec. 12. If at or about the time of submitting any such amendment, Congress shall either in the resolution submitting the same or by statute, prescribe the manner in which the conventions shall be constituted, and shall not except from the provisions of such statute or resolution such states as may theretofore have provided for constituting such conventions, the preceding provisions of this act shall be inoperative; the convention shall be constituted and shall operate as the said resolution or act of Congress shall direct, and all officers of the state who may by the said resolution or statute be authorized or directed to take any action to constitute such a convention for this state are hereby authorized and directed to act thereunder and in obedience thereto with the same force and effect as if acting under a statute of this state.

Sec. 13. Chap. 94, (House Bill 245), Laws of the eleventh legislature, regular session, 1933, is hereby repealed.

Sec. 14. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 14, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
First Special Session

CHAPTER 3.

(H. B. 6)

AN ACT

To provide a special appropriation to the board of directors of state institutions for the repair and reconstruction of the sewer system to the state prison, and declaring an emergency.

Be it enacted by the legislature of the State of Arizona:

Section 1. For the purpose of repairing and reconstructing the sewer system to the state prison at Florence, Arizona, there is appropriated from the general fund from any moneys not otherwise appropriated, to the board of directors of state institutions, the sum of three thousand five hundred dollars ($3,500.00), or so much thereof as may be necessary to pay for material only.

Sec. 2. The state auditor is authorized to draw his warrant upon claims approved by the secretary of the board of directors of state institutions, and the state treasurer is authorized to pay the same.

Sec. 3. To preserve the public peace, health and safety, it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 22, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
First Special Session

CHAPTER 4

(H. B. 22)

AN ACT

Relating to the registration and qualifications of voters for special elections and for other purposes, and providing for the conduct of special elections, and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. All persons whose names appear on the register of voters for the last preceding general state and county election, and all persons who have registered on or before the third Saturday preceding any special primary or special general election, shall, if otherwise qualified, be entitled to vote at any such special election authorized by law; provided, that the register of voters of the general state and county election of 1932 shall become void and of no effect on and after the first Monday in May, 1934.

Sec. 2. All powers and duties conferred or imposed by law upon any public officer with respect to regular elections are hereby conferred and imposed with respect to any such special election.

Sec. 3. All persons whose names appear on the register for the last preceding general election, and all persons who have registered under any subsequent registration, shall, if otherwise qualified, be deemed to be qualified electors for any purpose for which such qualification is required by law.

Sec. 4. If any person whose name appears on the register of voters for the general state and county election of 1932 is also registered under any subsequent registration, such person's registration for the said 1932 election shall be deemed to be cancelled.

Sec. 5. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 23, 1933.

CHAPTER 5

(H. B. 8)

AN ACT

To provide for a special election to vote upon proposed constitutional amendments, and delcaring an emergency.

Be it enacted by the legislature of the State of Arizona:

Section 1. A special election is hereby called for the third day of October, 1933, for the purpose of submitting to the qualified electors of the state the following:

A constitutional amendment proposed by Chap. 59, Regular Session Laws, Eleventh Legislature, to amend Sec. 11 of Art. VII of the State Constitution to read as follows:

"Sec. 11. There shall be a general election on the first Tuesday after the first Monday in November, 1934, and biennially thereafter. At each general election there shall be elected a representative, or representatives, in Congress, and such other officers as by this Constitution, or by law, are required to be elected at such time."

A constitutional amendment proposed by Chap. 23, Regular Session Laws, Eleventh Legislature, to amend Sec. 3, Art.XII of the State Constitution, to read as follows:

"Sec. 3. Subject to change by law, there are hereby created in and for each organized county of the state, the following officers, who shall be elected by the qualified electors thereof: Sheriff, recorder, treasurer, county attorney, assessor, three supervisors, and a school superintendent, each of whom shall be elected for a term of four years, and such officers elected at the general election in 1934 shall serve until the first Monday in January,1939."

A constitutional amendment proposed by Chap. 43, Regular Session Laws, Eleventh Legislature, to amend Sec. 1 of Art. V of the State Constitution, to read as follows:

"Sec. 1. The executive department of the state shall consist of governor, secretary of state, state auditor, state treasurer, attorney general and state superintendent of public instruction, each of whom shall hold office for four years, beginning on the first Monday in January next after his election. The terms of office of those elected at the general election in 1934 shall begin on the first Monday in January, 1935, and shall end on the first Monday in January, 1939, or when their successors are elected and qualified.

"The persons, respectively, having the highest number of votes cast for the office voted upon shall be elected; but if two or more persons shall have an equal and the highest number of votes for any one of said offices the two houses of the legislature at its next regular session shall elect, by joint ballot, one of such persons for said office.

"The officers of the executive department, during their terms of office, shall reside at the seat of government, where they shall keep their offices and the public records, books and papers. They shall perform such duties as are prescribed by this constitution, and as may be provided by law."

A constitutional amendment proposed by House Joint Resolution 4 of the Regular Session of the Eleventh Legislature to be designated Sec. 22, Art. XXII, to read as follows:

"Sec. 22. The judgment of death shall be inflicted by administering lethal gas. The execution shall take place within the limits of the state prison."

Sec. 2. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is, therefore, declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 23, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
First Special Session

CHAPTER 6

(H. B. 31)

AN ACT

Proposing to amend Article XIX, Constitution of Arizona, relating to the office of mine inspector, and providing for a special election thereon.

Be it enacted by the legislature of the State of Arizona:

Section 1. It is hereby proposed to amend Art. XIX of the Constitution of the State of Arizona to read as follows:

ARTICLE XIX

"The office of mine inspector is hereby established. The legislature shall enact laws so regulating the operation and equipment of all mines in the state as to provide for the health and safety of workers therein and in connection therewith, and fixing the duties of said office. The mine inspector shall be elected at the general election at which executive officers of the state are elected and who shall serve for four years and until his successor shall be elected and shall qualify."

Sec. 2. When said proposed amendment shall be approved by a majority of the members elected to each house of the legislature and shall be entered on the journal of each house, together with the ayes and nays thereof, the secretary of state shall submit such proposed amendment to a vote of the people at a special election, which is hereby called for the third day of October, 1933, for the purpose of having such proposed amendment voted upon.

APPROVED JUNE 23, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
First Special Session

CHAPTER 7

(H. B. 25)

AN ACT

Relating to child hygiene and child welfare, making an appropriation therefor, and declaring an emergency.

Be it enacted by the legislature of the State of Arizona:

Section 1. The sum of twelve thousand dollars (six thousand dollars for the twenty-second fiscal year and six thousand dollars for the twenty-third fiscal year) is hereby appropriated for the use of the state board of health, for the continuance of child hygiene work in cooperative health units. No part of this appropriation may be expended for operation, travel, capital investment and/or repairs and replacements. This appropriation is made subject to the condition that at least a like amount will be expended within this state by some cooperating agency.

Sec. 2. Said appropriation is in addition and supplemental to the appropriation for child hygiene contained in Chap. 95 (H.B.200), Session Laws of 1933,

Sec. 3. The sum of fifty-five thousand dollars (twenty-seven thousand five hundred dollars for the twenty-second fiscal year and twenty-seven thousand five hundred dollars for the twenty-third fiscal year) is hereby appropriated for the use of the state board of public welfare for its use in promoting child welfare. Not more than twenty-five hundred dollars of this appropriation may be expended in any one fiscal year for salaries and wages, operation, travel, capital investment and/or repairs and replacements. The sum of twenty-five thousand dollars of this appropriation for each fiscal year is made subject to the condition that it be used solely for the support of children.

Sec. 4. Should any section, paragraph, sentence, clause or phrase of this act be declared unconstitutional or invalid for any reason, the remainder of said act shall not be affected thereby.

Sec. 5. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 23, 1933.

State of Arizona
Eleventh Legislature
First Special Session
Senate

CHAPTER 8

(SENATE BILL NO. 1)

AN ACT

Relating to taxation and providing for a graduated tax on net incomes; repealing Chapter 39, (S. B. 16) Session Laws of 1933, (Regular Session); and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Citation. This act may be cited as "the income tax act of 1933."

Sec. 2. Persons taxable. Every person residing within the state, or in case of death his personal representative, shall pay a tax on net income, and every non resident shall pay a tax on such net income as is derived from property located or business transacted within the state. Said tax shall be assessed, levied and collected as hereinafter provided.

Sec. 3. Object of tax. The object for which the said tax is imposed is to assist in defraying the cost of maintenance of the state government, and to lessen the burden in this regard resting upon tangible property. All taxes collected under the provisions of this act shall be placed in the state treasury to the credit of the general fund and shall be used, together with revenue from other sources, to pay appropriations for the maintenance of the state government.

Sec. 4. Definitions. For the purpose of this act:

(a) "Person" shall mean and include natural persons, fiduciaries and corporations.

(b) "Corporation" shall mean and include all corporations, joint stock companies and associations, as defined by Section 577, Revised Code of 1928, and all corporations, co-partnerships, and associations, whether incorporated or un-incorporated, as defined by Section 1887, Revised Code of 1928, unless otherwise expressly stated.

(c) "Head of a family" shall mean a natural person who maintains a household and supports therein himself and one or more persons dependent upon him.

(d) "Residence" or "residing within the state" shall mean or refer to a natural person domiciled within the state. A person living within the state, or who spends a period aggregating not less than nine months of the income year, within the state, shall prima facie be deemed to be domiciled within the state.

(e) "Income year" shall mean the calendar year or corresponding fiscal year.

(f) "Years open to audit" shall mean the two successive income years next preceding the last income year for which the income of any person has been assessed, and any income year for which no report of income was made.

(g) "Value" shall mean the fair market value.

(h) "Tax commission" or "commission" shall mean the state tax commission.

(i) "Treasurer" or "treasury" shall mean the treasurer or the treasury of Arizona.

(j) "Net income" shall mean gross income less allowable deductions.

(k) "Gross income" is defined in Section 6.

Sec. 5. Administration. The state tax commission shall administer and enforce the provisions of this act.

(a) The commission may from time to time make such rules and regulations, not inconsistent with this act, as it may deem necessary.

(b) In addition to all other powers of assessment granted it by law, the commission shall possess the power to assess incomes.

(c) For the purpose of ascertaining the correctness of any

report of income, or making an estimate of the taxable income of any taxpayer, the commission shall have power to examine or cause to be examined by any agent or representative, any books, papers, records, or memoranda, bearing upon the matters required to be included in the report, including a copy of the taxpayer's current income tax return to the United States government, and all amendments to said return, whether arrived at by compromise or adjudication, after hearing and final determination by the federal government, and to require the attendance of the taxpayer or of any other person having knowledge in the premises, administer oaths, take testimony and require proof material for its information, by the same means and in the same manner as allowed to courts of record. If any person summoned to appear to testify or to produce books, papers, records, or other data, shall refuse to do so, the superior court for the county in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

(d) The president, cashier or other responsible accounting officer of every commercial bank, savings bank or trust company, or other financial institution, and every person or company engaged in the banking business, shall keep and maintain records which shall clearly disclose and reflect a true statement of all interest paid by them, and shall on request of the commission or its duly authorized agent, allow an inspection of said records by an agent of the commission.

(e) All agents or representatives of the commission shall, for identification purposes, have credentials signed by the commission and countersigned by the governor.

(f) The commission shall have power to appoint and employ such agents, specialists and clerks, within the limits of appropriations and compensation prescribed by law, as it may deem necessary to fully effectuate the purposes of this act.

Sec. 6. Gross income. "Gross income" shall include:

(a) Rent of Arizona real estate.

(b) Dividends derived from stocks, whether paid in cash or property.

(c) Interest derived from money loaned or invested in notes, mortgages, bonds, or other evidences of debt.

(d) Wages, salaries or fees derived from services.

(e) Profits derived from the transaction of business or from the disposition of real estate or other capital assets.

(f) Royalties derived from mines, or the possession or use of franchises or other legalized privileges.

(g) Life insurance paid to the insured, and insurance paid to a corporation or partnership upon policies on the lives of its officers, partners or employees, after deducting from such insurance the cash surrender value thereof on January 1,1933, and all net premiums paid thereafter and not deducted on Arizona income tax returns; provided, that when the wife or other surviving heir of the insured is the beneficiary of a policy carried by, or on which the premium is paid by a corporation or partnership on the life of a stockholder or part owner therein, under an agreement whereby in lieu of the insurance paid at death the corporation receives the stock or interest of the insured in the business, the net gain of the corporation or partnership shall be treated as gross income.

(h) All other gains, profits or income, subject to the exemptions hereinafter provided.

Sec. 7. Rates; persons other than corporations. The tax to be assessed, levied and collected upon the taxable income of persons other than corporations shall be computed at the following rates:

(a) On the first two thousand dollars or any part thereof, one per cent.

(b) On the third one thousand dollars or any part thereof, one and one-fourth per cent.

(c) On the fourth one thousand dollars or any part thereof, one and one-half per cent.

(d) On the fifth one thousand dollars or any part thereof, two per cent.

(e) On the sixth one thousand dollars or any part thereof, two and one half per cent.

(f) On the seventh one thousand dollars or any part thereof, three per cent.

(g) On the eighth one thousand dollars or any part thereof, three and one-half per cent.

(h) On the ninth one thousand dollars or any part thereof, four per cent.

(i) On the tenth one thousand dollars or any part thereof, and on all taxable income in excess of ten thousand dollars, four and one-half per cent.

Sec. 8. Rates; corporation. The tax to be assessed, levied and collected upon the taxable income of corporations shall be computed at the following rates:

(a) On the first one thousand dollars or any part thereof, one per cent.

(b) On the second one thousand dollars or any part thereof, two per cent.

(c) On the third one thousand dollars or any part thereof, two and one-half per cent.

(d) On the fourth one thousand dollars or any part thereof, three per cent.

(e) On the fifth one thousand dollars or any part thereof, three and one-half per cent.

(f) On the sixth one thousand dollars or any part thereof, four and one-half per cent.

(g) On the seventh one thousand dollars or any part thereof, and on all taxable income in excess of seven thousand dollars, five per cent.

Sec. 9 Exemptions. There shall be exempt from taxation under this act income as follows:

(a) Pensions received from the United States.

(b) Inheritances, devises, bequests and gifts received during the year.

(c) Insurance received in payment of a death claim and contracts paid by reason of the death of the insured, except insurance paid to a corporation or partnership upon policies on the lives of its officers, partners or employees, and except insurance (other than amounts paid by reason of the death of the insured) received under life insurance, endowment or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon.

(d) Income of all religious, humanitarian, benevolent, scientific, educational or other corporations or associations of individuals not organized or conducted for pecuniary profit.

(e) Income received by the United States, the state and all counties, cities, villages, school districts or other political units of the state.

(f) Income of cooperative associations or corporations engaged in marketing farm products for producers, as defined by Chapter 13, Revised Code of 1928.

(g) Income of insurance companies which pay to the state a tax upon premium income.

(h) Income of domestic insurance companies.

(i) Any receipts by or payments to the taxpayer for or on account of any claim for workmen's compensation.

Sec. 10. Deductions; all taxpayers. Every taxpayer, in reporting income for purposes of taxation, shall be entitled to the following deductions:

(a) Payments made within the year, if reasonable in amount, for wages, salaries or compensation, including cash bonuses to employees, for services actually rendered in carrying on the business, profession or occupation from which the income is derived; provided, and not otherwise, the taxpayer shall file a report as required by Section 16, subsection (d), paragraph 2, and subsection (e). No deduction shall be allowed under this section for amounts expended for personal living or family expenses.

(b) Other ordinary and necessary expenses actually paid within the year in the maintenance and operation of the business, profession or occupation from which the income was derived.

(c) A reasonable allowance for depreciation by exhaustion, wear and tear, and depletion of the property from which the income was derived.

(d) Losses actually sustained within the year and not compensated by insurance or otherwise; provided, that no deductions shall be allowed for loss resulting from the operation of business conducted or the ownership of property located without the state, nor on the sale of property purchased and held for pleasure or recreation

and not acquired or used for profit, but this proviso shall not be construed to exclude losses due to theft or to the destruction of property by fire, flood or other casualty. No deduction shall be allowed under this subsection for loss sustained in disposition of shares of stock or of securities where it appears that within thirty days before or after the date of such disposition the taxpayer acquired (otherwise than by bequest or inheritance) or entered into a contract or option to acquire substantially identical property, and the property so acquired was held by the taxpayer for any period after such disposition.

(e) Taxes other than special improvement taxes (and in the case of persons other than corporations, inheritance taxes) paid during the year upon the business or property from which the income tax is derived, including taxes imposed by the state of Arizona and the United States government; provided, that income taxes imposed by the state of Arizona shall, for the purposes of this subsection, accrue only in the year in which such taxes are assessed; and provided, further, that allowable deduction for federal income taxes shall be limited to taxes paid on net income taxable under this act.

(f) Dividends, excepting such as are specified in Section 26, subsection (b) and (c), received from a corporation the income of which is subject to the law of this state, which has filed a report of income as required by this act, and a report as required by Section 16, subsection (d), paragraph 4, and the principal business of which is attributable to Arizona. For the purpose of this subsection the principal business of a corporation shall be considered attributable to Arizona if fifty per cent or more of the entire net income or loss of the corporation after adjustment for tax purposes, for the year preceding the payment of such dividends, was used in computing the average taxable income provided by this act. If the net incomes of several affiliated corporations have been combined for the purpose of determining the income subject to taxation, the location of the principal business of such group shall determine the taxable status of dividends paid, but intercompany dividends passing between affiliated corporations whose incomes are included in the taxable income of the group, shall not be assessed as group income.

(g) Contributions or gifts made within the year to the state or any political subdivision thereof for exclusively public purposes, or to corporations, community chest funds, foundations, or associations operating within the state, organized and operated exclusively for religious, humanitarian, benevolent, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of ten per cent of the taxpayer's net income of the calendar or fiscal year as computed without the benefit of this subsection.

Sec. 11. Deductions; corporations. In addition to the deductions allowed in Section 10, corporations shall be entitled to the following deductions:

(a) Interest paid within the year in the operation of the business from which the income is derived, provided, and not otherwise, the taxpayer shall file the report required by Section 16, subsection (d).

(b) Amounts distributed to patrons in proportion to their patronage, by corporations doing business on a cooperative basis, may be deducted as cost, purchase price or refunds, but no deduction shall be made for distributions to stockholders or owners of any such corporation in proportion to their stock or ownership, nor for amounts retained and subject to distribution in proportion to stock or ownership as distinguished from patronage. Amounts distributed in proportion to patronage shall be reported as income or receipts by the persons to whom the distributions are made.

Sec. 12. Deductions; persons other than corporations. In addition to the deductions allowed in Section 10, persons other than corporations shall be entitled to the following deductions:

(a) Inheritance taxes paid during the year with respect to the business or property from which the income is derived.

(b) Interest paid within the year on existing indebtedness; provided, and not otherwise, the taxpayer shall file the report required by section 16, subsection (f). No deductions shall be allowed for interest paid on an indebtedness created for the purchase, maintenance or improvement of property or the conduct of business the income from which property or business would not be taxable under this act.

(c) Interest paid within the year on existing indebtedness not

exceeding three thousand dollars, on the family home of the taxpayer; provided, and not otherwise, the taxpayer shall file the report required by Section 16, subsection (f).

(d) Taxes paid within the year on not to exceed five thousand dollars of the assessed valuation of the family home of the taxpayer.

Sec. 13. Deduction of losses. If a taxpayer in any year subsequent to the year 1933 sustains a net business loss, such loss may be offset against the net business income of the subsequent year. For the purposes of this section, net business income shall consist of all income attributable to the operation of a trade or business regularly carried on by the taxpayer, less the allowable deduction for business expenses.

Sec. 14. Deductions from net income tax. There shall be deducted from the tax after the same shall have been computed, a personal exemption for natural persons as follows:

(a) For an individual, eight dollars.

(b) For husband and wife or head of a family, seventeen dollars and fifty cents, and for each dependent child or other person dependent upon and entirely supported by such husband and wife or head of a family, an additonal four dollars.

(c) To the head of a family, who is a widow or widower, for each child actually dependent upon and supported by such taxpayer, an additional four dollars.

(d) For each person dependent upon and actually supported by a taxpayer not the head of a family, an additional four dollars.

(e) The personal exemptions provided by this section shall be determined by the personal status of a taxpayer on the last day of the last year included in the computation of income, except as otherwise provided in this act.

Sec. 15 Income year, calendar or fiscal. (a) Taxpayers who customarily determine their income on the basis of an established fiscal year instead of on that of a calendar year, may, with the approval of the commission, and subject to such rules and regulations as it may establish, return their net income under this act on the basis of such fiscal year, in lieu of that of the calendar year; provided, that all fiscal years ending between July 1 preceding and June 30 following the close of the calendar year shall correspond to such calendar year for the purposes of this act. No fiscal year shall end on a date other than the last day of a month.

(b) A taxpayer may, with the approval of the tax commission, and under such regulations as it may prescribe, change his income year from the fiscal year to the calendar year or otherwise, in which case his net income shall be computed upon the basis of such new income year.

(c) If the taxpayer, with the approval of the commission, changes the income year on the basis of which his net income is computed, he shall, at such time and in such manner as the commission may prescribe, make a separate report of income for the period intervening between the end of his former income year and the beginning of his new income year.

Sec. 16. Filing reports. (a) Every corporation, as defined in Section 4, doing business within the state, whether taxable under this act or not; every person other than a corporation who received during the year a gross income of five thousand dollars or over, or a net income of eight hundred dollars or over, if single, or sixteen hundred dollars or over, if married, and every partnership shall, on or before March 15 of each year (or if for a fiscal year ending on some date other than December 31, within seventy-five days after the last day of such fiscal year) file with the commission a report of income in such manner and form and setting forth such facts, necessary to the enforcement of the provisions of this act, as the commission shall prescribe; provided, that a corporation shall not be deemed to be doing business within the state merely because of its incorporation under the laws of the state, nor because of the holding within the state of organization or other meetings of its stockholders or board of directors.

(b) The report of a corporation, including investment company copartnerships, shall be made upon the oath or affirmation of the president, vice-president, or other principal officer and the treasurer thereof, or if a corporation in liquidation or in the hands of a receiver, upon the oath or affirmation of the person responsible

for the conduct of its affairs.

(c) The report of a person other than a corporation, and the report of a partnership (other than an investment company copartnership) shall be made upon the oath or affirmation of a member of such partnership.

(d) Corporations doing business within the state shall also file, with the report of income as provided herein, on forms prescribed by the commission, the following reports:

1. Names and addresses of and the amount paid to each officer or employee residing within the state to whom seven hundred dollars or more was paid for salaries, wages, fees, or bonuses, for services actually rendered in carrying on the business, profession or occupation from which the income is derived.

2. The names and addresses of creditors residing within the state to whom interest (other than interest coupons payable to bearer) was paid in the operation of the business from which the income is derived; provided, every commercial bank, savings bank, or other financial institution shall, in lieu of the reports required by this paragraph, keep and maintain for the inspection of the tax commission, or its agents, the records required by Section 5, subsection (d) of this act.

3. Payments made, and the names and addresses of persons residing within the state to whom dividends or liquidating dividends were paid.

4. Payments made, and the names and addresses or persons, within or without the state, to whom payments were made for rents or royalties on property situate within the state.

(e) Persons other than corporations claiming deductions for salaries, wages, fees or bonuses paid for services shall file the report required in subsection (d), paragraph 2, of this section.

(f) Persons other than corporations, claiming deductions for interest paid within the year on existing indebtedness, shall report the form of the indebtedness, the names and addresses of creditors to whom interest was paid, and the amount paid to each.

(g) Whenever in the judgment of the commission any person other than a corporation is subject to income tax, or for any reason ought to file a report of income, it shall notify such person to make such report, and to include therein such information as the commission shall prescribe. Failure to receive such notice shall not excuse a person required to file a report of income.

(h) Married persons living together as husband and wife may make separate reports or join in a single joint report of income.

(i) Upon written request therefor the commission may, for absence, sickness, or other sufficient reason, grant a reasonable extension of time for filing a report of income.

Sec. 17. Computation of taxes. (a) The basis of assessment of taxable income shall be the net income of the preceding income year; provided, that any taxpayer who keeps his books and reports his income on a fiscal year basis shall on or before March 15, 1934, file a report of income received during the period beginning January 1, 1933, and ending with the first day of said taxpayer's fiscal year, and for the purposes of such assessment the basis shall be the net income of said period.

(b) In the case of married persons living together as husband and wife, who make separate reports, each shall return the separate income of the individual and one-half of the community income, and the deduction allowed by Section 14, subsection (b), shall be allowed but once and divided equally.

(c) Liability to taxation for income which follows the residence of a recipient shall, in the case of persons other than corporations who move into or out of the state within the year, be determined for such year by the ratio of time which the residence of the taxpayer within the state bears to the entire calendar or fiscal year.

(d) Deductions for personal exemptions, as provided in Section 14, shall be prorated on the basis of the time of residence within and without the state. The net income of the taxpayer assignable to the state for such year shall be used in determining the income subject to assessment.

Sec. 18. Payment of tax. (a) All income taxes shall be due and payable on March 15, following the close of the calendar year in which the imcome accrued; provided, that in the case of persons who

with the consent of the commission make their report of income on the basis of a fiscal year other than the calendar year, the tax shall be due and payable seventy-five days after the close of such fiscal year. The full amount of such tax, as the same shall appear from the face of the report of income, may be paid to the commission when the report of income is filed, or on the day when the same becomes due and payable, or the taxpayer may pay the same in two instalments, one-half on the date when the full amount, as herein provided, shall become due and payable and the second half ninety days after such date. For the purposes of this paragraph the report of income upon which the tax is computed shall be presumed to be correct.

(b) In the event that an extension of time for filing a report of income has been granted the time for payment of the first instalment shall be postponed until the expiration of such extension, but the time for payment of the second instalment shall not be extended unless the extension shall specifically provide.

(c) When the time for the payment of any instalment has been extended, there shall be added to such instalment interest at the rate of six per cent per annum from the time when the payment should have been made had no extension been granted, until paid. If any instalment is not paid when due the whole amount of the tax unpaid shall become due and payable upon notice and demand by the commission.

(d) The tax may be paid by uncertified check, but if a check so received is not paid by the bank on which it is drawn the taxpayer shall remain liable for the payment of the tax and all legal penalties, the same as if such tax had not been tendered.

Sec. 19. Method of accounting; inventories; keeping records.

(a) Persons who customarily estimate their incomes or profits on a basis of cash receipts and disbursements, or other method of accounting which clearly reflects their taxable income, may make their report of income in accordance with the method of accounting regularly employed by them; provided, that if the method employed does not clearly reflect the taxable income the computation shall be made upon a basis and in such manner as in the opinion of the commission will clearly reflect such net income.

(b) "Paid" or "actually paid" are to be construed in the light of the method used in computing taxable income, whether on the accrual or receipt basis; provided that the deductions for federal income taxes shall be limited to taxes paid on net income taxable under this act.

(c) Whenever in the opinion of the commission, the use of inventories is necessary to clearly determine taxable income, inventory shall be taken by the taxpayer upon such basis, conforming as nearly as may be to the best accounting practice in the trade or business and most clearly reflecting the income, as the commission may prescribe.

(d) Whenever in the judgment of the commission it is necessary that a person subject to an income tax should keep records to show whether or not he is in fact liable to tax, the commission may by notice served upon such person require records to be kept that will disclose the entire net income of such person and enable the commission to compute his taxable income. Thereafter, any taxes assessed upon information not contained in such records shall carry a penalty of twenty-five per cent of the amount of the tax, which shall be in addition to all other penalties.

Sec. 20. Corporate tax evasion. (a) When any corporation liable to taxation under this act conducts its business in such a manner as either directly or indirectly to benefit the members or stockholders thereof or any person interested in such business, by selling its products or the goods or commodities in which it deals at less than the fair price which might be obtained therefor, or where a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a substantial portion of its stock in such a manner as to create a loss or improper net income, the commission may determine the amount of taxable income of such corporation for the income year, having due regard to the reasonable profits which but for such arrangement or understanding might or could have been obtained from dealing in such products, goods or commodities.

(b) For the purposes of this act, whenever a corporation which

is required to file a report of income is affiliated with or related to any other corporation through stock ownership by the same interests or as parent or subsidiary corporations, or whose income is regulated through contract or other arrangement, the tax commission may require such consolidated statements as in its opinion are necessary in order to determine the taxable income received by any of the affiliated or related corporations; provided, however, that where eighty per cent or more of the stock is owned by the parent corporation within the state, the net income may be computed on the basis of the combined returns of all such subsidiary corporations.

Sec. 21. Situs of income. (a) Income from mercantile or manufacturing business not requiring apportionment under Section 24, and income from rentals or royalties from real estate or tangible personal property, or from the operation of any farm, mine or quarry, or from the sale of real property or tangible personal property shall follow the situs of the business or property from which derived. All other income, including royalties from patents, income from personal services, professions and vocations and from land contracts, mortgages, stocks, bonds and securities or from the sale of similar intangible property, shall follow the residence of the recipient, except as in this act otherwise specifically provided.

Sec. 22 . Non-resident fiduciary; non-resident beneficiary. A resident who receives income from a non-resident fiduciary shall be taxed the same as though such income had been received without the intervention of a fiduciary. A resident fiduciary receiving income for a non-resident beneficiary shall report such income in accordance with the provisions of Sections 21, 23 and 24.

Sec. 23. Separate reports. (a) Persons deriving income from within and without the state shall make a separate report of income derived from without the state, in the form and manner prescribed by the commission.

(b) The entire taxable income of a person deriving income from within and without the state shall, if such person resides within the state, be combined and aggregated for the purpose of determining the proper rate of taxation.

Sec. 24. Apportionment of income derived from within and without the state. (a) Persons engaged in business within and without the state shall be taxed only on such income as is derived from business transacted and property located within the state. The amount of such income apportionable to Arizona may be determined by an allocation and separate accounting thereof when in the judgment of the commission that method will reasonably reflect the income properly assignable to this state. Otherwise such income shall be determined by first deducting from the total net income of the taxpayer such part thereof, less related expenses if any, as follows the situs of the property or the residence of the recipient (provided, that in the case of income which follows the residence of the recipient, the amount of interest and dividends deductible under this provision shall be limited to the total interest and dividends received which are in excess of the total interest, or related expenses if any, paid and allowable as a deduction under Sections 11 and 12 during the income year), and the remaining net income shall be apportioned to Arizona on the basis of the ratio obtained by taking the arithmetical average of the following three ratios:

1. The ratio of the tangible property, real, personal and mixed, owned and used by the taxpayer in Arizona in connection with his trade or business during the income year, to the total of such property of the taxpayer owned and used by him in connection with his trade or business everywhere. Cash on hand or in the bank, shares of stock, notes, bonds, accounts receivable, or other evidences of indebtedness, special privileges, franchises, good will, or property the income of which is not taxable or is separately allocated, shall not be considered tangible property nor included in the apportionment.

2. In the case of persons engaged in manufacturing or in any form of collecting, assembling, or processing goods and materials within the state, the ratio of the total cost thereof within the state to the total cost thereof everywhere. "Cost of manufacturing, collecting, assembling, or processing within the state and everywhere," shall be so interpreted as to conform as nearly as may be

to the best accounting practice in the trade or business. Unless in the opinion of the commission the peculiar circumstances in any case justifies a different treatment, this term shall be interpreted to include as elements of cost within the state, the total cost of all goods, materials, and supplies used in manufacturing, assembling, or processing within the state regardless of where purchased; the total wages and salaries paid or incurred during the income year in the state in such manufacturing, assembling, or processing, and the total overhead or manufacturing burden properly assignable according to good accounting practice to such manufacturing, assembling, or processing within the state.

3. In the case of trading, mercantile, or manufacturing concerns, the ratio of the total sales made through or by offices, agencies, or branches located in Arizona during the income year, to the total net sales made everywhere during said income year.

(b) If it shall be shown to the satisfaction of the commission that the use of any one of such ratios produces an unreasonable or inequitable result, for the reason that the taxpayer, in producing the income taxed, does not to any appreciable extent employ the factors used, such ratio may, with the approval of the commission, be omitted in obtaining the final average ratio which is to be applied to the remaining net income. If the income of any such person properly assignable to the state cannot be ascertained with reasonable certainty by either of the foregoing methods, then the same shall be apportioned and allocated under such rules and regulations as the commission may prescribe.

(c) "Sales", as used in this section, shall include exchange, and "manufacturing" shall include mining and all processes of fabricating or curing raw materials.

(d) A foreign corporation whose principal business is carried on or transacted in Arizona shall be deemed a resident of the state for income tax purposes and its income shall be determined and assessed as if it were incorporated under the laws of Arizona, notwithstanding its domicile is elsewhere.

Sec. 25. Income of partnerships. (a) Individuals carrying on business in partnership (excepting investment companies as defined by Section 1887, Revised Code of 1928) shall be liable for income tax only in their individual capacity. In computing the income of each partner there shall be included his distributive share, whether distributed or not, of the net income of the partnership for the income year. Partners shall be required to file individual returns on the basis of a fiscal or calendar year which coincides with that upon which the partnership return is filed.

(b) The net income of the partnership shall be computed in the same manner and on the same basis as provided for persons other than corporations.

Sec. 26. Distribution of dividends; accumulated profits; distributions in liquidation; property dividends. (a) Distribution of dividends derived from stocks, whether paid in cash or property, shall be presumed to be made out of profits, and from the most recently accumulated profits.

(b) Profits accumulated, or increase in value of property accrued before January 1, 1933, may be distributed exempt from tax, after profits accumulated subsequent to January 1, 1933, have been distributed, but any such taxfree distribution shall be applied against and reduce the cost or other income tax basis provided in Section 27, subsection (a). If taxfree distributions exceed the cost or other income tax basis, the excess shall be included in the gross income of the year in which received.

(c) Distributions in liquidation of a corporation shall be treated as payment in exchange for the stock, and the gain or loss to the distributee resulting therefrom shall be determined under the provisions of this subsection and Section 27, subsection (a). Distributions in liquidation shall not be taxed as a gain until the distributee shall have received amounts in liquidation in excess of the cost or other income tax basis, and any excess shall be taxed as gain in the year in which received. Losses upon liquidation shall be recognized only in the year in which the corporation makes its final distribution. For the purpose of this subsection a corporation shall be considered to be liquidating when it begins to dispose of the assets with which it carried on the business for which it was organized and begins to distribute the proceeds from the disposition of such assets, or the assets themselves, whether or not such disposition and distribution is made pursuant to resolution for

dissolution; provided, that any distribution of current earnings of a corporation shall not be considered to be a distribution in liquidation unless the corporation making such distribution has ceased or is about to cease carrying on the business for which it was organized.

(d) Dividends paid in property other than cash shall be appraised at the value of such property on the date of distribution.

(e) A dividend paid by a corporation in its own capital stock shall not be subject to tax as a dividend at the time of its receipt by a stockholder; but the sale of such stock and of the stock with respect to which it was issued may result in a gain or loss for tax purposes, to be determined as provided in this subsection and in Section 27, subsection (a). For such determination the cost or other basis of the old and of the new shares shall be such proportions of the original cost or other basis of the old stock as is properly allocable to each, according to regulation prescribed by the commission. If before or after the distribution of a stock dividend the corporation cancels or redeems its stock in such manner as to make the transaction in whole or in part essentially equivalent to a taxable dividend, such distribution, to the extent that it represents profits accumulated subsequent to January 1, 1933, shall be treated as a taxable dividend.

(f) When a dividend, not a distribution in liquidation is distributed in property other than cash, the profit or loss arising therefrom shall be that of the corporation, and measured by the difference between the value of such property at the time of distribution and the income tax cost thereof to the corporation.

(g) Where the transfer of a reserve or other account or a portion thereof is in effect a transfer to surplus, so much of such transfer as was accumulated through deductions from the gross or taxable income of years open to audit shall be included in the taxable income of such years, and so much thereof as was accumulated through deductions from the gross or taxable income of years not open to audit shall be included in the taxable income of the year in which the transfer was effected.

Sec. 27. Gain or loss in sale of capital assets; replacement of property destroyed. (a) For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition of real estate or other capital assets, the basis shall be:

1. In case of property acquired on or after January 1, 1930, the cost thereof, to be determined by the best information obtainable.

2. In case of property acquired prior to January 1, 1930, and disposed of thereafter:

(a) No profit shall be deemed to have been derived if either the cost or the fair market price or value on January 1, 1930, exceeds the value realized.

(b) No loss shall be deemed to have been sustained if either the cost or the fair market price or value on January 1, 1930, is less than the value realized.

(c) Where both the cost and the fair market price or value on January 1, 1930, are less than the value realized, the basis for computing profit shall be the cost or the fair market price or value on January 1, 1930, whichever is higher.

(d) Where both the cost and the fair market price or value on January 1, 1930, are in excess of the value realized, the basis for computing loss shall be the cost or the fair market price or value on January 1, 1930, whichever is lower.

3. If acquired by gift, the cost to the last preceding owner who acquired it other than by gift, subsequent to January 1, 1930;

4. if acquired by descent or by will subsequent to January 1, 1930, the appraised value thereof, in the administration of the estate of the deceased owner, as of the date of his death. In every case the basis shall be diminished by the sum of all deductions allowed after acquisition or after the basis date, for exhaustion, wear and tear and depletion; by the amounts of income deferred by the taxpayer and used to reduce property, and by anticipated losses on the property which have been deducted from taxable income.

(b) If property, exclusive of inventories (as raw material, goods in process and finished goods), as a result of its destruction in whole or in part by fire or other casualty, is involuntarily converted into money which is in good faith, within one year, under regulations prescribed by the commission, expended in the replacement of the property destroyed or in the acquisition of other property similar or related in service or use to the property destroyed, or in

the establishment of a replacement fund which, within two years from date of the casualty is actually expended to replace the property destroyed or in the acquisition of other property similar or related in service or use to the property destroyed, no gain shall be recognized, and in the case of gain the property so replaced or acquired shall be deemed to take the place of the property so destroyed. If any part of the money is not so expended the gain, if any, shall be recognized in an amount not in excess of the money which is not so expended. Replacement of property by an insurance company shall be deemed to be an expenditure by the taxpayer of insurance moneys received by him.

Sec. 28. Gain or loss in transfers pursuant to reorganization of corporations. (a) "Reorganization" shall mean a merger or consolidation, by which one corporation shall acquire not less than a majority of the voting stock and not less than a majority of the total number of shares of all other classes of stock of another corporation, or substantially all of its properties; or a transfer by one corporation of all or a portion of its assets to another corporation, immediately following which the transferor or its stockholders are in control of the corporation to which the assets are so transferred; or a recapitalization, or change in the form of capitalization; or a mere change in identity, form or place of organization, however effected.

(b) "Party to a reorganization" shall mean a corporation resulting from a reorganization, and in the case of an acquisition by one corporation of not less than a majority of the voting stock and not less than a majority of the total number of shares of all other classes of stock of another corporation, shall include both corporations.

(c) "Control", as used in this section, shall mean the ownership of at least eighty per cent of the voting stock and at least eighty per cent of the total number of shares of all other classes of stock of the corporation.

(d) No gain or loss shall be recognized if, in pursuance of reorganization, stock, securities or property of a corporation party thereto are exchanged solely for stock or securities of such or another corporation party to such reorganization; provided, that where property is exchanged solely for stock and the stock is thereafter sold, the difference between the cost of the property so exchanged or its value as of January 1, 1933, and the amount received for the stock so received in such exchange, shall constitute profit or loss under the provisions of subsections (d) and (e).

(e) No gain or loss shall be recognized when property is transferred to a corporation solely in exchange for its stock, if immediately after the exchange the corporation is in the control of the person or persons exchanging such property; provided, that if the exchange is by two or more persons this provision shall apply only if the amount of the stock received by each is substantially in proportion to his interest in the property prior to the exchange.

(f) No gain to the distributee shall be recognized when, in pursuance of reorganization, stock or securities of a corporation party thereto are distributed to a stockholder in such or another corporation party to the reorganization, without the surrender by the distributee of stock or securities in such corporation.

(g) The distribution, in pursuance of reorganization, of the stock or securities of a corporation party thereto shall not be considered a distribution of earnings or profits for the purpose of determining the taxability of subsequent distributions.

(h) When property (other than stock or securities of a corporation party to a reorganization) was acquired in pursuance of reorganization, and for income tax purposes the transaction was treated as provided in subsection (d), and immediately after the transfer control of the property remained in the same persons or any of them, the basis for determining gain or loss, depletion or depreciations, shall be the same as if the property remained in the hands of the transferor.

(i) When property (other than stock or securities of a corporation party to a reorganization) was acquired by a corporation by the issuance of its stock or securities, and for income tax purposes the transaction was treated as provided in subsection (e), the basis shall be the same as if the property remained in the hands of the transferor.

(j) When property consists of stock or securities distributed in pursuance of reorganization, and for income tax purposes the transaction was treated as provided in subsection (f), the basis shall apply to the stock in respect of which the distribution was made and be apportioned as in the case of stock dividends.

Sec. 29. Reports of executors and administrators. (a) In all cases where a deceased person, if living, would have been required to file a report of income, the executor or administrator of the estate of such decedent shall, within the time that it should have been filed had the decedent survived, file such report, which shall show:

1. All income received by decedent during that portion of the year covered by the report preceding the demise of the decedent.

2. All income received by him from the estate of the deceased during the year covered by the report, if such receipts would have been assessable had the decedent survived.

3. All income received by him from the estate of the deceased covered by the report, accrued at the date of death but not reported by the decedent on the accrual basis, if such receipts would have been assessable had the decedent survived.

4. If the decedent was a married person at the date of death, the income of the widow, if living, and of all children under eighteen, together with the income of any person actually supported by and dependent upon the estate.

(b) Income arising from a transaction which was being reported by the decedent while living, on a deferred basis, shall be reported by the executor or administrator in the same manner. If all of such deferred income has not been reported and accounted for before the executor or administrator is discharged, he shall in his last report of income return as income the then value of the deferred income unreported.

(c) The executor or administrator shall be allowed the same personal exemptions that the decedent, had he survived, would have been entitled to, except that no personal exemption shall be allowed, under Section 14, subsections (a) and (b), but for the year of death.

(d) If the decedent was a single person at the time of death, and was actually supporting children or any other person or persons dependent upon him, the personal exemption deductible under Section 14, subsections (c) and (d) shall be allowed until such children or such other person or persons shall cease to be dependent.

(e) If the decedent was a married person at the date of death and his widow is the head of a family, the same personal exemption shall be allowed as is allowed to the head of a family under Section 14, subsection (b), (c) or (d), as the case may be.

Sec. 30. Reports of guardians. A guardian shall make a report of income, which shall show the income from all sources received by or for his ward, and shall pay the tax. The net income of a guardian shall be ascertained in the same manner as the income of other persons, and shall be subject to the same deductions for personal exemptions as the ward would have been entitled to had he made the return; provided, that if any ward is under eighteen and the child of a person required to file a report of income, the personal exemption provided in Section 14, subsection (c) shall be allowed to the guardian.

Sec. 31. Reports of trustees. (a) The trustee of a trust estate created by will, contract, declaration of trust, or implication of law, shall make a report of income received by him as such, showing the total taxable income received during the year, the names and addresses of distributees and the amounts severally distributable to them whether distributed or not, and also the amounts to be accumulated by them for unknown, unborn, or undisclosed beneficiaries, or for other reasons. The net income received by a trustee shall be ascertained in the same manner as the net income of persons other than corporations, except that the personal exemptions under Section 14, subsections (a), (b), (c) and (d) shall not be allowed. A distributee who receives or is entitled to receive any part of such net income shall report the same, together with other income as provided by this act. A non-resident distributee shall be assessed on such income as the income of non-residents is assessed. No personal exemption shall be allowed a distributee unless he makes claim therefor in his report of income.

(b) All nondistributable income, or contingently distributable

income not distributed, shall be assessed to the trustee in the same manner as income of persons other than corporations, except that the personal exemption under section 14 shall not be allowed.

Sec. 32. Income taxes lien on trust estate. Income taxes levied against the income of beneficiaries, as provided in sections 29, 30 and 31, shall be a lien on that portion of the trust estate or interest therein from which the income taxed is derived, and if not paid by the distributee shall be paid by the fiduciary before the same becomes delinquent. Every person who as a fiduciary under the provisions of this act pays an income tax shall have all the rights of reimbursement provided by law for the allowance of expenses of executors and administrators, guardians, or trustees.

Sec. 33. Payment of tax before discharge of fiduciary. (a) No fiduciary applying for discharge of his trust shall be so discharged until he has made a report of all income received in his representative capacity to the date of such application, and paid the tax found to be due, as in this section provided.

1. Upon making application for discharge, any such fiduciary shall file with the commission a report of income received after the close of the last preceding income year, and a report of income received during each of the years open to audit, if such reports have not theretofore been filed.

2. The commission shall determine the amount of taxes to become due and certify the same to the court, whereupon the court shall enter an order directing the fiduciary to pay into the treasury the amount of tax, if any, found due.

3. The receipt of the treasurer shall be evidence of the payment of the tax and shall be filed with the court before a final distribution of the estate or trust shall be ordered and the fiduciary discharged.

(b) The treasurer shall enter the amount in a ledger account entitled "Advance Income Taxes".

Sec. 34. Office audit; correction. (a) As soon as practicable the commission shall audit each report of income filed, and compute the tax, and the amount so computed shall be the tax. If it shall be found that any person has been over or underassessed, or that no assessment has been made when one should have been, the proper correction or assessment shall be made. If the tax found due shall be greater than the amount theretofore paid, the deficiency shall be paid to the commission within twenty days after notice to and demand upon the taxpayer.

(b) If the report was made in good faith and the deficiency of the tax is not due to any fault of the taxpayer, there shall be no penalty or additional tax added because of such deficiency, but interest shall be added to the amount of the same from the date the tax was originally due until paid, at the rate of six per cent per annum.

(c) If the tax found due shall be less than the amount theretofore paid, the commission shall certify such overpayment to the auditor, for refund, and the auditor shall draw his warrant for the amount, on the "Income tax suspense fund", in the favor of the taxpayer.

(d) Any correction or assessment made as a result of such office audit shall be presumed to be the result of an audit of the report of income only, and shall not be deemed a verification of any item in the report nor preclude the commission from making field audits of the books and records of the taxpayer and from making further correction or assessment.

Sec. 35. Field investigation. Whenever it is deemed advisable to verify a report of income or otherwise ascertain the taxable income of any person the commission may direct such verification to be made, and for such purpose shall have the powers prescribed by Section 5. Upon such information as may be gained, the commission shall determine the true amount of income received during the year or years under investigation. If it shall appear upon investigation that a person has been over or under assessed, or that no assessment has been made when one should have been made, the commission shall make a correct assessment.

Sec. 36. Limitation on corrections. Corrections or additional assessments of income may be made at any time within two years after the close of the period covered by a report of income; provided, that if in any year no return is filed, income of any such year may be assessed when discovered.

Sec. 37. Interest on back taxes; interest on overpayments. (a) In assessing back taxes interest shall be added to such taxes at the rate of six per cent per annum from the date they would have become delinquent if unpaid, had they been assessed when they first became assessable, to the date on which such back taxes when subsequently assessed will become delinquent, if unpaid.

(b) In certifying refunds of taxes which have been overpaid, interest shall be added at the rate of six per cent per annum from the date of the payment of such taxes until the date on which such overpayment is certified to the auditor.

Sec. 38. Notice of correction or of assessment. (a) When a correction or assessment has been made, as provided in Sections 34 and 35, the taxpayer shall be given notice thereof, in writing, by registered mail, or served as a superior court summons. Service by regular mail shall be deemed sufficient if receipt thereof is admitted, or there is other satisfactory evidence of receipt.

(b) Within thirty days after such notice the taxpayer may present evidence, oral or in writing, under oath, and the controverted correction or assessment may be modified if, in the judgment of the commission, such action is justified by the facts disclosed.

(c) If within thirty days after such notice, the taxpayer does not request a hearing before the commission, the correction or assessment as proposed, or as modified in accordance with subsection (b) shall be final and conclusive and the tax shall become immediately delinquent.

Sec. 39. Hearing by commission. Any person aggrieved by the correction or assessment of his income shall be entitled to a hearing before the commission, if within twenty days after the notice prescribed by Section 38 he shall in writing request the same and explain in detail his objections to such correction or assessment. Upon a request for hearing the commission shall fix the date and place of hearing, and shall hear the taxpayer and render its decision.

Sec. 40. Court review. (a) No person against whom an income assessment has been made, corrected or confirmed shall be allowed in any action or proceeding, either as plaintiff or defendant, to contest such assessment in court unless such person shall first have made in good faith written objection to such assessment, to the commission, and full disclosure under oath of all assessable income, nor unless he shall have availed himself of the remedy provided by Sections 38 and 39.

(b) An appeal from a decision of the commission shall be taken to the superior court of the county in which the taxpayer resides, within twenty days after written notice to the taxpayer of such decision has been given by registered mail, by serving a notice of appeal and a copy thereof on the commission. The notice shall name the order or decision from which appeal is taken, specify the objections to the correction, assessment, order or decision to be considered, and recite the assignments of error, together with a statement of the facts upon which the appellant relies and the propositions of law involved.

(c) Within twenty days after the service of such notice, the commission shall return to the court the original or a certified or photostatic copy of all documents, papers, evidence, statements and exhibits on file in the matter and of all testimony taken therein.

(d) Within twenty days after service of notice of appeal, the appellant shall serve upon the commission a brief in support of his objections to such assessment, and shall at the same time file a copy thereof with the clerk of the court wherein said appeal is pending.

(e) Within thirty days after service of appellant's brief the commission shall serve upon the appellant or his counsel an answer to the objections raised on appeal, and a brief in support of such answer and of the assessment; whereupon the appeal shall be regarded as at issue.

(f) Subject to the provisions of law for change of venue or the calling in of another judge, said appeal may thereupon be brought

on for hearing by either party, on ten days' notice to the other, upon the record made before the commission and not otherwise. The attorney general shall appear for the commission.

(g) In all actions to contest the validity of income assessments the proceedings of the commission shall be presumed to be legal, and its determination shall not be impaired, vitiated or set aside upon any grounds not affecting the legal groundwork of the tax. If the court, disregarding any irregularity, informality or omission not affecting the legal groundwork of the tax, shall find that the assessment complained of was neither in whole nor in part illegal, it shall enter an order confirming the assessment and directing judgment in accordance with the terms of the order. If it shall find that the assessment is in whole or in part illegal it shall direct the commission to make such corrections as it may deem necessary. Upon eight days' written notice to the adverse party the court shall enter judgment. It shall be the duty of the clerk of the court to promptly transmit two copies of the decision to the commission.

(h) Within twenty days after the entry of judgment either party may appeal to the supreme court in the manner provided for appeals from the judgment of a superior court, and such appeal shall be placed on the calendar of the supreme court and brought to a hearing in the same manner as other state cases. If no appeal be taken the clerk of the court shall certify such fact to the commission and return the record to the commission.

Sec. 41. Stay of collection pending appeal. When any person shall have served notice of appeal to the superior court, as provided in this act, all collection proceedings shall be stayed until final determination thereof; provided, that such appeal shall not operate to stay the delinquent penalty and interest on unpaid amounts.

Sec. 42. Payment of taxes on appeal. (a) Any person who shall contest an assessment in court shall state in his notice of appeal what portion if any of the tax is considered to be assessable and shall pay to the commission the tax thereon, but such payment shall not constitute an admission of the legality of the tax paid but the tax so paid cannot be recovered in any action or proceeding unless a claim for refund thereof is filed with the tax commission within two years from the date of the payment of the tax.

(b) Any assessment, or part thereof, appealed to the superior court, which the court shall finally order to be paid, shall be deemed to be delinquent from the date on which it would have become delinquent had no appeal been taken, and shall be subject to the penalty and interest prescribed for delinquent taxes.

Sec. 43. Final certification; collection or refund. When any correction or assessment, action or proceeding, affecting the income assessment of any taxpayer shall become final, the commission shall collect the same, if any part thereof is delinquent, as provided for the collection of delinquent taxes. If the tax is overpaid the commission shall certify the auditor, for refund, the amount of such overpayment, and the auditor shall draw his warrant in favor of the taxpayer for the amount.

Sec. 44. Claim for refund. (a) An action or proceeding for the allowance of credit or for the refund or recovery of income taxes alleged to have been erroneously collected or paid, shall be brought as provided in this section and not otherwise.

(b) No refund shall be made nor credit allowed for taxes paid for years not open to audit.

(c) No refund shall be made on any item of income or deduction assessed as a result of an office audit, nor for any year the income of which was assessed as a result of a field audit, which item or assessment shall have become final.

(d) Claims for refund or credit shall be filed with the commission and shall set forth specifically and in detail the basis of and reason for any such claim. Upon the filing of a claim it shall be considered and acted upon as provided for the consideration of additional assessments. If any portion of a claim is disallowed the person filing the same shall have the right of hearing and appeal provided in Section 39.

(e) If the commission shall fail or neglect to act on any claim for refund or credit within one year after the receipt thereof, such neglect shall have the effect of allowing such claim and the commission shall certify such refund or credit.

Sec. 45. Collection of delinquent taxes. (a) If any tax imposed by this act or any portion thereof be not paid within thirty days after the same becomes delinquent, the commission shall issue a warrant under the hand of its chairman and its official seal directed to the sheriff of any county commanding him to levy upon and sell the real and personal property of the taxpayer found within his county, for the payment of the amount of such tax, with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the commission and pay to it the money collected by virtue thereof by a time to be therein specified, not less than sixty days from the date of the warrant. The sheriff shall, within five days after the receipt of the warrant, file with the clerk of the court a copy thereof, and the clerk shall thereupon enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns the amount of the tax or portion thereof and penalties and interest for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to any interest in real or personal property of the taxpayer against whom it is issued in the same manner as a judgment duly docketed in the office of the clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to execution issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In its discretion the commission may issue a warrant of like terms, force and effect, directed to any agent authorized to collect income taxes, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the commission shall have the same remedies to enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment against the taxpayer for the amount of the tax.

(b) Every tax imposed by this act, and all increases, interest and penalties thereon shall become, from the time the same is due and payable, a personal debt from the person liable to the state of Arizona.

(c) An action may be brought at any time by the attorney general, at the instance of the commission, in the name of the state, to recover the amount of any taxes, penalties and interest due under this act.

Sec. 46. Failure to file reports; penalties. (a) Any person required to make a report of income, who shall fail to do so within the time and in the manner prescribed by this act, or shall make a report which does not disclose his entire taxable income, shall be assessed, in an amount not less than one hundred dollars, according to the best judgment of the commission. If, after notice as provided in Section 38, no request is made for a hearing, the assessment shall be final and conclusive, and the person assessed shall thereafter be forever barred from questioning the correctness of the same in any action or proceeding.

(b) If any person required to make a report of income fails to file the same within the time and in the manner prescribed by this act, the commission shall add to the tax of such person ten dollars in the case of corporations and five dollars in the case of persons other than corporations. If no tax is assessed against such person the amount of this fee shall be collected as income taxes are collected, and no person shall be allowed in any action or proceeding to contest the imposition of such fee.

(c) Any person required to make a report of income, who fails to do so, or makes an incorrect report, with intent in either case to defeat or evade the income tax, shall be assessed at twice the normal rate. Such increased assessment shall be in addition to all other penalties. The statute of limitations shall not begin to run as against any such taxpayer until the assessment shall have been made as herein provided.

(d) Any person required to do so, who fails to file a report as provided by Section 16, subsections (d), (e) and (f), shall be subject to a fine or penalty of not less than twenty-five nor more than five hundred dollars, to be assessed and collected as income taxes.

(e) Any person other than a corporation, or any officer of a corporation required by law to make, render, sign, or verify a report of income or any statement required by this act, who fails or refuses to make such report or statement at the time or times provided, or who makes a false or fraudulent report or statement with intent to defeat or evade the income tax, or to obstruct the enforcement of any

provision of this act, shall upon conviction be fined not less than one hundred nor more than five thousand dollars, or be imprisoned not to exceed one year, or both, at the discretion of the court, and be required to pay the cost of prosecution.

Sec. 47. Secrecy required; penalty; reciprocity. (a) Except in accordance with the order of a court having jurisdiction or as otherwise provided by this section, it shall be unlawful for any officer, deputy, agent, clerk or employee charged with any duty connected with or relating to the assessment or collection of the income tax, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this act.

(b) Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, or the inspection by the attorney general or other legal representative of the state, of the report or return of any taxpayer who shall bring action to re view or set aside the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this act.

(c) The tax commission may permit the United States commissioner of internal revenue or the proper officer of any state imposing an income tax upon the incomes of individuals, or the authorized representative of either such officers, to inspect the report of income of any taxpayer, or it may give any such officer an abstract of the report of income, or supply him with information concerning any item contained in any report of income or disclosed by any investigation of the income or report of income, of any taxpayer; provided, that such permission shall be granted or such information furnished only if the statutes of the United States or of such state, as the case may be, grant substantially similar privileges to the officers of this state charged with the administration of this act.

(d) Any violation of this section shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the state or of any county thereof, he shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

Sec. 48. Preservation of reports. Reports and returns received under the provisions of this act shall be preserved for five years, and thereafter until the commission orders them to be destroyed.

Sec. 49. Disposition of income tax. (a) The tax commission shall promptly, and at least daily, remit all revenues collected under this act to the state treasurer, through the state auditor, and any receipt or acknowledgment delivered by the tax commission to the taxpayer shall serve and be recognized only as a receipt of the amount so tendered and accepted, subject to proper clearance and collection if in the form of a check, draft, or other instrument of exchange except lawful money of the United States, but shall not be evidence or be construed as an acknowledgment by said commission of the sufficiency of such amount or as to the correctness of the report so filed or of any matter contained therein.

(b) With each remittance of such funds to the state treasurer the commission shall transmit to him a full statement of all amounts paid under protest. The state treasurer shall set up a fund to be designated "Income tax suspense fund", into which he shall pay and carry all amounts so paid under protest until such time as their status is finally determined by appeal to the commission or to the courts or for a period of three months if no such appeal be prosecuted by the taxpayer. The tax commission shall keep the state treasurer full advised with respect to the status of all such payments.

(c) Of all other income tax receipts or collections so transmitted to him, the state treasurer shall pay into said "Income tax suspense fund" ten per cent thereof until the total amount of said fund, less the amount held therein as paid under protest, shall amount to twenty thousand dollars, and at all times when such amount equals twenty thousand dollars neither said ten per cent or any part thereof shall be paid into said fund. From said "Income tax suspense fund" the state treasurer shall disburse and pay all refunds to income taxpayers upon order and certificate of the state tax commission or by decree of a court of competent jurisdiction.

Sec. 50. Invalid provisions. If any part or provision of this act shall be adjudged to be invalid, such judgment shall not invalidate the remainder of the act, but shall be confined in its operation to the particular clause, sentence or paragraph directly involved in the controversy out of which such interpretation may arise.

Sec. 51. Repealing clause. Chap. 39 (S.B. 16), Session Laws of 1933 (Regular Session), and all laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 52. Constitutional prohibition. The taxes herein levied shall not be construed to apply to income which under the constitution of the United States, the state of Arizona is prohibited from taxing.

Sec. 53. Emergency clause. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 26, 1933

State of Arizona
Eleventh Legislature
House of Representatives
First Special Session

CHAPTER 9

(H. B. 43)

AN ACT

Relating to the manufacture and sale of spirituous liquors and imposing a tax thereon, amending Section 13, Chapter 76, Session Laws of 1933, Regular Session, and declaring an emergency.

Be it enacted by the legislature of the State of Arizona:

Section 1. Sec. 13, Chap. 76, Session Laws of 1933, Regular Session, is hereby amended to read as follows:

Sec. 13. License fees. The annual fees for licenses shall be:

For distiller's license	$250.00
For winer's license	$250.00
For brewer's license	$250.00
For wholesaler's license to sell liquors other than beer and wine	$100.00
Wholesaler's license to sell beer and wine	$ 50.00
Hotel license to sell beer and wine	$ 50.00
Hotel license to sell liquor other than beer and wine	$100.00
Restaurant license to sell liquors other than beer and wine	$100.00
Restaurant license to sell beer and wine	$ 50.00
Retailer's license to sell liquors other than beer and wine	$ 25.00
Retailer's license to sell beer and wine	$ 25.00

If the application is made on or after the first day of April, three fourths, if on or after the first day of July one half, and if on or after the first day of October one fourth of such annual fee shall be paid. The fee shall accompany the application, and all licenses shall expire on the last day of each year.

Sec. 2. For the purpose of administering and enforcing revenue measures enacted by the Eleventh Legislature, the administration of which is by law imposed upon the state tax commission, all agents or representatives of the state tax commission are hereby invested with all the powers and duties of police officers and sheriffs within the state of Arizona.

Sec. 3. All agents or representatives of the state tax commission shall, for identification purposes, have credentials signed by the commission and countersigned by the governor.

Sec. 4. It shall be unlawful for any employer to employ any person under the age of eighteen years to sell or dispose of intoxicating liquor and any employer convicted thereof shall be guilty of a misdemeanor.

Sec. 5. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 26, 1933.

State of Arizona
House of Representatives
Eleventh Legislature
First Special Session

CHAPTER 10

(H. B. 2)

AN ACT

Relating to common and contract motor carriers of property and passengers; amending Chapter 100, Session Laws of 1933 (Regular Session) by adding a section to be designated Sec. 16a; amending Sec. 17, Chapter 100, Session Laws of 1933 (Regular Session); and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Chapter 100, Session Laws of 1933 (Regular Session), is hereby amended by adding a section, to be designated Sec. 16a, and to read as follows:

Sec. 16a. No motor carrier and no private carrier of property or any officer or agent of such carrier shall require or permit any truck operator, bus operator or their helpers to be or remain on duty for a period longer than ten consecutive hours and when any such operator or helper shall have been continuously on duty for ten hours he shall be relieved and shall not be permitted to go on duty again until he has had at least eight consecutive hours off duty and no such operator or helper who has been on duty ten hours in the aggregate in any twenty-four hour period shall be required or permitted to continue or go on duty again without having had at least eight consecutive hours off duty.

Every motor carrier and private motor carrier of property shall keep a record on forms, provided by the commission showing the day and the hour when any operator or helper went on duty and the day and hour of his release, and such entries shall be signed by the operator or helper to which the same applies. In the event that any such operator or helper is on duty in any state other than this state, and then enters this state while still on duty, such entries shall show the total time on duty, both in this state and out of this state. The state highway patrol may require any such operator or helper when entering this state from any other state to sign a statement of the number of hours he has been on duty without at least eight consecutive hours off duty.

Provided, that the provisions of this section shall not apply in any case of casualty or unavoidable accident or the act of God nor where the delay was the result of a cause not known to the carrier or its officer or agent in charge of such employee at the time said employee left a terminal and which could not have been foreseen. The records and statements provided for herein shall be open to inspection by the state highway patrol and the commission and the record provided for herein shall be forwarded to the commission at the end of every thirty day period.

Sec. 2. Section 17, Chapter 100, Session Laws of 1933 (Regular Session), is hereby amended to read as follows:

Sec. 17. License tax; determining gross receipts. In addition to all other taxes and fees every common motor carrier of property and every contract motor carrier of property shall pay to the state, on or before the fifteenth day of each month, a license tax of two and one-half per cent of the gross receipts from his operations within this state for the next preceding calendar month, as such carrier, and every common motor carrier of passengers and every contract motor carrier of passengers shall pay to the state, on or before the fifteenth day of each month, a license tax of two and one-quarter per cent of the gross receipts from his operations within this state for the next preceding calendar month, as such carrier.

When any carrier shall operate partly within and partly without this state, the gross receipts of such carrier within this state shall be deemed to be all receipts of business beginning and ending within this state, and a proportion based upon the proportion of the mileage within this state to the entire mileage over which

business is done, of receipts on all business passing through, into, or out of the state. Upon receipt of such taxes the vehicle superintendent shall forthwith transmit the same to the state treasurer, who shall credit such taxes to the state highway fund.

Sec. 3. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 26, 1933.

CHAPTER 11

(SENATE BILL NO. 13)

AN ACT

Amending Sections 1395, 1414, 1417, 1422, 1434 and 1438, Article 5, Chapter 24, Revised Code of 1928, relating to workmen's compensation law; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1395, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1395. Commission employees, compensation, expenses. The commission may employ actuaries, accountants, inspectors, examiners, experts, clerks, physicians and other assistants, and fix their compensation. Such employment and their compensation shall be first approved by the governor, and together with necessary traveling expenses allowed by the commission, shall be paid out of the state compensation fund. Salaries of the commission and secretary shall be paid by the state. Their actual and necessary traveling expenses while on the business of the commission shall be paid from the state compensation fund. The members of the commission may confer and meet with officers of other states and officers of the United States on matters pertaining to their official duties.

Sec. 2. Sec. 1414, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1414. Manner of fixing rates. The commission shall classify and fix the rates of premiums as follows: It shall keep an account of the premiums paid by each class of occupations or industries, and of the expenses of administering the fund, and the disbursements on account of injuries and death of employees in each class, including the setting up of reserves to meet anticipated and unexpected losses, and to carry the claims to maturity, and of the money received from each employer, and the amount disbursed from the fund for expenses and on account of injuries and death of the employees of such employer, including the reserves so set up. Ten per cent of the money paid into the fund shall be set aside for the creation of a surplus until such fund shall amount to one hundred thousand dollars, and thereafter five per cent, until such surplus shall be sufficient to cover catastrophe hazards and other unanticipated losses. The commission shall also maintain a reserve adequate to meet anticipated losses and carry all claims and policies to maturity. The amount of such surplus and reserve shall be determined by the commission. At the end of the year, and at such other times as the commission may determine, a readjustment of the rate shall be made for each of the several classes. If there is an aggregate balance remaining to the credit of any class which may safely be divided, the commission may credit to each member of such class, who has been a subscriber to the fund for a period of six months or more prior to the time of such readjustment, such proportion of such balance as he is entitled to, having regard to his prior paid premiums since the last readjustment of rates, and credit the same on the premium next due from him. Provided, however, the commission is authorized in its discretion to endorse upon any of its regularly issued policies a self rating plan and may apply tentative rates subject to modification in accordance with the loss experience of such risks and shall provide for a carrying charge, premium tax and a rate for the catastrophe hazard to be fixed by the commission. This section shall be construed with and as supplementary to the preceding section.

Sec. 3. Sec. 1417, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1417. Surplus to be invested. The commission may invest the surplus of or reserve of the fund in bonds of the United States or federal land banks, of the state, or of any county, city, town or school district of the state, at current market prices for such

bonds, or in registered state warrants, such investment to be authorized by resolution of the commission. The boards or officers of the several taxing districts of the state, when issuing bonds of their districts, shall offer in writing to the commission, prior to advertising the same for sale, all issues of such bonds; the commission shall, within ten days after the receipt of such written offer, either accept the same and purchase such bonds or any portion thereof at par, and accrued interest, or reject such offering in writing. All bonds purchased shall forthwith be deposited with the state treasurer as custodian thereof, who shall collect the interest and principal thereof, and pay the same when collected, into the state compensation fund. The state treasurer shall pay all vouchers drawn on the fund for the purchase of such bonds when signed by any two members of the commission upon delivery of said bonds to him. The commission may sell any of said bonds upon like resolution, and the proceeds thereof shall be paid by the purchaser to the state treasurer upon delivery to him of said bonds by the treasurer.

Sec. 4. Sec. 1422, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1422. Securing compensation; alternative methods; regulations. Employers, but not including the state or its legal subdivisions, shall secure compensation to their employees in one of the following ways: 1. By insuring and keeping insured the payment of such compensation with the state compensation fund; 2. By insuring and keeping insured the payment of such compensation, with a corporation or association authorized to transact the business of workmen's compensation insurance in the state, and filing with the commission, in form prescribed by it, notice of his insurance, together with a copy of the contract or policy of insurance. Such corporation or association shall write and carry all risks or insurance for which application may be made to it which are not prohibited by law, and shall carry a risk to the conclusion of the policy period unless cancellation is agreed to by the commission and the employer; any policy shall, however, be subject to cancellation at any time by the commission; 3. By furnishing to the commission satisfactory proof of financial ability to pay direct the compensation in the amount and manner and when due as herein provided. The commission may, from such employer require a deposit or other security for the payment of compensation liabilities, in an amount to be fixed by the commission, but not less than one hundred thousand dollars. Such employer shall pay a tax of two per cent of the premiums which would be paid by such employer if insured in the state fund; provided, that such tax shall not be less than two hundred and fifty dollars per annum; said tax to be computed and collected by the commission and paid into the expense reserve of the compensation fund. If such employer shall not fully comply with the provisions hereof relating to the payment of compensation, then the claims for compensation shall be deemed assigned to the commission for the benefit of the state compensation fund, and the commission shall pay such compensation, benefits or amounts as may be due under the provisions of this article, and the commission shall then have a cause of action against said employer and upon his bond, if any, for the amount so paid, to be recovered by said commission, together with necessary expenses and a reasonable attorney's fee to be fixed by the court and the commission may revoke the authority of said employer to pay compensation direct. Corporations or associations transacting the business of workmen's compensation insurance in the state shall be subject to the rules and regulations of the commission, including rates to be charged, policy forms to be used, and the method of paying compensation. Only corporations having a paid-up capital stock of five hundred thousand dollars and surplus of one hundred thousand dollars, or an aggregate capital and surplus of six hundred thousand dollars or mutual associations having net assets over and above all liability of six hundred thousand dollars, shall be permitted to transact such business, and their liability shall include a reinsurance reserve which shall equal sixty-five per cent of the gross annual premiums or deposits received by such corporation or association on account of workmen's compensation insurance, and fifty per cent of the gross annual premiums on all other lines of insurance and a pro rata amount of gross premiums collected for more than one year. Before transacting such business, such corporation or association shall deposit with the industrial commission of Arizona cash or

securities in an amount equal to seventy-six per cent of the sixty-five per cent of the gross annual premiums of deposits received by such corporation or association on account of workmen's compensation insurance collected by it in the state, such securities to be at all times subject to the approval of the commission; or in lieu of cash or securities, may, with the approval of the commission, furnish bond of a corporate surety company authorized to transact business in the state. Said bond or securities shall be held by the commission as security for the fulfillment of its obligations under this article. Such insurance carrier authorized to do business in the state must make and file with the industiral commission annually, on or before the first day of March each year, a statement, under oath, giving a true exhibit of the company making such statement during the year ending December thirty-first next preceding. The form shall be prescribed by the industrial commission in such manner it seems to the commission best adapted to elicit from such corporation, a true exhibit of its condition. It shall contain the total amount of all premiums under workmen's compensation insurance policies collected or contracted for by the insurance carrier making such statement during such year, the total amount actually paid for losses, the total reserves for losses incurred, and the total amount paid policy holders on return premiums for the same period, the amount of workmen's compensation insurance written in this state and reinsured in other companies not admitted, and similarly the amount reinsured in addmitted companies; and the amount of such reinsurance accepted from admitted companies and the premiums received for such reinsurance and the names of the companies so reinsured.

Such insurance carrier shall pay to the state treasurer, for the credit of the expense reserve of the state fund, in lieu of all other taxes on workmen's compensation insurance, a tax of two per cent on all premiums collected or contracted for during the year ending December thirty-first next preceding, less deductions from said premiums, also amounts paid to policy holders as return premiums, and the amount paid as premiums to admitted companies for reinsurance on workmen's compensation insurance in this state.

Sec. 5. Sec. 1434, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1434. Lien for payments created; priority and foreclosure thereof; action for payments due commission. If an employer default in any payment required to be made by him to the state compensation fund, or the accident benefit fund, the amount due, with interest thereon at twelve per cent per annum, shall be collected by civil action against him in the name of the commission as plaintiff and the same when so collected shall be paid into the state compensation fund, or accident benefit fund. Separate and apart from and in addition to the other provisions of this article, the claims of the state compensation fund for payments and penalties due under this act shall be a lien prior to all other liens except taxes, prior recorded realty mortgages and unpaid wage claims, not only against the interests of any employer, but against the interests of all others, in the real estate, plant, works, equipment and buildings improved, operated or constructed by any employer, and also upon any products or articles manufactured by such employer.

The lien created by this section shall attach from the date of the commencement of the labor for which such premiums are due. In order to avail itself of the lien hereby created, the commission shall, within three months after such employer shall have reported his payroll and shall have defaulted in the payment of his premiums thereupon, file with the county recorder of the county within which such property then be situate, a statement in writing describing in general terms the property upon which a lien is claimed and stating the amount of the lien claimed by the commission. If any employer shall fail, delay or refuse to report his payroll, the lien hereby created shall continue in full force and effect although the amount thereof be undetermined and the three months' time within which the commission shall file its claim of lien shall not begin to run until the actual receipt by the commission of such payroll report. From and after the filing of such claim of lien, the commission shall be entitled to commence suit to foreclose such lien in the manner provided by law for the foreclosure of other liens on personal or real property.

Sec. 6. Sec. 1438, Revised Code of 1928, is hereby amended to read as follows:

Sec. 1438. Measure of compensation; total and partial disabilities. Every employee of an employer within the provisions of this article, who shall be injured by accident arising out of and in the course of employment, or his dependents, as hereinafter defined in case of his death, shall receive the compensation herein fixed, on the basis of monthly wage at time of injury. The term, "Monthly wage," shall mean the average wage paid during and over the month in which such employee was killed or injured. In all instances in which the injured or killed employee had not been continuously employed for the period of thirty days immediately preceding the injury or death, the average monthly wage shall be such sum as, having regard to the previous wage of the injured employee, or of other employees of the same or most similar class working in the same or most similar employment in the same or neighboring locality, reasonably represents the monthly earning capacity of the injured employee in the employment in which he was working at the time of the accident. If the employee was working under a contract with his employer under the terms of which the employee was guaranteed an amount per diem or per month, notwithstanding the contract price for such labor, then said employee or his subordinates or employees working under the terms of said contract, or his or their dependents in case of death, shall be entitled to receive the compensation on the basis only of the guaranteed wage as set out in said contract of employment, whether such amount was paid on a per diem basis or on a monthly basis, provided that in no event shall such basis be less than the wages paid to employees for similar work not under contract.

(A) DEATH BENEFITS

If the injury causes death, the compensation shall be known as a death benefit, and shall be payable in the amount and to and for the benefit of the persons following: 1. Burial expenses, not to exceed one hundred and fifty dollars, in addition to the compensation; 2. to the widow, if there is no child, thirty-five per cent of the average wage of the deceased, to be paid until her death or remarriage, with two years' compensation in one sum upon remarriage; 3. to the widower, if there is no child, thirty-five per cent of the average wage of the deceased, if wholly dependent for support upon the deceased employee at the time of her death, to be paid until his death or remarriage; 4. to the widow or widower, if there is a child or children, the additional amount of fifteen per cent of such wage for each child until the age of eighteen years, the total not to exceed sixty-six and two thirds per cent of the average wage; in case of the subsequent death of such surviving wife or dependent husband, or if there be no surviving wife or dependent husband, a single surviving child shall be paid twenty-five per cent of such wages; or if there is more than one surviving child, twenty-five per cent shall be paid for one child and fifteen per cent for each additional such child, to be divided among such children share and share alike, but not exceeding a total of sixty-six and two-thirds per cent of the average wage; provided, that compensation to any such child ceases when it dies, marries or reaches the age of eighteen years, or if over eighteen years and incapable of self support, becomes capable of self support; 5. if there be no surviving wife, or dependent husband, or child under the age of eighteen years, there shall be paid to a parent, if wholly dependent for support upon the deceased employee at the time of his death, twenty-five per cent of the average monthly wage of the deceased during dependency, with an added allowance of fifteen per cent if two dependent parents survive; to the brothers or sisters, under the age of eighteen years, if one is wholly dependent upon the deceased employee for support at the time of injury causing death, twenty-five per cent of the average monthly wage until the age of eighteen years. If more than one brother or sister is wholly dependent, thirty-five per cent of the average monthly wage at the time of injury causing death, divided among such dependents share and share alike. If there is no one of them wholly dependent, but one or more partly dependent, fifteen per cent divided among such dependents share and share alike.

Questions of dependency shall be determined according to the facts as of the time of the injury. If the deceased employee leaves dependents only partially dependent upon his earnings for support at the time of the injury, the monthly compensation shall

be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the employee to such partial dependents bears to the average wage of deceased at the time of the injury resulting in his death. The duration of such compensation to partial dependents shall be fixed by the Commission in accordance with the facts shown, but in no case exceed compensation for one hundred months.

Compensation to the widow or widower shall be for the use and benefit of such widow or widower and of the dependent children, and the Commission may, from time to time, apportion such compensation between them in such way as it deems best for the interest of all beneficiaries. If a dependent to whom a death benefit is to be paid is an alien not residing in the United States, the compensation shall be only sixty per cent of the amount or amounts above specified.

If there be no dependents, the employer or insurance carrier, or the state compensation fund, shall pay the burial expenses of the deceased, as provided herein, and shall pay into the state treasury the sum of eight hundred fifty dollars. Such payment shall be held in a special fund for the purpose of enabling the commission to provide such additional awards as may be necessary to enable injured employees to accept the benefits of any law of the state or of the United States, or both jointly, for the promotion of vocational rehabilitation of persons disabled in industry or otherwise.

In case of the death of a dependent specified in the foregoing enumeration before the expiration of the time named in the award, his funeral expenses not to exceed one hundred fifty dollars shall be paid.

(B) TOTAL DISABILITY

For temporary total disability, if there be no one residing in the United States totally dependent upon the workman at the time of the injury, compensation of sixty-five per cent of the average monthly wage, but not exceeding one hundred months, during the period of such disability; if there be persons residing in the United States totally dependent for support upon the workman, compensation as provided herein with an additional allowance of ten dollars per month for such dependents during the period of such disability. In cases of total disability adjudged to be permanent, compensation of sixty-five per cent of the average monthly wage, during the life of the injured person.

Disability caused by the following specified injuries, in the absence of proof to the contrary, shall be deemed total and permanent: 1. The total and permanent loss of sight of both eyes; 2. the loss by separation of both feet; 3. the loss by separation of both hands; 4. an injury to the spine resulting in permanent and complete paralysis of both legs or both arms, or one leg and one arm; 5. an injury to the skull resulting in incurable imbecility or insanity; 6. the loss by separation of one hand and one foot.

This enumeration is not exclusive, and in all other cases permanent total disability shall be determined in accordance with the facts.

(D) PARTIAL DISABILITY

For temporary partial disability, sixty-five per cent of the difference between the wages earned before the injury and the wages which the injured person is able to earn thereafter, for a period not to exceed sixty months during the period of said disability.

Disability caused by the following specified injuries, shall be deemed a permanent partial disability , and compensation of fifty-five per cent of the average monthly wage shall be paid in addition to the compensation paid for temporary total disability for the period named in the following schedule: (a) For the loss of a thumb, fifteen months; (b) for the loss of a first finger, commonly called the index finger, nine months; (c) for the loss of a second finger, seven months;(d) for the loss of the third finger, five months; (e) for the loss of the fourth finger, commonly called the little finger, four months; (f) the loss of a distal or second phalange of the thumb, or the distal or third

phalange of the first, second, third or fourth finger, shall be considered a permanent partial disability, and equal to the loss of one half of such thumb or finger and compensation shall be one half of the amount specified for the loss of the entire thumb or finger; (g) the loss of more than one phalange of the thumb or finger, shall be considered as the loss of the entire finger or thumb; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand; (h) for the loss of a great toe, seven months; (i) for the loss of one of the other toes other than the great toe, two and one half months; (j) the loss of the first phalange of any toe shall be considered equal to the loss of one half of such toe and compensation shall be one half of the amount above specified; (k) the loss of more than one phalange shall be considered as the loss of the entire toe; (l) for the loss of a major hand, fifty months, of a minor hand, forty months; (m) for the loss of a major arm, sixty months, of a minor arm, fifty months; (n) for the loss of a foot, forty months; (o) for the loss of a leg, fifty months; (p) for the loss of an eye by enucleation, thirty months; (q) for the permanent and complete loss of sight in one eye without enucleation, twenty-five months; (r) for permanent and complete loss of hearing in one ear, twenty months; (s) for permanent and complete loss of hearing in both ears, sixty months; (t) the permanent and complete loss of the use of a finger, toe, arm, hand, foot or leg, may be deemed the same as the loss of any such member by separation; (u) for the partial loss of use of a finger, toe, arm, hand, foot, leg, or partial loss of sight or hearing, fifty per cent of the average monthly wage, during that proportion of the number of months in the foregoing schedule provided for the complete loss of use of such member, or complete loss of sight or hearing, which the partial loss of the use thereof bears to the total loss of use of such member or total loss of sight or hearing; (v) for permanent disfigurement about the head or face, which shall include injury to or loss of teeth, the commission may allow such sum for compensation thereof as it may deem just, in accordance with the proof submitted, for a period not to exceed eighteen months; (w) where the injury causes partial disability for work, the employee shall receive, during such disability, compensation equal to fifty-five per cent of the difference between his average monthly wages before the accident and the monthly wages he is able to earn thereafter, but the payments shall not continue after the disability ends, or death of the injured person, and in case the partial disability begins after a period of total disability the period of total disability shall be deducted from such total period of compensation.

In determining the percentage of disability, consideration shall be given, among other things, to any previous disability, the occupation of the injured employee, the nature of the physical injury, and the age of the employee at the time of the injury. Where there is a previous disability, as the loss of one eye, one hand, one foot, or any other previous disability, the percentage of disability for a subsequent injury shall be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

The commission may adopt a schedule for rating permanent disability and reasonable and proper rules to carry out the provisions of this section.

No compensation shall be payable for the death or disability of an employee, if his death be caused by, or insofar as his disability may be aggravated, caused or continued by an unreasonable refusal or neglect to submit to or follow any competent and reasonable surgical treatments or medical aid.

Sec. 7. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act.

Sec. 8. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 26, 1933.

CHAPTER 12

(H. B. 41)

AN ACT

Making an emergency appropriation to the state tax commission for the purpose of putting into effect revenue measures passed by the Eleventh Legislature, First Special Session; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. For the purpose of administering the provisions of the general sales tax and other revenue measures passed by the Eleventh Legislature, state of Arizona, at the first special session thereof, being Senate Bill No. 7, Senate Bill No.1 and Senate Bill No. 2, the administration of which is by law imposed upon the state tax commission, there is hereby appropriated to the state tax commission out of the general fund fifteen thousand dollars, or so much thereof as may be necessary to put into effect the administration of said acts, said appropriation to be available for the twenty-second fiscal year only. This appropriation shall be in addition to the appropriation contained in said acts for the use and benefit of the tax commission.

Sec. 2. The appropriation herein made shall be exclusive of and in addition to the appropriations contained in the general appropriation act for the use and benefit of the state tax commission, but shall not be expended for the administration of any law or the performance of any duty or act administered, imposed upon or performed by the state tax commission prior to July 1, 1933, or for the administration of any such law, the purpose being to limit the within appropriation strictly to the administration of new revenue measures; provided, however, that the fifteen thousand dollars or as much thereof as may be used of this sum, shall be charged against the percentage specified in the revenue measures enacted by the Eleventh Legislature, First Special Session, and be returned to the general fund of the state.

Sec. 3. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 26, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
First Special Session

CHAPTER 13

(H. B. 32)

AN ACT

To promote the development of the fruit and vegetable industry; to amend "The Arizona fruit and vegetable standardization act" (Chap. 95, Session Laws of 1929), and to repeal Chap. 102 (H. B. 166), Session Laws of 1933; and declaring an emergency.

Be it enacted by the legislature of the state of Arizona:

Section 1. Chap. 95, Session Laws of 1929, is hereby amended by adding a section, to be designated Sec. 1a, and to read as follows:

Sec. 1a. Definitions. (a) "Person" shall include any individual, firm, association, partnership or corporation.

(b) "Producer" shall mean any person engaged in the business of growing or producing farm products.

(c) "Farm products" shall include those agricultural, horticultural, and vegetable products of ths soil which come within the meaning of this act.

(d) "Consignor" includes any person who ships or delivers any farm products for handling, sale or resale.

(e) "Commission merchant" shall mean any person who shall receive on consignment or solicit from the producer thereof any farm product for sale on commission on behalf of such producer, or who shall accept any farm product in trust from the producer thereof for the purpose of resale, or who shall in any way handle for the account of or as an agent of the producer thereof any farm product.

(f) "Dealer" shall mean any person engaged in the business of buying and selling any farm product except at retail.

(g) "Agent" shall mean any person who on behalf of any commission merchant, or dealer, or broker receives, contracts for or solicits any farm product from a producer thereof or who negotiates the consignment or purhase, except for cash on delivery, of any farm product on behalf of any commission merchant, dealer or broker.

(h) "Grower-shipper" shall mean any person solely engaged in the packing, shipping, transporting or selling of any agricultural products of which he is the grower and producer or owner.

Sec. 2. Sec. 9, Chap. 95, Session Laws of 1929, is hereby amended to read as follows:

Sec. 9. Licensing. (a) No person shall act as a commission merchant, dealer, agent or grower-shipper without first obtaining a license as provided in this act. An application for any such license shall be filed with the supervisor and shall be accompanied by a license fee of fifty dollars. All such license fees collected by the supervisor shall be paid by him into the general fund of the state. Said license shall expire on March first of each year, and must be renewed annually.

(b) Said application shall state the class or classes of farm products applicant proposes to handle, the full name of the person applying, and if the applicant be a firm, exchange, association or corporation, the full name of each member of the firm, or the names of the officers of the exchange, association or corporation. The application shall also give the principal business address of the applicant in the state of Arizona and elsewhere and the name or names of the person or persons authorized to receive and accept service of summons and legal notices of all kinds for the applicant. Such applicant shall further satisfy the supervisor of his or its character, responsibility and good faith in seeking to carry on the business stated in the application.

(c) In addition to the general requirements applicable to all classes of applications as provided in subsection (b), the following requirements shall apply to the classes of application noted:

1. Commission merchant: Each application shall include a schedule of commissions and charges for services, and such designated commissions and charges shall not be changed or varied for the license period except by written contract between the parties.

2. Agents: Each application shall include such information as the supervisor may consider proper or necessary, and shall include the name and address of applicant, the name and address of each commission merchant, dealer or broker represented by such agent, if any, and the written endorsement or nomination of such commission merchant, dealer or broker for whom he proposes to act.

3. Grower-shippers: Each application shall be accompanied by an affidavit, on a form to be furnished by the supervisor, setting forth the facts entitling him to a license under such classifications.

(d) The supervisor shall thereupon issue to the applicant a license to conduct the business described, at a place named, for a period of one year unless the same shall be revoked for cause. The supervisor may also issue to each agent a card or cards, which shall bear the signatures of said agent and his principal; if there be more than one principal there shall be a separate card for each. The agent shall show said card or cards upon the request of any interested person.

(e) Fraud or misrepresentation in making any such application shall ipso facto work a revocation of any license granted thereunder. All indicia of the possession of a license shall be at all times the property of the state of Arizona and each licensee shall be entitled to the possession thereof only for the duration of such license.

Sec. 3. Chap. 95, Session Laws of 1929, is hereby amended by adding a section, to be designated Sec. 9a, and to read as follows:

Sec. 9a. Applicant for license shall furnish bond; action for damages. (a) Before license shall be issued to any commission merchant or agent the applicant shall execute and deliver to the supervisor a surety bond satisfactory to him in the sum of five thousand dollars executed by the applicant as principal with good and sufficient sureties qualifying in double the amount of the bond. Said bond shall be conditioned upon the faithful and honest handling of farm products in accordance with the terms of this act. Said bond shall be to the state for the use and benefit of the state and of any consignor of farm products. A consignor of farm products claiming to be injured by the violation of any of the conditions of said bond or of this act may bring action upon said bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by such violation.

(b) If any commission merchant licensed under the provisions of this act shall wilfully or negligently fail to pay the inspection fees prescribed by this act, after notification by the supervisor of such failure or neglect, the supervisor shall have a right of action based thereon upon such bond for payment of the full amount of said fees.

(c) Before license shall be issued to any grower-shipper, the applicant shall execute and deliver to the supervisor a surety bond satisfactory to him in the sum of one thousand dollars. Said bond shall be conditioned upon the payment of the inspection charges prescribed by this act. If any grower-shipper licensed under the provisions of this act shall wilfully or negligently fail to pay such inspection fees, after notification by the supervisor of such failure or neglect, the supervisor shall have a right of action based thereon upon such bond for the payment of the full amount of said fees.

Sec. 4. Chap. 95, Session Laws of 1929, is hereby amended by adding a section, to be designated Sec. 9b, and to read as follows:

Sec. 9b. Investigation of transactions. The supervisor on his own motion may, or upon the verified complaint of an interested party shall investigate any transaction involving the solicitation,

receipt, sale or attempted sale of farm products, by any person acting or assuming to act as a commission merchant, broker or agent; failure to give a true account of sales and settlement therefor; intentional making of false statements as to the condition or quantity of any farm products received; intentional making of false statements as to crop or marketing conditions, or failure to make payment for farm products within the time required by law, or any other transaction injurious to the grower or the industry. In pursuit of any such investigation the supervisor or his authorized representative may examine all books, accounts, memoranda and other documents relating to the transaction.

Sec. 5. Chap. 95, Session Laws of 1929, is hereby amended by adding a section, to be designated Sec. 9c, and to read as follows:

Sec. 9c. Grounds for refusing or revoking license. The supervisor may refuse to grant a license, and may revoke or suspend a license, as the case may require, when he is satisfied that the applicant or licensee has been guilty of any of the following acts:

(a) Having made fraudulent charges or returns for the handling or sale, or for rendering any service in connection with the handling or sale of any farm product.

(b) Having failed or refused, within the time and in the manner required by this act, to render a true account of sale, or to make a proper settlement thereon, or to pay for farm products received.

(c) Having made a false statement as to the condition, quality or quantity of farm products received, handled or sold by him.

(d) Having purchased, directly or indirectly, for his or its own account, farm products received upon consignment, without prior authority from and the fixing of price by the consignor, and without promptly notifying the consignor of such purchase.

(e) Having intentionally made a false or misleading statement as to the condition of the market for any farm product.

(f) Having made fictitious sales, or otherwise been guilty of collusion to defraud the producer.

(g) Having reconsigned a consignment, for the purpose of receiving, collecting, or charging more than one commission, without the consent of the consignor.

(h) Having used fraud or deception in the procurement of a license.

(i) Having failed or refused to file with the supervisor a schedule of charges for services in connection with the handling of produce for or as an agent of another.

(j) Previous violation by an applicant, or by any person connected with him or it, of any of the provisions of this act, shall be grounds for denial of license.

Sec. 6. Chap. 95, Session Laws of 1929, is hereby amended by adding a section, to be designated section 9d, and to read as follows:

Sec. 9d. Appeal from supervisor's decision. Any action of the supervisor with reference to granting, or refusing to grant or renew a license, or the revocation or suspension of a license, may be reviewed by any court of competent jurisdiction. Pending the final determination of any such review relating to the revocation or suspension of a license, such license shall remain in full force and effect, unless the license shall expire by limitation in the meantime.

Sec. 7. Sec. 10, Chap. 95, Session Laws of 1929, is hereby amended to read as follows:

Sec. 10. Records to be kept by produce dealers. Every commission merchant shall keep a correct record of each and every

consignment of farm products received for sale, showing 1. name and address of consignor; 2, date of consignment received; 3, serial number of the car used in the transportation of the consignment; 4, condition and quantity of produce upon arrival; 5, date of sale; 6, price for which sold; 7, itemized statement of charges to be paid by consignor; 8, names and addresses of puchasers, if the commission merchant has a financial interest in the business of the purchasers, or the purchasers have a financial interest in the business of the commission merchant, either directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise; 9, lot number or other identifying mark of each consignment, which number or mark shall appear on all records needed to show what the produce actually sold for; 10, all claims filed by the commission merchant against any person for overcharges or for damages resulting from the injury or deterioration of such farm products by the act or neglect of such person. Said records shall be retained for a period of one year and shall be open at all times to the inspection of the supervisor or the consignor.

Sec. 8. Chap. 95, Session Laws of 1929, is hereby amended by adding a section, to be designated section 10a, and to read as follows:

Sec. 10a. Payment by commission merchant; preservation of records. (a) Unless otherwise agreed in writing, remittance in full of the amount realized from any such sale, including all collections, overcharges, and damages, less the agreed commission and other charges, and accompanied by a complete statement of the transaction, shall be made to the consignor within ten days after receipt of the money by the commission merchant.

(b) Every commission merchant shall retain the original or a copy of all records covering each sale or transaction with respect to the sale of farm products for a period of one year from the date thereof, which shall at all times be open to the confidential inspection of the supervisor or the consignor, or the authorized representative of either. The burden of proof shall be upon the commission merchant to prove the correctness of his accounting as to any transaction which may be questioned.

(c) Every dealer must pay for farm products delivered to him or it at the time and in the manner specified in the contract had with the producer, but if no time is set by such contract, or agreed upon at the time of delivery, then the said products shall be paid for within thirty days from the date of delivery or the taking possession of such farm products by the dealer.

Sec. 9. Chap. 95, Session Laws of 1929, is hereby amended by adding a section, to be designated Sec. 10b, and to read as follows:

Sec. 10b. List of dealers; posting license. The supervisor may publish a pamphlet containing a list of all licensed commission merchants, brokers, agents and grower-shippers, and the rules and regulations affecting the enforcement of this act. Each licensed commission merchant, broker, agent or grower-shipper shall post in his office or at his principal place of business, in plain view, his license or a copy thereof.

Sec. 10. Sec. 13, Chap. 95, Session Laws of 1929, is hereby amended to read as follows:

Sec. 13. Acts declared unlawful. (a) It shall be unlawful for any person to act as commission merchant, broker or agent, within the meaning of this act, without a valid license therefor or for any commission merchant or agent to: 1. Impose false charges for handling or for performing any service in connection with the handling of farm products; 2. intentionally make false or misleading statements as to market conditions; 3. make fictitious sales or conspire to defraud the producer; 4. with intent to defraud shall change the lot number of a consignment or the serial number of the car or cars used in the transportation thereof; 5. directly or indirectly purchase for his own account, goods received upon consignment, without prior authority from the consignor, or fail promptly to notify the consignor of such purchase, if any, on his own account; 6. intentionally make a false statement as to the grade, condition, markings, quality or quantity of products, however shipped or packed. The violation of any provision of this act shall be a misdemeanor.

Sec. 12. Chap. 95, Session Laws of 1929, is hereby amended by adding a section, to be designated Sec. 13a, and to read as follows:

Sec. 13a. Fraudulent sales. Any sale of farm products made by a commission merchant, at less than the market price, to a person with whom he has any financial connection, directly or indirectly, as owner or part owner of the business or corporation, copartner, or otherwise, or any sale out of which said commission merchant receives, directly or indirectly, any portion of the purchase price other than the commission specified in the contract, shall be prima facie evidence of fraud within the meaning of this act.

Sec. 13. Chap. 95, Session Laws of 1929, is hereby amended by adding a section, to be designated Sec. 13b, and to read as follows:

Sec. 13b. Jurisdiction. Civil suits and criminal prosecutions arising out of any of the provisions of this act may be commenced and tried either in the county where the products are received or in which the principal place of business of the commission merchant receiving or handling the same is located, or within the county in which the act in controversy occurs.

Sec. 14. Repealing clause. Chap. 102, Session Laws of 1933, is hereby repealed, and all acts and parts of acts in conflict herewith are hereby repealed.

Sec. 15. Emergency clause. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 26, 1933.

State of Arizona
Eleventh Legislature
First Special Session
Senate

CHAPTER 14

(SENATE BILL NO 16)

AN ACT

Relating to the grading and

sale of Arizona fresh eggs.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Definitions. For the purpose of this act, an Arizona fresh egg shall be an egg produced within the state of Arizona, and which meets the following requirements at the time of retail sale:

(a) Before the candle: Clean shell; air space small, less than 3/4 inch in diameter at base, or not more than 1/4 inch in depth; edges firm; yolk can be dimly seen above middle of egg, and moves slowly when egg is turned; white, or albumen, clean and firm.

(b) Out of shell: Yolk should be even in color, firm, and when on a flat surface should lie in a relatively rounded form, and should not be over three times as broad as it is deep; yolk membrane should not rupture easily; white, or albumen, firm and thick, flows slowly and glistens.

(c) Grades: The grades specified hereinafter shall be based upon the average weights per dozen eggs, and upon the weights of the individual eggs, as follows: Large, shall average not less than 24 ounces per dozen eggs, with no egg permitted of an individual weight less than 1 5/6 ounces; medium, shall average not less than 20 ounces per dozen eggs, with no egg permitted of an individual weight less than 1 7/12 ounces; small, shall average not less than 16 ounces per dozen eggs, with no egg permitted of an individual weight less than 1 1/4 ounces.

Sec. 2. Displaying for sale; placarding. All eggs, and no other, meeting the requirements prescribed in Section 1, shall be offered for retail sale, as "Arizona fresh eggs", and shall be designated by a white placard, conspicuously displayed in close proximity to said eggs, which shall bear in black letters not less than 1 1/4 inches in height, the words, "Arizona fresh eggs."

Sec. 3. Penalties. Any individual, firm or corporation failing to comply with the requirements of, or violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than ten nor more than fifty dollars for the first offense, and not less than twenty-five nor more than fifty dollars for each subsequent offense.

APPROVED JUNE 26, 1933.

CHAPTER 15

(SENATE BILL NO. 5)

AN ACT

To provide an appropriation for the use of the live stock sanitary board, for the eradication of tuberculosis in cattle; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. The sum of fifteen thousand dollars, or so much thereof as may be necessary, (seven thousand five hundred dollars for the twenty-second fiscal year and seven thousand five hundred dollars for the twenty-third fiscal year) is hereby appropriated out of the general fund, for the use of the live stock sanitary board, to be expended in cooperation with the United States bureau of animal husbandry, for the eradication of tuberculosis in cattle.

Sec. 2. Said appropriation is made subject to the condition that at least a like amount shall be allotted to this state by the United States government and expended for the same purpose and concurrently with this appropriation.

Sec. 3. The state auditor is hereby authorized and directed to draw warrants on the state treasurer for the purposes herein specified, and the state treasurer is hereby authorized and directed to pay said warrants out of the general fund of the state of Arizona, upon claims approved by the live stock sanitary board or the authorized representative of the United States bureau of animal husbandry, properly certified, for all lawful expenses incurred in carrying out the provision of this act pursuant to the cooperative agreement herein mentioned.

Sec. 4. To preserve the public peace, health and safety it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 26, 1933.

CHAPTER 16

(SENATE BILL NO.2)

AN ACT

Relating to taxation, and to provide for a classified tax on intangible property; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Citation. This act may be cited as "the intangible property tax act of 1933".

Sec. 2. Imposition of tax. There is hereby imposed upon every resident and non-resident taxpayer in the state of Arizona,except insurance companies which pay a tax upon premium incomes and domestic insurance companies, a tax on intangible property as hereinafter defined and classified, which tax shall be annually assessed and collected as provided by law.

Sec. 3. Object of tax. The object for which the said tax is imposed is to assist in defraying the cost of maintenance of the state government, and to lessen the burden in this regard resting upon tangible property. All taxes collected under the provisions of this act shall be placed in the state treasury, to the credit of the general fund, and shall be used, together with revenue from other sources to pay appropriations for the maintenance of the state government.

Sec. 4. Definitions. For the purpose of this act and unless otherwise required by the context:

(a) "Tax Commission" or "commission" shall mean the state tax commission.

(b) "Taxpayer" shall mean any individual, fiduciary, partnership or corporation subject to the tax imposed by this act.

(c) "Fiduciary" shall mean a guardian, trustee, executor, administrator, receiver, conservator, or any person whether individual or corporate, acting in any fiduciary capacity for any person,estate or trust.

(d) "Person" shall include individuals, fiduciaries, firms, partnerships ,and corporations.

(e) "Corporation" shall include joint stock companies or associations.

(f) "Business" shall include trade, profession, occupation or employment.

(g) "Tangible property" shall mean real property and corporeal personal property.

(h) "Intangible property" shall mean money,bank deposits,credits, shares of stock, notes, bonds, evidences of debt; choses in action, evidences of an interest in property, franchises, good will, securities, copyrights, patents, trademarks, and all property other than tangible property; but shall not include the assets of insurance companies nor surrender valuesor payment under policies or contracts issued by such companies; provided, however, that there shall be exempt from taxation under this act all intangibles owned, held or used exclusively for charitable, humanitarian, benevolent,scientific, educational or religious purposes, or corporations or associations of individuals not organized or conducted for pecuniary profit.1. "Solvent credits" and/or "full cash value" shall mean the amount at which the property would be taken in payment of a just debt from a solvent debtor.

(i) "Deposits" shall include commercial, checking, savings or time deposits or credits in banks or elsewhere; payments or deposits on withdrawable investment shares or certificates of building and loan associations; payments or deposits on taxable notes,contracts, shares, certificates,bonds, or other securities of or dealt in by investment companies and dealers in securities.

(j) "Capital of trade or business" shall include all capital employed in connection with and all property incidental to trade or business, except capital invested in tangible property assessed and taxed as such, and intangible property otherwise specifically classified and bearing a higher or lower rate than capital of trade or business.

(k) "Financial institution" shall mean any bank, trust company, building and loan association, investment company, finance company,

dealer in securities, or other company or association authorized by law to engage in the business of using money wherewith to make money. 47

(l) "Include", when used in a definition contained in this act, shall not be deemed to exclude things otherwise within the meaning of the term defined.

Sec. 5. Administration. (a) This act shall be administered by the state tax commission, and for such purpose the commission may make such rules and regulations, not inconsistent with this act, uniform as to all property coming within the same class, as it may deem necessary for the enforcement thereof, and it shall have and possess, for itself and for its agents and representatives; all the powers and authority of assessment, appraisement, estimation, correction, adjustment, supervision, direction, investigation, examination, enforcement, and collection, as herein provided or as conferred upon or vested in it by any law of the state relating to taxation. The commission shall also have power to determine the classification of intangible property in cases where such classification is indefinite and uncertain.

(b) The commission; and its agents and representatives, shall have power to examine books, papers, records or other data bearing upon the correctness of a return or report or for the purpose of making an assessment where no return or report has been made, and to subpoena witnesses, books, records and papers, administer oaths and require the giving of testimony.

(c) The commission shall promulgate rules and regulations not inconsistent with this act for making returns and reports and for the ascertainment, assessment and collection of the taxes imposed by this act, and upon request shall furnish any taxpayer with a copy of such rules and regulations. The forms of all returns and reports and all forms necessary and proper for the enforcement of this act shall be prescribed, printed, and furnished by the commission.

(d) Except in compliance with a court order or as otherwise provided by law; it shall be unlawful for any member of the commission, or any agent, representative, officer or employee, to divulge or make known in any manner the amount of intangible property reported or any particular disclosed in any return or report required under this act. Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular returns or reports, nor to prohibit the inspection by the attorney-general or other legal representative of the state of the return or report of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or penalty imposed by this act.

Sec. 6. Duty of county recorders. It shall be the duty of each county recorder, on or before July 1, 1933, and March 15 of each year thereafter, to furnish to the state tax commission a list of the instruments recorded in his office during the preceding calendar year, subject to taxation under the provisions of this act, including the names of the parties thereto and the amount, value or consideration stated in each instance.

Sec. 7. Classification of intangibles. For the purpose of taxation intangible property shall be classified as follows:

(a) Class 1. Money (including all notes and securities of the United States or of other governments payable on demand, deposits, gros credits, bills of exchange, letters of credit, checks, drafts, trade acceptances and other evidences of the possession, ownership, or control of money or its equivalent as a circulating medium or medium of exchan and including all money in the hand or under the control of a fiduciar or deposited to the credit of any suit, arbitration or settlement;

(b) Class 2. Intangible property as defined in subsection (a), belonging to non-residents and deposited or held in Arizona.

(c) Class 3. Notes, debentures; bonds, securities, solvent credits liens, judgments, choses in action, contracts, annuities and all other demands and claims, for cash, labor, or other valuable things, however evidenced, whether due or to become due, excepting such as bear a total rate of interest paid or to be paid exceeding eight per cent per annum or by the laws of the United States or of Arizona are exempted from taxation, or are classified in another subsection.

(d) Class 4. Notes, debentures, securities, or other evidences of indebtedness bearing a total interest rate paid or to be paid exceeding eight per cent per annum.

(e) Class 5. Capital of trade or business including bills and solvent credits including notes, liens and judgments taken in lieu of accounts receivable, franchises, good wills, copyrights, patents, trademarks or other intangible property not otherwise specifically taxed used in the conduct of a trade or business.

(f) Class 6. Shares of stock of commercial banks, savings banks,

and trust companies; paid-in or prepaid capital stock and non-withdrawable investment shares of building and loan associations; shares of stock or other evidences of ownership or control of investment, security, finance, or other companies engaged in the use of money wherewith to make money, and all moneyed capital so employed, by individuals or otherwise, as to come into substantial competition with the business of banking; provided, that casual, occasional, or incidental evidences of indebtedness representing merely personal investments not made in competition with the banking business or acquired as an incident of ordinary business transactions unrelated to the banking business shall not be classed as nor deemed to be evidence of the employment of moneyed capital within the meaning of this subsection.

(g) Class 7. Shares of stock of corporations or joint stock companies not included within any other classification. The shares of capital stock of domestic corporations organized or admitted to do business under the laws of this state (except the class of corporations mentioned in Section 6 of this act) and all of the business and property of which are situated within this state shall, for the purposes of assessment and taxation be deemed and treated as an interest in the property of such corporations and shall not be taxed, but if any part of the business or property of any such corporation be situated without this state, then its shares of capital stock and bonds shall for the purpose of assessment and taxation be deemed and treated as an interest in the property of such corporation and not be taxed only to the extent that the value of the business and property situated in this state bears to the value of all of the business and property of such corporation.

Sec. 8. Basis of valuation. The basis of valuation of intangible property shall be the basis employed in the assessment of tangible property that is to say, its full cash or fair market value, which value, except as otherwise specifically provided, shall be arrived at, fixed and determined by the commission, under such rules and regulations as it may prescribe, according to its information and best judgment, and by the employment of such factors, uniform with respect to each class, as to it may seem best adapted to the purpose; provided that indebtedness, incurred in good faith, against a particular intangible, embraced within section 7, class 3, which is the object of the assessment may be deducted from the value thereof; and provided further that accounts payable may be deducted from solvent credits. fair value of each class of intangible property specified in section 6 this deduction shall allocated to the respective classes in the ratio that the value of each class of intangible asset bears to the total value of all intangible assets before this deduction is made.

Sec. 9. Rates. The tax to be levied and collected upon intangible property shall be computed at the following rates per dollar of assessed valuation; Class 1, one mill; class 2, one mill; class 3, two and one-half mills; class 4, three mills plus one-half mill for each per cent or fraction thereof per annum which the interest on such intangible property exceeds the rate of eight per cent per annum; class 5, three mills; class 6, twelve mills; class 7, three mills.

Sec. 10. Filing returns. (a) Except as otherwise provided every owner of intangible property taxable under this act, including foreign corporations and non-resident taxpayers; every fiduciary having any such property in his possession or under his charge, and every domestic corporation, whether owning any taxable intangible property or not, shall annually, on or before March 15 (excepting that for the year 1933 said return shall be filed on or before August 1) file with the tax commission a return, under oath, on such form or forms, connected or not with the form or forms for reporting incomes as the commission may prescribe, of all such intangible property, and, in the case of residents, shall include deposits or other intangible property held without the state, except such as are exempted under the provisions of section 14. Upon written request therefor, the commission may, for absence, sickness, or other sufficient reason, grant a reasonable extension of time for filing a return.

(b) Where eighty per cent or more of the stock of a corporation or corporations is owned by the parent corporation within the state one report may be filed by the parent company showing the intangibles owned by all of said companies and the tax shall be computed on the basis of the intangible wealth of all of such corporations.

(c) All intangible property subject to taxation shall be returned as of February 1 (except that for the year 1933 such status shall be fixed as of June 1), and the status of taxpayers shall be fixed and the value of property returned shall be taken as of such date.

Sec. 11. Capital of trade or business. Every person engaged in trade or business within this state and subject to taxation under this act shall file a return, in such form as the commission may prescribe, which shall show all capital, whether represented by tangible or intangible property, employed in connection with or incidental to such trade or business, showing in separate items, money on deposit in banks; and money deposited elsewhere or on hand within this state, credits, bills and solvent credits, including notes, liens and judgments taken in lieu of accounts receivable in excess of bills and accounts payable, securities, liens, demands, claims, choses in action, franchises, good will, copyrights, patents, trademarks, and all other intangible property used in connection with or incidental to such trade or business, separately assessed and taxed as tangible property, together with the valuation at which assessed. The commission shall appraise the said capital, taking into consideration such factors as to the commission may seem best adapted to the purpose, including the relationship to and the influence, if any, exerted upon the value thereof by the tangible property separately assessed and taxed (but which shall not be again assessed), and excluding from said appraisal intangible property otherwise classified and on which the rate is higher or lower than the rate on capital of trade or business. The value as fixed and determined by such appraisal shall be deemed to be the fair value of the capital of such trade or business for the purposes of this act.

Sec. 12. Non-residents; taxation of capital of. Non-resident persons, and foreign corporations or partnerships consisting in whole or in part of non-resident persons; doing business in this state, and subject to taxation under this act, are declared to have a business domicile within the state and shall report the capital employed in trade or business in the state. All intangible assets used or employed in the Arizona business are declared to be capital used or employed within this state and at the business domicile of such non-resident person, foreign corporation or partnership, his, its or their agents or representatives, whether the physical evidences of such intangible assets are kept within the state or not. The amount of the aforesaid intangible assets having a situs within this state shall be determined by an allocation and separate accounting when the books of such person, corporation or partnership do not show the amount of such assets hereby declared to have a situs within the state.

Sec. 13. Accounting method. Every person engaged in trade or business the capital of which is subject to taxation is required to keep accurate book accounts showing the items which constitute such capital which books of account shall be at all times open to the inspection of the commission. Such persons shall make return showing in detail the items of capital as herein defined, and also the bills and account payable which are claimed as deductions. No deductions shall be allowed for such bills and accounts payable unless there be given the names and addresses of the parties to whom the same are due, and the various amounts constituting the said indebtedness, and unless the taxpayer certify that such indebtedness was contracted in the usual course of business, and not for purposes of capital outlay, for items which would be classified as fixed assets.

Sec. 14. Branches outside the state. Where any person domiciled and doing business within this state maintains a branch of such business without the state, no part of the capital of such person permanently invested in any such branch of its business, nor any intangible assets arising from business originating at any such branch and transacted without the state, shall be considered as situated in the state for the purpose of taxation, any statutory provisions or rules of construction to the contrary notwithstanding, it being the intent and purpose of this provision to exact of citizens of this state no higher or greater tax than that exacted of non-residents doing business in the state.

Sec. 15. Taxation of stock or other evidence of ownership of banks, building and loan associations, and other financial institutions. (a) The president, cashier or other responsible accounting officer of every commercial bank, savings bank, or trust company, and every person or company engaged in the banking business, or as an essential and primary feature of his or its business employing moneyed capital in such manner and to such extent as to come into substantial competition with the banking business; and the president, cashier or other responsible accounting officer of every building and loan association, investment company, dealer in securities, finance company, or other corporation, company or association engaged in the business of using money wherewith to make money, shall file a return,

in such form as the commission may prescribe, which shall show the number of shares comprising the actual capital stock of such institution (which in the case of building and loan associations shall be construed to be the paid-in or prepaid capital stock), or if there be no capital stock such information as will disclose every material fact with respect to the ownership of such business; the name and address of each stockholder or owner; the number of shares or proportionate interest, and the par and market value of the shares or interest owned by each, and such other information as the commission may prescribe. Such stock or other evidence of ownership of such business shall thereupon be listed under the names of said owners, and assessed as intangible property.

(b) The commission shall ascertain, determine and fix the fair value of such stock or other evidence of ownership, under rules which shall be uniform as to all property coming within the same class, and according to its information and best judgment, employing such factors as to it may seem best adapted to the purpose, including the facts disclosed by statements and reports required by law, surplus and undivided profits, reserves, dividends, market value, and the effect, if any, upon the fair value of said stock or ownership as in the opinion of the commission may be produced by the real estate or other tangible property which has been separately assessed and taxed as tangible property, the purpose being to assess fairly and equitably, as intangible property, the stock or other evidence of ownership of every banking institution or business coming within the same class and competing substantially in the business for which national and state banks are created and chartered, and every building and loan association, investment company, finance company, dealer in securities, or other company or association engaged in the business of using money wherewith to make money.

(c) Each bank or other company, association, institution or business assessed and taxed in accordance with the provisions of this section shall pay the taxes assessed upon its stock or other evidence of ownership, on behalf of the respective owners, and a lien on the said stock or evidence of ownership is hereby given to the banks, companies or financial institutions making such payments, as of the date of such payments.

(d) Such taxes shall be in lieu of all other taxes for state purposes on the shares of stock or other evidence of ownership of any such bank or other financial institution, whether in the hands of the individual or otherwise and no tax shall be assessed or levied on the income of the money capital employed in any business taxed under the provisions of this section, any other provision of law notwithstanding.

Sec. 16. Nonwithdrawable investment stock. Every building and loan association, investment company or other financial institution issuing such shares or certificates shall file a return which shall show the number of shares outstanding of paid-up, nonwithdrawable investment stock or certificates, the name and residence of each stockholder, owner or subscriber, and such other information with respect thereto as the commission may require. The commission shall determine and fix the fair value of such stock or certificates and the association or company issuing or dealing in the same shall pay the tax. Said association or company shall have the right to pro rate the said tax against the shares of paid-in, prepaid capital stock or other capital stock evidencing ownership or control of the business of the said association or company as distinguished from investment shares, and shall have a lien on the said stock as of the date of such payment, but shall not charge any part of such tax against the shares of nonwithdrawable investment stock or certificates.

Sec. 17 Payment at the source of tax on deposits. (a) Every commercial bank, savings bank, trust company, or other banking institution, and every building and loan association, investment company, dealers in securities, or other company or association doing business in this state receiving or accepting deposits, as defined in section 4, shall open its records of all deposits as herein defined to proper inspection by the state tax commission, its officers and agents.

(b) The return herein required to be made by building and loan associations shall show the number of shares outstanding of each class of withdrawable investment stock issued by such association, the name and residence of each stockholder or subscriber and the number of shares of each class of stock standing in the name of each such stockholder or subscriber, together with the book or withdrawal value of such shares, including the profits standing to their credit which the association would be liable for in the event of withdrawal, and such other information as the commission may require; provided, that such return shall not include the stock of any borrower whose indebtedness

to the association exceeds the amounts paid in on the stock standing in his name.

(c) The return required to be made by investment companies and dealers in securities shall show the name and residence of each subscriber, investor, purchaser, or contractee, the number and denomination of each class of taxable bonds; notes or other investment securities, sold or contracted to, issued, written or standing in the name of each such subscriber, investor, purchaser, or contractee, together with the book or withdrawal value of such securities, or contracts, including the profits standing to their credit which the company would be liable for in the event of withdrawal, and such other information as the commission may require.

(d) The value of all intangible property taxed under the provisions of this section shall be the amount the owner, subscriber or contractee would receive in the event of withdrawal, or if the stock, security or contract is not withdrawable nor possessed of a withdrawal value because it has not reached a required stage of maturity, the value at which it is carried on the books to the credit of the owner, subscriber or contractee, including the profit credited to it, or which the owner, subscriber or contractee would be entitled to receive or be credited with if the stock, security or contract were sufficiently matured to give it a withdrawal value.

Sec. 18. Assessment and taxation of tangible property. The real estate and other tangible property of financial institutions, as defined in this act, shall be assessed and taxed for state purposes as other real estate and tangible property are assessed and taxed, any other provision of law notwithstanding; provided, that nothing in this act shall be construed as affecting sections 3069,3070 and 3071, Revised Code of 1928, and amendments thereto, as such sections relate to assessment and taxation for county and local purposes.

Sec. 19. Payment of tax. (a) Intangible property taxes shall be due and payable on March 15 of each year, except that for the year 1933 they shall be due and payable on August 1. The full amount of such tax, as the same shall appear from the face of the intangible property return, may be paid to the commission when the return is filed or the taxpayer may pay the same in two instalments, one-half on the said date and the second half ninety days thereafter. For the purposes of thisparagraph the return as filed by the taxpayer shall be presumed to be correct.

(b) In the event that an extension of time for filing a return has been granted the time for payment of the first instalment shall be postponed accordingly, but the time for payment of the second instalment shall not be extended unless the extension shall specifically procide.

(c) When the time for the payment of any instalment has been extended, there shall be added to such instalment interest at the rate of six per cent per annum from the time when the payment should have been made had no extension been granted, until paid. If an instalment is not paid when due the whole amount of the tax unpaid shall become due and payable upon notice and demand by the commission.

(d) The tax may be paid by uncertified check, but if a check so received is not paid by the bank on which it is drawn the taxpayer shall remain liable for the payment of the tax and all legal penalties, the same as if such tax had not been tendered.

Sec. 20. Delinquent date. If any instalment of intangible property taxes be not paid when due it shall bear interest at the rate of six per cent per annum from such date until paid, or until it becomes delinquent. Subject to the right of the taxpayer to a hearing before the commission and to appeal therefrom, any instalment of intangible property tax remaining unpaid shall become delinquent thirty days after it becomes due and payable, and there shall be added to the amount thereof, plus interest at six per cent to the date of delinquency, a penalty of four per cent, and the sum so determined shall bear interest at the rate of ten per cent per annum until paid.

Sec. 21. Collection of delinquent taxes. If any tax imposed by this act or any portion thereof be not paid within thirty days after the same becomes delinquent, the commission shall proceed to collect the same as and in the manner prescribed for the collection of delinquent income taxes, or by any process or under any remedy provided by law for the collection of delinquent taxes.

Sec. 22. Examination of returns.(a) As soon as practicable after a return is filed, the tax commission shall examine it and compute the tax, and the amount so computed by the commission shall be the tax If the amount is greater than the amount computed by the taxpayer,

notice of the additional assessment shall be mailed to the taxpayer, and he shall pay the same. If not paid within thirty days from the date of such notice it shall become delinquent.

(b) If the return was made in good faith, and the understatement of the amount was not due to any fault of the taxpayer, there shall be no penalty or additional tax added because of such understatement, in case the additional assessment is paid before it becomes delinquent, but interest at the rate of six per cent per annum, and in no event less than one dollar, shall be added from the date when the original assessment was due and payable.

(c) If the amount of tax, as computed by the commission, is found to be less than the amount theretofore paid, the commission shall certify such excess to the auditor for refund and the auditor shall issue his warrant on the general fund in payment of the same.

Sec. 23. Additional assessment. If the commission discovers, from an examination or office audit, or by any other means, that intangible property of any taxpayer, subject to taxation as in this act provided, has not been assessed, it may at any time within five years after the property should have been returned, list the same for assessment and notify the taxpayer. The taxpayer shall have the same right of protest, hearing and appeal and the proceeding shall be in all respects as provided in like case for income taxpayers.

Sec. 24. Collection of tax on evidence of debt sued upon. In any action at law or suit in equity in a court of record for the collection of any bond, note, or other evidence of debt, whether secured or unsecured, the plaintiff shall be required to allege in his pleadings or to prove before final judgment is entered, that such bond, note, or other evidence of debt has been assessed for taxation for each and every tax year on the first day of which he was the owner of same, not exceeding three years prior to that in which the suit or action is brought; that the taxes thereon have or have not been paid, and if the plaintiff has not paid or is unable to pay the taxes and penalties but is willing for the same to be paid out of the first recovery on the evidence of debt; or that the bond, note or other evidence of debt sued upon is not taxable hereunder in the hands of the plaintiff; and no judgment or decree of a court of record shall be valid unless the allegation herein required is made or unless proof is adduced of the same before final judgment is entered; provided, that this section shall not be construed as affecting the validity of any judgment or decree of court entered prior to the date this act takes effect. When in any such action or suit it is ascertained that there are unpaid taxes and penalties on the evidence of debt sought to be enforced, and the suitor makes it appear to the court that he has not paid or is unable to pay such taxes and penalties but is willing for the same to be paid out of the first recovery on the evidence of debt, the court shall have authority to enter as a part of any judgment or decretal order in said proceedings that the amount of taxes and penalty due and owing shall be paid to the commission out of the first collection on said judgment or decree.

Sec. 25. Payment of tax before discharge of fiduciary. A fiduciary applying for discharge of his trust must show to the satisfaction of the court that all taxes imposed by the provisions of this act which are due and payable have been paid, and that all taxes which may become due during the current year are secured by bond, deposit or otherwise. For the purpose of facilitating the settlement and distribution of estates held by fiduciaries the commission may agree upon the amount of taxes at any time due or to become due from such fiduciaries under the provisions of this act, and payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates. The certificate of the commission showing the amount of taxes to become due, and its receipt or the receipt of the treasurer showing payment of the same, shall be conclusive as to the payment of the tax.

Sec. 26. Failure to file; incomplete return; fraudulent return; penalties. (a) Any owner of intangible property subject to taxation under this act, or any fiduciary, agent, trustee or depository who fails to file a return within the time and in the manner herein provided, shall be assessed for such intangible property according to the information and best judgment of the commission, and there shall be added a penalty, not less than two dollars, equal to ten per cent of the tax found to be due, which shall become a part of the assessment and collected as in this act provided.

(b) Any taxpayer who filed an intangible property return, which does not disclose all of his intangible property subject to taxation shall be taxed on such unreturned property at twice the normal rate.

Such increased assessment shall be in addition to all other penalties, and the statutes of limitations shall not begin to run as against such taxpayer until the proper assessment shall have been made.

(c) Any person other than a corporation, or any officer of a corporation required by law to make, render, sign or verify a return of intangible property or any statement or report required by this act, who makes a false or fraudulent return, report or statement with intent to defeat or evade the payment of intangible property tax, or to obstruct the enforcement of any provision of this act, shall upon conviction be fined not less than one hundred nor more than five thousand dollars, or be imprisoned not to exceed one year, or both, at the discretion of the court, and be required to pay the cost of prosecution.

Sec. 27. Transfer of property to evade taxation. Any owner of intangible property taxable under the provisions of this act, who, for the purpose of evading taxation shall within thirty days prior to the first day of any tax year, either directly or indirectly convey the same or any part thereof, or who with like interest shall either directly or indirectly convert the same into a form of property taxable at a lower rate, shall be taxed as if such conveyance or conversion had not taken place. If such owner, within thirty days after the first day of the tax year, causes such property to be reconveyed to himself, or re-converts the same into property taxable at such higher rate, it shall be deemed prima facie evidence of intent to evade taxation, and burden of proof shall rest upon him to show that the original conveyance or conversion was for a bona fide purpose of investment and not for the purpose of evading taxation.

Sec. 28. Validity. If any clause, sentence, paragraph, or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of the act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall in any way affect the interpretation of the act or any part thereof.

Sec. 29. Emergency clause. To preserve the public peace, health, and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 27, 1933.

State of Arizona
Eleventh Legislature
First Special Session
Senate

CHAPTER 17

(SENATE BILL NO.7)

AN ACT

Relating to emergency taxation, and to impose a license fee and a privilege tax upon the privilege of engaging in certain occupations and businesses; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

ARTICLE I.

Section 1. Short title. This act may be cited as "The emergency revenue act of 1933."

ARTICLE II

PRIVILEGE TAX.

Section 1. Definitions. (a) When used in this article, the term "person" or the term "company", herein used interchangeably includes any individual, firm, copartnership, joint adventure, association, corporation, municipal corporation, estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) The terms "tax commission" and "the commission" mean the tax commission of the state of Arizona, and any board, commission, official, or officials upon whom the duties and powers exercised by said state tax commission under existing laws may hereafter devolve.

(c) The term "tax year" or "taxable year" means either the calendar year, or the taxpayer's fiscal year when permission is obtained from the tax commission to use same as the tax period in lieu of the calendar year.

(d) The term "sale" or "sales" includes the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale.

(e) The word "taxpayer" means any person liable for any tax hereunder.

(f) The term "gross income" means the gross receipts of a taxpayer derived from trades, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and without any deduction on account of losses.

(g) The term "business" when used in this article shall include all activities or acts engaged in (personal and corporate), or caused to be engaged in with the object of gain, benefit or advantage either direct or indirect, but shall not include casual activities or sales.

(h) The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expenses of any kind, or losses; provided, however, that cash discounts allowed and taken on sales shall not be included as gross income. But the terms "gross income" and "gross proceeds of sales" shall not be construed to include goods, wares or merchandise, or value thereof, returned by customers when the sale price is refunded either in cash or by credit; nor the sale of any article accepted as part payment on any new article sold, if and when the full sale price of the new article is included in the "gross income" or "gross proceeds of sales", as the case may be.

(i) The term engaging" as used in this article with reference to engaging or continuing in business shall also include the exercise of corporate or franchise powers.

(j) The term "auditor" as used in this article means the auditor of the state of Arizona.

(k) The term "retail" when used in this article, shall mean the sale of tangible personal property for consumption and not for resale.

(l) The term "wholesaler" or "jobber" when used in this article shall mean any person who sells tangible personal property for resale and not for consumption by the purchaser.

Sec. 2. Imposition of the tax. From and after the thirtieth day of June, 1933, there is hereby levied and shall be collected by the tax commission for the purpose of raising public money to be used in defraying the expenses of relief and welfare of unemployed, incapacitated and sick persons within the state; to be used in liquidating the outstanding obligations of the state government and to aid in defraying the necessary and ordinary expenses of the state and the several counties thereof, annual privilege taxes measured by the amount or volume of business done against the persons on account of their business activities and in the amounts to be determined by the application of rates against values, gross proceeds of sales, or gross income, as the case may be, in accordance with the following schedule.

(a) At an amount equal to one-eighth of one per cent of the gross proceeds of sales or gross income from the business upon every person engaged or continuing within this state in the following businesses:

1. Manufacturing, compounding, packing, preserving, processing or preparing for sale, profit or commercial use, agricultural and horticultural products, including livestock grown and produced for sale, profit or commercial use, and any product or products, article or articles, substance or substances, commodity or commodities not included within paragraph 1, subdivision (c) of this section.

(b) At an amount equal to one-fourth of one per cent of the gross proceeds of sale or gross income from the business upon every person engaging or continuing within this state in the following businesses:

1. Transporting for hire persons or property by motor vehicle from one point to another point in this state.

(c) At an amount equal to one-half of one per cent of the gross proceeds of sales or gross income from the business upon every person engaging or continuing within this state in the following businesses:

1. Mining, quarrying, smelting or producing for sale, profit, or commercial use any oil, natural gas, limestone, sand, gravel, copper, gold, silver or other mineral product, compound or combination of mineral products, or felling and producing timber for sale, profit or commercial use.

2. Furnishing to consumers electricity, electric lights, current, power or gas, natural or artificial.

3. Transmitting long distance messages or conversations by telephone, or messages by telegraph from one point to another point in the state.

4. Transporting for hire freight or passengers by railroads from one point to another point in the state.

5. Operating a pipe line or lines for transporting of oil or natural or artificial gas through pipes or conduits from one point to another point in the state.

6. Operating private car lines, as such are defined in Section 3144, Revised Code of 1928, from one point to another point in this state.

7. Publication of newspapers, magazines or other periodicals and publications, when published within this state.

In the case of persons engaged in the businesses classified in paragraph 1 of subdivision (c) and paragraph 1 of subdivision (a) of this section, the rate shall be applied to the value of the entire product hereafter manufactured, compounded, packed preserved, processed, mined, quarried, produced, felled, or prepared for sale, profit or commercial use in this state regardless of the place of sale or the fact that deliveries may be made to points outside this state.

In the case of persons engaged in the businesses classified in paragraph 1 of subdivision (c) and paragraph 1 of subdivision (a) of this section, whose incomes in whole or in part are derived from service or manufacturing charges instead of from sales of the products manufactured or handled, the rate shall be applied to the gross income of such persons derived from such manufacturing or service charge.

(d) At an amount equal to one and one-half per cent of the gross proceeds of sales or gross income from the business upon every person engaging or continuing within this state in the following businesses:

1. Selling any tangible personal property whatsoever at retail, except bonds and stock.

When any person is engaged in the business of selling such tangible personal property at both wholesale and retail, the retail rate shall be applied only to the gross proceeds of the sales made other than at wholesale when his books are kept so as to show separately the gross proceeds of sales of each class, and when his books are not so kept the retail rate shall be applied to the gross proceeds of every sale made.

The sale to hotels, restaurants, dining cars, lunchrooms, boarding houses or similar establishments of articles used by man for food, drink or condiment, whether simple, mixed or compound, where such articles are customarily prepared and served to patrons for consumption on the premises or on such dining cars, shall be deemed retail sales as to such commodities, and the person who then resells such commodities in a cooked, or prepared form shall not be deemed a seller of tangible personal property at retail, but shall be considered the ultimate consumer.

Sec. 3. Additional manufacturing outside the state. If any person engaging in any business classified in paragraph 1, subdivision (a) and paragraph 1, subdivision (c) of Section 2 of this article shall ship or transport products, or any part thereof, out of the state without making sale of such products, or shall ship his products outside of the state in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out of the state and before they enter interstate commerce shall be the basis for assessment of the tax imposed by said section, and the commission shall prescribe equitable and uniform rules for ascertaining such value.

Sec. 4. Sales between affiliated corporations and persons. In determining value as regards sales from one to another of affiliated companies or persons, or other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale are not indicative of the true value of subject matter of the sale, the commission shall prescribe uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers where no common interest exists between the buyer and seller, but otherwise under similar circumstances and conditions.

Sec. 5. Producers selling at retail. Any person engaging in any business classified in subdivision (a), and paragraph 1 of subdivision (c) of section 2 of this article, who sells the products of such business at retail in this state shall be required to make return of the gross proceeds of such sales and to pay the tax at the rate imposed by subdivision (d) of section 2 of this article; but the rates imposed by subdivisions (a), (b) and (c) of section 2 shall be applied to the gross proceeds of sales of such products when such sales are made other than at retail within this state, in accordance with the classifications and at the rates provided in said subdivisions.

Sec. 6. Reporting sales made to wholesalers and sales made in more than one class. Any person engaging in any of the occu-

pations classified in either subdivisions (a),(b),(c) or (d) of Section 2 of this article who is at the same time engaged in some business or businesses classified in either or both of the other subdivisions, so that the rate to be applied would not be the same as to all classes of business in which such person engages, shall be required to make separate return of the gross proceeds of sales or the gross income from the business separately classified, and as to whether or not such sales are made to wholesalers or jobbers.

Sec. 7. Constitutional prohibition. The taxes herein levied shall not be construed to apply to transactions in interstate commerce which, under the Constitution of the United States, the state of Arizona is prohibited from taxing or upon any sales made to the United States government, its departments or agencies, nor to businesses or transactions exempted from taxation under the Constitution of the United States or the Constitution of the state of Arizona.

Sec. 8. Freight deduction. In computing the amount of tax levied by this article upon the business activities classified in subdivision (a) and paragraph 1 of subdivision (c) of Section 2 of this article, such selling price shall be reduced by the amount of the actual freight paid by the taxpayer, from the place of production to the place of delivery, when such freight is included in the sale price of such products.

Sec. 9. Persons engaged in more than one business. Any person engaging in two or more forms of business of like classification taxable under this article shall file a consolidated return covering all business activities of such like classification engaged in within this state.

Sec. 10. Partnerships. All taxes assessed under the provisions of this article upon the business activities of a partnership shall be a liability and charge against each and all of the individual partners, but when paid by the partnership such liability against each and all of the individual partners shall cease. Licenses issued, as hereinafter provided, to persons engaged in business as partners shall be in the name of the partnership.

Sec. 11. Licenses. Any person after the twentieth day of July, 1933, who shall have a gross income or gross proceeds of sales upon which a privilege tax is imposed by this article, as a condition precedent to engaging or continuing in such business, shall apply for and obtain from the tax commission upon payment of the sum of fifty cents, a license to engage in and to conduct such business for the current tax year, upon condition that he shall pay the tax accruing to the state of Arizona under the provisions of this article, and he shall thereby be duly licensed to engage in and conduct such business. Only one such license shall be required of any one person. Said license shall be renewed annually and shall expire on the thirtieth day of June next succeeding the date of its issuance.

Sec. 12. Assessors to report to tax commission. It shall be the duty of the several county assessors to report to the tax commission the names and addresses of every person, company, firm or corporation in their respective counties engaged in a business subject to the payment of the license fee and privilege tax imposed by this article, and the first of such reports shall be made to the tax commission within thirty days after the effective date of this act, and annually thereafter on or before the fifteenth day of March of each year.

In addition to the reports hereinbefore required, it shall be the duty of the several county assessors upon the expiration of each three months period, to report to the tax commission the names and addresses of every person who has commenced to engage in any of the businesses taxed hereunder within the preceding three months period.

Sec. 13. Tax payable monthly; return required. The taxes levied under this article shall be due and payable monthly on or before the fifteenth day of the month next succeeding the month in which the tax accrues, and shall be delinquent five days thereafter. The taxpayer shall on or before the fifteenth day of the month make out a return showing the amount of the tax for which he is liable, for the preceding month, and shall mail the same together with a remittance, in the form required by Section 21 of this article, for the amount of the tax, to the office of the

commission. Such return shall be verified by the oath of the taxpayer, or his or its authorized agent.

In addition to the monthly returns required by this article, it shall be the duty of every person who has made any of the monthly returns hereinbefore provided, to make an annual return on or before thirty days after the end of the tax year, which return shall be in the nature of a summary of the monthly returns made by the taxpayer and which may be used by the commission in checking the accuracy of the monthly returns. Such returns shall be verified in the same manner as monthly returns. Provided, however, that any person taxable under this article having cash and credit sales, shall report such cash and credit sales separately, and upon making application therefor may obtain from the commission an extension of time for the payment of taxes due on such credit sales. Such extension shall be granted by the commission, under such rules and regulations as the commission may prescribe. When such extension is granted, the taxpayer shall thereafter include in each monthly report, all collections made on such credit sales during the month next preceding, and shall pay the taxes due thereon at the time of filing such report.

For the purpose of computing the tax levied by this article, "conditional sales" as that term is defined by Section 2908, Revised Code of 1928, shall be treated as credit sales and the tax paid only upon the amounts received under such conditional sales contracts; provided, that in the event the seller transfers his interest in such contract to some third person, he shall pay upon the full sale price of the commodity unless a record is kept of payments thereafter made on such contract in such manner that the tax commission can at all times ascertain from the records of the seller, the amount paid thereon by the purchaser, and if at any time the tax commission cannot so ascertain the amount paid thereon, the tax shall become due and payable as to any sums not shown to be paid by the records of such seller or to the satisfaction of the commission.

The monthly and annual returns required under this article shall be made upon forms to be prescribed by the commission.

The first monthly return required under this article shall be due on the fifteenth day of August, 1933, and shall show the amount of the tax for which the taxpayer is liable for the month of July, 1933.

The commission, for good cause, may extend the time for making any return required under the provisions of this article, and may grant such reasonable additional time within which to make such return as it may deem proper, but the time for filing such return shall not be extended beyond the fifteenth day of the second month next succeeding the regular due date of such return.

Sec. 14. Commission to correct error. If the taxpayer shall make any error in computing the tax assessable against him, the commission shall correct such error or re-assess the proper amount of taxes, and notify the taxpayer of this action by mailing to him promptly a copy of the corrected assessment, and any additional tax for which such taxpayer may be liable shall be paid within ten days after the receipt of such statement.

Sec. 15. Taxpayer must keep records; failure to make returns; duty and power of the commission. It shall be the duty of every person engaging or continuing in this state in any business for which a privilege tax is imposed by this act to keep and preserve suitable records of the gross income, gross receipts and/or gross proceeds of sales of such business, and such other books or accounts as may be necessary to determine the amount of tax for which he is liable, under the provisions of this article; and it shall be the duty of every person to keep and preserve, for a period of two years, all invoices of goods and merchandise purchased for resale, and all such books, invoices and other records shall be open for examination at any time by the commission or its duly authorized agent.

If any person required to file a return under the provisions of this article fails or refuses to make a return, the commission shall proceed in such manner as may seem best, to obtain facts and information on which to base the assessment of the tax herein prescribed; and to this end the commission or its duly appointed agent, may make examination of the books, records and papers of any such person, and may take the evidence, on oath, of any person who he or they may believe shall be in possession of facts or information pertinent to

the subject of inquiry, which oath the commission or any agent appointed by it may administer. As soon as the commission has had time to procure such information they shall hold a public hearing for the purpose of ascertaining and assessing the amount of tax payable by such person. They shall give such person not less than ten days' notice in writing of the time and place of holding such hearing, which notice shall be mailed to such person at his last known address, or shall be served upon him personally. The assessment of the tax against such person, after such hearing, shall be final as to any person who fails or refuses to file a return.

Sec. 16. Tax shall be lien. The tax imposed by this article shall be a lien upon the property of any person subject to the provisions of this article who shall sell out his business or stock of goods, or shall quit business, and such person shall be required to make out the return provided for under Section 14 of this article within thirty days after the date he sold out his business or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said taxes due and unpaid until such time as the former owner shall produce a receipt from the commission showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided and the taxes shall be due and unpaid after the thirty day period allowed, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner.

Sec. 17. Aggrieved person may file petition; protest fund. If any person having made the return provided in this article feels aggrieved by the assessment made upon him for any month by the commission, he shall pay the amount of such assessment before the delinquent date and shall at that time give notice to the commission that all or part of such payment is made under protest. Within twenty days thereafter he may petition the commission for a hearing, setting forth the reasons why, and the amount in which the tax should be reduced. The tax commission shall promptly consider such petition and shall grant such hearing. The commission shall notify the petitioner of the time and place fixed for such hearing. After such hearing the tax commission shall make such order in the matter as may appear to it just and lawful and shall furnish a copy of such order to the petitioner. Within twenty days after the entry of any such order any such person may recover any part of the tax illegally collected, together with interest thereon at the rate of six per cent per annum in any proper action or suit against the commission, and the superior court of the county in which such person resides or is located shall have original jurisdiction of any such action as a proceeding to recover any tax improperly collected. It shall be necessary for the taxpayer to protest against the payment of the tax in the manner hereinafter provided in order to maintain such suit. In any suit for recovery of taxes illegally collected, the court shall adjudge costs as in other civil actions. Either party to such suit shall have the right to appeal to the supreme court of Arizona as now provided by law, except that the time within which appeal may be taken shall be twenty days. In the event a final judgment is rendered in favor of the taxpayer in a suit to recover such illegal taxes, then it shall be the duty of the state auditor, upon receipt of a certified copy of such final judgment, to draw a warrant directed to the state treasurer in favor of such taxpayer to pay such judgment, interest and costs. It shall be the duty of the state treasurer to honor such warrant and pay such judgment out of the tax protest fund in the state treasury.

No injunction shall be awarded by any court or judge to restrain the collection of the taxes imposed by this article or to restrain the enforcement of this article.

It shall be the duty of the attorney general to represent the commission, or any agent or employee, and/or the state of Arizona in all legal matters relating to the enforcement, construction, application and administration of this article, and in any litigation which may be instituted by the commission and in which they may become involved, upon the order and under the direction of the commissioners.

In the event any taxpayer hereunder shall, at the time of paying any tax imposed by this article or by the commission under color

hereof, make protest of the payment of all or any part thereof, then in that event the amount so protested shall be deposited by the state treasurer to the credit of a tax protest fund and shall remain in such fund until such time as a final judgment has been rendered and time for appeal expired, or until a dismissal of any such proceeding instituted by such taxpayer is entered, or upon failure of such taxpayer to institute a proceeding for the recovery of such amount within twenty days after the payment of such tax, or in the event the final judgment rendered holds that the whole or any part of said sum was due and lawfully payable upon the date when paid, in which cases the amount found lawfully payable shall be disposed of in the manner herein provided for other collections made under the provisions of this article and shall be deemed a collection as of the date of such final determination. In the event a refund is granted in the proceedings so instituted, the amount of such refund shall be paid as hereinbefore provided and the remainder of the moneys so credited to the tax protest fund shall be treated as other collections under the provisions of this article as of the date of such refund.

Sec. 18. Collection of delinquent taxes. (a) If any tax imposed by this act or any portion thereof be not protested at the time of payment, or be not paid within thirty days after the same becomes delinquent, the commission shall issue a warrant under the hand of its chairman and its official seal, directed to the sheriff of any county, commanding him to levy upon and sell the real and personal property of the delinquent taxpayer found within his county; for the payment of the amount of such tax, with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the commission and pay to it the money collected by virtue thereof by a time to be therein specified, not less than sixty days from the date of the warrant. The sheriff shall, within five days after the receipt of the warrant, file with the clerk of the superior court a copy thereof and the clerk shall thereupon enter in the judgment docket, in the column of judgment debtors, the name of the delinquent taxpayer mentioned in the warrant, and in appropriate columns the amount of the tax or portion thereof and penalties and interest for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to any interest in real or personal property of the delinquent taxpayer against whom it is issued, in the same manner as a judgment duly docketed in the office of the clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to execution issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In its discretion, the commission may issue a warrant of like terms, force, and effect, directed to any agent authorized to collect mercantile license taxes, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the commission shall have the same remedies to enforce the claim for taxes against the delinquent taxpayer as if the people of the state had recovered judgment against the delinquent taxpayer for the amount of the tax.

(b) Every tax imposed by this article, and all increases, interest and penalties thereon, shall become, from the time the same is due and payable, a personal debt from the person liable to the state of Arizona, but shall be payable to and recoverable by the commission.

(c) An action may be brought at any time by the attorney general at the instance of the commission, in the name of the state, to recover the amount of any taxes, penalties and interest due under this article.

Sec. 19. Annual return; when made. The annual return required by this article shall be for the year ending on the thirty-first day of December; provided, however, that if the taxpayer in transacting his business keeps the books reflecting the same on a basis other than the calendar year, he may, with the assent of the commission, make his annual returns covering his accounting period, as shown by the method of keeping the books of his business.

Sec. 20. Is additional tax. The tax imposed by this article shall be in addition to all other licenses and taxes levied by law, whether

as a condition precedent to engaging in any business taxable hereunder or for any other purpose.

Sec. 21. Remittances; how made. All remittances of taxes imposed by this article shall be made by bank draft, check, cashier's check, money order, or money, to the commission, who shall issue its receipts therefor to the taxpayers when requested, and shall deposit all moneys received in some bank or banks in this state, qualified as a state depository; provided, no remittance other than cash shall be final discharge of liability for the tax assessed and levied under the provisions of this article unless and until it has been paid in cash to the commission.

Records and accounts shall be kept by the commission showing separately the taxes collected under each of the classifications prescribed in Section 2 of this article, and the county entitled to credit as the county of origin of each such collection, to be determined in the manner hereinafter provided. On or before the fifth day of each month the commission shall deliver a statement to the state treasurer, and a duplicate thereof to the state auditor, showing all collections, made during the preceeding month under the provisions of this article, and the amounts credited as aforesaid to each county, under each of said classifications. At the same time the commission shall pay into the state treasury all moneys collected during the month covered by such report.

After deducting the expenses of the commission in administering this act the state treasurer shall place fifteen per cent of the tax moneys collected under this article for every calendar month to the credit of the governor's relief fund. Such fund shall in every case be expended by or through such public welfare organizations as may be designated by the governor, or directly by the governor for the purpose of furnishing employment in connection with any state, county or municipal work or improvement, or for relief. The moneys in such fund shall be expended by warrants drawn upon the state treasury by the state auditor, in the amounts requested by the governor, in the manner provided by law, payable in such amounts and to such organizations or through agencies provided for hereunder, as shall be designated by the governor. In the event that any sum shall remain in such fund which the governor shall deem not necessary for the purpose specified hereunder, then such remainder shall be transferred to the general fund by warrants drawn in like manner upon the order of the governor.

The state treasurer shall place seventy-five per cent of the sum remaining after the deduction of said fifteen per cent, to the credit of the general fund; and twenty-five per cent thereof in a "county privilege tax fund", credited to the several counties in the proportion that the collections from each county, as shown by the commission's statement, bears to the total collections. The state auditor shall thereupon draw his warrants against the said "county privilege tax fund", in favor of the several county treasurers, for the amounts which said counties are entitled to receive. Said funds received by the several counties shall be applied first to the retirement of county indebtedness evidenced by warrants of prior years in the order of registration. When no warrants of prior years remain outstanding, such funds shall be apllied to obligations outstanding against the couty, or to reduce the county levy.

In determining the county entitled to receive credit as the county of origin of any tax collected under the provisions of Section 2 of this article, the following rules shall govern:

(a) Collections from taxpayers coming under paragraph 1, subdivision (a), Section 2 of this article shall be credited to the county or counties in which the products, the sales proceeds or value of which constitute the measure of the tax, are converted into the final form or condition in which they are ordinarily sold or shipped by the taxpayers.

(b) Collections from taxpayers coming under paragraph 1, subdivision (c), Section 2 of this article shall be credited to the county or counties in which the products originated, the sale proceeds or value of which constitute the measure of the tax, although such products may have been transferred to another county before being brought to a finished condition.

(c) Collections from taxpayers under the classifications of subdivision (b) and paragraphs 2, 3, 5 and 6 of subdivision (c) of sec-

tion 2 of this article shall be credited to the county wherein such service is paid for, and collections from taxpayers under the classification of paragraph 7, subdivision (c), Section 2 of this article shall be credited to the county where the publisher's principal office is located.

(d) Collections from taxpayers under the classifications of subdivision (d), Section 2 of this article shall be credited to the county where the sales are actually made.

(e) Collections from taxpayers under the classifications of paragraph 4, subsection (c), Section 2 of this article shall be reported by the taxpayer as provided for in this article in one return and the tax so returned shall be allocated by the reporting carrier to the counties in which it operates within this state in the ratio that the line mileage of such railroad in each county bears to the total line mileage within the state. The amounts thus determined shall be accredited to the appropriate counties.

(f) At the end of each month the auditor shall carefully check the books and records of the commission and his accounts with the bank or banks, and shall verify the amounts paid or to be paid into the state treasury.

(g) The commission shall keep full and accurate records of all moneys received by it, and how disbursed; and shall preserve all returns filed with it under sections 13 and 14 of this article for a period of three years.

Sec. 22. Contents of report not to be divulged. Unless in accordance with the judicial order or as herein provided, the members of the tax commission, its agents, clerks, or stenographers shall not divulge the gross income, gross proceeds of sales or the amount of tax paid by any person as shown by the reports filed under the provisions of Sections 13 and 14 of this article, except to members and employees of the tax commission, for the purpose of checking, comparing and correcting returns, or to the governor, or to the attorney general, or any other legal representative of the state in any action with respect to the amount of tax due under the provisions of this article.

The corporation commission shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state, until the receipt of a notice from the commission to the effect that the tax levied under this article against any such corporation has been paid, if any such corporation is a taxpayer under the law, or until it shall be notified by the commission that the applicant is not subject to pay a tax under the provisions of this article.

Sec. 23. Unlawful to refuse to make returns; penalty. It shall be unlawful for any person to fail or refuse to make the return provided to be made in Section 14 of this article, or to make any false or fraudulent return or false statement in any return, with intent to defraud the state or to evade the payment of the tax, or any part thereof, imposed by this article; or for any reason to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this article; or for the president or other officer or agent of any company to make or permit to be made for any company or association any false return or any false statement in any return required by this article with the intent to evade the payment of any tax imposed by this article; or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the commission or its duly appointed agent, as required by this article. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid shall be guilty of the offense of perjury, and on conviction thereof shall be punished in the manner provided by law. Any company for which a false return shall be made, or a return containing a false statement as aforesaid, shall be guilty of a misdemeanor.

Sec. 24. Administration of article vested in tax commission. The administration of this article is vested in and shall be exercised by the tax commission, except as herein otherwise provided, and all payments required hereunder shall be made to the tax commission. The enforcement of any of the provisions of this article in any of the

courts of the state shall be under the exclusive jurisdiction of the tax commission and the attorney general. The tax commission shall appoint, as needed, such agents, clerks, and stenographers as authorized by law, who shall serve under it, shall perform such duties as may be required, not inconsistent with this article, and are hereby authorized to act for the commission, as it may prescribe and as provided herein. Each such agent shall execute a bond in the sum of five thousand dollars for the faithful discharge of his duties. All of such agents, clerks, and stenographers may be removed by the tax commission for cause, of which the commission shall be the final judge. In case of violation of the provisions of this article the commission may decline to prosecute for the first offense, if in its judgment such violation is not wilful or flagrant.

Sec. 25. Commission or agent may examine books, etc. The commission or its authorized agents may examine any books, papers, records, or other data bearing upon the correctness of any return or for the purpose of making a return where none has been made, as required by Sections 13 and 14 of this article and may require the attendance of any person and take his testimony with respect to any such matter, with power to administer oaths to such person or persons. If any person summoned as a witness shall fail to obey any summons to appear before the commission, or its authorized agent, or shall refuse to testify or answer any material question or to produce any book, record, paper or other data when required to do so, such failure or refusal shall be reported to the attorney general, who shall thereupon institute proceedings in the superior court of the county where such witness resides to compel obedience to any summons of the commission or its authorized agent. Officers who serve summons or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the justice of the peace courts, to be paid from the proper appropriations for the administration of this article.

Sec. 26. Excess payment; refund. If, upon examination of any monthly return made under this article, it appears that an amount of tax has been paid in excess of that properly due, then the amount in excess shall be credited against any tax then due from the taxpayer, under any other subsequent monthly return; and any balance of such excess at the end of the year and upon the filing of its annual return, shall be immediately refunded to the taxpayer by certificate of overpayment issued by the commission to the state auditor which shall be investigated and approved by the attorney general, and the auditor shall draw his warrant on the treasurer, which shall be payable out of the general fund.

Sec. 27. Taxpayer in default may be enjoined from continuing business. Any person against whom a tax is assessed under the provisions of this article may be restrained and enjoined by proper proceedings instituted in the name of the state of Arizona at the request of the commission, by the attorney general or any county attorney, from engaging and/or continuing in any business for which a privilege tax is required by the provisions of this article, until the taxes have been paid and until such person shall have complied with the provisions of this article.

Sec. 28. Unfair competition. No person engaged in any of the businesses classified in Section 2 of this article, shall advertise or hold out to the public in any manner, directly or indirectly, that the tax herein imposed is not considered as an element in the price to the consumer.

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

Sec. 29. Exemption. The provisions of this act shall not apply to sales of gasoline upon which a tax has been imposed under the provisions of Article VI, Revised Code of 1928, or any amendment thereto; this section is hereby declared separable from all other portions of this act, and shall not be deemed as the consideration or inducement for the enactment of the whole or any part thereof. Should this section for any reason be declared invalid, the remainder of the act shall remain in full force and effect as though this section had not been included in the act.

ARTICLE III

ADMINISTRATION; APPROPRIATION; EXPIRATION DATE; DIVISIBILITY;

DECLARATION OF EMERGENCY.

Section 1. The tax commission shall from time to time promulgate such rules and regulations not inconsistent with this act for making returns and for the ascertainment, assessment and collection of the tax imposed by the provisions of this act, as it may deem necessary to enforce the same, and upon request shall furnish any taxpayer with a copy of such rules and regulations. All forms necessary and proper for the enforcement of this act shall be prescribed, printed, and furnished by the commission.

The tax commission shall have power and authority in the event that any ambiguity shall appear or arise in the application or construction of any of the provisions of this act, to interpret the same in accordance with the intent and purpose of this act as evidenced by its context, and such interpretation or interpretations by the tax commission, when reduced to writing and spread upon the records of the commission, shall obtain and remain in full force and effect until set aside by decisions of the courts.

Sec. 2. For the purpose of carrying out the provisions of this act, there is hereby appropriated to the tax commission out of the taxes collected hereunder an amount not to exceed four per cent of the taxes collected each month hereunder, which appropriation shall be credited by the state treasurer to a special fund to be known as the license fee and privilege tax administration fund. The necessary expenses of the administration of this act shall be paid out of the license fee and privilege tax administration fund upon claims duly itemized, verified and approved by the tax commission, which claims shall be presented and filed with the state auditor who shall draw his warrant therefor on the state treasurer, and the state treasurer shall pay the same out of the license fee and privilege tax administration fund. No expenditures shall be made by the tax commission in excess of the amount herein appropriated.

Sec. 3. Immediately upon this act becoming effective, the tax commission is hereby authorized and directed as a preliminary matter to the application and enforcement of this act, to formulate rules and regulations, and prescribe the forms and procedure necessary to the efficient enforcement thereof.

Sec. 4. This act shall be self-repealing and shall expire March 1,1935.

Sec. 5. If any article, section, subdivision, phrase or sentence of this act shall be declared unconstitutional, it shall not affect the constitutionality or validity of the remainder of the act.

Sec. 6. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 7. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 28,1933.

State of Arizona
Eleventh Legislature
First Special Session
Senate

CHAPTER 18

(SENATE BILL NO.17)

AN ACT

Relating to emergency taxation, and to provide for the raising of additional public revenue by imposing a privilege tax on the privilege of engaging in certain businesses; and imposing a tax on the sale of certain luxuries; and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Definitions. (a) The term "malt extract, derivatives or combinations thereof" when used in this act shall mean and include all extracts, derivatives and combinations commonly called malt or malt extract, and shall include all combinations or extracts that are derivatives of sprouted barley or malt extract or products prepared in whole or in part from barley or products of barley, which may be used in the preparation or manufacture of any beverage.

(b) The term "spirituous liquor" when used in this act, shall mean any liquid containing more than one-half of one per cent of alcohol by volume which is produced by the distillation of any fermented substance and which is used or which is prepared for use as a beverage.

(c) The term "vinous liquor" when used in this act, shall mean any liquid containing more than one-half of one per cent alcohol by volume made by the process of fermentation of grapes,berries, fruits, vegetables or other substances, but not including those liquids in which hops or grains are used in the process of fermentation and not including liquids made by the process of distillation of such substances.

(d) The term "malt liquor" when used in this act shall mean any liquid containing more than one-half of one per cent of alcohol by volume which is made by the process of fermentation and not distillation of hops or grains, but not including liquids made by the process of distillation of such substances.

(e) The terms "spirituous liquor", "vinous liquor" and "malt liquor" as used in this act shall not be deemed to include medicines unsuitable for beverage purposes or beverages sold under the prescription of a physician.

(f) The term "cigarette" when used in this act shall mean all rolls of tobacco or any substitute therefor wrapped in paper or any substance other than tobacco.

(g) The term "cigars" when used in this act shall mean all rolls of tobacco or any substitute therefor wrapped with tobacco.

(h) The term "retailer" when used in this act shall mean any person who comes into possession of the commodities subject to the taxes imposed by this act for the purpose of selling such commodities for consumption and not for resale.

(i) The term "consumer" when used in this act shall mean a person who comes into possession of any of the commodities subject to the tax imposed by this act for the purpose of using, giving away or disposing of such commodities in any way other than by sale, barter or exchange.

Sec. 2. In addition to all other taxes there is hereby levied and shall be collected and paid to the state tax commission prior to or at the time of the sale and delivery to the consumer, upon all malt extracts, derivatives or combinations thereof, upon all spirituous, vinous and malt liquors, upon all cigarettes, cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco, for the purpose of raising public money to provide unemployment and welfare relief, to pay outstanding obligations of the state and to defray the necessary and ordinary expenses of the state, the following tax:

(a) On each pound of sixteen ounces or fraction thereof, of all such malt extracts, derivatives or combination thereof, except such malt that is used in the manufacture of bread, ten cents. The license tax hereby imposed upon malt extract or derivatives or combinations thereof shall be refunded when the amount of said tax has been paid thereon, and when proof is made to the state tax commission that such malt extract, derivative or combination thereof has been used for other than the preparation of a beverage.

(b) On each sealed container of spirituous liquor containing sixteen ounces or less, ten cents, and at the rate of ten cents for each sixteen ounces for containers containing more than sixteen ounces.

(c) On each sealed container of vinous liquor containing sixteen ounces or less, three cents, and at the rate of three cents for each sixteen ounces for containers containing more than sixteen ounces.

(d) On each gallon of malt liquor, five cents.

(e) On each twenty cigarettes or fractional part thereof, two cents.

(f) On smoking tobacco, snuff, fine cut chewing tobacco, all cut and granulated tobacco, all shorts and refuse of fine cut chewing tobacco, and all refuse, scraps, clippings, cuttings and sweepings of tobacco, one cent per ounce.

(g) All cavendish, plug or twist tobacco, one-fourth cent per ounce.

(h) On each twenty small cigars or fractional part thereof weighing not more than three pounds per thousand, two cents.

(i) On cigars of all descriptions except those included in paragraph (h) of this section, made of tobacco or any substitute therefor, if manufactured to retail at not more than five cents each, one cent on each three cigars. If manufactured to retail at more than five cents each and not more than eight cents each, two cents on each two cigars. If manufactured to retail at more than eight cents each, one cent on each cigar.

All malt extract, derivatives or combinations thereof, all cigarettes, cigars, smoking tobacco, snuff, plug tobacco, fine cut chewing tobacco, and all other forms of tobacco, shall be put up in packages or containers and on each of said packages or containers shall be affixed an official stamp denoting the tax thereon, and said stamp shall be properly cancelled prior to the sale, removal and consumption of, under such rules and regulations as the state tax commission shall prescribe.

All spirituous, vinous and malt liquors sold under the provisions of this act shall be sold in sealed containers and there shall be securely affixed thereto an official stamp denoting the tax thereon, and said stamp shall be cancelled prior to the sale, removal and consumption under such rules and regulations as the state tax commission shall prescribe. Provided, however, that spirituous, vinous and malt liquors may be sold by the drink in unsealed containers when the sealed container from which each drink is removed bears a stamp showing the payment of the tax provided by this act, and which container shall be preserved or disposed of according to regulation prescribed by the tax commission.

Every stamp required under the provisions of this act shall be securely affixed to some visible part of the package or container to which it will firmly adhere during the possession of the consumer, except as otherwise provided.

Sec. 3. Revenue stamps. The state tax commission shall prepare and have official stamps for use on each kind of package or container. Such stamps required by this act shall be issued in such denominations of the national currency as the commission may deem necessary. They shall be printed on durable paper, be of a different design and distinctly different coloring for each of such currency denominations, and shall bear plainly on their face the denominations represented thereby. Each such stamp shall bear the facsimile signature of the member of the state tax commission who was its chairman at the time the stamp was printed.

The state tax commission shall sell the stamps to retailers requesting the same. Every retailer shall on or before the tenth day of the month succeeding the month in which this act takes effect, and on or before the fifteenth day of each month thereafter, furnish and deliver by mail or otherwise, to the state tax commission at its office in the capitol building, a sworn itemized statement of all cigarettes, cigars, smoking tobacco, plug tobacco and all other forms of tobacco, all spirituous liquor, vinous liquor and malt liquor, all malt extract derivatives or combinations thereof, purchased, made or received by him during the preceding calendar month, on a form to be prescribed and furnished by the state tax commission, showing separately for each such purchase the time and place of purchase, the name and address of the person or firm from whom purchased, the quantity of cigarettes, cigars, smoking tobacco, plug tobacco, or other forms of tobacco, malt extracts, derivatives or combinations thereof, and spirituous, vinous and malt liquors purchased or otherwise acquired. At each of the times provided for such statements of purchase, and upon the same form, each retailer shall in like manner furnish and deliver to said state tax commission a sworn statement of all cigarettes, cigars, smoking tobacco, plug tobacco and other forms of tobacco, spirituous, vinous and malt liquors, all malt extract, derivatives or combinations thereof, sold, retailed or disposed of by him during the preceding calendar month, stating the number of packages sold, retailed or disposed of and the quantity of cigarettes, cigars, smoking tobacco, plug tobacco and other forms of tobacco, malt extracts or derivatives or combinations thereof, spirituous, vinous and malt liquors, contained in each package or container.

Any retailer who shall fail to furnish the report required by this act shall be guilty of a misdemeanor.

Sec. 4. Redemption of stamps. The state tax commission shall redeem any unused stamps that any retailer presents for redemption, and pay for the same out of funds collected under the provisions of this act. The license tax hereby imposed by this act upon any cigarettes, cigars, smoking tobacco, plug tobacco and other forms of tobacco, spirituous, vinous and malt liquors, malt extract, or derivatives or combinations thereof, shall be refunded when the amount of said tax has been paid thereon and when proof is made to the state tax commission that such articles were exported from this state and sold outside this state.

The manner of making such proof shall be in accordance with the regulations which may be adopted by the state tax commission.

The tax imposed by this act shall not be imposed upon any article sold in interstate commerce which the state of Arizona is prohibited from taxing under the constitution of the United States of America.

Sec. 5. Penalties. It shall be unlawful for any consumer to have in his possession, or to purchase any cigarettes, cigars, smoking tobacco, plug tobacco, other forms of tobacco or spirituous, vinous or malt liquors, or malt extract or derivatives or any combination thereof, upon which the tax provided by this act has not been paid, except as otherwise provided by this act. Any person who, with intent to defraud the state shall make, alter, forge or counterfeit any stamp provided for in this act, or who shall have in his possession any forged, counterfeited or spurious stamp with intent to use the same knowing, or having reasonable grounds to believe they are such, shall be guilty of a felony. Except as provided in this section, any person guilty of a violation of the provisions of this act shall be guilty of a misdemeanor.

Sec. 6. Records of retailing. Every retailer shall keep such books of account, invoices and records as the state tax commission may prescribe, and shall permit the state tax commission or its authorized agents to inspect the same at any time during the business hours of the day.

Sec. 7. Distribution of taxes. Ninety-six per cent of the gross receipts of the taxes levied by this act are hereby appropriated for the use of the board of public welfare. Any and all unexpended balance shall revert to the general fund of the state. Four per cent of the gross receipts of the taxes levied by this act are hereby appropriated for the use of the state tax commission as set forth in section 9 hereof.

Sec. 8. Administration. The tax commission shall from time to time promulgate such rules and regulations not inconsistent with this act for making returns and for the ascertainment, assessment and collection of the tax imposed by the provisions of this act, as it may deem necessary to enforce the same, and upon request shall furnish any taxpayer with a copy of such rules and regulations. All forms necessary and proper for the enforcement of this act shall be prescribed, printed, and furnished by the commission.

The tax commission shall have power and authority in the event that any ambiguity shall appear or arise in the application or construction of any of the provisions of this act, to interpret the same in accordance with the intent and purpose of this act as evidenced by its context; and such interpretation or interpretations by the tax commission, when reduced to writing and spread upon the record of the commission, shall obtain and remain in full force and effect until set aside by decisions of the courts.

Sec. 9. Appropriation. For the purpose of carrying out the provisions of this act, there is hereby appropriated to the state tax commission out of the taxes collected hereunder an amount not to exceed four per cent of the taxes collected each month hereunder, which appropriation shall be credited by the state treasurer to a special fund to be known as the privilege and luxury tax administration fund. The necessary expenses of the administration of this act shall be paid out of the privilege and luxury tax administration fund upon claims duly itemized, verified and approved by the state tax commission, which claims shall be presented and filed with the state auditor who shall draw his warrant therefor on the state treasurer, and the state treasurer shall pay the same out of the privilege and luxury tax administration fund. No expenditures shall be made by the state tax commission in excess of the amount herein appropriated.

Sec. 10. Immediately upon this act becoming effective, the state tax commission is hereby authorized and directed as a preliminary matter to the application and enforcement of this act, to formulate rules and regulations and prescribe the forms and procedure necessary to the efficient enforcement thereof.

Sec. 11. Expiration date. This act shall be self-repealing and shall expire March 1, 1935.

Sec. 12. Validity. If any section, subdivision, phrase or sentence of this act shall be declared unconstitutional, it shall not affect the constitutionality or validity of the remainder of the act.

Sec. 13. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Sec. 14. Emergency clause. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 28, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
First Special Session

CHAPTER 19

(H. B. 34)

AN ACT

Relating to the protection of the horticultural industry; regulating the sale of citrus fruit; providing a penalty for unlawful sale.

Be it enacted by the legislature of the state of Arizona:

Section 1. Memorandum in writing for citrus fruit. (a) From and after the passage of this act it shall be unlawful for any person, firm, corporation, co-partnership or association to sell or offer to sell, transfer, purchase or otherwise acquire, except at retail, any oranges, grapefruit, lemons, limes, or other citrus fruit, unless such sale, transfer, or purchase be accompanied by memorandum of such transfer in writing, signed by vendor, and containing the name of the person purchasing or receiving the same.

(b) Said memorandum in writing shall bear the date and place of the sale and transfer and shall state the name and residence of the vendor and the vendee, and the kind and quantity of such citrus fruit.

(c) In the event the vendor or transferor is a citrus exchange, association or licensed commission merchant, and the fruit sold or transferred is the pooled product of more than one orchardist, a statement of that fact shall be deemed sufficient identification of the producer in lieu of the name and address of owner.

Sec. 2. Memorandum in writing to be preserved; record kept. Every dealer in citrus fruit, whether at wholesale or retail, and all other persons hereinbefore described, shall maintain and preserve for a period of six months from the date thereof every invoice or other memorandum in writing evidencing sales or transfers as in this act described, and shall maintain the same at the place or places where such citrus fruit is offered for sale and the same shall at all times be open to the inspection of law enforcement officers and any purchaser desiring to purchase said citrus fruit.

Sec. 3. Retailer to show memorandum in writing or certificate. Every retail dealer, whether having a fixed place of business or selling as a peddler, huckster or other itinerant salesman, when requested by any patron to do so, shall show a memorandum in writing, as prescribed by Sec. 1, for the fruit being offered by him for sale, or a certificate of the owner, lessee or manager of the orchard where the fruit is grown, verified under oath, that the fruit is being sold by or for him.

Sec. 4. Administration. This act shall be administered by the Arizona commission of agriculture and horticulture, which shall have power, by itself, its agents or representatives, to do all things necessary to enforce its provisions. The commission shall have the assistance of the attorney general for such purpose, and may call upon the county attorney of any county to prosecute any violation of the act. The commission shall prepare forms for the memoranda in writing and certificates prescribed by the act, and shall supply the same to applicants at cost, but the use of such forms shall not be obligatory.

Sec. 5. Penalty. The violation of any provision of this act shall be a misdemeanor.

APPROVED JUNE 28, 1933.

State of Arizona
Eleventh Legislature
House of Representatives
Second Special Session

CHAPTER 1

(H. B. 2)

AN ACT

Relating to impeachment proceedings and amending Section 109, Revised Code of 1928; and declaring an emergency.

Be it enacted by the legislature of the State of Arizona:

Section 1. Section 109, Revised Code of 1928, is amended to read as follows:

Section 109 (a) Day for hearing; service on defendant. The senate must assign a day for the hearing of the impeachment, and inform the house of representatives thereof. The president of the senate must cause a copy of the articles of impeachment, with a notice to appear and answer the same, at the time and place appointed, to be served on the defendant not less than ten days before the day fixed for hearing. The service must be made by the sergeant-at-arms of the senate upon the defendant personally, or, if he cannot, upon diligent inquiry, be found within the state, the senate upon proof of that fact may order publication of the notice to be made in such manner as it may deem proper.

(b) Court of impeachment. Not later than ten days after the articles of impeachment have been presented to the senate, the senate shall organize as a court of impeachment and may, for the purpose of conducting the business of such court, appoint a clerk who may be the secretary of the senate. The clerk shall issue all process and keep a record of the proceedings of such court. The court shall also appoint a marshall, who shall be the sergeant-at-arms of the senate, and an assistant marshall. It may employ such stenographic, clerical and other help as may be required.

(c) Fees for witnesses and executions of process. Witnesses shall have the same compensation for travel and attendance, and the same exemptions in going, remaining and returning as witnesses in civil proceedings in the superior court. Officers executing the process and orders of the court of impeachment, shall have the same fees as are allowed sheriffs for like service in the superior court.

(d) Voting on judgment. Absence during trial. The senate, when sitting as a court of impeachment, shall determine what amount of absence of a senator during the trial shall exclude the senator from voting in the final decision.

(e) Per diem of senators, managers, officers and employees. The senators composing such court and the managers representing the house of representatives shall be paid the sum of eight dollars per day and such mileage as is prescribed for members of the legislature when convened in regular session. The managers shall be allowed like pay for the time necessary in the preparation of the proceedings for presentation to the court of impeachment together with their actual and necessary expenses, provided that such expenses shall not be construed to include the personal or living expenses of the managers. The members, officers and employees of the court shall be paid on verified claims approved by the presiding justice of the court and attested by its clerk. Court reporters employed by the court shall be allowed ten dollars per day and shall also receive from the party ordering the same for transcript fifteen cents per folio of one hundred words for the first copy and five cents per folio for each carbon copy thereof.

(f) Expenses. How paid. All expenses of any impeachment proceedings, after the legislature shall have adjourned, shall be a charge upon the General Fund of the State of Arizona and shall be

paid out of any money in the general fund not otherwise appropriated upon verified claims, approved and attested as provided in subsection (e) hereof.

Sec. 2. When a vacancy shall occur in the board of managers elected by the House to try impeachment charges before the Senate, and the House of Representatives be not in session, it shall be the duty of the speaker or the presiding member, or if there be no presiding member, then of the oldest member of said House in point of age to appoint some member of the House to fill such vacancy.

Sec. 3. To preserve the public peace, health and safety, it is necessary that this act shall become immediately operative. It is therefore declared to be an emergency measure and shall take effect upon its passage in the manner provided by law.

APPROVED JUNE 28, 1933.