

# APPROPRIATIONS

## CHAPTER 1

HOUSE BILL NO. 1001  
 (Committee on Appropriations)

### STATE INSTITUTIONS OF HIGHER LEARNING

AN ACT making an appropriation for the general operation, maintenance and plant improvements of the state institutions of higher learning of the state of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATIONS FOR THE STATE INSTITUTIONS OF HIGHER LEARNING.) There is hereby appropriated the sums hereafter specified, derived from institutional income and institutional collections, and derived from rent, interest, or income from land, money or property donated or granted by the United States and allocated to the institutions of higher learning under the terms of the Enabling Act and the state Constitution, and such additional unappropriated funds as specified, are hereby appropriated out of the general fund in the state treasury as may be necessary to pay the operation, maintenance, plant improvements, and general expenses of each of the institutions hereinafter named in the sums set forth as follows:

#### UNIVERSITY OF NORTH DAKOTA

Salaries and wages	\$ 18,041,064.00
Fees and services	1,833,111.00
Supplies and materials	1,898,085.00
Equipment	<u>466,774.00</u>
Total operating budget	\$ 22,239,034.00
Less estimated income	<u>7,581,299.00</u>
Net operating budget	\$ 14,657,735.00
Land, structures and major improvements:	
Special assessments	70,000.00
Plant improvements	<u>855,000.00</u>
Total general fund	\$ 15,582,735.00

#### UNIVERSITY OF NORTH DAKOTA MEDICAL CENTER

Salaries and wages	\$ 2,389,322.00
Fees and services	68,798.00
Supplies and materials	198,523.00

Equipment	<u>15,000.00</u>
Total operating budget	\$ 2,671,643.00
Less estimated income	<u>1,417,000.00</u>
Total general fund	\$ 1,254,643.00

THE NORTH DAKOTA STATE UNIVERSITY  
OF AGRICULTURE AND APPLIED SCIENCE

Salaries and wages	\$ 15,029,547.00
Fees and services	1,856,496.00
Supplies and materials	1,546,526.00
Equipment	<u>510,000.00</u>
Total operating budget	\$ 18,942,569.00
Less estimated income	<u>6,805,474.00</u>
Net operating budget	\$ 12,137,095.00
Land, structures and major improvements:	
Heating plant and plant improvements (No plant improvement funds authorized for payment of special assessments)	956,000.00
Total general fund	\$ 13,093,095.00

STATE SCHOOL OF FORESTRY, BOTTINEAU

Junior college division:	
Salaries and wages	\$ 767,702.00
Fees and services	56,277.00
Supplies and materials	116,691.00
Equipment	<u>19,156.00</u>
Total operating budget	\$ 959,826.00
Less estimated income	<u>265,000.00</u>
Net junior college operating budget	\$ 694,826.00
Land, structures and major improvements:	
Library improvements	20,000.00
Greenhouse repair	5,000.00
Special assessments	<u>2,936.00</u>
Total general fund	\$ 722,762.00
North Dakota forest service:	
Salaries and wages	360,261.00
Fees and services	50,538.00
Supplies and materials	54,586.00
Equipment	<u>16,815.00</u>
Total operating budget	\$ 482,200.00

Less estimated income		<u>285,200.00</u>
Net forest service operating budget	\$	197,000.00
Net appropriation junior college and forest service	\$	<u>891,826.00</u>
Total general fund	\$	919,762.00

## UNIVERSITY OF NORTH DAKOTA - ELLENDALE BRANCH

Custodial expenses	\$	<u>102,500.00</u>
Total operating budget	\$	102,500.00
Less estimated income		<u>70,000.00</u>
Total general fund	\$	32,500.00

## STATE SCHOOL OF SCIENCE, WAHPETON

Salaries and wages	\$	5,464,030.00
Fees and services		524,853.00
Supplies and materials		776,541.00
Equipment		<u>262,060.00</u>
Total operating budget	\$	7,027,484.00
Less estimated income		<u>2,360,520.00</u>
Net operating budget	\$	4,666,964.00
Land, structures and major improvements:		
Special assessments	\$	70,553.00
Plant improvements		<u>189,500.00</u>
Total general fund	\$	4,927,017.00

## DICKINSON STATE COLLEGE

Salaries and wages	\$	3,126,287.00
Fees and services		448,631.00
Supplies and materials		240,890.00
Equipment		<u>84,188.00</u>
Total operating budget	\$	3,899,996.00
Less estimated income		<u>1,347,073.00</u>
Net operating budget	\$	2,552,923.00
Land, structures and major improvements:		
Special assessment		20,000.00
Plant improvements		<u>115,000.00</u>
Total general fund	\$	2,687,923.00

## MINOT STATE COLLEGE

Salaries and wages	\$ 5,472,880.00
Fees and services	409,048.00
Supplies and materials	402,350.00
Equipment	<u>118,248.00</u>
Total operating budget	\$ 6,402,526.00
Less estimated income	<u>2,207,313.00</u>
Net operating budget	\$ 4,195,213.00
Land, structures and major improvements:	
Special assessments	6,650.00
Plant improvements	<u>175,700.00</u>
Total general fund	\$ 4,377,563.00

## MAYVILLE STATE COLLEGE

Salaries and wages	\$ 1,952,224.00
Fees and services	241,107.00
Supplies and materials	192,311.00
Equipment	<u>50,336.00</u>
Total operating budget	\$ 2,435,978.00
Less estimated income	<u>773,679.00</u>
Net operating budget	\$ 1,662,299.00
Land, structures and major improvements:	
Plant improvements	<u>96,000.00</u>
Total general fund	\$ 1,758,299.00

## VALLEY CITY STATE COLLEGE

Salaries and wages	\$ 2,888,976.00
Fees and services	240,888.00
Supplies and materials	251,814.00
Equipment	<u>80,000.00</u>
Total operating budget	\$ 3,461,678.00
Less estimated income	<u>1,081,290.00</u>
Net operating budget	\$ 2,380,388.00
Land, structures and major improvements:	
Special assessments	2,500.00
Plant improvements	<u>264,500.00</u>
Total general fund	\$ 2,647,388.00

Grand total general fund of all  
institutions of higher learning \$ 47,280,925.00

Any additional income not required by law to be deposited in the operating fund in the state treasury is hereby appropriated. All income resulting from increased enrollments in excess of estimated income in the budget appropriated by the legislature to the institutions of higher learning must be deposited in their operating funds in the state treasury and can be expended only by authorization of the emergency commission.

SECTION 2. NEW PROGRAMS.) The new programs requested and approved by the board of higher education for the institutions of higher learning are hereby authorized if institutional funds become available for their implementation.

SECTION 3. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1971 and ending June 30, 1973.

SECTION 4. INTENT, REPEAL, PURPOSE, AND CONSTRUCTION.) All Acts and parts of Acts that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation for any item or set of items should be held by the court or courts to be unconstitutional or illegal or otherwise unavailable for any cause, such holdings shall not affect or be construed to apply to the remaining items of appropriation herein or purposes herein.

SECTION 5. APPROPRIATION FOR UNIVERSITY OF NORTH DAKOTA MEDICAL CENTER REHABILITATION HOSPITAL.) There is hereby appropriated out of any moneys not otherwise appropriated, derived from gifts, grants, contracts, sales, services, and other income from the university of North Dakota medical center rehabilitation hospital, \$2,851,407.00, or so much thereof as may be necessary, to pay the operation, maintenance, equipment, and general expenses of the hospital for biennium beginning July 1, 1971 and ending June 30, 1973, in the sums set forth as follows:

Salaries and wages	\$ 2,386,841.00
Fees and services	205,728.00
Supplies and materials	225,215.00
Equipment	<u>33,623.00</u>
Total	\$ 2,851,407.00

Any excess income derived from gifts, grants, contracts, sales, services, and other income is hereby appropriated and may be expended only upon authorization by the emergency commission.

SECTION 6.) The board of higher education is hereby authorized to use operating funds in addition to appropriated plant improvement funds for the maintenance, repair, and improvement of buildings and land acquisition at the various institutions, with consent of the emergency commission during the biennium beginning July 1, 1971 and ending June 30, 1973.

SECTION 7. UNIVERSITY OF NORTH DAKOTA - ELLENDALE BRANCH.) It is the intent of the legislature that the university of North Dakota-Ellendale branch cease operation as an institution of higher education and that a sum not in excess of \$102,500.00 be expended for such institution from the period July 1, 1971, to June 30, 1973, for the purpose of custodial care and routine maintenance only.

Approved March 30, 1971

## CHAPTER 2

HOUSE BILL NO. 1002  
(Committee on Appropriations)

EXTENSION DIVISION AND  
EXPERIMENT STATIONS

AN ACT making an appropriation for the general operation, maintenance and improvements of the extension division and experiment stations of the North Dakota state university of agriculture and applied science.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated the sums hereafter specified, derived from income, and such additional unappropriated funds as specified are hereby appropriated out of the general fund in the state treasury as may be necessary to pay the operation, maintenance, and improvements of each of the institutions hereinafter named in sums set forth as follows:

EXTENSION DIVISION

Salaries and wages	\$5,031,859.00
Fees and services	524,701.00
Supplies and materials	211,758.00
Equipment	57,116.00
Total operating budget	<u>\$5,825,434.00</u>
Less estimated income	4,137,710.00
Total general fund	<u>\$1,687,724.00</u>

NDSU-SPECIAL FEDERAL PROGRAM

Salaries and wages	\$ 491,986.00
Fees and services	40,000.00
Supplies and materials	28,300.00
Equipment	6,000.00
Total	<u>\$ 566,286.00</u>

EXPERIMENT STATION - MAIN STATION

Salaries and wages	\$5,484,880.00
Fees and services	830,736.00
Supplies and materials	681,720.00
Equipment	509,630.00
Total operating budget	<u>\$7,506,966.00</u>
Less estimated income	2,792,394.00
Total general fund	<u>\$4,714,572.00</u>

## DICKINSON EXPERIMENT STATION

Salaries and wages	\$ 213,343.00
Fees and services	39,873.00
Supplies and materials	72,783.00
Equipment	37,200.00
Special assessments for two years	8,200.00
Total operating budget	\$ 371,399.00
Less estimated income	112,000.00
Total general fund	\$ 259,399.00

## HETTINGER EXPERIMENT STATION

Salaries and wages	\$ 50,649.00
Fees and services	12,890.00
Supplies and materials	14,650.00
Equipment	11,440.00
Total operating budget	\$ 89,629.00
Less estimated income	28,000.00
Total general fund	\$ 61,629.00

## LANGDON EXPERIMENT STATION

Salaries and wages	\$ 47,844.00
Fees and services	6,984.00
Supplies and materials	12,539.00
Equipment	25,440.00
Total operating budget	\$ 92,807.00
Less estimated income	21,600.00
Total general fund	\$ 71,207.00
Land, structures and major improvements:	
Fuel storage	1,500.00
Grain bin	1,325.00
Seed house	9,000.00
Total general fund	\$ 83,032.00

## NORTH CENTRAL EXPERIMENT STATION

Salaries and wages	\$ 100,751.00
Fees and services	23,878.00
Supplies and materials	27,348.00
Equipment	11,800.00
Replace heating plant	33,000.00
Total operating budget	\$ 196,777.00
Less estimated income	143,000.00
Total general fund	\$ 53,777.00

## WILLISTON EXPERIMENT STATION

Salaries and wages	\$ 87,661.00
Fees and services	21,450.00
Supplies and materials	23,800.00
Equipment	10,600.00
Total operating budget	\$ 143,511.00

Less estimated income	30,000.00
Total general fund	<u>\$ 113,511.00</u>

CARRINGTON EXPERIMENT STATION

Salaries and wages	\$ 150,097.00
Fees and services	41,400.00
Supplies and materials	44,472.00
Equipment	27,500.00
Total operating budget	<u>\$ 263,469.00</u>
Less estimated income	85,000.00
Net operating budget	<u>\$ 178,469.00</u>
Land, structures and major improvements:	
Livestock research unit	\$ 70,625.00
Total general fund	<u>\$ 249,094.00</u>

AGRONOMY SEED FARM

Salaries and wages	\$ 59,563.00
Fees and services	13,371.00
Supplies and materials	78,000.00
Equipment	18,000.00
Total operating budget	<u>\$ 168,934.00</u>
Less estimated income	168,934.00
Total general fund	<u>\$ 0.00</u>
Land, structures and major improvements:	
Addition to storage building	21,000.00
Less estimated income	21,000.00
Total general fund	<u>\$ 0.00</u>
Total	\$ 189,934.00
Grand total general fund	\$7,222,738.00

Any additional income including funds from the federal government and gifts and donations from private sources received by the North Dakota main experiment station, branch stations, and the cooperative extension division, except as otherwise provided by law, are hereby appropriated for the purpose designated in the gift, grant, or donation; however, public moneys from local sources, which shall include receipts from sale of grains, personal services, dairy products, livestock, and other agricultural products at the North Dakota main experiment station, branch experiment stations and the cooperative extension division, may be expended in excess of that specifically appropriated through biennial appropriations bills of the legislative assembly only in the event that an authorization has first been received from the subcommittee on budget of the legislative council. The balances of all existing moneys on deposit in the name of the North Dakota state university main experiment station, the branch experiment stations, and the cooperative extension division, except grants, gifts, and donations from private sources, along with all subsequent receipts of such moneys, shall be deposited in a special fund in the state treasury. Hereafter, this fund shall be referred to as an operating fund and shall also be the depository for transfers from the general

fund, and balances therein shall not revert to any other fund under the terms of section 54-44.1-11. All of the moneys in the operating fund shall remain in such fund until expended pursuant to a specific legislative appropriation or an authorization from the subcommittee on budget of the legislative council, and the balances of such moneys except those received from the federal government or as gifts from private sources, shall be used to reduce the amount of moneys to be expended pursuant to the general fund appropriation only to the extent that the unencumbered balance in the operating fund on June 30, 1971, exceeds the estimated income for the biennium ending June 30, 1973. The state board of higher education is authorized to approve transfer of funds between categories of expenditures, and will notify the director of the department of accounts and purchases of any such transfers within ten days following such authorization.

SECTION 2. THE PERIOD DURING WHICH THE APPROPRIATION MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1971 and ending June 30, 1973.

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

SECTION 4. PLANT IMPROVEMENTS.) Minor structures for agricultural research may be authorized for construction by the state board of higher education when such structures do not exceed \$20,000.00 in cost.

SECTION 5. SUGAR BEETS.) An amount of \$25,000.00 included in the appropriation for extension division salaries and wages shall be available for one-half of the salary of two persons doing sugar beet extension work upon notification that the state of Minnesota has entered into an agreement to fund such work under a cooperative basis to the extent of \$25,000.00 for the same period of time.

Approved March 30, 1971

CHAPTER 3

HOUSE BILL NO. 1003  
(Committee on Appropriations)

STATE HIGHWAY PATROL

AN ACT making an appropriation out of the state highway fund in the state treasury for the operation and maintenance of the highway patrol and the law enforcement training center, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated moneys in the state highway fund in the state treasury the sum of \$2,675,358.00 and \$90,000.00 from federal funds, or so much thereof as is necessary for the operation and maintenance of the highway patrol and the law enforcement training center, for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

HIGHWAY PATROL

Salaries and wages (Including salary of superintendent not to exceed \$30,000.00 for the biennium)	\$1,837,614.00
Fees and services	295,894.00
Supplies and materials	249,300.00
Equipment	232,900.00
Equipment	49,650.00
(The above line item of this Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval)	
Total highway fund transfer and appropriation	\$2,665,358.00

LAW ENFORCEMENT TRAINING CENTER

Fees and services	45,000.00
Supplies and materials	45,000.00
Equipment	25,000.00
Total	\$ 115,000.00
Less estimated income	105,000.00
Total highway fund transfer and appropriation	\$ 10,000.00
Grand total highway fund transfer and appropriation	\$2,675,358.00

SECTION 2. APPROPRIATION.) Each member of the state

highway patrol shall receive from the line item "fees and services" above, the sum of sixty dollars per month in lieu of expenses and reimbursement for meals while in travel status within the state of North Dakota or while at their respective home stations. Such sum shall be paid without the presentation of receipts or other memoranda at the time and in the same manner as salaries of members of the highway patrol are paid.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval on such items or subdivisions as are designated to be made available immediately on passage and approval.

Approved March 17, 1971

CHAPTER 4

HOUSE BILL NO. 1004  
 (Committee on Appropriations)

STATE HISTORICAL BOARD

AN ACT making an appropriation to the state historical board for salary, clerkhire and miscellaneous expenses and the maintenance of the state historical board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$521,796.00, or so much thereof, as may be necessary for salary, clerkhire, and miscellaneous expenses and maintenance of the state historical society and international peace garden in the sums hereinafter set forth, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages (Including salary of superintendent not to exceed \$23,000.00 for the biennium)	\$210,457.00
Fees and services	24,000.00
Supplies and materials	41,800.00
Equipment	12,000.00
Land, structures and major improvements:	
Fort Totten renovation and repairs	44,000.00
Medora interpretive center parking	40,000.00
Camp hancock paint and repair	10,500.00
Gingras trading post restoration	10,000.00
Total	<u>\$392,757.00</u>
Less estimated income	4,961.00
Total general fund transfer and appropriation	<u>\$387,796.00</u>

INTERNATIONAL PEACE GARDEN

Grants, benefits and claims	\$ 80,000.00
Dormitory and equipment	54,000.00
Total	<u>\$134,000.00</u>
Grand total general fund	\$521,796.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such

changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

## CHAPTER 5

HOUSE BILL NO. 1005  
(Committee on Appropriations)

## STATE PARK SERVICE

AN ACT making an appropriation to the North Dakota park service for administration, operation, maintenance and development of state parks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TRANSFER.) There shall be periodically transferred from the state park fund in the state treasury all income received by the state park fund not encumbered by Chapter 55-08 of the North Dakota Century Code by the director of the department of accounts and purchases to the state park's operating fund in the state treasury.

SECTION 2. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the state park operating fund in the state treasury the sum of \$1,363,296.00 of which \$898,382.00 is derived from income and collections and \$464,914.00 from the general fund or so much thereof as is necessary for salary, clerkhire, and maintenance of state parks, in the sums hereinafter set forth for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 1,024,036.00
Fees and services	82,260.00
Supplies and materials	106,400.00
Equipment	43,600.00
Land, structures and major improvements:	
Three maintenance buildings	27,000.00
Blacktop Fort McKeen	40,000.00
Parks renovation	<u>40,000.00</u>
Total	\$ 1,363,296.00
Less estimated state park fund income including federal funds	<u>898,382.00</u>
Net general fund	\$ 464,914.00

SECTION 3.) If income exceeds the amount estimated, the general fund appropriation will be reduced in an equal amount.

SECTION 4.) The moneys herein appropriated in accordance

with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 19, 1971

CHAPTER 6

HOUSE BILL NO. 1006  
 (Committee on Appropriations)

BUSINESS AND INDUSTRIAL  
 DEVELOPMENT DEPARTMENT

AN ACT making an appropriation for the use of the North Dakota business and industrial development department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury the sum of \$243,234.00 or so much thereof as may be necessary to pay salaries and expenses of the business and industrial development department for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 143,834.00
Fees and services	65,600.00
Supplies and materials	30,000.00
Equipment	<u>3,800.00</u>
Total	\$ 243,234.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added or that newly anticipated employees are actually in the employ of the state.

Approved March 17, 1971

## CHAPTER 7

HOUSE BILL NO. 1007  
(Committee on Appropriations)

UNEMPLOYMENT COMPENSATION  
DIVISION

AN ACT making an appropriation to the unemployment compensation division for the purpose of administering the provisions of Chapters 52-09 and 52-10 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated to the unemployment compensation division, out of any funds in the social security contribution fund, collected as provided by section 52-10-04 of the North Dakota Century Code, not otherwise appropriated, the sum of \$103,348.00, or so much thereof as may be necessary for the purpose of administering the provisions of Chapter 52-09 and 52-10 of the North Dakota Century Code, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 83,500.00
Fees and services	16,563.00
Supplies and materials	3,000.00
Equipment	285.00
Total	<u>\$103,348.00</u>

Approved March 30, 1971

## CHAPTER 8

HOUSE BILL NO. 1008  
(Committee on Appropriations)

## LIVESTOCK SANITARY BOARD

AN ACT making an appropriation to the livestock sanitary board to pay the operating and maintenance expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated moneys in the general fund in the state treasury the sum of \$244,186.00, or so much thereof as may be necessary to pay the operating and maintenance expenses of the livestock sanitary board for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$134,575.00
Fees and services	94,871.00
Supplies and materials	13,740.00
Equipment	1,000.00
Total	<u>\$244,186.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 17, 1971

## CHAPTER 9

HOUSE BILL NO. 1009  
(Committee on Appropriations)

## COMMISSIONER OF VETERANS' AFFAIRS

AN ACT providing an appropriation for paying the expenses of the commissioner of veterans' affairs and the veterans' aid commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$133,663.00 or so much thereof as may be necessary to pay the expenses of the office of commissioner of veterans' affairs and the veterans' aid commission, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages (Including salary of commissioner of veterans' affairs, not to exceed \$22,300.00 for the biennium)	\$104,282.00
Fees and services	23,381.00
Supplies and materials	4,500.00
Equipment	<u>1,500.00</u>
Total	<u>\$133,663.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

CHAPTER 10

HOUSE BILL NO. 1010  
 (Committee on Appropriations)

SOLDIERS' HOME

AN ACT making an appropriation for the maintenance and operation of the North Dakota soldiers' home at Lisbon.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated the sum of \$273,350.00 out of interest and income and federal aid funds of the home and the sum of \$199,387.00 out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary for the maintenance and operation of the North Dakota soldiers' home at Lisbon, North Dakota for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$331,237.00
(Including salary of the commandant not to exceed \$20,000.00 for the biennium)	
Fees and services	32,000.00
Supplies and materials	81,800.00
Equipment	5,000.00
Land, structures and major improvements:	
Hook-up to Lisbon water and sewer system	22,700.00
Total	<u>\$472,737.00</u>
Less estimated income	273,350.00
Total general fund transfer and appropriation	<u>\$199,387.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

## CHAPTER 11

HOUSE BILL NO. 1011  
(Committee on Appropriations)

## PUBLIC WELFARE BOARD

AN ACT making an appropriation for the maintenance and operation of the public welfare board and welfare programs administered by the public welfare board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the public welfare board operating fund in the state treasury the sum of \$70,555,421.00, of which \$52,604,858.00 is derived from income and collections and \$17,950,563.00 from the general fund in the state treasury to defray the expenses of maintenance and operation of the public welfare board and the welfare programs administered by the public welfare board for the biennium beginning June 30, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$ 2,144,713.00
Fees and services	440,750.00
Supplies and materials	74,000.00
Equipment	14,000.00
Data processing	267,555.00
Grants to and for recipients	<u>67,681,958.00</u>
Total	\$ 70,622,976.00
Less estimated income	<u>52,644,413.00</u>
Total general fund transfer and appropriation	\$ 17,978,563.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

SECTION 3. APPROPRIATION.) There is hereby appropriated \$350,000.00 in federal funds and \$150,000.00 to be contributed by individuals, organizations, governmental units, or any other source, other than general fund moneys, to the North Dakota Public Welfare Board for a specific purpose determined to be eligible for funding as provided by state and federal law.

Expenditures pursuant to this appropriation shall only be made for funding such purposes that have first been approved by the legislative council committee on budget. The Public Welfare Board shall present such requests for program approval to the legislative council committee on budget in such form as may be prescribed by the committee. It is the intent of this Act that the state shall not be committed to expenditures of general fund moneys either during the 1971-1973 biennium or future bienniums as a result of the passage of this provision.

SECTION 4.) The Public Welfare Board, insofar as resources permit, is hereby directed to

1. Further define and develop the system of screening, patient classification, and program utilization of hospital, nursing care, and custodial care services;
2. Initiate a pilot project seeking better coordination, utilization and priority in the delivery of services, including public assistance in the area of mental retardation;
3. Solicit the cooperation and assistance of the federal government toward identifying and controlling the causes contributing to the ever-escalating AFDC program;

and report to the next legislative assembly the findings and results in the three problem areas as enumerated.

SECTION 5. INTER-AGENCY COORDINATION.) The welfare department is hereby directed to coordinate the services provided in the social service centers with the service provided in the area mental centers under the direction of the state health department and to eliminate all unnecessary duplication of programs and staff.

SECTION 6. LEGISLATIVE INTENT.) It is the intent of the legislature that the welfare department make administrative determination of fund allocation by major program functions including old age assistance, aid to the blind, aid to the disabled, aid for dependent and foster children, general assistance, medical services, crippled children, child welfare, older Americans, and administration. Fund allocations shall be revised from time to time in line with federal matching revisions.

It is also intended by the legislative assembly that in the public welfare department, the caseload in the aid to families with dependent children be kept to a minimum for the 1971-73 biennium.

It is also the intent of the legislature that special consideration be given to increased costs of operating nursing homes, and if possible within the appropriation to reimburse them

at a rate necessary to meet those increased costs.

Be it further intended that the public welfare board report quarterly to the executive office of the budget for the purpose of comparing proposed budgeted program costs with actual program costs.

Approved March 30, 1971

CHAPTER 12

HOUSE BILL NO. 1012  
 (Committee on Appropriations)

CIVIL DEFENSE

AN ACT making an appropriation to continue the operation of North Dakota civil defense as provided for by Chapter 37-17 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated the sum of \$113,320.00 from federal aid matching funds, and the sum of \$113,320.00 out of the general fund in the state treasury, not otherwise appropriated, or so much thereof as may be necessary to carry out the provisions of chapter 37-17 of the North Dakota Century Code, pertaining to the operation of civil defense for North Dakota, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 183,935.00
Fees and services	31,500.00
Supplies and materials	6,005.00
Equipment	<u>5,200.00</u>
Total for the biennium	\$ 226,640.00
Less federal share	<u>113,320.00</u>
Total general fund	\$ 113,320.00

SECTION 2. APPROPRIATIONS.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 17, 1971

## CHAPTER 13

HOUSE BILL NO. 1013  
(Committee on Appropriations)

## REGISTRAR OF MOTOR VEHICLES

AN ACT making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the department of the registrar of motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state treasury in the motor registration fund, not otherwise appropriated, the sum of \$1,647,826.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the maintenance and operation of the department of registrar of motor vehicles, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$431,276.00
(Including salary of registrar, not to exceed \$24,000.00 for the biennium)	
Fees and services	235,550.00
Supplies and materials	608,000.00
Equipment	18,000.00
Refunds	10,000.00
Data processing	345,000.00
Total	<u>\$1,647,826.00</u>

No refunds of registration fees shall be made, except where the vehicle has been improperly registered, or where the motor vehicle has been destroyed.

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

CHAPTER 14

HOUSE BILL NO. 1014  
(Committee on Appropriations)

HIGHWAY DEPARTMENT

AN ACT making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the state highway department and to authorize expenditures for highway project construction costs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION FOR ADMINISTRATIVE, MAINTENANCE, AND CONSTRUCTION EXPENSE.) There is hereby appropriated out of any unappropriated funds in the state highway fund in the state treasury, the sum of \$110,170,955.00, or so much thereof as may be necessary for the purpose of defraying the expenses of administration, maintenance and construction of the state highway department, for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$23,594,428.00
(Including salary of commissioner not to exceed \$44,000.00 for the biennium)	
Fees and services	3,756,018.00
Supplies and materials	5,480,677.00
Equipment	2,219,240.00
Contracts	68,405,442.00
Data processing	694,400.00
Land, structures and major improvements:	
Right-of-way	4,916,450.00
Land purchase other than right-of-way	20,000.00
Property damage claims	100,000.00
Storage buildings	182,000.00
Material storage facilities	49,600.00
Valley City district office	534,700.00
Radio, planning and research building	68,000.00
Major repairs and remodeling	150,000.00
Total	<u>\$110,170,955.00</u>

Approved March 19, 1971

## CHAPTER 15

HOUSE BILL NO. 1015  
(Committee on Appropriations)

## WORKMEN'S COMPENSATION BUREAU

AN ACT making an appropriation for the purpose of paying salaries and miscellaneous expenses of the workmen's compensation bureau.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state treasury in the workmen's compensation fund, not otherwise appropriated, the sum of \$1,333,410.00, or so much thereof as may be necessary for the purpose of paying salaries and miscellaneous expenses of the workmen's compensation bureau for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages (Including total salaries of members of the bureau, not to exceed \$23,000.00 each for the biennium.)	\$ 821,748.00
Fees and services	233,266.00
Supplies and materials	60,370.00
Equipment	20,000.00
Data processing	188,026.00
Contingent-emergency	<u>10,000.00</u>
Total	<u>\$1,333,410.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

CHAPTER 16

HOUSE BILL NO. 1016  
(Committee on Appropriations)

GAME AND FISH DEPARTMENT

AN ACT making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the game and fish department, and to repeal section 20-02-07 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state treasury in the game and fish fund, not otherwise appropriated, the sum of \$3,086,637.00 or so much thereof as may be necessary for the purpose of defraying the expenses of the game and fish department for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages (Including salary of commissioner not to exceed \$30,000 for the biennium)	\$1,491,337.00
Fees and services	397,000.00
Supplies and materials	355,300.00
Equipment	202,500.00
In lieu of taxes	60,000.00
Land, structures and major improvements:	
Land purchases	440,000.00
Construction target ranges	44,500.00
Grants, benefits, and claims	71,000.00
Contingent-emergency	<u>25,000.00</u>
 Total	 \$3,086,637.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

SECTION 3. REPEAL.) Section 20-02-07 of the North Dakota Century Code is hereby repealed.

Approved March 30, 1971

## CHAPTER 17

HOUSE BILL NO. 1017  
(Committee on Appropriations)

TEACHERS' INSURANCE AND  
RETIREMENT FUND

AN ACT making an appropriation for the purpose of operating and maintaining the teachers' insurance and retirement fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state treasury in the teachers' insurance and retirement fund, the sum of \$137,769.00 for the purpose of operating and maintaining the teachers' insurance and retirement fund, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 92,659.00
Fees and services	26,710.00
Supplies and materials	4,000.00
Equipment	1,000.00
Data processing	13,400.00
Total	<u>\$137,769.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

## CHAPTER 18

HOUSE BILL NO. 1018  
(Committee on Appropriations)

## NURSE PREPARATION SCHOLARSHIPS

AN ACT making an appropriation to provide for nurse preparation scholarships for qualified residents of North Dakota according to chapter 43-12 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated to the nurses' scholarship fund out of any unappropriated moneys in the state general fund in the state treasury the sum of \$88,000.00 or so much thereof as may be necessary for the purpose of paying nursing preparation scholarships and administration costs as provided for in chapter 43-12 of the North Dakota Century Code for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Fees and services	\$ 2,700.00
Supplies and materials	300.00
Scholarships granted	85,000.00
Total	<u>\$88,000.00</u>

Approved March 19, 1971

## CHAPTER 19

HOUSE BILL NO. 1019  
(Committee on Appropriations)

## POULTRY IMPROVEMENT BOARD

AN ACT making an appropriation for the operation, maintenance and miscellaneous expenses of the Poultry Improvement Board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state treasury in the poultry improvement fund, the sum of \$59,779.00 or so much thereof as may be necessary for the expenses of the poultry improvement board, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 41,423.00
Fees and services	10,685.00
Supplies and materials	4,171.00
Equipment	500.00
Grants, benefits and claims	500.00
Emergency fund	<u>2,500.00</u>
Total	\$ 59,779.00

Approved March 3, 1971

CHAPTER 20

HOUSE BILL NO. 1020  
(Committee on Appropriations)

BANK OF NORTH DAKOTA

AN ACT making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the bank of North Dakota and of the Judge A. M. Christianson Project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state treasury in the bank of North Dakota fund the sum of \$1,703,915.00, or so much thereof as may be necessary for the purpose of defraying the expenses of the operation of the bank of North Dakota and of the Judge A. M. Christianson project for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

BANKING DEPARTMENT

Salaries and wages	\$1,160,049.00
Fees and services	223,906.00
Supplies and materials	45,000.00
Equipment	40,000.00
Equipment rental	174,000.00
Contingent-emergency	40,000.00
Total	<u>\$1,682,955.00</u>

JUDGE A. M. CHRISTIANSON PROJECT

Salaries and wages	\$ 12,960.00
Fees and services	5,000.00
Supplies and materials	3,000.00
Total	<u>\$ 20,960.00</u>
Grand total	\$1,703,915.00

SECTION 2. APPROPRIATION.) There is hereby appropriated out of any monies in the state treasury in the bank of North Dakota fund the sum of \$750,000.00 for the remodeling and expansion of facilities not including a drive-up window, \$750,000.00 or so much thereof as may be necessary, during the biennium beginning July 1, 1971 and ending June 30, 1973.

Approved March 30, 1971

## CHAPTER 21

HOUSE BILL NO. 1021  
(Committee on Appropriations)

## MILL AND ELEVATOR ASSOCIATION

AN ACT making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the North Dakota mill and elevator association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby transferred out of any moneys in the state treasury in the North Dakota mill and elevator association fund the sum of \$3,734,785.00 or so much thereof as may be necessary to pay the general maintenance repair, salaries, operating expenses, equipment and miscellaneous items of the North Dakota mill and elevator association for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$ 2,290,385.00
Fees and services	1,066,900.00
Supplies and materials	77,500.00
Contingent-emergency	<u>300,000.00</u>
Total	\$ 3,734,785.00

Approved March 30, 1971

## CHAPTER 22

HOUSE BILL NO. 1022  
(Committee on Appropriations)

## WHEAT COMMISSION

AN ACT making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the state wheat commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state wheat commission fund in the state treasury, not otherwise appropriated, the sum of \$624,370.00 for the purpose of defraying the expenses of the state wheat commission, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$145,079.00
Fees and services	338,520.00
Supplies and materials	25,271.00
Equipment	3,000.00
Grants, benefits and claims	2,500.00
Research-wheat and durum quality and transportation research	105,000.00
Contingency fund	<u>5,000.00</u>
Total	<u>\$624,370.00</u>

SECTION 2. APPROPRIATIONS.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

SECTION 3. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that a minimum of \$25,000.00 of the amount shown in the line item dealing with research in section 1 of this Act be expended for transportation research.

Approved March 30, 1971

## CHAPTER 23

HOUSE BILL NO. 1023  
(Committee on Appropriations)

## WATER CONSERVATION COMMISSION

AN ACT making an appropriation to the state water conservation commission for general administrative expenses, maintenance and construction of dams; planning, surveying and construction expenses of multiple purpose water projects; and organizing water conservation and irrigation districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the state water conservation commission operating fund in the state treasury the sum of \$1,335,346.00, of which \$88,550.00 is derived from income and collections, and \$1,246,796.00 from the general fund, or so much thereof as may be necessary for the general administrative expenses of the commission; maintenance and construction of dams; expenses of planning, surveying and construction of multiple purpose water projects; expenses of organizing water conservation districts; and for cooperating with agencies of the federal government and local government agencies of this state in planning and construction of water conservation projects; for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$ 919,621.00
Fees and services	162,625.00
Supplies and materials	163,600.00
Equipment	25,000.00
Data processing	4,500.00
Basins Commission-Souris-Red-Rainy	60,000.00
Total for biennium	<u>\$1,335,346.00</u>
Less estimated income	88,550.00
Total general fund	<u>\$1,246,796.00</u>

SECTION 2. APPROPRIATIONS FOR WATER PROJECT CONTRACT PAYMENTS.) There is hereby appropriated out of any unappropriated funds in the state water commission contract operating fund in the state treasury, the sum of \$1,900,000.00 of which \$900,000.00 is derived from income and collections, and \$1,000,000.00 from the general fund, or so much thereof as is necessary to be available for water project contract obligations for the biennium beginning July 1, 1971 and ending June 30, 1973. The sum herein appropriated shall be transferred

as needed by the director of the department of accounts and purchases and the state treasury. Any moneys paid to the state water commission by any department, agency or political subdivision of this or another state or of the United States or any person or corporation to meet its part of the cost of a water project, shared with the commission or a matching or participating basis, and as determined by a written contract entered into with the commission, shall be deposited with the state treasurer and are hereby appropriated out of the state treasury and shall be credited to the contract fund.

SECTION 3. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

## CHAPTER 24

HOUSE BILL NO. 1024  
(Committee on Appropriations)

## PUBLIC HEALTH DEPARTMENT

AN ACT making an appropriation for the operating and maintenance expenses of the public health department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the public health department operating fund in the state treasury the sum of \$3,785,324.00 of which \$2,754,825.00 is derived from income and collections and \$1,030,499.00 from the general fund, or so much thereof as is necessary to pay the expenses of the public health department for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$2,294,219.00
Fees and services	500,403.00
Supplies and materials	209,772.00
Equipment	63,235.00
Data processing	17,695.00
Grants, benefits and claims:	
Grants to district health units	700,000.00
Total	<u>\$3,785,324.00</u>
Less estimated income	<u>2,754,825.00</u>
Total general fund transfer and appropriation	<u>\$1,030,499.00</u>

SECTION 2. APPROPRIATION.) There is hereby appropriated to the state health department out of any unappropriated funds in the general fund in the state treasury the sum of \$785,707.00, or so much thereof as is necessary for the purpose of providing financial assistance in establishing and maintaining mental health and retardation units, as provided in chapter 25-12 of the North Dakota Century Code.

SECTION 3. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

SECTION 4. INTENT.) The \$625,707.00 is to be distrib-

uted proportionately among the existing mental health and retardation units in accordance with work loads and expenditures as determined by the state department of health.

SECTION 5. INTERAGENCY COORDINATION.) The health department is hereby directed to coordinate the services provided in the area mental health centers with the services provided in the social service centers under the direction of the public welfare board and to eliminate all unnecessary duplication of programs and staff.

Approved March 30, 1971

## CHAPTER 25

HOUSE BILL NO. 1025  
(Committee on Appropriations)

## CAPITOL GROUNDS PLANNING COMMISSION

AN ACT making an appropriation to the capitol grounds planning commission out of the general fund for the purposes of defraying the expenses of the commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$24,000.00, or so much thereof, as is necessary to the capitol grounds planning commission for the purpose of defraying the expenses of the commission for the biennium beginning July 1, 1971 and ending June 30, 1973.

Approved March 30, 1971

## CHAPTER 26

HOUSE BILL NO. 1026  
(Committee on Appropriations)

## COMBINED LAW ENFORCEMENT COUNCIL

AN ACT making an appropriation for the purpose of administering the provisions of chapter 12-61 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated the sum of \$6,054,400.00 from federal funds available to North Dakota under the Omnibus Crime Control and Safe Streets Act and the Juvenile Delinquency Prevention and Control Act, and the sum of \$10,000.00 out of the state general fund, or so much thereof as may be necessary, for administering the provisions of chapter 12-61 of the North Dakota Century Code, for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$ 271,035.00
Fees and services	110,755.00
Supplies and materials	16,444.00
Equipment	3,556.00
Grants, benefits and claims	<u>5,662,610.00</u>
Total	\$ 6,064,400.00
Less estimated income	<u>6,054,400.00</u>
Total general fund transfer and appropriation	\$ 10,000.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

SECTION 3. CONTINGENT.) The expenditure of moneys pursuant to the appropriation provided in section 1 of this Act shall require prior approval from the committee on budget of the Legislative Council. The Committee on Budget may approve the expenditure of funds on the basis of projects proposed or on a basis of the general type or classification of proposed expenditures. Before

approving a request for approval, the committee on budget shall consider the impact the expenditure of the federal funds portion of such proposed expenditures may have on future expenditures required of the state and its political subdivisions.

Approved March 30, 1971

## CHAPTER 27

HOUSE BILL NO. 1027  
(Committee on Appropriations)

## COUNCIL ON HUMAN RESOURCES

AN ACT making an appropriation for salaries and expenses of the governor's council on human resources.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury the sum of \$54,569.00, or so much thereof as is necessary for salaries and expenses of the governor's council on human resources, for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$34,025.00
Fees and services	17,333.00
Supplies and materials	2,811.00
Equipment	<u>400.00</u>
Total	\$54,569.00

Approved March 30, 1971

## CHAPTER 28

HOUSE BILL NO. 1028  
(Committee on Appropriations)

## STATE FAIR ASSOCIATION

AN ACT making an appropriation to the North Dakota state fair association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds, in the state fair association operating fund in the state treasury the sum of \$407,750.00, of which \$357,750.00 is derived from income and collections and \$50,000.00 from the general fund in the state treasury, or so much thereof as is necessary for the state fair association, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$107,400.00
Fees and services	186,300.00
Supplies and materials	22,050.00
Equipment	2,000.00
Premiums	50,000.00
Horse barn	40,000.00
Total	<u>\$407,750.00</u>
Less estimated income	<u>357,750.00</u>
Total general fund transfer and appropriation	<u>\$ 50,000.00</u>

SECTION 2. INTENT.) It is the intent of the legislature that \$50,000.00 general fund appropriation by the state will be used for premiums. It is the further intent of the legislature that \$40,000.00 of the appropriation shall be used for the construction of a horse barn and the income from non-fair usage of the building is to be used to amortize construction costs of the horse barn.

Approved March 17, 1971

## CHAPTER 29

HOUSE BILL NO. 1029  
(Committee on Appropriations)

## LAW ENFORCEMENT - INDIAN RESERVATIONS

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of \$20,000.00, or so much thereof as may be necessary, for the purpose of meeting the extraordinary expenses of counties in law enforcement arising by reason of the location of Indian reservations in such counties. This appropriation shall be used for extraordinary expenses of law enforcement incurred from the effective date of this Act to and including June 30, 1973, and also shall be used for the payment of any claims for extraordinary expenses of law enforcement for any prior biennium for which there was not sufficient funds appropriated to meet all the claims for such extraordinary expenses of law enforcement.

SECTION 2. APPLICATION FOR FUNDS.) Application for such funds shall be made to the attorney general by the county commissioners of the county so applying with the approval of the state's attorney and county auditor of such county, and the application shall be supported by itemized statements of extraordinary expenses incurred in law enforcement activities in such county and by reason of federal agencies in or adjacent to said county.

SECTION 3. APPROVAL AND INVESTIGATION.) The attorney general shall have the duty to make such investigation as shall be deemed necessary and may approve or disapprove or reduce the amount applied for, and no payment shall be made without the prior approval by the attorney general of the duly verified voucher presented to the state auditor.

Approved March 30, 1971

## CHAPTER 30

HOUSE BILL NO. 1030  
(Committee on Appropriations)

## FOUNDATION PROGRAM

AN ACT making an appropriation to the department of public instruction for the purpose of defraying the expenses of public schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$55,837,150.00 and \$125,000.00, which is derived from federal funds, or so much thereof as may be necessary to defray the expenses of public instruction for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Special education	\$ 1,401,150.00
Foundation payments	54,385,000.00
Public Law 91-230 Title VI-D	125,000.00
Walsh county agricultural school	21,000.00
Indian scholarships	<u>30,000.00</u>
Total	\$ 55,962,150.00
Less estimated income	<u>125,000.00</u>
Total general fund transfer and appropriation	\$ 55,837,150.00

SECTION 2. SCHOOL LUNCH PROGRAM.) The department of public instruction is directed to seek an opinion from the United States department of agriculture to the effect that moneys received by schools from the state of North Dakota's portion of the foundation program and expended to support school lunch programs will satisfy the state matching requirements as set forth in Public Law 91-248 of the Ninety-first Congress. If the department of agriculture does not render such an opinion, the state department of public instruction is authorized to request the state emergency commission to transfer, and the emergency commission shall transfer two hundred thousand dollars from the appropriation for the foundation program for the biennium ending June 30, 1973, or such lesser amount as may be necessary to match federal funds, to a line item in the same appropriation, from which the state department of public instruction is authorized to make necessary expenditures for the continuation of the school lunch program.

Approved March 30, 1971

## CHAPTER 31

HOUSE BILL NO. 1031  
(Committee on Appropriations)

## STATEWIDE COMMUNICATIONS

AN ACT making an appropriation for the purpose of defraying the expenses of the services of the statewide communications fund in the office of the director of institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of the moneys in the statewide communications fund in the state treasury, the sum of \$1,017,520.00, of which \$347,463.00 is derived from income and collections and \$670,057.00 from the general fund in the state treasury, or so much thereof as is necessary for defraying the expenses of the services of the statewide communications fund, for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Fees and services	<u>\$1,017,520.00</u>
Total	\$1,017,520.00
Less estimated income	<u>347,463.00</u>
Total general fund transfer and appropriation	\$ 670,057.00

Approved March 3, 1971

## CHAPTER 32

HOUSE BILL NO. 1032  
(Committee on Appropriations)

## STATE PLANNING AGENCY

AN ACT making an appropriation for the use of the state planning agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the state planning agency operating fund in the state treasury the sum of \$594,242.00 or so much thereof as may be necessary for the operation of the state planning agency of which \$529,365.00 is derived from income and collections and \$64,877.00 from the general fund in the state treasury for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 125,242.00
Fees and services	60,000.00
Supplies and materials	8,000.00
Equipment	1,000.00
Grants, benefits and claims	<u>400,000.00</u>
Total	\$ 594,242.00
Less estimated income	<u>529,365.00</u>
Total general fund transfer and appropriation	\$ 64,877.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 18, 1971

## CHAPTER 33

HOUSE BILL NO. 1033  
(Committee on Appropriations)

## CONSTITUTIONAL CONVENTION

AN ACT making an appropriation for salaries and expenses of the constitutional convention and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury the sum of \$600,000.00 or so much thereof as may be necessary for the expenses of the constitutional convention.

SECTION 2.) Committees appointed by the constitutional convention may, upon approval of the convention president, meet at such times and places during the interim period between the organizational and plenary meetings of the convention as they may deem advisable. Committee members will receive per diem compensation and expenses for each actual day spent in interim committee meeting. Convention delegates shall receive the per diem compensation and expense allowance set by law, for each day of the organizational or plenary session during which the convention conducts formal business. Convention delegates will receive mileage payments, at the rates provided by law for other state officials, for trips to and from the convention site and for travel to and from convention interim committee meetings.

The president of the convention, and such other persons as the convention may authorize, shall receive reimbursement, at the rates provided by law for state officials, for meals, lodging, and mileage expenses incurred while traveling on official convention business. The president, and such other employees as the convention may authorize, shall receive per diem compensation and expenses, at the rate provided by law for state officials, for such period as may be necessary, following the adjournment sine die of the convention, to allow proper conclusion of the convention's affairs, including the publication of the convention's report and journal.

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

Approved March 30, 1971

## CHAPTER 34

HOUSE BILL NO. 1034  
(Committee on Appropriations)

## POTATO COUNCIL

AN ACT making an appropriation for paying the salaries and other expenses of the state potato council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the spud fund to the state potato council for the purpose of paying the salaries and other expenses of the state potato council for the biennium beginning July 1, 1971 and ending June 30, 1973, as follows:

Salaries and wages	\$ 8,055.00
Fees and services	213,400.00
Supplies and materials	<u>1,000.00</u>
Total	\$222,455.00

Approved March 30, 1971

## CHAPTER 35

HOUSE BILL NO. 1035  
(Committee on Appropriations)

## STATE OFFICERS' EXPENSE PAYMENTS

AN ACT to provide payment of expenses to certain elected state officers, and making an appropriation and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. ELECTED OFFICIALS' EXPENSE PAYMENTS.) In order to properly discharge their official duties the following elected state officials shall be paid the sum set forth opposite their respective titles for each of the calendar years of 1971 and 1972:

OFFICIAL	EXPENSE PAYMENT PER YEAR
Governor	\$6,000.00
Lieutenant governor	2,000.00
Attorney general	6,000.00
Secretary of state	5,000.00
Superintendent of public instruction	6,000.00
Tax commissioner	6,000.00
Commissioner of insurance	5,000.00
Each public service commissioner	5,000.00
Commissioner of agriculture	5,000.00
State auditor	5,000.00
State treasurer	5,000.00
Commissioner of labor	4,000.00

Such sums are for expenses and moneys expended while engaged in the discharge of official duty, and are to be paid quarterly by the department of accounts and purchases without the filing of any itemized voucher or statement. The expense payments provided by this Act shall be retroactive to January 1, 1971.

SECTION 2. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$140,000.00 or so much thereof as may be necessary, to carry out the provisions of this Act.

SECTION 3. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 27, 1971

## CHAPTER 36

HOUSE BILL NO. 1036  
(Committee on Appropriations)

## CAPITOL GROUNDS IMPROVEMENTS

AN ACT making an appropriation to the director of institutions  
for the purpose of capitol grounds improvements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated to  
the director of institutions out of any unappropriated funds in  
the permanent capitol building fund in the state treasury the sum  
of \$150,000.00 or so much thereof as may be necessary for the  
building of roadways, parking lots and landscaping on the capitol  
grounds.

Approved March 30, 1971

## CHAPTER 37

HOUSE BILL NO. 1331  
(Committee on Appropriations)

## PERSONAL PROPERTY TAX REPLACEMENT

AN ACT to provide an appropriation for the replacement of personal property taxes, and the distribution of such monies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any monies in the general fund in the state treasury, not otherwise appropriated, the sum of \$42,100,000.00, or so much thereof as may be necessary, for the replacement of personal property taxes as provided by chapter 528 of the 1969 Session Laws, as amended, for the biennium beginning July 1, 1971, and ending June 30, 1973. During the year ending June 30, 1972, such payment shall not exceed one-half of the total appropriation provided in this Act.

SECTION 2. CONTINGENT.) Notwithstanding the provisions of chapter 528 of the 1969 Session Laws of North Dakota, as amended, which contains the formula for personal property tax replacement payments, the payments under such chapter shall not exceed the amounts as set forth in this Act. If the appropriation provided in this Act in any fiscal year is less than the amount determined by applying the proper formula as contained in chapter 528 of the 1969 Session Laws of North Dakota, as amended, the director of the department of accounts and purchases shall first pay amounts equal to the distribution made during the fiscal year ending June 30, 1971, or such lesser amounts as provided by law, and then shall prorate and distribute the remaining amounts in proportion to the amount of dollars of increase in real property taxation attributed to the various governmental units which have been certified by the tax commissioner for payment.

Approved March 30, 1971

## CHAPTER 38

SENATE BILL NO. 2001  
(Committee on Appropriations)

## EXECUTIVE DEPARTMENTS

AN ACT to appropriate money for the expenses of the executive department of state government, and for the subdivisions thereof, specifying the amount and time for which such appropriations shall be available, and repealing all Acts or parts of Acts, insofar as the same shall relate to appropriations for the same matters or purposes provided for herein.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATIONS FOR THE EXECUTIVE DEPARTMENT OF THE STATE GOVERNMENT, AND FOR SUBDIVISIONS THEREOF.) The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, to the credit of each department and subdivision hereinafter named except as hereinafter specifically provided, not otherwise appropriated for the purpose specified in the following sections of this Act.

SECTION 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriation herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1971, and ending June 30, 1973, to wit:

SECTION 3. APPROPRIATIONS.)

Subdivision 1.

## GOVERNOR'S OFFICE

Salaries and wages	\$	149,620.00
Fees and services		15,180.00
Supplies and materials		5,000.00
Equipment		1,500.00
National governor's conference		5,000.00
Governor's contingent		<u>4,000.00</u>
Total	\$	180,300.00

Subdivision 2.

LIEUTENANT GOVERNOR

Salaries and wages	\$	10,000.00
Fees and services		4,000.00
Supplies and materials		300.00
Equipment		<u>900.00</u>
Total	\$	15,200.00

Subdivision 3.

SECRETARY OF STATE

Salaries and wages	\$	195,386.00
Fees and services		28,000.00
Costs of carrying out provisions of S.B. 2067		2,100.00
Supplies and materials		9,000.00
Equipment		<u>5,000.00</u>
Total	\$	239,486.00

Subdivision 4.

SECRETARY OF STATE - PUBLIC PRINTING

Fees and services	\$	3,500.00
Supplies and materials		<u>98,000.00</u>
Total	\$	101,500.00

Subdivision 5.

STATE AUDITOR

Salaries and wages	\$	501,066.00
Fees and services		90,400.00
Independent certified audits		80,000.00
Supplies and materials		10,000.00
Equipment		<u>3,000.00</u>
Total	\$	684,466.00

Subdivision 6.

STATE TREASURER

Salaries and wages	\$	150,427.00
Fees and services		15,550.00
Supplies and materials		5,750.00
Equipment		1,500.00
Data processing		<u>8,180.00</u>
Total	\$	181,407.00

## Subdivision 7.

## ATTORNEY GENERAL

Salaries and wages	\$	563,881.00
Fees and services		83,480.00
Supplies and materials		13,410.00
Equipment		<u>5,250.00</u>
Total	\$	666,021.00

## Subdivision 8.

## DIRECTOR OF INSTITUTIONS

Salaries and wages	\$	892,778.00
Fees and services		459,080.00
Supplies and materials		81,000.00
Equipment		30,000.00
Land, structures and major improvements:		
Electrical wiring state capitol		300,000.00
Improvements		<u>118,000.00</u>
Total	\$	1,880,858.00

## Subdivision 9.

## DEPARTMENT OF ACCOUNTS AND PURCHASES

Salaries and wages	\$	484,980.00
Fees and services		22,300.00
Supplies and materials		20,000.00
Equipment		5,500.00
Data processing		224,800.00
Employment classification study		<u>50,000.00</u>
Total	\$	807,580.00
Grand total	\$	4,756,818.00

## SECTION 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.)

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

SECTION 5. ATTORNEY GENERAL.) There is hereby appropriated in addition to such sums otherwise appropriated to the Attorney General office, \$25,000.00 or such lesser amount as may be necessary to match up to \$75,000.00 in federal funds which are hereby appropriated for the crime bureau division of the Attorney

General's Office to engage in detection and apprehension of persons illegally possessing or disposing of drugs. The appropriations contained within this section are for the biennium beginning July 1, 1971, and ending June 30, 1973.

SECTION 6. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

## CHAPTER 39

SENATE BILL NO. 2002  
(Committee on Appropriations)

## EDUCATIONAL DEPARTMENTS

AN ACT to appropriate money for the expenses of the educational departments of state government, and for the subdivisions thereof, specifying the amount and time for which such appropriation shall be available, and repealing all Acts, or parts of Acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATIONS FOR THE EDUCATIONAL DEPARTMENTS OF STATE GOVERNMENT, AND FOR SUBDIVISIONS THEREOF.) The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, to the credit of each department and subdivision hereinafter named except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following sections of this Act.

SECTION 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1971, and ending June 30, 1973, to wit:

SECTION 3. APPROPRIATIONS.)

Subdivision 1.

## STATE BOARD OF HIGHER EDUCATION

Salaries and wages	\$	235,662.00
Fees and services		23,859.00
Supplies and materials		5,630.00
Equipment		<u>1,400.00</u>
Total	\$	266,551.00

Subdivision 2.

STATE AID TO JUNIOR COLLEGES

Grants, benefits and claims	\$ <u>2,068,500.00</u>
Total	\$ 2,068,500.00

Subdivision 3.

FEDERAL STUDENT LOAN PROGRAM

Grants, benefits and claims	\$ <u>150,000.00</u>
Total	\$ 150,000.00

Subdivision 4.

DIVISION OF ALCOHOLISM AND DRUG ABUSE-  
STATE HEALTH DEPARTMENT

Salaries and wages	\$ 94,060.00
Fees and services	22,500.00
Supplies and materials	7,500.00
Equipment	<u>1,000.00</u>
Total	\$ 125,060.00

Subdivision 5.

NORTH DAKOTA INDIAN AFFAIRS COMMISSION

Salaries and wages	\$ 35,905.00
Fees and services	6,720.00
Supplies and materials	<u>600.00</u>
Total	\$ 43,225.00
Grand total	\$ 2,653,336.00

SECTION 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.)

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

SECTION 5. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

CHAPTER 40

SENATE BILL NO. 2003  
(Committee on Appropriations)

REGULATORY DEPARTMENTS

AN ACT to appropriate money for the expenses of the regulatory departments of state government, and for the subdivisions thereof, specifying the amount and time for which such appropriation shall be available, and repealing all Acts, or parts of Acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATIONS FOR THE REGULATORY DEPARTMENTS OF THE STATE GOVERNMENT, AND FOR SUBDIVISIONS THEREOF.) The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, to the credit of each department and subdivision hereinafter named except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following sections of this Act.

SECTION 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1971, and ending June 30, 1973, to wit:

SECTION 3. APPROPRIATIONS.)

Subdivision 1.

LABOR DEPARTMENT

Salaries and wages	\$	110,221.00
Fees and services		28,000.00
Supplies and materials		3,000.00
Equipment		<u>500.00</u>
Total	\$	141,721.00

Subdivision 2.

PUBLIC SERVICE COMMISSION

Salaries and wages	\$ 726,051.00
Fees and services	112,871.00
Supplies and materials	37,290.00
Equipment	24,600.00
Strip mining program	3,000.00
Data processing	<u>5,000.00</u>
Total	\$ 908,812.00

Subdivision 3.

PUBLIC SERVICE COMMISSION - UTILITY VALUATION

Fees and services	\$ 10,000.00
Total	\$ <u>10,000.00</u>

Subdivision 4.

AERONAUTICS COMMISSION

Salaries and wages	\$ 85,419.00
Fees and services	28,592.00
Supplies and materials	10,778.00
Equipment	2,100.00
Land, contracts, structures, major improvements, and maintenance	<u>300,000.00</u>
Total	\$ 426,889.00
Less estimated income and federal funds	<u>316,080.00</u>
Total general fund	\$ 110,809.00

All income and revenue received by the North Dakota aeronautics commission in payment for state aircraft air transportation services, provided by the aeronautics commission for other state agencies, departments, boards, or commissions, shall be deposited in the state treasury in a special aircraft expense revolving fund. All expenditures from such revolving fund shall be within the limits of legislative appropriations and shall be made upon vouchers signed and approved by the aeronautics commission. Upon approval of such vouchers by the state auditing board, warrant-checks for such expenditures shall be prepared by the department of accounts and purchases.

There is hereby appropriated to the North Dakota aeronautics commission, from any monies deposited in the state treasury in the special aircraft expense revolving fund, the amount of \$5,500.00 to be expended for state aircraft operating expense and maintenance and for aircraft pilot expenses, provided that no expenditure shall be approved at any time for this purpose in excess of the amount deposited by the aeronautics commission in the special aircraft expense revolving fund in the state treasury.

## Subdivision 5.

## DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS

Salaries and wages (Including state examiner's salary not to exceed \$36,000.00 for the biennium)	\$ 364,079.00
Fees and services	94,272.00
Supplies and materials	4,000.00
Equipment	<u>4,000.00</u>
Total	\$ 466,351.00

## Subdivision 6.

## SECURITIES COMMISSIONER

Salaries and wages (Including securities commissioner's salary not to exceed \$32,000.00 for the biennium)	\$ 97,967.00
Fees and services	18,040.00
Supplies and materials	5,000.00
Equipment	<u>750.00</u>
Total	\$ 121,757.00

## Subdivision 7.

## STATE LABORATORIES DEPARTMENT

Salaries and wages (Including director's salary not to exceed \$24,000.00 for the biennium)	\$ 522,634.00
Fees and services	100,400.00
Supplies and materials	34,462.00
Equipment	<u>15,000.00</u>
Total	\$ 672,496.00

## Subdivision 8.

## COMMISSIONER OF INSURANCE

Salaries and wages	\$ 283,082.00
Fees and services	28,090.00
Supplies and materials	12,000.00
Equipment	2,500.00
Data processing	<u>15,786.00</u>
Total	\$ 341,458.00

Subdivision 9.

STATE FIRE MARSHAL

Salaries and wages	\$ 69,291.00
Fees and services	22,000.00
Supplies and materials	3,200.00
Equipment	<u>1,000.00</u>
Total	\$ 95,491.00
Grand total	\$ 2,868,895.00

SECTION 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.) All Acts, and parts of Acts, that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation for any item or set of items should be held by the court or courts to be unconstitutional or illegal or otherwise unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items of appropriation herein or purpose provided for herein.

SECTION 5. STATE LABORATORIES DEPARTMENT.) Included in the appropriation for the activities of the state laboratories department is \$32,000.00 in salaries and wages and \$8,400.00 in fees and services to be used exclusively for an intensive part-time program during the proper season for the sampling, testing, and enforcement of the laws regulating the sale of fertilizer.

SECTION 6. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

CHAPTER 41

SENATE BILL NO. 2004  
(Committee on Appropriations)

DEPARTMENTS OF STATE GOVERNMENT

AN ACT to appropriate money for the expenses of departments of state government, and for the subdivisions thereof, specifying the amount and time for which such appropriation shall be available, and repealing all Acts, or parts of Acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATIONS FOR DEPARTMENTS OF THE STATE GOVERNMENT, AND FOR SUBDIVISIONS THEREOF.) The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, to the credit of each department and subdivision hereinafter named except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following section of this Act.

SECTION 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1971, and ending June 30, 1973, to wit:

SECTION 3. APPROPRIATIONS.)

Subdivision 1.

PAROLE OFFICE

Salaries and wages	\$	261,575.00
Fees and services		42,500.00
Supplies and materials		4,000.00
Equipment		<u>1,000.00</u>
Total	\$	309,075.00

Subdivision 2.

RADIO COMMUNICATIONS

Salaries and wages	\$	228,357.00
Fees and services		66,230.00
Supplies and materials		29,935.00
Equipment		<u>57,732.00</u>
Total	\$	382,254.00
Less estimated income		<u>50,000.00</u>
General fund transfer and appropriation	\$	332,254.00

## Subdivision 3.

## DEPARTMENT OF AGRICULTURE

Salaries and wages	\$	300,000.00
Fees and services		125,400.00
Supplies and materials		20,800.00
Equipment		<u>6,000.00</u>
Total	\$	452,200.00
Less estimated income		<u>36,708.00</u>
General fund transfer and appropriation	\$	415,492.00

## Subdivision 4.

## SOIL CONSERVATION COMMITTEE AND DISTRICTS

Salaries and wages	\$	47,707.00
Fees and services		41,270.00
Supplies and materials		6,850.00
Equipment		750.00
Grants, benefits and claims		<u>40,000.00</u>
Total	\$	136,577.00

## Subdivision 5.

## STATE GEOLOGICAL SURVEY

Salaries and wages	\$	511,336.00
Fees and services		76,616.00
Supplies and materials		63,866.00
Equipment		<u>16,000.00</u>
Total	\$	667,818.00
Grand Total	\$	1,861,216.00

SECTION 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.) All Acts, and parts of Acts, that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation for any item or set of items should be held by the court or courts, to be unconstitutional or illegal or otherwise

unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items of appropriation herein or purpose provided for herein.

SECTION 5. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 30, 1971

## CHAPTER 42

SENATE BILL NO. 2005  
(Committee on Appropriations)

## JUDICIAL BUDGET

AN ACT to appropriate money for the expenses of the judicial branch of government.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION FOR THE JUDICIAL DEPARTMENT OF STATE GOVERNMENT.) There is hereby appropriated out of the general fund in the state treasury to the judicial branch of state government, not otherwise appropriated, for the purpose specified such sum as set forth in the following sections of this Bill.

SECTION 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years beginning July 1, 1971, and ending June 30, 1973, to wit:

SECTION 3. APPROPRIATION.)

Subdivision 1.

## SUPREME COURT

Salaries and wages	\$ 415,000.00
Fees and services	12,000.00
Supplies and materials	14,000.00
Equipment	<u>6,800.00</u>
Total	\$ 447,800.00

Subdivision 2.

## SUPREME COURT REPORTER AND LAW LIBRARIAN

Salaries and wages	\$ 36,602.00
Fees and services	4,000.00
Supplies and materials	30,300.00
Equipment	<u>5,100.00</u>
Total	\$ 76,002.00

## Subdivision 3.

## JUDGES OF DISTRICT COURT

Salaries and wages	\$ 782,212.00
Fees and services	50,000.00
Judges' Retirement	<u>97,104.00</u>
Total	\$ 929,316.00
Grand total	\$1,453,118.00

SECTION 4. APPROPRIATION.) There is hereby appropriated to the supreme court the sum of \$39,750.00 from federal funds available on a grant or matching basis through the law enforcement council, and the sum of \$13,250.00 out of the state general fund, or so much thereof as may be necessary, to perform research and to prepare rules for criminal procedure for final promulgation and adoption by the supreme court, and for matters relating to the research, implementation, and printing of rules to be promulgated and adopted by the supreme court, for the biennium beginning July 1, 1971, and ending June 30, 1973.

Approved March 30, 1971

CHAPTER 43

SENATE BILL NO. 2006  
(Committee on Appropriations)

LEGISLATIVE BUDGET

AN ACT to appropriate money for the expenses of the legislative branch of government, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION FOR THE LEGISLATIVE DEPARTMENT OF STATE GOVERNMENT.) There is hereby appropriated out of the general fund in the state treasury to the legislative branch of the state government, not otherwise appropriated, for the purpose specified such sums as set forth in the following sections of this Bill.

SECTION 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about several purposes herein set out, during the fiscal period of two years beginning with the effective date of this Act and ending June 30, 1973, to wit:

SECTION 3. APPROPRIATION.)

Subdivision 1.

FORTY-SECOND AND FORTY-THIRD LEGISLATIVE ASSEMBLIES AND BIENNIUM

Salaries and wages	\$	225,623.00
Fees and services		807,760.00
Supplies and materials		164,261.00
Equipment		<u>6,335.00</u>
Total	\$	1,203,979.00

Subdivision 2.

LEGISLATIVE ORGANIZATIONAL SESSION

Salaries and wages	\$	7,500.00
Fees and services		35,865.00
Supplies and materials		<u>2,000.00</u>
Total	\$	45,365.00

## Subdivision 3.

## LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Fees and services	\$ 47,000.00
Supplies and materials	<u>800.00</u>
Total	\$ 47,800.00

## Subdivision 4.

## LEGISLATIVE COUNCIL

Salaries and wages	\$ 373,738.00
Fees and services	243,610.00
Supplies and materials	9,320.00
Equipment	<u>2,000.00</u>
Total	\$ 628,668.00
Grand total	\$ 1,925,812.00

SECTION 4. TRANSFERS.) The director of accounts and purchases and the state treasurer shall make such transfers of funds between lined items of appropriation for the legislative council as may be requested by the chairman of such council upon a finding by such chairman that the nature of studies and duties assigned to the council requires such transfers in properly carrying on the council's functions and duties. The director of accounts and purchases and the state treasurer shall similarly make transfers of funds between the lined items for the forty-second and forty-third legislative assemblies upon request of the chairman of the legislative council upon a finding by him that such transfers are required for the legislative assembly to carry on its functions and duties.

SECTION 5. EMERGENCY.) This measure is hereby declared to be an emergency measure and shall be in full force and effect immediately upon its passage and approval.

Approved March 30, 1971

CHAPTER 44

SENATE BILL NO. 2007  
 (Committee on Appropriations)

DEPARTMENTS AND SUBDIVISIONS  
 OF STATE GOVERNMENT

AN ACT to appropriate money for the expenses of the executive department of state government, and for the subdivisions thereof, specifying the amount and time for which such appropriations shall be available, and repealing all Acts or parts of Acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATIONS FOR THE EXECUTIVE DEPARTMENT OF THE STATE GOVERNMENT, AND FOR SUBDIVISIONS THEREOF.) The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, to the credit of each department and subdivision hereinafter named except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following sections of this Act.

SECTION 2. THE PERIOD DURING WHICH THE APPROPRIATIONS MADE HEREIN SHALL BE AVAILABLE.) Unless otherwise specifically stated, the appropriation herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1971, and ending June 30, 1973, to wit:

SECTION 3. APPROPRIATIONS.)

Subdivision 1.

GOVERNOR ELECT EXPENSES

Lump sum appropriation	\$ <u>2,500.00</u>
Total	\$ 2,500.00

Subdivision 2.

INDUSTRIAL COMMISSION

Fees and services	\$ 8,600.00
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Supplies and materials	<u>250.00</u>
Total	\$ 8,850.00

## Subdivision 3.

## COUNCIL OF STATE GOVERNMENTS

Fees and services	\$ <u>31,280.00</u>
Total	\$ 31,280.00

## Subdivision 4.

## PRESIDENTIAL ELECTORS

Fees and services	\$ <u>400.00</u>
Total	\$ 400.00

## Subdivision 5.

## DELEGATES TO NATIONAL CONVENTION

Fees and services	\$ <u>6,000.00</u>
Total	\$ 6,000.00

## Subdivision 6.

## BOARD OF HIGHER EDUCATION - SABBATICAL LEAVE

Grants, benefits and claims	\$ <u>100,000.00</u>
Total	\$ 100,000.00

## Subdivision 7.

## BOYS AND GIRLS CLUBWORK - COUNTY FAIRS

Grants, benefits and claims	\$ <u>21,600.00</u>
Total	\$ 21,600.00

## Subdivision 8.

## RECIPROCAL AGREEMENTS

Grants, benefits and claims	\$ <u>60,000.00</u>
Total	\$ 60,000.00

## Subdivision 9.

## EDUCATIONAL BROADCASTING COMMISSION

Fees and services	\$	8,000.00
Supplies and materials		<u>2,000.00</u>
Total	\$	10,000.00

## Subdivision 10.

## ATHLETIC COMMISSION

Salaries and wages	\$	1,500.00
Fees and services		800.00
Supplies and materials		<u>100.00</u>
Total	\$	2,400.00

## Subdivision 11.

## VETERINARY MEDICAL EXAMINING BOARD

Salaries and wages	\$	1,200.00
Fees and services		1,500.00
Supplies and materials		<u>200.00</u>
Total	\$	2,900.00

## Subdivision 12.

## NORTH DAKOTA FIREMEN'S ASSOCIATION

Grants, benefits and claims	\$	<u>10,000.00</u>
Total	\$	10,000.00

## Subdivision 13.

## PARDON BOARD

Fees and services	\$	<u>500.00</u>
Total	\$	500.00

## Subdivision 14.

## FUGITIVES FROM JUSTICE ARREST AND RETURN

Fees and services	\$	7,300.00
Supplies and materials		<u>200.00</u>
Total	\$	7,500.00

## Subdivision 15.

## CIVIL AIR PATROL

Fees and services	\$	16,000.00
Supplies and materials		6,000.00
Equipment		<u>11,800.00</u>
Total	\$	33,800.00

## Subdivision 16.

## THEODORE ROOSEVELT ROUGH RIDER AWARD

Grants, benefits and claims	\$	<u>2,000.00</u>
Total	\$	2,000.00

## Subdivision 17.

## HERITAGE COMMISSION

Fees and services	\$	<u>10,000.00</u>
Total	\$	10,000.00

## Subdivision 18.

## MISCELLANEOUS REFUNDS

Grants, benefits and claims	\$	<u>30,000.00</u>
Total	\$	30,000.00

## Subdivision 19.

## EMERGENCY COMMISSION

State contingent fund	\$	<u>250,000.00</u>
Total	\$	250,000.00

## Subdivision 20.

## INTERSTATE OIL COMPACT COMMISSION

Fees and services	\$	<u>2,500.00</u>
Total	\$	2,500.00
Grand Total	\$	592,230.00

SECTION 4. INTENT, REPEAL, PURPOSE AND CONSTRUCTION.)  
 All Acts and parts of Acts that may be in conflict herewith are hereby repealed and if for any reason or cause any specific appropriation for any item or set of items should be held by the court or courts, to be unconstitutional or illegal or otherwise

unavailable for any cause, such holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

Approved March 27, 1971

## CHAPTER 45

SENATE BILL NO. 2008  
(Committee on Appropriations)

## SCHOOL FOR THE BLIND

AN ACT making an appropriation for the general maintenance, improvements and repairs, equipment, and miscellaneous items of the school for the blind at Grand Forks, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION FOR THE STATE SCHOOL FOR THE BLIND.) There is hereby appropriated out of the school for the blind operating fund in the state treasury the sum of \$392,600.00 or so much thereof as may be necessary for the operations, maintenance, repairs, improvements, and general expense of the school for the blind at Grand Forks for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$ 309,075.00
Fees and services	32,026.00
Supplies and materials	36,810.00
Equipment	<u>14,689.00</u>
Total	\$ 392,600.00
Less estimated income	<u>110,000.00</u>
General fund transfer and appropriation	\$ 282,600.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 11, 1971

## CHAPTER 46

SENATE BILL NO. 2009  
(Committee on Appropriations)

## SCHOOL FOR THE DEAF

AN ACT making an appropriation for the general maintenance, improvements and repairs, and equipment of the school for the deaf at Devils Lake, North Dakota, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION FOR THE STATE SCHOOL FOR THE DEAF.) There is hereby appropriated out of the school for the deaf operating fund in the state treasury the sum of \$1,168,171.00, or so much thereof, as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the school for the deaf at Devils Lake for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$	846,540.00
Fees and services		56,597.00
Supplies and materials		116,295.00
Equipment		66,054.00
Land, structures and major improvements:		
Electrical systems		36,000.00
New plumbing - boys dormitory		43,000.00
The above two line items of this Act are hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.		
Special assessments		<u>3,685.00</u>
Total	\$	1,168,171.00
Less estimated income		<u>299,976.00</u>
General fund transfer and appropriation	\$	868,195.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval on such items or subdivisions as are designated to be made available immediately on passage and approval.

Approved March 27, 1971

CHAPTER 47

SENATE BILL NO. 2010  
(Committee on Appropriations)

GRAFTON STATE SCHOOL

AN ACT making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous items and special projects for the Grafton state school at Grafton, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION FOR THE GRAFTON STATE SCHOOL.) There is hereby appropriated out of the Grafton state school operating fund in the state treasury the sum of \$7,085,020.00 or so much thereof as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the Grafton state school for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$ 5,405,887.00
Salaries and wages - relief help	29,807.00
Fees and services	290,320.00
Supplies and materials	1,228,456.00
Equipment	95,550.00
Emergency	25,000.00
Laid, structures and major improvements:	
Laundry improvement	<u>10,000.00</u>
Total	\$ 7,085,020.00
Less estimated income	<u>1,668,454.00</u>
General fund transfer and appropriation	\$ 5,416,566.00

SECTION 2. FARM OPERATIONS.) The director of institutions is directed to discontinue the farm operations at the Grafton state school before January 1, 1972. By such date the director of institutions shall have disposed of all surplus property from the farm operations, which property includes the dairy herd, beef cattle, hogs, and chickens, and farm equipment and other miscellaneous items. The disposal of surplus property shall be accomplished by using such property as food supplies at the institution, or by transfer to other institutional farm operations in the state, or by public sale based upon competitive bid. All proceeds from such disposal shall be deposited in the general fund of the state treasury. The Grafton state school is hereby authorized to rent to private persons farmlands owned

by the state for the benefit of the school which were not sold during the discontinuance of the farm operations.

SECTION 3. BUSINESS ADMINISTRATOR.) Included within the Grafton state school appropriation for salaries and wages is an amount of \$38,293.00 for the salary and fringe benefits necessary to employ a business administrator. No person shall be eligible for such position unless he has extensive work experience in medical or related institutional administration and is recognized as qualified for appointment by persons experienced in the field of hospital administration. Upon employment, the business administrator shall be assigned by the director of institutions to major areas of administrative responsibility within the institution.

SECTION 4. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 27, 1971

## CHAPTER 48

SENATE BILL NO. 2011  
(Committee on Appropriations)

## SAN HAVEN STATE HOSPITAL

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

## SECTION 1. APPROPRIATION FOR THE TUBERCULOSIS SANATORIUM.)

There is hereby appropriated out of the tuberculosis sanatorium operating fund in the state treasury the sum of \$3,063,120.00, or so much thereof as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the tuberculosis sanatorium at San Haven for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$2,481,820.00
Fees and services	69,000.00
Supplies and materials	483,400.00
Equipment	28,900.00
Total	<u>\$3,063,120.00</u>
Less estimated income	183,200.00
General fund transfer and appropriation	<u>\$2,879,920.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 27, 1971

## CHAPTER 49

SENATE BILL NO. 2012  
(Committee on Appropriations)

## JAMESTOWN STATE HOSPITAL

AN ACT making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous items and special projects for the state hospital at Jamestown, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

## SECTION 1. APPROPRIATION FOR THE STATE HOSPITAL.)

There is hereby appropriated out of the state hospital operating fund in the state treasury the sum of \$13,621,649.00, or so much thereof, as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the state hospital at Jamestown for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

## Subdivision 1.

## STATE HOSPITAL

Salaries and wages	\$ 8,345,066.00
Salaries and wages, July 1, 1971, payroll	200,000.00
Fees and services	559,000.00
Supplies and materials	1,867,200.00
Equipment	246,520.00
Land, structures and major improvements, including a ventilating system	98,000.00
Total	<u>\$11,315,786.00</u>
Less estimated income	4,608,700.00
General fund transfer and appropriation	<u>\$ 6,707,086.00</u>

## Subdivision 2.

## SOUTH CENTRAL MENTAL HEALTH CENTER

Salaries and wages	\$ 580,450.00
Fees and services	30,000.00
Supplies and materials	100,000.00
Total	<u>\$ 710,450.00</u>
Less estimated income	630,000.00
General fund transfer and appropriation	<u>\$ 80,450.00</u>

## Subdivision 3.

## VOCATIONAL REHABILITATION

Salaries and wages	\$ 1,595,413.00
Total	\$ 1,595,413.00
Less estimated income	1,595,413.00
General fund transfer and appropriation	\$ 0.00
Total general fund	\$ 6,787,536.00

SECTION 3. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 27, 1971

## CHAPTER 50

SENATE BILL NO. 2013  
(Committee on Appropriations)

## STATE INDUSTRIAL SCHOOL

AN ACT making an appropriation for the maintenance and operation of the state industrial school at Mandan, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION FOR THE STATE INDUSTRIAL SCHOOL.) There is hereby appropriated out of the industrial school operating fund in the state treasury the sum of \$1,549,285.00, or so much thereof as may be necessary for the operation and maintenance of the state industrial school for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$ 1,177,476.00
Fees and services	203,051.00
Supplies and materials	142,250.00
Equipment	12,508.00
Land, structures and major improvements:	
Window replacement poplar hall and rewiring devine hall	<u>14,000.00</u>
Total	\$ 1,549,285.00
Less estimated income	\$ <u>295,510.00</u>
General fund transfer and appropriation	\$ 1,253,775.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 27, 1971

CHAPTER 51

SENATE BILL NO. 2014  
 (Committee on Appropriations)

STATE PENITENTIARY

AN ACT making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous, and special projects, of the state penitentiary and state farm.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION FOR THE STATE PENITENTIARY.)

There is hereby appropriated out of the state penitentiary operating fund in the state treasury the sum of \$2,340,641.00, or so much thereof as may be necessary for the operation, maintenance, repairs, improvements, and general expense of the state penitentiary, state farm, and tag and sign plant for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$ 1,423,646.00
Fees and services	271,645.00
Supplies and materials	278,850.00
Tag and sign plant	348,500.00
Equipment	<u>18,000.00</u>
 Total	 \$ 2,340,641.00
Less estimated income	<u>642,800.00</u>
 General fund transfer and appropriation	 \$ 1,697,841.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 27, 1971

## CHAPTER 52

SENATE BILL NO. 2015  
(Committee on Appropriations)

## MILK STABILIZATION BOARD

AN ACT making an appropriation for paying the salaries and other expenses of the milk stabilization board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the milk stabilization fund in the state treasury the sum of \$175,438.00, or so much thereof as may be necessary, for expenditure during the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$ 108,818.00
Fees and services	57,970.00
Supplies and materials	2,650.00
Equipment	1,000.00
Contingent-emergency	<u>5,000.00</u>
Total	\$ 175,438.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added or that newly anticipated employees are actually in the employ of the state.

Approved March 11, 1971

## CHAPTER 53

SENATE BILL NO. 2016  
(Committee on Appropriations)

## EDUCATING DEAF-BLIND CHILDREN

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$30,000.00 for the education of children who are deaf as well as blind, at any school or institution, outside the state of North Dakota, for which there are no facilities in the state, and which is under the sole supervision of the board of administration, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Fees and services	<u>\$30,000.00</u>
Total	<u>\$30,000.00</u>

Approved March 19, 1971

CHAPTER 54

SENATE BILL NO. 2017  
(Committee on Appropriations)

FIRE AND TORNADO FUND

AN ACT making an appropriation for the purpose of operating and maintaining the state fire and tornado fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of the moneys in the state fire and tornado fund in the state treasury the sum of \$130,134.00, or so much thereof as may be necessary to maintain and operate the state fire and tornado fund of the state of North Dakota, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 69,723.00
Fees and services	32,000.00
Supplies and materials	1,750.00
Equipment	1,000.00
Data processing	8,661.00
Premium refunds	17,000.00
Total	<u>\$ 130,134.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 2, 1971

CHAPTER 55

SENATE BILL NO. 2018  
 (Committee on Appropriations)

STATE BONDING FUND

AN ACT making an appropriation for the purpose of operating and maintaining the state bonding fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of the moneys in the state bonding fund in the state treasury, the sum of \$24,991.00, or so much thereof as may be necessary to maintain and operate the state bonding fund of the state of North Dakota, for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 16,446.00
Fees and services	4,320.00
Supplies and materials	725.00
Equipment	500.00
Data Processing	<u>3,000.00</u>
Total	\$ 24,991.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 2, 1971

## CHAPTER 56

SENATE BILL NO. 2019  
(Committee on Appropriations)

## BOARD OF PUBLIC SCHOOL EDUCATION

AN ACT making an appropriation to the state board of public school education for the administration and supervision of grants for vocational agriculture, vocational home economics, office and distributive education, trade and industrial education, manpower development and training, rural area redevelopment, work study, local directors, state advisory council for vocational education, special needs program, disadvantaged persons program, handicapped persons program, cooperative education, exemplary, research and educational professional development.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of an unappropriated funds in the vocational operating fund in the state treasury the sum of \$7,114,092.00, of which \$5,285,192.00 is derived from income and collections and \$1,828,900.00 from the general fund in the state treasury, or so much thereof as is necessary for the administration and supervision of grants for vocational education for the biennium beginning July 1, 1971 and ending June 30, 1973, as follows:

Salaries and wages	\$ 712,376.00
Fees and services	241,331.00
Supplies and materials	41,560.00
Equipment	5,090.00
Grants, benefits and claims:	
Local directors	88,974.00
State advisory council for vocational education	100,000.00
Vocational agriculture	803,845.00
Distributive education	175,950.00
Home economics	378,392.00
Office education	669,643.00
Trade and technical	1,333,817.00
Manpower development and training	711,000.00
Rural area redevelopment	150,000.00
Work study	70,000.00
Special needs program	156,938.00
Disadvantaged persons	422,456.00
Handicapped persons	281,636.00
Cooperative education	560,212.00
Exemplary	80,000.00

Research	100,000.00
Educational professional development act	30,872.00
Total	<u>\$7,114,092.00</u>
Less estimated income	<u>5,285,192.00</u>
Total general fund transfer and appropriation	<u>\$1,828,900.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 19, 1971

## CHAPTER 57

SENATE BILL NO. 2020  
(Committee on Appropriations)

VOCATIONAL REHABILITATION  
DIVISION

AN ACT making an appropriation for salaries and expenses of the division of vocational rehabilitation for rehabilitating disabled persons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the vocational rehabilitation division operating fund in the state treasury, the sum of \$5,816,256.00, of which \$5,096,841.00 is derived from income and collections and \$719,415.00 from the general fund in the state treasury, or so much thereof as is necessary for defraying the expenses of vocational rehabilitation of disabled persons, for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$1,570,213.00
Fees and services	566,683.00
Supplies and materials	85,000.00
Equipment	15,000.00
Grants, benefits, and claims:	
Case services	<u>3,579,360.00</u>
Total	<u>\$5,816,256.00</u>
Less estimated income	<u>5,096,841.00</u>
Total general fund transfer and appropriation	<u>\$ 719,415.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 16, 1971

## CHAPTER 58

SENATE BILL NO. 2021  
(Committee on Appropriations)

## DIRECTOR OF SURPLUS PROPERTY

AN ACT making an appropriation to the department of public instruction for the purpose of paying salaries and other expense of the director of surplus property, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the surplus property special fund in the state treasury, not otherwise appropriated, the sum of \$247,732.00, or so much thereof as may be necessary, to the department of public instruction for the purpose of paying salaries and other expense of the director of surplus property for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 97,116.00
Fees and services	131,924.00
Supplies and materials	4,992.00
Equipment	2,700.00
Contingent - emergency	<u>11,000.00</u>
Total	\$ 247,732.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

SECTION 3.) The division of the director of surplus property is hereby directed to take such action as may be necessary to clean up the premises - straighten up the warehouses, and to sell and/or dispose of all surplus property over one year old through the use of combined packed sales, and other methods not in conflict with federal law.

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

Approved March 27, 1971

## CHAPTER 59

SENATE BILL NO. 2022  
(Committee on Appropriations)

## SUPERVISED CORRESPONDENCE STUDY

AN ACT making an appropriation for salaries and expenses of the division of supervised correspondence study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the division of supervised correspondence study operating fund in the state treasury the sum of \$764,788.00 or so much thereof as may be necessary to pay salaries and expenses of the division of supervised correspondence study for the biennium beginning July 1, 1971 and ending June 30, 1973, as follows:

Salaries and wages	\$ 438,583.00
Fees and services	177,959.00
Supplies and materials	83,246.00
Equipment	<u>65,000.00</u>
Total	\$ 764,788.00
Less estimated income	<u>360,684.00</u>
Total general fund transfer and appropriation	\$ 404,104.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 27, 1971

## CHAPTER 60

SENATE BILL NO. 2023  
(Committee on Appropriations)

## STATE EMPLOYEES' RETIREMENT SYSTEM

AN ACT making an appropriation for the operation of the North Dakota state employees' retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of the administrative expense and benefit fund of the state employees' retirement system fund, the sum of \$308,971.00 for the period beginning July 1, 1971 and ending June 30, 1973, as follows:

Salaries and wages	\$ 117,545.00
Fees and services	161,726.00
Supplies and materials	6,000.00
Equipment	3,700.00
Contingent-emergency	<u>20,000.00</u>
Total	\$ 308,971.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

SECTION 3. APPROPRIATION.) There is hereby appropriated from the general fund of the state treasury to the North Dakota state employees' retirement system \$10,000.00, or such lesser amount as may be necessary during the biennium beginning July 1, 1971, and ending June 30, 1973, to provide for administrative costs, including consultants' fees, for the portion of the cost necessary to establish the group health insurance plan for those employees to be covered under such plan who do not participate in the employees' retirement system.

Approved March 27, 1971

CHAPTER 61

SENATE BILL NO. 2024  
(Committee on Appropriations)

STATE SEED DEPARTMENT

AN ACT making an appropriation for salaries and expenses of the state seed department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated the sum of \$1,189,445.00 from the seed department fund, and the sum of \$46,700.00 out of the general fund in the state treasury, or so much thereof as may be necessary for salaries and expenses for the state seed department, as provided for in chapters 4-09, 4-10, and 4-11, North Dakota Century Code, for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$ 846,548.00
Fees and services	235,197.00
Supplies and materials	68,400.00
Equipment	11,000.00
Contingent-emergency	<u>75,000.00</u>
 Total	 \$ 1,236,145.00
Less seed department income	<u>1,189,445.00</u>
 General fund appropriation	 \$ 46,700.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 27, 1971

## CHAPTER 62

SENATE BILL NO. 2025  
(Committee on Appropriations)

## STATE TAX COMMISSIONER

AN ACT making an appropriation for paying salaries and other expenses of the state tax commissioner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,737,824.00, for the purpose of paying salaries and expenses of the state tax commissioner for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$1,848,337.00
Fees and services	280,813.00
Supplies and materials	157,445.00
Equipment	10,000.00
Data processing	431,988.00
Multi-state	9,241.00
Total	<u>\$2,737,824.00</u>

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 19, 1971

## CHAPTER 63

SENATE BILL NO. 2026  
(Committee on Appropriations)

## STATE LIBRARY COMMISSION

AN ACT making an appropriation for salaries and expenses of the state library commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the state library commission operating fund in the state treasury the sum of \$1,331,150.00, of which \$1,138,727.00 is derived from income and collections and \$192,423.00 from the general fund in the state treasury for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$ 296,905.00
Fees and services	127,118.00
Supplies and materials	138,408.00
Equipment	6,000.00
Grants, benefits and claims	762,719.00
Total	<u>\$1,331,150.00</u>
Less estimated income	<u>1,138,727.00</u>
Total general fund transfer and appropriation	\$ 192,423.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 19, 1971

## CHAPTER 64

SENATE BILL NO. 2027  
(Committee on Appropriations)

## STATE BAR ASSOCIATION

AN ACT making an appropriation to pay expenses and costs of legal research and education and supervision and improvement of the judicial system of the state of North Dakota activities of the state bar association and certain activities at the University of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state bar association fund in the state treasury not otherwise appropriated the sum of \$23,000.00, or so much thereof as may be necessary to pay salaries and expenses of the activities of the state bar association for the period beginning July 1, 1971 and ending June 30, 1972, to wit:

Salaries and wages	\$ 3,500.00
Fees and services	6,500.00
Supplies and materials	8,500.00
Grants, benefits and claims	<u>4,500.00</u>
Total	\$ 23,000.00

SECTION 2. APPROPRIATION.) There is hereby appropriated the sum of \$9,000.00 to pay costs and expenses of the North Dakota Commissioners on Uniform State Laws, a portion of the cost of publishing the North Dakota Law Review, and the cost of legal research and seminars at the University of North Dakota Law School for the period beginning July 1, 1972 and ending June 30, 1973, to wit:

Fees and services	\$ 1,800.00
Supplies and materials	5,000.00
Grants	<u>2,200.00</u>
Total	\$ 9,000.00

Approved March 27, 1971

## CHAPTER 65

SENATE BILL NO. 2028  
(Committee on Appropriations)

## UNSATISFIED JUDGMENT FUND

AN ACT making an appropriation for salaries and other expenses to the unsatisfied judgment fund for administering the provisions of Chapter 39-17 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the unsatisfied judgment fund in the state treasury the sum of \$70,000.00, or so much thereof as may be necessary for salaries and expenses in administering the provisions of Chapter 39-17 of the North Dakota Century Code, for the biennium beginning July 1, 1971 and ending June 30, 1973, as follows:

Salaries and wages	\$47,000.00
Fees and services	15,600.00
Supplies and materials	2,000.00
Equipment	100.00
Contingent-emergency	5,300.00
Total	<u>\$70,000.00</u>

Approved March 2, 1971

## CHAPTER 66

SENATE BILL NO. 2029  
(Committee on Appropriations)

## PREDATORY ANIMAL CONTROL

AN ACT making an appropriation for salaries and expenses for predatory animal control to the commissioner of agriculture.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury the sum of \$99,698.00, or so much thereof as may be necessary for salaries and expenses for predatory animal control, for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$51,214.00
Fees and services	47,024.00
Supplies and materials	<u>1,460.00</u>
Total	\$99,698.00

Approved March 27, 1971

## CHAPTER 67

SENATE BILL NO. 2030  
(Committee on Appropriations)

## OUTDOOR RECREATION AGENCY

AN ACT making an appropriation to the state outdoor recreation agency for funding the planning, acquisition and development of outdoor recreation agencies and activities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the state outdoor recreation agency fund in the state treasury, the sum of \$5,462,300.00, of which \$5,000,000.00 is derived from income and collections and \$462,300.00 from the general fund in the state treasury, or so much thereof as is necessary for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$ 84,561.00
Fees and services	58,294.00
Supplies and materials	14,600.00
Equipment	4,845.00
Grants, benefits and claims	<u>5,300,000.00</u>
Total	<u>\$5,462,300.00</u>
Less estimated income	<u>5,000,000.00</u>
Total general fund transfer and appropriation	\$ 462,300.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 19, 1971

## CHAPTER 68

SENATE BILL NO. 2031  
(Committee on Appropriations)

## DEPARTMENT OF PUBLIC INSTRUCTION

AN ACT making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the department of public instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the department of public instruction operating fund in the state treasury the sum of \$2,438,895.00, of which \$1,623,548.00 is derived from income and collections and \$815,347.00 from the general fund in the state treasury, or so much thereof as is necessary for the biennium beginning July 1, 1971 and ending June 30, 1973 to wit:

Salaries and wages	\$1,566,626.00
Fees and services	644,865.00
Supplies and materials	159,431.00
Equipment	27,973.00
Data Processing	<u>40,000.00</u>
Total	\$2,438,895.00
Less estimated income	<u>1,623,548.00</u>
Total general fund transfer and appropriation	\$ 815,347.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 27, 1971

## CHAPTER 69

SENATE BILL NO. 2033  
(Committee on Appropriations)

## CENTRAL DATA PROCESSING

AN ACT making an appropriation for the expenses of the operation of the centralized data processing system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any funds in the purchasing department operating fund the sum of \$2,339,653.00 or so much thereof as may be necessary for salaries, fees, supplies, and other expenses for the operation of the centralized data processing system for the biennium beginning July 1, 1971 and ending June 30, 1973 as follows:

Salaries and wages	\$ 1,285,523.00
Fees and services	856,380.00
Supplies and materials	144,750.00
Equipment	3,000.00
Contingent-emergency	<u>50,000.00</u>
Total	\$ 2,339,653.00

Approved March 27, 1971

## CHAPTER 70

SENATE BILL NO. 2034  
(Committee on Appropriations)

UPPER GREAT PLAINS  
TRANSPORTATION INSTITUTE

AN ACT making an appropriation for the purposes of paying the salaries and other expenses of the upper great plains transportation institute.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the upper great plains transportation institute operating fund in the state treasury the sum of \$99,220.00 of which \$69,220.00 is derived from income and collections and \$30,000.00 from the general fund in the state treasury, or such amount thereof as is necessary for the biennium beginning July 1, 1971 and ending June 30, 1973 as follows:

Salaries and wages	\$85,370.00
Fees and services	7,350.00
Supplies and materials	5,500.00
Equipment	<u>1,000.00</u>
Total	\$99,220.00
Less estimated income	<u>69,220.00</u>
Total general fund transfer and appropriation	\$30,000.00

Approved March 27, 1971

## CHAPTER 71

SENATE BILL NO. 2035  
(Committee on Appropriations)

## ADJUTANT GENERAL AND NATIONAL GUARD

AN ACT making an appropriation for the purposes of defraying the expenses of the maintenance and operation of the North Dakota national guard and the adjutant general.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the adjutant general and North Dakota national guard operating fund in the state treasury the sum of \$701,609.00, or so much thereof as may be necessary for the operation, maintenance, and expenses of the adjutant general and North Dakota national guard for the biennium beginning July 1, 1971 and ending June 30, 1973 as follows:

Salaries and wages	\$263,265.00
Fees and services	352,444.00
Supplies and materials	71,200.00
Equipment	9,700.00
North Dakota flags	3,000.00
Inauguration	2,000.00
Total	<u>\$701,609.00</u>
Less estimated income	<u>114,030.00</u>
Total general fund transfer and appropriation	\$587,579.00

SECTION 2. APPROPRIATION.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

SECTION 3. APPROPRIATION.) There is hereby reappropriated to the North Dakota national guard the sum of \$120,607.00, or such balance as may remain unexpended upon the effective date of this Act, from that appropriation previously made in Section 3 of Chapter 49 of the 1965 Session Laws of the state of North Dakota. Such balance shall be expended for the construction of armories in amounts and in the manner prescribed in Chapter 60 of the 1955 Session Laws of the state of North Dakota, Chapter 45 of the 1959 Session Laws of the state of North Dakota, and subdivision 21 of Section 3 of Chapter 46 of the 1961 Session Laws of the state of North Dakota.

Approved March 2, 1971

## CHAPTER 72

SENATE BILL NO. 2036  
(Committee on Appropriations)

## COUNCIL ON ARTS AND HUMANITIES

AN ACT making an appropriation to defray the expenses of the operation and maintenance of the North Dakota council on arts and humanities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any unappropriated funds in the operating fund of the North Dakota council on arts and humanities the sum of \$436,200.00 or so much thereof as may be necessary to defray the expenses of the operation and maintenance of the North Dakota council on arts and humanities for the biennium beginning July 1, 1971 and ending June 30, 1973, to wit:

Salaries and wages	\$ 6,000.00
Fees and services	4,000.00
Supplies and materials	200.00
Grants, benefits and claims	426,000.00
Total	<u>\$436,200.00</u>
Less estimated income	426,000.00
Total general fund transfer and appropriation	<u>\$ 10,200.00</u>

Approved March 27, 1971

## CHAPTER 73

SENATE BILL NO. 2134  
(Committee on Appropriations)

INDUSTRIAL SCHOOL -  
APPROPRIATION LIMITATION

AN ACT to repeal section 4 of chapter 45 of the 1969 Session Laws of the state of North Dakota, relating to the state industrial school; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 4 of chapter 45 of the 1969 Session Laws of North Dakota is hereby repealed.

SECTION 2.) The effect of section 1 of this Act shall be retroactive to July 1, 1970.

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

Approved March 3, 1971

## CHAPTER 74

SENATE BILL NO. 2317  
(Committee on Appropriations)

## ADMINISTRATION OF MOTOR FUEL TAX

AN ACT to transfer a portion of the motor vehicle fuel tax revenues to the general fund to cover the cost of administering the motor fuel tax laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TRANSFER.) There is hereby transferred to the general fund out of the motor vehicle fuel taxes collected pursuant to section 57-54-08 of the North Dakota Century Code, the sum of three hundred thousand dollars for the purpose of reimbursing the general fund for expenses incurred in the collection of the motor vehicle fuels and special fuels taxes and the administration of the respective tax Acts.

Approved March 11, 1971

## CHAPTER 75

SENATE BILL NO. 2319  
(Committee on Appropriations)

## TRANSFER FROM BANK OF NORTH DAKOTA

AN ACT to transfer certain moneys from the accumulated and undivided profits of the Bank of North Dakota to the general fund of this state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TRANSFER.) There is hereby transferred to the general fund of this state the sum of six million five hundred thousand dollars from the accumulated and undivided profits of the Bank of North Dakota. Such transfer is to be made during the 1971-1973 biennium upon order of the industrial commission.

Approved March 27, 1971

## CHAPTER 76

SENATE BILL NO. 2348  
(Committee on Appropriations)

COMMISSIONER OF UNIVERSITY  
AND SCHOOL LANDS

AN ACT to provide for an appropriation out of the state lands maintenance fund in the state treasury for salaries and expenses of the commissioner of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the state lands maintenance fund in the state treasury, not otherwise appropriated, the sum of \$371,930.00, or so much thereof as may be necessary, to the commissioner of university and school lands for the purpose of paying salaries and expenses for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages (Including commissioner's salary not to exceed \$24,000.00 for the biennium.)	\$ 298,747.00
Fees and services	63,983.00
Supplies and materials	6,700.00
Equipment	<u>2,500.00</u>
Total	\$ 371,930.00

SECTION 2. INTENT.) The moneys herein appropriated in accordance with budget categories for salaries and wages pertaining to workload change, different services, or added facilities shall be made available only after certification to the executive office of the budget that such changes, services, or facilities have been added, or that newly anticipated employees are actually in the employ of the state.

Approved March 27, 1971

## CHAPTER 77

HOUSE BILL NO. 1113  
(Giffey, Hilleboe, Opedahl)  
(From Legislative Audit and Fiscal Review Committee Study)

## TRANSFER FROM STATE WATER COMMISSION

AN ACT to provide for the transfer of moneys in the state water commission construction bond guarantee fund to the general fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TRANSFER OF FUNDS.) There is hereby transferred to the general fund in the state treasury from the construction bond guarantee fund under the control and management of the state water commission and presently on deposit with the Bank of North Dakota, the sum of ninety thousand dollars, or such balance as may exist in the fund on the effective date of this Act, together with all future income of the fund.

Approved March 18, 1971

## CHAPTER 78

HOUSE BILL NO. 1560  
(Streibel, Strinden, Reimers, Hoffner, Weber)  
(Delayed Bills Committee)

## TRANSFER FROM MILL AND ELEVATOR

AN ACT to transfer one million dollars from the accumulated profits of the state mill and elevator association to the North Dakota general fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TRANSFER.) There is hereby transferred to the North Dakota general fund in the state treasury the sum of one million dollars from the accumulated profits of the state mill and elevator association. The transfer shall be made during the 1971-1973 biennium upon order of the state industrial commission.

Approved March 29, 1971

## CHAPTER 79

SENATE BILL NO. 2276  
(Ringsak, Morgan)

## GRAFTON FOOD SERVICE BUILDING

AN ACT to provide an appropriation for the construction of a food service building at the Grafton state school.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000.00 or so much thereof as may be necessary, for the construction and equipment of a food service building at the Grafton state school for the biennium beginning July 1, 1971, and ending June 30, 1973.

SECTION 2. INTENT.) It is the intent of the Legislative Assembly that the sum of \$1,000,000.00, transferred from the accumulated profits of the State Mill and Elevator to the general fund, be used to finance the construction of the food service building at the Grafton state school.

SECTION 3. PLANNING AND DESIGN.) The director of institutions in the selection of an architect to plan and design the food service building shall select an architect who will, in consultation with the director of institutions, employ for assistance in designing and planning such facility a consulting firm which specializes in work related to the construction and equipping of food service facilities. The University of North Dakota is urged to make its food service personnel available to assist the director of institutions in selecting a food service consultant and for such other services as the university of North Dakota may reasonably be called upon to provide in this project.

Approved March 27, 1971

CHAPTER 80

SENATE BILL NO. 2351  
(Lips)

JUDICIAL COUNCIL

AN ACT making an appropriation for the purpose of defraying the expenses of operating and maintaining the judicial council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated the sum of \$75,000.00 from federal funds available through the Law Enforcement Council, and the sum of \$25,000.00 out of the state general fund, or so much thereof as may be necessary, to carry out the provisions of Chapter 27-15 of the North Dakota Century Code, pertaining to the duties and functions of the judicial council, for the biennium beginning July 1, 1971, and ending June 30, 1973, as follows:

Salaries and wages	\$45,000.00
Fees and services	40,000.00
Supplies and materials	10,000.00
Equipment	5,000.00
Total for biennium	<u>\$100,000.00</u>
Less estimated income	<u>75,000.00</u>
Total general fund	\$ 25,000.00

Approved March 17, 1971

## CHAPTER 81

SENATE BILL NO. 2408  
(Forkner, Berube)

## STATE TOXICOLOGIST

AN ACT making an appropriation for the use of the state toxicologist.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary, to the state toxicologist for the purpose of examining blood specimens of victims of motor vehicle accidents for the biennium beginning July 1, 1971, and ending June 30, 1973, as provided in section 1 of Chapter 359 of the 1969 Session Laws.

Approved March 27, 1971

## CHAPTER 82

SENATE BILL NO. 2500  
(Sanstead)

## EDUCATION FACT FINDING COMMISSION

AN ACT to provide an appropriation for expenses of the education fact finding commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,500.00, or so much thereof as may be necessary, to the department of public instruction for the purpose of funding the education fact finding commission to compensate members of the commission for per diem expenses, travel and subsistence, for the biennium beginning July 1, 1971, and ending June 30, 1973.

Approved March 17, 1971

# GENERAL PROVISIONS

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## CHAPTER 83

HOUSE BILL NO. 1315  
(Jenkins)

### BANK HOLIDAYS

AN ACT to create and enact section 1-03-02.1 of the North Dakota Century Code, relating to holidays which fall on Saturdays, and to amend and reenact section 1-03-04 of the North Dakota Century Code, relating to business days.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 1-03-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

1-03-02.1. WHEN HOLIDAY FALLS ON A SATURDAY - BANK HOLIDAY.) If any of the holidays enumerated in section 1-03-02 fall on a Saturday, the Friday immediately before shall be the holiday for purposes of the banks of this state.

SECTION 2. AMENDMENT.) Section 1-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-03-04. BUSINESS DAYS.) All days other than those mentioned in sections 1-03-01, 1-03-02, and 1-03-02.1 are to be deemed business days for all purposes; provided, however, that any bank may remain closed on any one business day of each week, as it may from time to time elect. Any day upon which a bank is so closed shall be, with respect to such bank, a holiday and not a business day. Any act authorized, required, or permitted to be performed at or by or with respect to such bank on such day, may be performed on the next succeeding business day, and no liability or loss of rights shall result from such delay.

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

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

Approved March 27, 1971

# AERONAUTICS

## CHAPTER 84

SENATE BILL NO. 2072  
(Doherty, Longmire, Pyle, Schultz, Unruh)  
(From Legislative Council Study)

### AIRCRAFT OPERATION

AN ACT to amend and reenact subsections 1 and 2 of section 2-03-01, and sections 2-03-04, 2-03-05, 2-03-06, 2-03-08, 2-03-09, 2-03-10, and 2-03-14 of the North Dakota Century Code, relating to the lawfulness of flight over land and water, the method of operations of aircraft, and liability for damages caused by the operation of aircraft or in accidents involving aircraft; and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 1 and 2 of section 2-03-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air. Provided, a hydroplane, while at rest on water and while being operated on or immediately above water, shall be governed by the rules regarding water navigation.
2. "Airman" means any individual who engages, as the person in command, or as pilot or member of the crew, in the operating and navigation of an aircraft while underway.

SECTION 2. AMENDMENT.) Section 2-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-03-04. LAWFULNESS OF FLIGHT.) Flight in aircraft over the lands and waters of this state is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water is put by the owner, or unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent, is unlawful except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft or the airman shall be liable, as provided in section 2-03-05.

SECTION 3. AMENDMENT.) Section 2-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-03-05. DAMAGE TO PERSONS AND PROPERTY.) The owner and the pilot, or either of them, of every aircraft which is operated over the lands or waters of this state shall be liable for injuries to persons or property on the land or water beneath caused by the ascent, descent, or flight of the aircraft, or the dropping or falling of any object therefrom, in accordance with the rules of law applicable to torts in this state, unless the injury is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property injured. If the aircraft is leased at the time of the injury to person or property, both owner and lessee shall be liable and they may be sued jointly, or either or both of them may be sued separately. An airman who is not the owner or lessee shall be liable only for the consequences of his own negligence. The injured person, or owner, or bailee of the injured property, shall have a lien on the aircraft causing the injury to the extent of the damage caused by the aircraft or objects falling from it.

As used in this section, "owner" shall include a person having full title to aircraft and operating it through servants, and shall also include a bona fide lessee or bailee of such aircraft, whether gratuitously or for hire; but "owner", as used in this section, shall not include a bona fide bailor or lessor of such aircraft, whether gratuitously or for hire, or a mortgagee, conditional seller, trustee for creditors of such aircraft or other person having a security title only, nor shall the owner of such aircraft be liable when the pilot thereof is in possession thereof as a result of theft or felonious conversion.

The person in whose name an aircraft is registered with the United States department of transportation or the aeronautics commission of this state shall be prima facie the owner of such aircraft within the meaning of this section.

SECTION 4. AMENDMENT.) Section 2-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-03-06. COLLISION OF AIRCRAFT.) The liability of the owner of one aircraft to the owner of another aircraft, or to the airmen or passengers on either aircraft, for damage caused by collision on land or in the air, shall be determined by the rules of law applicable to torts on land.

SECTION 5. AMENDMENT.) Section 2-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-03-08. JURISDICTION OVER CRIMES AND TORTS.) All crimes, torts, and other wrongs committed by or against an airman or passenger while in flight over this state shall be governed by

the laws of this state, and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort, crime, or other wrong by or against the owner of such aircraft, shall be determined by the laws of this state.

SECTION 6. AMENDMENT.) Section 2-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-03-09. JURISDICTION OVER CONTRACTS.) All contractual and other legal relations entered into by airmen or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath.

SECTION 7. AMENDMENT.) Section 2-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-03-10. RECKLESS OPERATION - OPERATION WHILE INTOXICATED - TAMPERING WITH AIRCRAFT - MISDEMEANORS - PENALTIES.)

1. Any person who shall operate any aircraft within the airspace over, above, and upon the lands and waters of this state, carelessly and heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of a misdemeanor.
2. Whoever operates, or attempts to operate, any aircraft in this state on any airport, landing field, or landing strip, or whoever operates, or attempts to operate, any aircraft in the air in this state while in an intoxicated condition or while under the influence of alcoholic beverages or any depressant, stimulant, or hallucinogenic drug, shall be guilty of a misdemeanor. No person may act or attempt to act as a crewmember of any aircraft or start an engine or attempt to start an engine of any aircraft within eight hours after the consumption of any alcoholic beverage or while using any drug that affects his faculties in any way contrary to safety. Anyone violating the provisions of this subsection shall be punishable by a fine of not less than one hundred dollars or more than five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.
3. No person shall, without express or implied authority of the owner, operate, climb upon, enter, manipulate the controls or accessories of, set in motion, remove parts or contents therefrom, or otherwise tamper with any civil aircraft within this state with intent to injure the same or cause inconvenience to the owner or operator thereof, or knowingly cause or permit the

same to be done.

Any person who violates any of the provisions of this subsection shall be guilty of a misdemeanor, and upon the conviction thereof shall be punishable by a fine of not to exceed one hundred dollars or by imprisonment for not to exceed three months. The North Dakota aeronautics commission, its members, the director, employees of the commission, any highway patrolman, any sheriff, any city police officer, any peace officer, any airport authority or any airport manager or his agents, may arrest without a warrant, day or night, any person on any airport or in any private or public building upon a public airport whoever violates any of the provisions of this section, in his presence.

SECTION 8. AMENDMENT.) Section 2-03-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-03-14. CIVIL LIABILITY FOR INJURIES TO GUEST PASSENGER.) No person transported by the owner or operator of any aircraft as a guest without payment for such transportation shall have a cause of action for damages against the owner or operator for injury, death, or loss in case of accident, unless the accident shall have been caused by the gross negligence, intoxication, or willful and wanton misconduct of the owner or operator of the aircraft, and unless the gross negligence, intoxication, or willful and wanton misconduct of the owner or operator of the aircraft contributed to the injury, death, or loss for which the action is brought. No person so transported shall have such cause of action if he has willfully or by want of ordinary care brought the injury upon himself. For purposes of this section, the word "guest" means any person other than an employee of the owner or registrant of any aircraft, or of a person responsible for its operation with the owner's or registrant's express or implied consent, being in or upon, entering or leaving the same, except any passenger for hire and except any passenger while the aircraft is being used in the business of demonstrating or testing. The sharing of expense shall not constitute a carriage for hire within the meaning of this section.

Approved March 17, 1971

## CHAPTER 85

SENATE BILL NO. 2239  
(Doherty, Thoreson, Jones)

## BONDING OF AIR TRANSPORTATION ENTITIES

AN ACT to create and enact section 2-05-15.1 of the North Dakota Century Code, relating to bonding requirements of certain air transportation entities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 2-05-15.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

2-05-15.1. BOND REQUIRED.) Before issuance or transfer of any common carrier certificate by aircraft as provided for in section 2-05-15 to any entity, the North Dakota aeronautics commission shall require such entity to post a bond issued by a licensed surety company, or in cash with the North Dakota aeronautics commission payable to the North Dakota aeronautics commission as trustee for the state treasurer, in an amount equal to the estimated annual utility taxes to be assessed upon such air transportation entity and assessed and collected pursuant to chapters 57-06, 57-07, 57-08, 57-13, and 57-32, as amended, for each calendar year that such air transportation entity holds a common carrier certificate issued or transferred to it by the state aeronautics commission, authorizing such holder to engage in the business of common carrier by aircraft operating on a definite schedule between fixed termini in North Dakota. The state aeronautics commission shall consult with the state tax commissioner and such air transportation entity to determine the estimated annual utility taxes to be assessed to each such air transportation entity and the state aeronautics commission shall set the bond amount based on reasonable estimates. The bond amount posted and required for each such air transportation entity shall be secured by the state aeronautics commission, after such utility taxes become delinquent, in an amount equal to such utility taxes and penalties and the state aeronautics commission shall pay such proceeds to the state treasurer, after the state treasurer has notified the state aeronautics commission in writing that the utility taxes on such air transportation entity are delinquent and unpaid with the amount of taxes and penalties due. In the event such air transportation entity fails to sufficiently maintain its bond at any time, the state aeronautics commission shall take action to revoke any common carrier certificate by aircraft that such air transportation entity holds, that was issued by the North Dakota aeronautics commission.

Approved March 12, 1971

# AGRICULTURE

## CHAPTER 86

HOUSE BILL NO. 1087

(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)  
(From Legislative Council Study)

### NORTHWEST DISTRICT FAIR

AN ACT to amend and reenact sections 4-02-17 and 4-02-18 of the North Dakota Century Code; and to repeal section 4-02-21 of the North Dakota Century Code, relating to the Missouri Slope agriculture and fair association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-02-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-17. DISTRICT FAIR - LOCATION.) A district fair may be held or arranged or contracted for by the northwest agricultural livestock and fair association at the city of Minot. The fair shall be subject to the conditions prescribed in this chapter. Location of the district fair shall be permanent.

SECTION 2. AMENDMENT.) Section 4-02-18 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-18. PREMISES OF DISTRICT FAIR - CUSTODY AND CONTROL.) The care, custody, management, and control of the premises upon which the district fair is located shall be vested in the northwest agricultural livestock and fair association of Minot and the general office shall be located upon the fairgrounds or at some suitable place in the city of Minot. The association shall keep its records in its office. Nothing in this section shall prevent the northwest agricultural livestock and fair association from making any necessary arrangements with the state fair association of the fairgrounds located at Minot for the conducting of a state fair by the state fair association.

SECTION 3. REPEAL.) Section 4-02-21 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 4, 1971

## CHAPTER 87

HOUSE BILL NO. 1343  
(Rundle, Rivinius, Gackle, Solberg)

STATISTICS ON  
COOPERATIVE ENTERPRISES

AN ACT to repeal section 4-06-11 of the North Dakota Century Code, relating to the agriculture commissioner's duties concerning cooperatives.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 4-06-11 of the 1969 Supplement to the North Dakota Century Code, is hereby repealed.

Approved March 27, 1971

## CHAPTER 88

SENATE BILL NO. 2110  
(Pyle)

## TRANSFER OF SEED DEPARTMENT

AN ACT to amend and reenact sections 4-09-02, 4-09-03, 4-09-07, and 4-09-20 of the North Dakota Century Code, relating to the transfer of the state seed department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-02. SEED DEPARTMENT - OFFICES AND LABORATORIES.) There shall be maintained a department of the state to be known as the "seed department of the state of North Dakota". Its headquarters, main offices, and other principal operating facilities and equipment shall be located at the North Dakota state university of agriculture and applied science. The state seed commissioner, with the approval of the commissioner of agriculture, may locate and establish branch offices and laboratories at such other locations in this state as in his judgment are necessary to carry out properly and effectively the provisions of this or other chapters in which he is charged with duties and responsibilities.

SECTION 2. AMENDMENT.) Section 4-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-03. STATE SEED COMMISSIONER - APPOINTMENT BY SPECIAL COMMITTEE - DUTIES - EMPLOYEES - SALARY.) The seed department shall be managed and operated directly by the state seed commissioner. A qualified state seed commissioner shall be appointed and his salary shall be fixed by a special committee consisting of the president of the crop improvement association, the president of the certified potato growers association, the director of extension and the president of the seed trade association, and the commissioner of agriculture, who shall serve as chairman, within legislative appropriations therefor, and he may be removed by the special committee for cause. The state seed commissioner shall designate the necessary divisions of work, duties, and operations for the department, as shall be provided by law or by regulations made in accordance with law, appoint and designate deputies to assist in handling

and directing the work and affairs of the respective divisions and in the performance of other duties assigned to him by law, determine, select, and appoint analysts, inspectors, and other necessary aides, employees, and agents, and fix their salaries within the limits of legislative appropriations. All appointees shall be directly subject to the direction and supervision of the state seed commissioner.

SECTION 3. AMENDMENT.) Section 4-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-07. OFFICIAL LABORATORIES - LOCATION - CERTIFICATES AND REPORTS - PUBLICATION.) The state seed commissioner, subject to the approval and supervision of the committee described in section 4-09-03, shall provide and maintain under his direction necessary laboratories and facilities properly equipped to make analyses, tests, and variety and disease determinations of seeds and plants, and to effect such other results and work as may be necessary to carry out the provisions of this chapter. For these purposes, he may utilize such premises, space, and equipment at the North Dakota state university of agriculture and applied science as may be assigned to him by the state board of higher education. The state seed commissioner, subject to the approval of the state board of higher education, shall permit the facilities and services of the official laboratories to be used by such university at convenient times. When a report or certificate relating to the findings and determinations made in a laboratory is issued and signed by the state seed commissioner or a duly authorized agent, it shall be accepted as prima facie evidence of the statements therein contained, but the state seed commissioner or his analysts shall be subject to court order for a review of findings as set forth by such certificates or reports. The state seed commissioner may publish reports or explanatory material concerning seed or inspections, tests, analyses, or other determinations made by him and may enlarge the same with material setting forth the value or condition of the seed stocks which are produced in this state or in which North Dakota persons are interested. He also may publish lists of registered or certified seed.

SECTION 4. AMENDMENT.) Section 4-09-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-20. FEES AND COLLECTIONS - DISPOSITION.) All moneys arising from the collection of fees and other charges under the provisions of this chapter shall be deposited by the state seed commissioner with the state treasurer and credited to the seed department revolving fund, and shall be disbursed, within the limits of legislative appropriations therefrom, upon vouchers signed by the state seed commissioner, with the approval of the commissioner of agriculture and warrant-checks prepared by the department of accounts and purchases, after approval of such expenditures by the state auditing board.

Approved March 19, 1971

## CHAPTER 89

HOUSE BILL NO. 1075  
(Jenkins, Metzger, Olienyk, Sandness, Solberg)  
(Legislative Council Study)

LABELING HERMETICALLY  
SEALED SEED CONTAINERS

AN ACT to amend and reenact sections 4-09-10, 4-09-11, and 4-09-14 of the North Dakota Century Code, relating to the labeling of hermetically sealed seed containers, and to the time limit within which such seed containers must be retested.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-09-10 of the North Dakota Century Code is hereby amended and reenacted by creating a new subsection thereto to read as follows:

That the seed container itself is a hermetically sealed container. For the purposes of this subsection, the words "hermetically sealed container" shall have the meaning ascribed to them by regulation promulgated by the state seed commissioner.

SECTION 2. AMENDMENT.) Section 4-09-11 of the North Dakota Century Code is hereby amended and reenacted by creating a new subsection thereto to read as follows:

That the seed container itself is a hermetically sealed container. For the purposes of this subsection, the words "hermetically sealed container" shall have the meaning ascribed to them by regulation promulgated by the state seed commissioner.

SECTION 3. AMENDMENT.) Section 4-09-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-09-14. PROHIBITIONS.)

1. It shall be unlawful for any person to sell, offer for sale, expose for sale, transport for sale, or hold or store with the intent to sell, any agricultural or vegetable seed within this state if:

- a. The test to determine the percentage of germination required under sections 4-09-10 and 4-09-11 shall not have been completed within a nine-month period, exclusive of the calendar month in which the test was completed, immediately prior to the sale, offering for sale, or transportation, provided that seeds contained in a hermetically sealed container, as defined by regulation issued by the seed commissioner, may be sold, transported for sale, or held for sale unless the test provided in this subdivision shall not have been completed within a thirty-six-month period, exclusive of the calendar month in which the test was completed, immediately prior to the sale, offering for sale, or transportation for sale;
- b. Such seed is not labeled in accordance with the provisions of this chapter or bears false or misleading labeling;
- c. There has been false or misleading advertising in connection with such seed;
- d. Such seed contains prohibited noxious weed seeds;
- e. Such seed is not labeled to show the rate of occurrence of restricted noxious weed seeds, as required under sections 4-09-10 and 4-09-11; or
- f. Such seed is designated, offered, represented, or advertised under any name or identification other than that by which it was known originally.

Any person, under rules and regulations to be made therefor by the commissioner, may submit to the commissioner a sample of any seed which he claims to be a new variety, distinct from any commonly known variety of such seed, together with a proposed, distinctive name therefor. The commissioner, within one year, shall make such tests as he shall consider necessary, and if he finds as a result of such tests that such seed or plant is of a new variety, distinct from any variety of such seed known theretofore and that the name proposed therefor will properly distinguish said seed from any and all other varieties thereof, he shall issue to the person applying therefor a permit to designate such seed by said name. The purchaser, vendor, or any person receiving any seed shipped into this state from without the state, shall have the same labeled in accordance with and in conformity to the requirements of this chapter. Certain standardized grades and labeling of seed in use elsewhere may be permitted by the commissioner in connection with shipments of seed into this state from

points outside thereof in lieu of the labeling provided for in this chapter.

2. Further, it shall be unlawful for any person in this state to:
  - a. Detach, alter, deface, or destroy any label provided for in this chapter or to alter or substitute seed in any manner with the intent to defeat the purpose of this chapter;
  - b. Disseminate any false or misleading advertisement concerning agriculture or vegetable seed in any manner or by any means;
  - c. Hinder or obstruct in any way any authorized person in the performance of his duties under this chapter;
  - d. Fail to comply with a "stop-sale" order;
  - e. Use on seed labels or tags, or to use or attach to literature, or to state in any manner or form of wording designed as a "disclaimer" or "non-warranty" clause with the intent to disclaim responsibility of the vendor of the seed for the data on the label required by law;
  - f. Use the words "type" or "trace" on any labeling in connection with the name and description of any agricultural and vegetable seed;
  - g. Move or otherwise handle or dispose of any lot of seed held under a "stop-sale" order, except with the written permission of the commissioner or his agent, and only for the purpose specified in such written permission; or
  - h. Use the name of the state seed department or the name of the official laboratory for advertising purposes in connection with seed analyzed or tested by the department or official laboratory, except in the case of registered or certified seed.

Approved February 20, 1971

## CHAPTER 90

HOUSE BILL NO. 1088  
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)  
(From Legislative Council Study)

## POTATO COUNCIL MEMBERSHIP

AN ACT to amend and reenact section 4-10.1-04 of the North Dakota Century Code, relating to the composition of the state potato council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-10.1-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.1-04, NORTH DAKOTA STATE POTATO COUNCIL - MEMBERSHIP - ELECTION - TERM.) There is hereby established a North Dakota state potato council. The council shall be composed of the commissioner of agriculture or his designated representative, who shall be chairman of the council, and one participating grower elected from each of the districts hereinafter established. Every elected council member shall be a citizen of the state and a bona fide resident of and participating grower in the district he represents. The term of each elected member shall be three years and shall begin on July first of the year of election, except that initially one member shall be elected for a three-year term; two members shall be elected for two-year terms; and two members shall be elected for one-year terms as designated by the commissioner. If at any time during a member's term he shall cease to possess any of the qualifications provided for in this chapter, his office shall be deemed vacant and the council shall appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner shall conduct all elections under this section in each district in such a manner as he, in his discretion, deems fair and reasonable. All such elections shall be conducted in the month of June. No elected member of the council shall be eligible to serve more than two consecutive three-year terms.

Approved February 26, 1971

## CHAPTER 91

HOUSE BILL NO. 1089  
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)  
(From Legislative Council Study)

## POULTRY IMPROVEMENT BOARD

AN ACT to amend and reenact sections 4-13-03, 4-13-04, 4-13-05, 4-13-06, 4-13-07, 4-13-10, 4-13-12, and 4-13-14 of the North Dakota Century Code, and to repeal sections 4-13-01, 4-13-02, 4-13-11, and 4-13-13 of the North Dakota Century Code, relating to the appointment, qualifications, and compensation of members of the poultry improvement board, providing for a penalty and for an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-13-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-03. NORTH DAKOTA POULTRY IMPROVEMENT BOARD -  
PURPOSE.) The North Dakota poultry improvement board shall have for its purposes the following:

1. To improve poultry breeding and to cooperate with the North Dakota livestock sanitary board in controlling and eradicating communicable diseases of poultry.
2. To act as the official state agency for North Dakota in cooperation with the bureau of animal industry, United States department of agriculture, for the purpose of furthering the objectives and supervising the state's participation in the national poultry improvement plan.
3. To act as the state agency to cooperate with the United States department of agriculture, to provide federal-state grading service for poultry and poultry products, and to require identification as to grade of poultry and poultry products offered for sale at the retail level, and to supervise the federal-state poultry grading service, and to enforce regulations at the retail level as to identification by grade of all poultry sold.
4. To promote generally the welfare and improvement of the poultry industry and the marketing of poultry and poultry products within this state through such means

and in such manner as may be deemed by the board conducive to such improvement, and to effectuate these purposes the provisions relating to the poultry improvement board shall be construed liberally.

SECTION 2. AMENDMENT.) Section 4-13-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-04. IMPROVEMENT BOARD - HOW CONSTITUTED - TERMS.) The North Dakota poultry improvement board shall consist of the commissioner of agriculture, who shall serve as chairman, the executive officer of the livestock sanitary board, and the chairman of the animal science department of North Dakota state university, all as ex officio members, and three members to be appointed by the commissioner of agriculture in the manner set forth in section 4-13-05.

SECTION 3. AMENDMENT.) Section 4-13-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-05. MEMBERS OF BOARD - QUALIFICATIONS - APPOINTMENT - TERM - VACANCIES.) Not later than July 10, 1971, the North Dakota hatchery and poultry breeders' association, the North Dakota egg producers' association, and the North Dakota turkey federation, shall each submit to the commissioner of agriculture a list of three nominees for appointment to the North Dakota poultry improvement board. Each such nominee shall be associated with either the hatchery industry, egg production or turkey production, and shall be nominated by his respective association. All of the nominees shall be qualified electors of the state of North Dakota. Not to exceed five days after the receipt of the lists of nominees, the commissioner of agriculture shall appoint from such lists, three members to the board, consisting of one member from each list. One of such members shall be appointed for a term to expire July 1, 1972, one for a term to expire July 1, 1974, and one for a term to expire July 1, 1976, and such members shall serve until such dates, respectively, and until their successors are appointed and qualified. On or before July first in each year when a term is to expire, the commissioner of agriculture shall appoint one member for a five-year term, who shall be appointed from a list of three nominees selected and submitted to him in the manner above set forth, such nominees to be named from the classification represented by the member whose term expires. Vacancies arising by reason of the death, resignation, removal, or disqualification of a member of the board shall be filled in the same manner as to nomination and appointment, and members appointed to fill vacancies shall serve for the unexpired portion of the term in which the vacancy has arisen.

SECTION 4. AMENDMENT.) Section 4-13-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-06. BOARD - CHAIRMAN - MEETINGS - QUORUM - REGULATIONS.) The board shall elect one of its members as vice chairman of the board to act in the absence of the chairman. The vice chairman shall serve for the period of time determined by the board. The board shall hold its meetings at such times and places within the state as it may determine, but there shall not be more than four regular meetings each year. The chairman of the board may call special meetings whenever in his judgment it is necessary. Special meetings shall also be called by the chairman upon the request of any two members of the board. A majority of the appointed members of the board shall constitute a quorum for the transaction of business. The board shall make all necessary rules and regulations for the conduct of its meetings and business, and for carrying out the purposes of this chapter.

SECTION 5. AMENDMENT.) Section 4-13-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-07. COMPENSATION OF BOARD MEMBERS.) The appointive members of the board shall receive ten dollars per day for the performance of their duties under this chapter, including the attendance at regular and special meetings of the board. In addition to such compensation, they shall receive travel expenses and the regular mileage rate provided by law for other state officials for each mile actually and necessarily traveled in the performance of their duties. The ex officio members of the board shall receive no compensation, but may receive travel expenses at the regular mileage rate provided by law for state officials, payable from funds appropriated by the legislative assembly for this purpose. The amounts herein specified shall be the only compensation allowable.

SECTION 6. AMENDMENT.) Section 4-13-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-10. LICENSES AND FEES.) No person shall engage in the business of poultry or turkey buyer, processor, packer, hatchery operator, baby chick jobber, or salesman, without first securing from the North Dakota poultry improvement board a license to engage therein. All such licenses shall expire on the first day of July of each year, and shall be issued or renewed only upon payment to the board of the license fees for each of said occupations in the amounts hereinafter set forth:

1. For poultry and turkey buyers, processors, and packers, the annual license fee shall be one dollar.
2. For hatcheries, the annual license fee shall be one dollar.
3. For baby chick and turkey poult jobbers and salesmen, the annual license fee shall be one dollar.

The annual license fees for the ensuing year must be paid before any license is issued. Failure to pay any license charge within ten days after the same shall become due shall constitute a violation of this chapter.

SECTION 7. AMENDMENT.) Section 4-13-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-12. POULTRY IMPROVEMENT FUND - DEPOSIT OF FEES.) All license charges collected under this chapter shall be deposited in the state treasury in the general fund.

SECTION 8. AMENDMENT. Section 4-13-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-13-14. PENALTY.) A violation of this chapter or the rules and regulations promulgated thereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than fifty dollars for each offense, and as additional or alternative penalties, the board may revoke any license issued and may restrain by injunction the continuance of any operations covered by this chapter.

SECTION 9. APPROPRIATION.) There is hereby appropriated out of any monies in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000.00, or so much thereof as may be necessary, to the poultry improvement board for salaries and administrative expenses for the biennium beginning July 1, 1971, and ending June 30, 1973.

SECTION 10. REPEAL.) Sections 4-13-11 and 4-13-13 of the North Dakota Century Code, and sections 4-13-01 and 4-13-02 of the 1969 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 29, 1971

## CHAPTER 92

SENATE BILL NO. 2205  
(Holand)

## DESIGNATION OF STATE FORESTER

AN ACT to amend and reenact section 4-19-01 of the North Dakota Century Code, relating to the state forester.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-19-01. STATE FORESTER - WHO TO BE - DUTIES.) A member of the staff of the state school of forestry designated by the board of higher education shall be state forester. He shall have general supervision of the raising and distribution of seeds and forest tree planting stock as hereinafter provided, shall promote practical forestry, compile and disseminate information relative thereto, and shall publish the results of such work by issuing and distributing bulletins, lecturing before farmers' institutes and other organizations interested in forestry, and in such other ways as most practically will reach the public.

Approved March 17, 1971

## CHAPTER 93

SENATE BILL NO. 2375  
(Morgan)

## NURSERIES AND NURSERYMEN

AN ACT to create and enact a nurseries and nursery stock chapter of the North Dakota Century Code, to repeal chapter 4-20 of the North Dakota Century Code, relating to nurseries and nursery stock, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) The following terms as used in this chapter, except where the context otherwise requires, shall include both the singular and the plural and shall be construed to mean:

1. "Commissioner" means the commissioner of the department of agriculture of this state or any designated representative to whom authority to act in his stead has been or hereafter may be delegated.
2. "Pest" means any insect, disease, or other organism of any character, causing or capable of causing injury to nursery stock. Alternate hosts of crop diseases shall be construed as being included.
3. "Infested" means actually infested or infected with a pest or so exposed to infestation that it would be reasonable to believe that an infestation exists.
4. "Nursery stock" means all plants and plant parts capable of propagation or growth, except field, vegetable, and flower seed.
5. "Certificate" means a document issued or authorized by the commissioner indicating that nursery stock is not contaminated with a pest.
6. "Nursery" means any place where nursery stock is propagated or grown for sale or distribution.
7. "Nurseryman" means any person who owns, leases, manages, or is in charge of a nursery.
8. "Dealer" means any person, not a grower of nursery stock, who obtains nursery stock for the purpose of

sale or distribution.

9. "Person" means any individual, corporation, company, society, association, government agency, or other entity.
10. "Agent" means any person who solicits orders for nursery stock under the control of a nurseryman, dealer, or other agent.
11. "Place of business" means each separate location from which nursery stock is being distributed or offered for sale.
12. "Viable nursery stock" means nursery stock that is capable of living and accomplishing the purpose for which it is grown, whether for foliage, flowers, fruit, or special use.

SECTION 2. ADMINISTRATION, RULES, AND REGULATIONS.) The commissioner shall have the responsibility for administration of the provisions of this chapter. The commissioner shall appoint a state entomologist and is authorized to assign functions provided for in this chapter to any unit of his department or designated representative and to delegate any authority provided for in this chapter, to be exercised under the commissioner's general supervision. The commissioner shall promulgate such rules and regulations as are necessary for the efficient execution of the provisions of this chapter.

SECTION 3. AUTHORITY FOR INSPECTION.) To effectuate the purposes of this chapter, the commissioner shall inspect all nurseries at least once each year and may enter and inspect any nursery or place of business, or stop and inspect, in a reasonable manner, any nursery stock in transit within the state.

SECTION 4. AUTHORITY FOR ABATEMENT - REMOVAL FROM SALE.) Whenever the commissioner finds nursery stock that is not viable, not certified, or is infested with a pest, or finds that a pest exists in any nursery or place of business, or is in transit on any nursery stock in this state, he may, upon giving notice to the owner or his agent in possession, seize, condemn, treat, remove from sale, or otherwise dispose of the pest or nursery stock at the owner's expense in a manner the commissioner deems necessary to suppress, control, eradicate, or to prevent or retard the spread of a pest.

SECTION 5. CERTIFICATION OF NURSERY STOCK.) A certificate of inspection may be issued annually by the commissioner for nursery stock that is found to be free from pests and is found to have otherwise complied with the provisions of this chapter. Certificates shall expire December thirty-first. Special or temporary certificates may be issued to persons requesting special inspection. All nursery stock purchased, offered for

sale, or distributed within the state shall be from officially inspected sources. A copy of a certificate of inspection from the state of origin shall accompany each lot or shipment of nursery stock that is sold or distributed within the state. If the shipment requires a federal inspection certificate or tag, it must also be attached. All reproductions of the certificate of inspection for shipping purposes, other than an actual copy of the original certificate, must be approved by the commissioner.

SECTION 6. NURSERY LICENSE - FEE.) No person shall be engaged as a nurseryman without a license from the commissioner. Licenses shall expire December thirty-first. Application for license and requests for inspection shall be submitted and accompanied by a fee of ten dollars on or before December thirty-first each year. A nursery may serve as a dealer under a nursery license.

SECTION 7. DEALER'S LICENSE - FEE.) No person shall be engaged as a dealer without a license from the commissioner. Licenses shall expire December thirty-first. Each person applying for a license shall certify that he will buy and distribute only certified nursery stock and shall list all sources of nursery stock on the application. License applications shall be submitted and accompanied by a fee of ten dollars on or before December thirty-first of each year. A separate license is required for each place of business.

SECTION 8. AGENT'S LICENSE - FEE.) No person shall be engaged as an agent without a license from the commissioner. Licenses shall expire December thirty-first. License applications shall be submitted and accompanied by a five-dollar fee on or before December thirty-first of each year.

SECTION 9. SUSPENSION AND REVOCATION OF LICENSES.) Any nursery, dealer's or agent's license may be temporarily suspended for thirty days upon written notice by the commissioner if the person has been notified of the violation and corrective measures have not been applied within a reasonable time. Licenses may be permanently revoked or not renewed for due cause after a hearing has been held as provided for by chapter 28-32.

SECTION 10. SPECIAL INSPECTIONS - FEES.) Persons requesting special inspection and certificates of nursery stock and plant material as to freedom from plant pests shall submit an application for inspection to the commissioner. Inspection of stock must be made before a certificate can be issued. The same rules and fee apply as for the inspection of nurseries.

SECTION 11. LABELING AND STANDARDS FOR NURSERY STOCK.) No person shall sell, offer for sale, or distribute any nursery stock not securely labeled in accordance with the international code of nomenclature for cultivated plants with the complete correct botanical or approved recognized common name. All

nursery stock offered for sale or distribution shall be in a viable condition and shall be stored and displayed under conditions that will maintain its viability. Materials used to coat the aerial parts of the plant that change the appearance of the plant surface so as to prevent adequate inspection are prohibited.

SECTION 12. MISREPRESENTATION.) It is unlawful for any person to misrepresent the name, age, origin, grade, variety, quality, or hardness of any nursery stock offered for sale or distribution, or to misrepresent by name or otherwise that he is a nurseryman or conducts a nursery business when such is not the case.

SECTION 13. RECIPROCAL AGREEMENTS.) The commissioner may enter into reciprocal agreements with officers of other states for the recognition of official licenses and inspection certificates. Nursery stock owned by persons from such states may be sold or delivered in this state without license or fee if like privileges are accorded to persons from this state. Any non-resident nurseryman or dealer, having a place of business in this state, shall obtain a license and pay the fees required as a dealer. Each nonresident nurseryman or dealer shall annually file a current copy of his official certificate of inspection or license with the commissioner.

SECTION 14. EXEMPTIONS.) The commissioner shall exempt certain nursery stock, nurseries, dealers, or persons dealing in the sale of annual vegetable and floral plants from all or part of the sections of this chapter.

SECTION 15. LATE FILING OF LICENSE APPLICATIONS - PAYMENT OF FEES.) Any person who shall file an application and fee for renewal of license subsequent to the expiration of such license shall pay an additional two-dollar fee for the first month delinquent and an additional five-dollar fee on or after February first.

SECTION 16. PENALTIES.) Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year, or both, at the discretion of the court.

SECTION 17. DEPOSIT OF FUNDS.) The commissioner shall receive and account for all moneys collected under the provisions of this chapter and shall pay the same to the state treasurer monthly.

SECTION 18. REPEAL.) Chapter 4-20 of the North Dakota Century Code is hereby repealed.

March 27, 1971

## CHAPTER 94

HOUSE BILL NO. 1215  
(H. Johnson, Backes, Bier, DeKrey)

## SOIL CONSERVATION DISTRICTS

AN ACT to amend and reenact sections 4-22-02, 4-22-03, 4-22-04, 4-22-06, 4-22-08, 4-22-09, 4-22-10, 4-22-11, 4-22-14, 4-22-16, 4-22-17, 4-22-21, 4-22-22, 4-22-23.1, subsection 6 of section 4-22-26, sections 4-22-27, 4-22-28, 4-22-29, 4-22-31, 4-22-32, 4-22-37, 4-22-42, 4-22-43, and 4-22-47 of the North Dakota Century Code; and to repeal sections 4-22-07, 4-22-18, 4-22-19, 4-22-20, and 4-22-22.1 of the North Dakota Century Code, relating to the state soil conservation committee and soil districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-02. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.
2. "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.
3. "State" means the state of North Dakota.
4. "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.
5. "District" or "soil conservation district" means a governmental subdivision of this state, and a public body, corporate and politic, organized in accordance with the provisions of this chapter for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

6. "Committee" or "state soil conservation committee" mean the state soil conservation committee established by this chapter.
7. "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this chapter.
8. "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to or shall be in possession of any agricultural, grazing, or forest lands lying within a district organized under the provisions of this chapter, whether as owner, lessee, renter, tenant, or otherwise.
9. "Petition" means a petition filed under the provisions of this chapter for the creation of a soil conservation district.
10. "Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation is available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing the notice for the adjourned dates.
11. "Qualified elector" means every person of the age of twenty-one or upwards who is a citizen of the United States and who shall have resided in the state one year and in the county ninety days and in the precinct thirty days next preceding any election.

SECTION 2.. AMENDMENT.) Section 4-22-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-03. STATE SOIL CONSERVATION COMMITTEE - MEMBERS - COMPENSATION - RECORDS AND SEAL.) The state soil conservation committee shall be maintained as an agency of this state to perform the functions conferred upon it in this chapter. The committee shall consist of seven voting members, of whom five shall be elected and two shall be appointed by the governor as provided herein:

1. Elective members:

For the purpose of electing the five elective members of the committee, the state of North Dakota is hereby divided into five areas, as follows:

- A. Area I shall include the counties of Benson, Cavalier, Eddy, Foster, Grand Forks, Nelson, Pembina, Ramsey, Towner, Walsh, and Wells.
- B. Area II shall include the counties of Barnes, Cass, Dickey, Griggs, LaMoure, Ransom, Richland, Sargent, Steele, and Traill.
- C. Area III shall include the counties of Bottineau, Burke, Divide, McHenry, Mountrail, Pierce, Renville, Rolette, and Ward.
- D. Area IV shall include the counties of Burleigh, Emmons, Kidder, Logan, McIntosh, McLean, Morton, Oliver, Sheridan, Sioux, and Stutsman.
- E. Area V shall include the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, McKenzie, Mercer, Stark, Slope, and Williams.

One member of the committee shall be elected from each of the said five areas by vote of the members of the boards of supervisors of the conservation districts in that area. Every voting member of a board of supervisors of a conservation district organized under this Act shall be eligible to vote in the election for a member of the committee in the area in which the district is located.

Elections shall be held under regulations to be issued by the committee and in cooperation with and at the time of the North Dakota association of soil conservation districts area meetings. In those cases where the territory of a district does not lie wholly within the boundaries of one of the five areas established under this section, the regulations shall provide for the assignment of such district by the committee for the purposes of such elections, to the area within which most of its population resides.

The election of members of the committee shall be conducted by the committee and need not be held on the same dates or in the same places as the general elections for state or local officers.

2. Appointive members:

Two members of the committee shall be appointed by the governor, who shall select appointees who can represent those interests within the state not already represented, or less fully represented, by one or more of the five elected members of the committee. The governor shall attempt, so far as feasible, to make possible suitable representation for all interests in the state in the membership of the committee, including the interests of, but not limited to, farmers, livestock growers, rural areas, small towns, cities, and industry and business, recognizing that any single member of the committee may sometimes appropriately be regarded as representing more than one of these interests.

The committee shall invite representatives of the state association of soil conservation districts, North Dakota cooperative extension service, the soil conservation service, North Dakota state water commission, the commissioner of agriculture, and the game and fish department to serve as advisory, nonvoting members of the committee. The term of office of every member of the committee shall be two years and until his successor is elected or appointed. The governor shall have the power to extend the terms of one or more members of the committee in office upon the effective date of this Act, in order to provide for overlapping terms for the members of the committee. A member of the committee shall be eligible for re-election and reappointment, but no member may serve for more than two full, successive terms. Vacancies in either elective or appointive terms may be filled for the unexpired term by appointment by the governor. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this Act.

SECTION 3. AMENDMENT.) Section 4-22-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-04. COMMITTEE - DESIGNATION OF CHAIRMAN - QUORUM - PROVISION FOR SURETY BONDS AND ANNUAL AUDIT.) The committee shall meet annually and select its chairman, who shall serve for one year from the date of his selection. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within its duties shall be required for its determination. The members of the committee shall receive twenty-five dollars per day as compensation for their services on the committee, and shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee, in the same manner and at the same rate as prescribed by law for state employees and officials. The committee shall provide for the execution of surety bonds, which may be issued by the state bonding fund, for all employees who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all

resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

SECTION 4. AMENDMENT.) Section 4-22-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-06. DUTIES AND POWERS GENERALLY.) In addition to the duties and powers hereinafter conferred upon the state soil conservation committee, it shall have the following duties and powers:

1. To offer such assistance as may be appropriate to the supervisors of soil conservation districts in the carrying out of any of their powers and programs.
2. To keep the supervisors of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between such districts and cooperation between them.
3. To coordinate the programs of the several conservation districts so far as this may be done by advice and consultation.
4. To secure the cooperation and assistance of state, federal, regional, interstate, and local, public, and private agencies with conservation districts; and to facilitate arrangements under which conservation districts may assist or serve county governing bodies and other agencies in the administration of any activity concerned with the conservation of natural resources.
5. To disseminate information throughout the state concerning the activities and programs of the soil conservation districts, and to encourage the formation of such districts in areas where their organization is desirable.
6. To review district programs, to coordinate the programs of the several districts, and to coordinate programs and activities as they relate to other special purpose districts.
7. To review agreements, or forms of agreements, proposed to be entered into by districts with other districts or with state, federal, interstate, or other public or private organizations, and advise the districts concerning such agreements or forms of agreement.

8. To recommend the inclusion in annual and longer term budgets of funds necessary from the legislature to finance the activities of the committee and districts; and to distribute such moneys appropriated by the legislative assembly according to applicable state laws or regulations.
9. To compile information and make studies, summaries, and other analyses of district programs in relation to each other and to other resource conservation programs on a statewide basis.
10. To represent the state in matters affecting soil conservation.
11. To require annual reports from conservation districts, the form and content of which shall be developed by the committee on consultation with district supervisors.
12. To establish uniform accounting methods which shall be used by soil conservation districts, and to establish a uniform auditing reporting system.
13. Pursuant to procedures developed mutually by the committee and other state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of natural resources, to receive from such agencies for review and comment suitable descriptions of their plans, programs, and activities for purposes of coordination with district conservation programs; to arrange for and participate in conferences necessary to avoid conflict among such plans and programs; to call attention to omissions; and to avoid duplication of effort.

SECTION 5. AMENDMENT.) Section 4-22-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-08. DISTRICTS - PETITION - CONTENTS - MORE THAN ONE PETITION FILED.) Any twenty-five qualified electors living within the limits of the territory proposed to be organized into a district may file a petition with the state soil conservation committee asking that a soil conservation district be organized in the territory described in the petition. Such petition shall set forth:

1. The proposed name of the district.
2. The need for a soil conservation district to function in the territory described in the petition.
3. A description of the territory proposed to be organized as a district.

4. A request that the state soil conservation committee duly define the boundaries for such district, that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory, and that the committee determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the state soil conservation committee may consolidate all or any of such petitions.

SECTION 6. AMENDMENT.) Section 4-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-09. HEARINGS ON PETITIONS - WHEN HELD - NOTICE - DETERMINATIONS.) Within thirty days after a petition has been filed with the state soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity for the creation of such district, the appropriate boundaries to be assigned thereto, the propriety of the petition and the other proceedings taken under this chapter, and upon all other questions relevant thereto. All qualified electors living within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties shall have the right to attend and be heard at such hearing. If it shall appear at the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of hearing has been given, the hearing shall be adjourned and notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing shall be held. If the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the public interest, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define the boundaries of such district by metes and bounds or by legal subdivisions. In making such determination and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration, the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this chapter, and such other physical, geographic, and economic factors as are relevant, having due regard to the legislative policy set forth in section 4-22-01. If the committee shall determine after such hearing and due consideration of the relevant facts that there is no need for a

soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six months shall have expired from the date of the denial of any such petition, a subsequent petition covering the same or substantially the same territory may be filed and a new hearing held and new determinations made thereon.

SECTION 7. AMENDMENT.) Section 4-22-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-10. REFERENDUM - WHEN HELD - CONTENTS OF BALLOT - WHO MAY VOTE.) After the committee has determined the necessity for the organization of a district and has defined the boundaries thereof, it shall hold a referendum within the proposed district upon the proposition of the creation thereof and shall cause due notice of such referendum to be given. The question shall be submitted by ballot in substantially the following form:

Shall a soil conservation district be created embracing lands situated in the counties of \_\_\_\_\_ and \_\_\_\_\_ and described as follows: (Here inserting description).

Yes

No

All qualified electors living within the boundaries of the proposed district shall be entitled to vote in such referendum.

SECTION 8. AMENDMENT.) Section 4-22-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-11. PUBLICATION OF REFERENDUM RESULTS - DETERMINATION OF PRACTICABILITY OF OPERATION OF DISTRICT.) The committee shall publish the results of any referendum. If a majority of the votes cast in the referendum are in favor of the creation of a district, the committee shall consider and determine whether the operation of a district within the boundaries specified on the referendum is administratively practicable and feasible. In making such determination, the committee shall consider such factors, objects, and other determinations as to accomplish the policy and scope of this chapter as set forth in section 4-22-01.

SECTION 9. AMENDMENT.) Section 4-22-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-14. PETITION TO INCLUDE ADDITIONAL TERRITORY WITHIN EXISTING DISTRICT.) Petitions to include additional territory within an existing district may be filed with the committee at any time, and the proceedings provided in connection with a

petition to organize a district shall be observed in the case of a petition for such inclusion. Provided, however, that a portion of a district may upon petition of a majority of the qualified electors in such portion, and without an election, be annexed to an adjoining district, and become a part of same upon filing such petition with the state soil conservation committee.

SECTION 10. AMENDMENT.) Section 4-22-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-16. NOTICE TO FILE NOMINATING PETITIONS AND OF ELECTION OF DISTRICT SUPERVISORS.) As soon as practicable after the issuance by the secretary of state of the certificate of organization of a soil conservation district, and before the next general election, the committee shall give notice that nominating petitions may be filed with the county auditor, and that at the next general election held in such district three supervisors shall be elected, who shall be land occupiers of the district and who shall constitute the governing body of the district.

SECTION 11. AMENDMENT.) Section 4-22-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-17. NOMINATING PETITIONS - PETITIONS REQUIRED - FINAL FILING DATE.) Any person running for the office of supervisor shall present to the county auditor of the county or counties in which his district lies a petition giving his name, post-office address, title of the office, and containing the signatures of not less than twenty-five nor more than three hundred qualified electors of the district. No person shall participate directly or indirectly in the nomination for more than one person for each office to be filled. The final filing date for nominating petitions shall be no later than thirty-five days before the day of the election and not later than four o'clock p.m. of such day.

Upon receipt of the petition the county auditor shall without fee place the name of the candidate so nominated on the no-party ballot at the ensuing general election.

SECTION 12. AMENDMENT.) Section 4-22-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-21. REGULAR ELECTION OF DISTRICT - WHEN HELD - REGULATIONS GOVERNING.) The regular election of soil conservation districts shall be held at the same time, and at the same place, as the general election is held. Any land occupier living in the district desiring to be a candidate for the office of supervisor at a district election and who has failed to file a nominating petition may furnish stickers to be attached to the ballot; and the ballot shall have blank spaces below the names

of candidates nominated by petition for writing in other names.

SECTION 13. AMENDMENT.) Section 4-22-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-22. SUPERVISORS - TERMS OF OFFICE - VACANCIES - REMOVAL - EXPENSES.) At the general election to be held in 1972, three district supervisors shall be elected. The candidate receiving the largest number of votes shall be elected for a six-year term; the candidate receiving the second highest number of votes shall be elected for a four-year term; and the candidate receiving the third highest number of votes shall be elected for a two-year term. At each succeeding general election, one supervisor shall be elected for a term of six years, or until his successor is duly elected and qualified, to each expiring or vacant term. In newly formed districts, three supervisors shall be elected at the first general election following the district's organization. The candidate receiving the largest number of votes shall be elected for a six-year term; the candidate receiving the second highest number of votes shall be elected for a four-year term; and the candidate receiving the third highest number of votes shall be elected for a two-year term. At each succeeding general election, one supervisor shall be elected for a term of six years, or until his successor is duly elected and qualified, to each expiring or vacant term.

In order to be eligible for election to the office of supervisor, candidates must be land occupiers of the district. Candidates shall be elected on a nonpartisan ballot. In case the office of any supervisor shall, for any reason, become vacant, the remaining members of the board of supervisors shall, with the advice and consent of the state committee, fill the vacancy by appointment. In the event that vacancies shall occur in the office of two supervisors, the remaining supervisor and the state committee shall fill the vacancy; and in case the offices of all supervisors of a district shall become vacant, the state committee shall fill the vacancies by appointment. A supervisor appointed to fill a vacancy shall hold office until the next general election. A supervisor elected to fill a vacancy shall serve the balance of the unexpired term in which the vacancy occurred.

Any soil conservation district, upon resolution of the three elected supervisors, may appoint two additional supervisors who shall serve for a term of one year from and after the date of their appointment. Such supervisors shall be appointed by a majority of the three elected supervisors and shall have all the powers, voting privileges, duties, and responsibilities of elected supervisors, except that the expense allowances of the appointed supervisors shall be paid by the local soil conservation district concerned. As far as possible, the appointed supervisors shall represent interests within the district which are not represented by the elected supervisors.

Any supervisor of a soil conservation district may after notice given and hearing held in accordance with the Administrative Practices Act of this state, be removed from office by the state committee.

The supervisors of soil conservation districts shall receive no compensation for their services other than travel and subsistence expenses necessarily incurred in attending district, state, or other meetings approved by the state soil conservation committee, which expenses shall be paid from appropriations available to the state committee. All other expenses including travel incurred by district supervisors while transacting district business and not specifically authorized by the state soil conservation committee shall be paid from district funds.

SECTION 14. AMENDMENT.) Section 4-22-23.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-23.1. ASSISTANCE FOR DISTRICT SUPERVISORS.) In those counties of North Dakota wherein all or a substantial part of the county has been created and is operating as a soil conservation district under the provisions of chapter 4-22 of this Code, as amended, the board of county commissioners may from time to time, in their discretion, and upon the request of the supervisors of such soil conservation district, assign an employee or employees of the county to assist the supervisors in the performance of their duties authorized by this chapter. When soil conservation district boundaries shall embrace more than one county, the county commissioners of each county may provide, in their discretion, assistance for the supervisors. The duties of the employee or employees shall be under the direct supervision of the supervisors of the soil conservation district.

SECTION 15. AMENDMENT.) Subsection 6 of section 4-22-26 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. To make available, on such terms as it shall prescribe, to land occupiers, government units or qualified electors within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment as will assist such land occupiers, government units or qualified electors to carry on operations upon their lands for the conservation of soil and water resources and for the prevention and control of soil erosion;

SECTION 16. AMENDMENT.) Section 4-22-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-27. SUPERVISORS MAY FORMULATE LAND-USE REGULATIONS

FOR SUBMISSION TO QUALIFIED ELECTORS.) The supervisors of any district may formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion, and may conduct public meetings and hearings upon tentative regulations as may be necessary to assist them in this work. The proposed regulations shall be embodied in a proposed ordinance for submission to the qualified electors in the district, and copies of the proposed ordinance shall be available for inspection by the eligible voters in the district during the period of time between the publication of the notice of referendum upon the ordinance and the date of the referendum.

SECTION 17. AMENDMENT.) Section 4-22-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-28. NOTICE OF REFERENDUM - FORM OF BALLOT ON REFERENDUM - CONDUCT OF ELECTION - WHO MAY VOTE.) The notice of referendum on a proposed ordinance shall be given in the same manner as is provided in section 4-22-16 relating to notice of election of supervisors, and shall recite the contents of the proposed ordinance or shall state where copies thereof may be examined. The question of adoption or rejection of the proposed ordinance shall be submitted by ballot at an election to be held in the district. The ballot shall be in substantially the following form:

Shall proposed ordinance number \_\_\_\_\_, prescribing land-use regulations for conservation of soil and prevention of erosion be adopted?

Yes

No

The supervisors shall supervise the referendum, prepare appropriate regulations governing the conduct thereof, and publish the result of the election. The right to vote in the referendum shall be limited to qualified electors living within the district. No informalities in the conduct of the referendum or in any matters relating thereto shall invalidate the referendum or the result thereof if the notice of referendum shall have been given substantially as provided in this section and the referendum shall have been conducted fairly.

SECTION 18. AMENDMENT.) Section 4-22-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-29. MAJORITY REQUIRED TO ADOPT ORDINANCE - EFFECT OF ORDINANCE AFTER ADOPTION.) No ordinance shall be effective unless it is approved by at least three-fourths of the voters voting in the referendum. If a proposed ordinance is approved,

the supervisors shall enact it into law. Land-use regulations prescribed in any ordinance adopted by the supervisors pursuant to this section shall have the force and effect of law in the district and shall be binding and obligatory upon all qualified electors living within the district.

SECTION 19. AMENDMENT.) Section 4-22-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-31. REGULATIONS TO BE UNIFORM - COPIES FURNISHED IN DISTRICT.) Land-use regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this chapter shall be printed and made available to all qualified electors living within the district.

SECTION 20. AMENDMENT.) Section 4-22-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-32. AMENDING, SUPPLEMENTING, OR REPEALING LAND-USE REGULATIONS.) Any qualified elector living within a district at any time may file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this chapter be amended, supplemented, or repealed. Land-use regulations prescribed in any such ordinance shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this chapter for the adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more than once in any six-month period.

SECTION 21. AMENDMENT.) Section 4-22-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-37. PETITION TO BOARD OF ADJUSTMENT TO VARY LAND-USE REGULATIONS - SERVICE - HEARING - BOARD'S POWERS.) Any qualified elector living within the district may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardships in the way of his strictly complying with the land-use regulations prescribed by any ordinance, and praying the board to authorize a variance from the terms of such land-use regulations in the application thereof to the lands occupied by the petitioner. Copies of such petition shall be served upon the chairman of the supervisors of the

district within which his lands are located and upon the chairman of the committee. The board shall fix a time for the hearing of the petition and shall cause due notice of such hearing to be given. The petitioner may appear in person, by agent, or by attorney at the hearing and the supervisors and the committee may appear and be heard. If the board shall determine on the facts presented at the hearing that there are great practical difficulties or unnecessary hardships in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardships. Upon such findings and determination, the board may enter an order authorizing a variance from the terms of the land-use regulations in their application to the lands of the petitioner consistent with the spirit of the land-use regulations, and with substantial justice and the public health, safety, and welfare.

SECTION 22. AMENDMENT.) Section 4-22-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-42. DISCONTINUANCE OF DISTRICTS - PETITION - REFERENDUM - ELIGIBLE VOTERS.) After the expiration of five years from the date upon which a district has been organized, twenty-five percent of the qualified electors living within the boundaries thereof may file a petition with the state soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee shall then conduct public meetings and hearings upon such petition in order to determine whether or not there is sufficient basis for a referendum to be held. If the committee determines that there is sufficient basis for a referendum, it shall give due notice of the holding of a referendum and shall issue appropriate regulations governing the conduct thereof within sixty days after it has made its determination. The question to be voted on at the referendum shall be submitted by ballot in substantially the following form:

Should the (insert name of district) \_\_\_\_\_  
be terminated?

Yes

No

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

SECTION 23. AMENDMENT.) Section 4-22-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-43. DUTIES OF COMMITTEE AFTER REFERENDUM ON DISCONTINUANCE OF THE DISTRICT HAS BEEN HELD.) The committee shall publish the result of any referendum on the question of discontinuance of a district immediately after the vote has been had. If a majority of the votes cast in the referendum favored the discontinuance of the district, the committee shall make its certificate that it has determined that the continued operation of the district is not administratively practicable and feasible. If a majority of the votes cast in the referendum favored the continuance of the district, the committee shall consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of the district is administratively practicable and feasible, it shall record such determination and deny the petition for discontinuance, and if it shall determine that the continued operation thereof is not administratively practicable and feasible, it shall record such determination and certify its determination to the supervisors of the district. In making its determination, the committee shall give due weight and regard to the number and attitudes of the qualified electors living within the district, the number voting in the referendum, the proportion which the votes cast in favor of the discontinuance of the district are of the total number of votes cast, the probable expense of carrying on erosion control operations within the district, and such other economic and social factors as may be relevant to such determination having regard to the legislative policy as set forth in section 4-22-01.

SECTION 24. AMENDMENT.) Section 4-22-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-47. CONSOLIDATION OF DISTRICTS - PETITION -REFERENDUM - CONDUCT OF REFERENDUM.) Two or more soil conservation districts may be consolidated into one district by compliance with the provisions of this chapter. A petition or petitions for consolidation of soil conservation districts shall be filed with the secretary of the state soil conservation committee and shall be signed by at least twenty-five qualified electors living in each district. Upon the filing of such petition or petitions, the state committee shall by resolution fix a date for a referendum to be held in each such district and shall direct the board of supervisors thereof to cause notice of such referendum to be posted in at least five conspicuous places within the district and to be published once each week for two consecutive weeks prior to the referendum in a newspaper of general circulation therein. Only qualified electors living within the district shall be eligible to vote at the referendum. Such notice shall state the date of the referendum, the polling place or places for holding such referendum, the time when the polls will open and close,

and the question to be submitted to the qualified electors. Such notice shall be substantially in the following form:

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ a referendum will be held at \_\_\_\_\_ (Designate polling place or places) for the purpose of submitting to the qualified electors within \_\_\_\_\_ soil conservation district the question as to whether \_\_\_\_\_ (Name of district) \_\_\_\_\_ (Names of districts) soil conservation districts embracing the following townships \_\_\_\_\_ (Designate townships, by number and range) shall be consolidated into one soil conservation district.

The ballot will be in the following form:

Shall \_\_\_\_\_ soil conservation districts (Names of districts) embracing the following townships \_\_\_\_\_ (Designate townships, by number and range) be consolidated into one soil conservation district?

Yes \_\_\_\_\_

No \_\_\_\_\_

The board of election for each polling place shall be appointed by the board of supervisors of the district and shall consist of one inspector, one judge, and one clerk. Members of such election board shall receive the sum of five dollars for their services.

SECTION 25. REPEAL.) Sections 4-22-07, 4-22-18, 4-22-19, 4-22-20, and 4-22-22.1 of the North Dakota Century Code are hereby repealed.

Approved March 4, 1971

## CHAPTER 95

HOUSE BILL NO. 1531  
(Giffey, Rivinius, Livingston, Herman, Dotzenrod)

## WHEAT TAX

AN ACT to amend and reenact subsection 3 of section 4-28-02, sections 4-28-07 and 4-28-08 of the North Dakota Century Code, relating to the definition of a first purchaser, time of assessment of state wheat tax and duties and functions of the state wheat commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 4-28-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. First purchaser means any person, firm, corporation, association, partnership, agent or broker buying, accepting for sale or otherwise acquiring, after harvest, the property in or to wheat from the grower and shall include a mortgagee, pledgee, lienor, or other claimant having a claim against the producer, where the actual or constructive possession of wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

SECTION 2. AMENDMENT.) Section 4-28-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-28-07. WHEAT TAX LEVY.) There is hereby levied and imposed, effective July 1, 1959, a tax of two mills per bushel by weight upon all wheat grown in this state and sold through commercial channels by a producer to a first purchaser, such tax to be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or in the case of a lien, pledge, or mortgage, deducted from the proceeds of the loan or claim secured, subject to adjustment at the time of settlement in the event the number of bushels are not accurately determined at the time of the lien, pledge, or mortgage. At the time of sale, the purchaser shall issue and deliver to the producer a record of the transaction in such manner as the commission may prescribe.

Any producer subject to the deduction provided in this chapter may, within sixty days following such deduction or final settlement, make application by personal letter to the wheat commission for a refund application blank. Upon the return of said blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer shall be refunded the net amount of the deduction collected. If no request for refund shall have been made within the period prescribed above, then the producer shall be presumed to have agreed to such deduction. However, a producer, for any reason, having paid the tax more than once on the same wheat, upon furnishing proof of this to the commission, shall be entitled to a refund of the overpayment.

The commission, to inform the producer, shall develop and disseminate information and instructions relating to the purpose of the wheat tax and manner in which refunds may be claimed, and to this extent shall cooperate with governmental agencies, state and federal, and private businesses engaged in the purchase of wheat.

SECTION 3. AMENDMENT.) Section 4-28-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-28-08. STATE WHEAT COMMISSION FUND - APPROPRIATION.) Each first purchaser shall make quarterly reports and returns to the commission, on such forms as shall be prescribed by the commission, on or before the twentieth day of the month next succeeding each calendar quarterly period, commencing with the calendar quarter ending September 30, 1959, and with each such report and return shall remit to the commission, in the form of a remittance payable to the state treasurer, the tax due. The commission shall transmit all such payments to the state treasurer to be deposited in the state treasury to the credit of a fund to be known as the "state wheat commission fund". The provisions of section 54-27-10 of this code shall not apply to appropriations to or for the wheat commission, nor shall any part of such fund and appropriations revert at the expiration of any biennium. Expenditures from such fund or appropriation, may be made upon vouchers duly approved by the commission to carry out the provisions of this chapter.

Approved March 27, 1971

## CHAPTER 96

HOUSE BILL NO. 1337  
(Reimers)

## FLAX TAX

AN ACT to create and enact sections 4-28.1-04 and 4-28.1-05 of the North Dakota Century Code, relating to administration of the flax utilization research fund by the business and industrial development commission; to amend and reenact subsection 2 of section 4-28.1-02 of the North Dakota Century Code relating to the definition of "first purchaser"; to amend and reenact section 4-28.1-01, relating to flax tax levy and refunds, and to provide for an appropriation, and penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-28.1-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-28.1-01. FLAX TAX LEVY.) There is hereby levied and imposed a tax of one-quarter cent per bushel by weight upon all flaxseed produced in this state and sold, for whatever purpose, through commercial channels to a first purchaser. The administration and manner in which the tax is collected and paid, as well as the procedure for making application for refunds and the requirements for the making of refunds shall be governed by the provisions of section 4-28-07 of the North Dakota Century Code, as amended, and shall apply as if same were fully recited herein, except that the business and industrial development commission shall make refunds from the flax utilization research fund.

SECTION 2. AMENDMENT.) Subsection 2 of section 4-28.1-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "First purchaser" means any person, firm, corporation, association, partnership, agent or broker buying, accepting for sale or otherwise acquiring, after harvest, the property in or to flaxseed from the producer, and shall include a mortgagee, pledgee, lienor, or other claimant having a claim against the producer, where the loan or claim is secured by such flax, or where the flax is taken as part payment or in satisfaction of a mortgage,

pledge, lien or claim.

SECTION 3.) Section 4-28.1-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-28.1-04. BUSINESS AND INDUSTRIAL DEVELOPMENT COMMISSION TO ADMINISTER FUND - APPOINTMENT OF ADVISORY COMMITTEE.) The business and industrial development commission shall appoint an advisory committee of three flaxseed producers to serve for such periods of time as the commission may direct and to advise the commission concerning research into and promotion of the utilization of and prospective markets for flax and flax products and the expenditure of flax utilization research funds. The business and industrial development commission shall administer and expend the fund to promote the utilization of and the development of prospective markets for flax and flax products. It shall compensate the state wheat commission from such fund for expenses incurred for collecting and remitting the flax tax levy to the state treasurer and for processing, verifying and certifying refund applications to the business and industrial development commission for payment. Members of the flax producers advisory committee shall be reimbursed from the fund for expenses incurred in attending meetings and otherwise performing official duties to further the purposes of this section at the same rates and in the same manner as other state officials.

SECTION 4.) Section 4-28.1-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-28.1-05. PENALTY.) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

SECTION 5. APPROPRIATION.) There is hereby appropriated out of the flax utilization research fund, or such portion of that amount as may be available in the fund, the sum of fifty thousand dollars, or so much thereof as may be necessary, to the business and industrial development commission for the purpose of research and promotion of the utilization of and the development of prospective markets for flax and flax products and for purposes provided in section 4-28.1-04 of this code for the biennium beginning July 1, 1971, and ending June 30, 1973. The provisions of section 54-27-10 of this code shall not apply to such appropriation nor shall any part of the flax utilization research fund and appropriation revert at the expiration of any biennium. Expenditures from such fund may be made by the business and industrial development commission in carrying out the provisions of this chapter upon vouchers duly approved by the commission.

Approved March 29, 1971

## CHAPTER 97

HOUSE BILL NO. 1041

(K. Johnson, J. Peterson, Reimers, Solberg, Tweten)  
(From Legislative Council Study)

## MILK AND CREAM TESTER'S LICENSE

AN ACT to amend and reenact section 4-30-12 of the North Dakota Century Code, relating to the increase in the license fee for all milk and cream testers licensed by the department of agriculture, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-30-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-12. LICENSE NEEDED TO SAMPLE, GRADE, OR TEST - EXAMINATION - TERM - FEE.) No person shall sample, grade, or test milk, or milk products, for the purpose of determining the value or grade thereof without obtaining a license from the dairy department. In case of illness or necessary absence, a licensee may appoint a substitute for a period not to exceed six days in one calendar year, unless specific approval for a longer period is obtained from the dairy commissioner. The licensee shall be responsible for the acts of his substitute. An applicant for license shall file an application with the dairy department stating the type of sampling, grading, or testing he wishes to be licensed for. Before a license is issued, the applicant must pass a written examination prepared and given by the dairy department, he shall show that he is conversant with the requirements of this chapter which pertain to such sampling, grading, or testing, and must prove by actual demonstration that he is competent and qualified to perform each type of sampling, grading, and testing listed on his application. The dairy commissioner shall then issue a license which shall state the types of sampling, grading, or testing which the applicant has proven to be able to perform. Additions may be added to the application form and license, without charge, after the license has been issued, upon the request of the licensee and after he has satisfactorily passed the required examinations for each such addition. All examinations should be given by the dairy department within fifteen days after receiving the application. A licensee need not take any examinations when renewing his license unless his ability at performing such sampling, grading, or testing is questioned by the dairy commissioner or his assistants. Licenses issued

under this section shall expire on December thirtieth of each year, shall be posted conspicuously in the licensee's place of operation, and shall not be transferable. The fee for the annual license shall be five dollars, and a one-dollar penalty fee shall be applied after the thirty-first day of January if renewals are not paid prior to that date.

Approved March 4, 1971

## CHAPTER 98

SENATE BILL NO. 2234  
(Morgan, Nasset)

## BUTTERFAT TEST FEE

AN ACT to amend and reenact section 4-30-47 of the 1969 Supplement to the North Dakota Century Code, relating to official butterfat tests, other tests and the fees therefor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 4-30-47 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-47. DISPUTE OVER TEST - OFFICIAL TEST MADE - BY WHOM - OTHER TESTS - FEES.) If a disagreement between a seller and a buyer or the legal representatives of both or either arises over the percentage of butterfat contained in any quantity of milk or cream sold or offered for sale at the request of the owner and in his presence, a sample of such milk or cream obtained as provided in sections 4-30-19 and 4-30-20 and mutually agreed upon by the interested parties as being a representative sample, shall be sealed satisfactorily and mailed by the buyer to the office of the dairy commissioner. There shall accompany each sample a statement giving the name and address of the seller and the buyer of the milk or cream in question, the net weight thereof, the percentage and amount of butterfat contained therein, the price per pound for butterfat, and the amount of money paid or offered in payment for the same and bearing the signature of the seller and the buyer. The commissioner or his agent shall determine the percentage of butterfat contained in the sample and shall make a report of the result in triplicate, the original to be filed in his office, one copy to be sent to the seller, and one to the buyer of the milk or cream. The percentage of butterfat so determined and reported shall constitute the "official butterfat test" and shall be the basis on which final settlement shall be made. The fee for the making of the official butterfat test and any other tests required shall be in such amount as set by regulation of the dairy commissioner, considering the actual costs of making the test, and such fee shall be mailed to the dairy commissioner at the time of forwarding the sample for such official butterfat or other test.

Approved March 29, 1971

# ALCOHOLIC BEVERAGES

## CHAPTER 99

SENATE BILL NO. 2242  
(Anderson, Lips, Sanstead, Goldberg, Coughlin)

### PROHIBITING PRESENCE OF MINORS - EXCEPTION

AN ACT to amend and reenact sections 5-01-08 and 5-02-06 of the North Dakota Century Code, relating to the employment of persons under twenty-one years of age in restaurants where alcoholic beverages are sold.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 5-01-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-08. PERSONS LESS THAN TWENTY-ONE YEARS PROHIBITED - EXCEPTIONS.) Any person under twenty-one years of age purchasing, attempting to purchase, or being in possession of alcoholic beverages, or furnishing money to any person for such purchase, or entering any licensed premises where such beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian, or in accordance with section 5-02-06, is guilty of a misdemeanor.

SECTION 2. AMENDMENT.) Section 5-02-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 5-02-06. PERSONS UNDER TWENTY-ONE YEARS PROHIBITED - PENALTY - EXCEPTIONS.) Any licensee who disposes alcoholic beverages to a person under twenty-one years of age or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed is guilty of a misdemeanor. Any person under twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian, or if employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an adult, and not engaged in the sale, disposition, delivery, or consumption of alcoholic beverages.

\*NOTE: Section 5-02-06 was also amended by section 4 of 1971 S.L., chapter 100.

Approved March 11, 1971

## CHAPTER 100

HOUSE BILL NO. 1290  
(Hentges, Backes, Olienyk)

## MINORS MISREPRESENTING AGE

AN ACT to create and enact sections 5-01-08.1 and 5-01-08.2 of the North Dakota Century Code, and to amend and reenact sections 5-01-09 and 5-02-06 of the North Dakota Century Code, relating to misrepresentation of age in procuring alcoholic beverages.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 5-01-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

5-01-08.1. MISREPRESENTATION OF AGE - PENALTY - OBLIGATIONS OF LICENSEE.) Any person who shall misrepresent or misstate his age or the age of any other person, or shall misrepresent his age through presentation of any document purporting to show such person to be of legal age to purchase alcoholic beverages shall be guilty of a misdemeanor. Every licensee shall be required to keep a book which such licensee and his employees shall require anyone who has shown documentary proof of his age, which substantiates his age to allow the purchase of alcoholic beverages, to sign such book if the age of such person is in question. Such book shall show the date of the purchase, the identification used in making the purchase and the appropriate numbers of such identification, the address of the purchaser, and his signature.

SECTION 2.) Section 5-01-08.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

5-01-08.2. PRESUMPTION OF LICENSEE'S INNOCENCE WHEN CERTAIN FACTS ESTABLISHED.) The establishment of the following facts by a person making a sale of alcoholic beverages to a person not of legal age shall constitute prima facie evidence of innocence and a defense to any prosecution therefor:

1. That the purchaser falsely represented in writing, and supported with other documentary proof, that he was of legal age to purchase alcoholic beverages.
2. That the appearance of such purchaser was such that an ordinary and prudent person would believe him to be of legal age to purchase alcoholic beverages.

3. That the sale was made in good faith and in reliance upon the written representation and appearance of the purchaser in the belief that the purchaser was of legal age to purchase alcoholic beverages.

SECTION 3. AMENDMENT.) Section 5-01-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-09. DELIVERY TO CERTAIN PERSONS UNLAWFUL.) Any person delivering alcoholic beverages to a person under twenty-one years of age, an habitual drunkard, an incompetent, or an intoxicated person is guilty of a misdemeanor, subject to the provisions of sections 5-01-08, 5-01-08.1, and 5-01-08.2.

SECTION 4. AMENDMENT.) Section 5-02-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 5-02-06. PERSONS UNDER TWENTY-ONE YEARS PROHIBITED - PENALTY - EXCEPTION.) Any licensee who disposes alcoholic beverages to a person under twenty-one years of age or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed is guilty of a misdemeanor, subject to the provisions of sections 5-01-08, 5-01-08.1, and 5-01-08.2. Any person under twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian.

\*NOTE: Section 5-02-06 was also amended by section 2 of 1971 S.L., chapter 99.

Approved March 12, 1971

## CHAPTER 101

HOUSE BILL NO. 1158  
(Gackle, Dotzenrod, L. Larson)

SALES OF CERTAIN ITEMS  
ON LICENSED PREMISES

AN ACT to amend and reenact section 5-02-07 of the North Dakota Century Code, relating to the sale of items other than alcoholic beverages on licensed premises.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 5-02-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-07. SALE OF OTHER ITEMS RESTRICTED - PENALTY.) Any licensee selling any item on the licensed premises other than alcoholic beverages, soft drinks, tobacco products, drink mixing supplies, prepackaged preserved sandwiches or pizzas approved by the state laboratories department, which shall be delivered to the purchaser with the packaging intact, dry-packaged preserved snacks, and preserved pickled products served to the purchaser from the original container, is guilty of a misdemeanor, except a licensee may sell alcoholic beverages in a restaurant separated from the room in which alcoholic beverages are opened or mixed if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, and except that anyone who operates a restaurant in conjunction with his license under this chapter, may serve food in the licensed premises. A local governing body, by ordinance or resolution, may restrict the sale of any of the items set forth in this section, or may determine the hours during which such items may be sold.

Approved March 18, 1971

# BANKS AND BANKING

## CHAPTER 102

SENATE BILL NO. 2038

(Goldberg, L. Larson, Lowe, Melland, Wenstrom, Wilhite)  
(From Legislative Council Study)

### BANK AND CREDIT UNION EXAMINATION FEES

AN ACT to amend and reenact sections 6-01-17 and 6-06-08 of the North Dakota Century Code, relating to fees for examination of banks and credit unions by the department of banking and financial institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-01-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-17. FEES FOR EXAMINATION OF BANKS.) Every state banking association, banking institution, and trust company placed under the jurisdiction and control of the state examiner and his deputy examiners by the provisions of this title, prior to receiving its certificate of authority to commence business, if a new corporation or association, and in all cases within ten days after each examination, shall pay into the state treasury the following fee: two-hundredths of one percent of gross amount of the assets of said corporation or association on the day of the examination, exclusive of expenses, interest, and taxes paid, and inclusive of any valuation allowance or allowances deducted by a state banking association from any asset account. Such fee shall not be less than five hundred dollars and not more than forty-five hundred dollars. The state treasurer shall report such payments of fees to the state banking board, and if any such corporation or institution shall be delinquent more than twenty days in making such payment, the board may make an order suspending the functions of such delinquent corporation or institution until payment of the amount due, plus a penalty of five dollars a day additional for the delay.

SECTION 2. AMENDMENT.) Section 6-06-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-08. STATE CREDIT UNION BOARD TO SUPERVISE CREDIT UNIONS - REPORTS - EXAMINATIONS - FEES.) Credit unions and the permanent loan funds thereof, if any, shall be under the supervision of the state credit union board. The credit unions

shall report to the state examiner at least once annually, upon call of the state examiner, on blanks supplied by the examiner for that purpose. Additional reports may be required by the board or examiner. Credit unions shall be examined at least once each year by the examiner or with his approval and the approval of the state credit union board, credit unions may be examined annually by a certified public accountant or the North Dakota credit union league. If the examination is not made by the state examiner, the expense of such examination shall be borne by the credit union examined and such examination shall be in such form and contain such information as the state examiner may require. Two copies of such examination shall be filed with the state examiner and shall be approved by him. If it is determined through an examination or otherwise that the credit union is violating the provisions of this chapter, or is insolvent, the state credit union board may serve notice on the credit union of its intention to revoke the charter. If such violations continue for a period of fifteen days after such notice, the board may revoke the charter and take possession of the business and property of such credit union, and shall maintain possession then until such time as it shall permit the reinstatement of the charter and the continuation of business by the credit union, or until its affairs finally are liquidated. The board may take similar action if any required report remains in arrears for more than fifteen days. The credit union shall pay to the state examiner for examination a fee equal to fifty dollars per examiner day, except that the minimum fee for the examination of a credit union shall be one hundred dollars.

Approved March 11, 1971

## CHAPTER 103

SENATE BILL NO. 2257  
(Jacobson)

BANK REAL ESTATE  
LOANS - LIMITATIONS

AN ACT to amend and reenact section 6-03-05 of the North Dakota Century Code, relating to loans on real estate.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-03-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-05. LOANS ON REAL ESTATE - REGULATION - LIMITATION - AMORTIZED LOANS PROVIDED FOR.) No association shall own or carry among its assets at any one time loans dependent primarily upon real estate security in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of sixty-six and two-thirds per cent of the amount of its time and savings deposits, whichever is the greater, and then only first mortgages constituting first liens upon such real estate. Before any such loan is made the board of directors shall appoint a committee which shall make actual inspection of the security offered and shall appraise both the land and the improvements thereon, if any, and shall report to the board of directors, in writing, the results of the appraisal together with any other facts relating to such proposed loan and proposed security as will best enable the board to determine if the loan shall be granted. Such written report shall be made a permanent record in the bank's files and shall be made available to the state examiner. No director shall act as an appraiser of his own property nor of property offered as security for loans the proceeds of which are to be used for his benefit. No unamortized loan secured by realty may be made for a period exceeding five years in an amount exceeding fifty per cent of the appraised value of the real estate offered as security.

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

Approved March 11, 1971

## CHAPTER 104

SENATE BILL NO. 2406  
(Wenstrom, Hernet)

CONVERTING NATIONAL BANK  
TO STATE BANK

AN ACT to create and enact section 6-03-13.5 of the North Dakota Century Code, relating to a national bank conversion to state bank.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 6-03-13.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-03-13.5. NATIONAL BANK CONVERSION TO STATE BANK.)  
A national bank located in this state which follows the procedure prescribed by federal law to convert into a state bank, shall be granted a state charter if it meets the provisions of the North Dakota Century Code for the incorporation and chartering of a new state bank. Any requirement that shares must be paid in cash may be satisfied by the exchange of shares of the converted state bank for those of the converting national bank, which may be valued at no more than their fair cash market value. The procedure for incorporation of a state bank may be modified to the extent made necessary by the difference between an ordinary incorporation and a conversion.

Approved March 17, 1971

## CHAPTER 105

SENATE BILL NO. 2256  
(Stroup)

## TRANSFER OF BANK STOCK

AN ACT to amend and reenact section 6-03-28 of the North Dakota Century Code, relating to value and transfer of shares and shareholder's obligation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-03-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-28. SHARES - VALUE AND TRANSFER - SHAREHOLDER'S OBLIGATION.) The capital stock of each association shall be divided into shares of not less than ten dollars each, and shall be deemed personal property and transferable on the books of the association in such manner as may be prescribed by its bylaws or articles of incorporation. A transfer of shares shall not be valid except between the parties thereto until the transfer is entered upon the books of the association, and shall not be valid against the association or any creditor thereof while the registered holder of the shares is indebted to the bank as principal debtor, surety, guarantor, or otherwise. No dividend, interest, or profit shall be paid on any stock as long as any past due liability of the shareholder continues, but such dividend, interest, or profit shall be retained by the association and applied to the discharge of the past due liability. Every person or corporation becoming a shareholder by any transfer, shall succeed, in proportion to the shares acquired by him, to all rights and liabilities of prior holders of the shares existing by reason of ownership thereof, and no change shall be made in the articles of incorporation or bylaws of the association by which the rights, remedies, or security of its existing creditors shall be impaired.

Approved March 11, 1971

## CHAPTER 106

SENATE BILL NO. 2368  
(Kautzmann)

## BANK LOANS OF EXCESS RESERVES

AN ACT to create and enact section 6-03-37.1 of the North Dakota Century Code, relating to loans by banks of their excess reserves.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 6-03-37.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-03-37.1. BANK LOANS OF EXCESS RESERVES.) Obligations representing loans from one business day to the next to any state chartered bank or national banking association of excess reserve balances from time to time maintained under the provisions of section 6-03-37, as amended, shall not be deemed loans or additions to any loans for the purposes of section 6-03-59.

Approved March 18, 1971

## CHAPTER 107

HOUSE BILL NO. 1191  
(Atkinson)

INVESTMENT IN  
GOVERNMENTAL OBLIGATIONS

AN ACT to amend and reenact section 6-03-47 of the North Dakota Century Code, relating to the investment in loans and obligations secured by federal or state government.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-03-47 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-47. INVESTMENT IN LOANS AND OBLIGATIONS SECURED BY FEDERAL OR STATE GOVERNMENT.) Banks, trust companies, the Bank of North Dakota, building and loan associations, insurance companies, and other organizations in this state whose mortgage lending is regulated by law, or that are duly qualified Federal Housing Administration mortgagees, are authorized to make, buy, or sell any loan, advances of credit, and obligations representing loans and advances of credit that are insured or guaranteed, or where there is a commitment to insure or guarantee, in part or in full, or conditionally, by the United States, its instrumentalities, this state, or its instrumentalities:

Approved February 26, 1971

## CHAPTER 108

HOUSE BILL NO. 1525  
(Halcrow)

## POWERS OF TRUST COMPANIES

AN ACT to amend and reenact sections 6-05-08, 6-05-14 and 6-05-34 of the North Dakota Century Code, relating to trust companies and banking institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-08. CORPORATE POWERS.) Such corporation, when qualified as provided by section 6-05-04, shall have the power and authority:

1. To acquire, lease, purchase, own, hold, use, improve, mortgage, sell, and convey such real estate and personal property as may be necessary for the convenient transaction of its business. It may acquire real estate by foreclosure or upon compromise or settlement of prior mortgages held by it either as absolute owner or as trustee, and may dispose of the same. No part of the capital, deposits, trust funds, or property owned or held by such corporation, in trust or otherwise, shall be invested in real estate except as herein authorized, unless the investment is made under and by virtue of a particular contract, or instrument, or order, judgment, or decree of court, which shall confer a special power or authority so to do, and then only with, or to the extent of, the moneys or funds thereby provided and belonging to such particular trust. Such corporation is authorized to loan money and to purchase notes, bonds, mortgages, and other evidences of indebtedness, and other securities, subject to the limitations imposed upon banking associations as to investments, and to convert the same into cash and other securities;
2. To act as trustee under will, agreement, court order, or otherwise, and to act as fiscal agent and transfer agent;
3. To take, accept, and hold on deposit for savings

account or for safekeeping, or in escrow, or for investment, any and all moneys, bonds, stocks, and other securities, or personal property whatsoever. When any savings deposit shall have been received from a minor, the repayment of the same to such minor or his order shall be a complete discharge of such corporation from any further liability therefor. Whenever any officer or person, public or private, or any fiduciary, shall be authorized to pay into or deposit in any court any moneys, securities, or personal property whatsoever, the same instead of being deposited with or paid into court may be paid into or deposited with any corporation organized and acting under this chapter which may be designated for that purpose by the court having jurisdiction of the subject matter, or by the person owning or controlling such property. Whenever any fiduciary shall deposit any moneys, securities, or any personal property whatsoever, belonging to his trust, with any corporation qualified and acting under this chapter and shall take a receipt of such corporation therefor, he and his sureties thereafter shall be relieved from all liability therefor until the same again shall be delivered to him by such corporation;

4. To act as assignee, receiver, administrator, executor, or guardian;
5. To provide by its bylaws and regulations for the payment of interest or dividends, for the investment of moneys, and conditions for repaying or withdrawing the same. It shall have authority to borrow money upon the security of its own property or credit;
6. To act as agent and attorney in fact in all respects as a natural person could do;
7. To make, compile, and certify abstracts of title of real estate upon the conditions prescribed by the laws of this state relating to abstracters, to insure the validity and genuineness of titles to real property;
8. To insure and guaranty the fidelity and faithful performance of the duties and obligations of any public officer, person, company, or corporation, or of depositaries of public or other funds, and when the conditions of such bond or undertaking are guaranteed by a corporation organized under the provisions of this chapter, to which the certificate provided for in section 6-05-05 shall have been issued and shall be unrevoked, the corporation shall be accepted as surety without further qualification. Nothing contained in this section shall apply to bonds given in criminal actions.

SECTION 2. AMENDMENT.) Section 6-05-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-14. COMPENSATION - LIEN.) For the faithful performance of any trust, duty, obligation, or service imposed or conferred upon or accepted by any corporation under the provisions of this chapter, it shall be entitled to receive a reasonable compensation, or such compensation as may have been fixed by the contract or agreement of the parties, as well as any and all advances necessarily paid out and expended in the discharge and performance thereof, and to charge legal interest, as permitted by law, upon such advances unless otherwise agreed upon. The company shall have a lien upon all moneys, securities, and all property of every description which may come into its possession while in the performance of such trust, for the payment of all sums due or to become due to it for services, expenses, and advances, and the costs and expenses of enforcing such payment.

SECTION 3. AMENDMENT.) Section 6-05-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-34. OTHER CODE PROVISIONS APPLICABLE TO CORPORATIONS DOING BUSINESS UNDER THIS CHAPTER.) The provisions of title 10 of this Code, as it may be amended from time to time, governing profit corporations, and sections 6-03-11, 6-03-12, 6-03-27, 6-03-33, 6-03-34, 6-03-35, 6-03-41, 6-03-42, 6-03-51, 6-03-52, 6-03-53, 6-03-54, 6-03-55, 6-03-56, 6-03-57, 6-03-58, 6-03-61, 6-03-62, 6-03-63, 6-03-64, 6-03-65, 6-03-66, 6-03-68, 6-03-70, 6-03-72, 6-07-01, 6-07-02, 6-07-21, 6-07-23, 6-07-24, 6-07-25, 6-07-26, 6-07-27, 6-07-28, 6-07-29, 6-08-03, 6-08-06, 6-08-07, 6-08-09, 6-08-12, 6-08-13, 6-08-14, 6-08-20 shall be applicable to and shall be observed by all corporations organized under this chapter, except as to provisions thereof inconsistent with the provisions of this chapter.

Approved March 29, 1971

## CHAPTER 109

HOUSE BILL NO. 1208  
(Bunker)

LIMITATION ON BANK OF NORTH DAKOTA  
REAL ESTATE LOANS

AN ACT to amend and reenact section 6-09-15 of the North Dakota Century Code, relating to loans made by the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-09-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-15. BANK MAY MAKE LOANS - REAL ESTATE LOANS LIMITED.) The Bank of North Dakota may make loans to other instrumentalities of the state, and such loans shall be repaid with interest to the Bank. It may make loans to and purchase securities issued by political subdivisions of the state, or to state or national banks, and may participate with state or national banks, savings and loan associations, and credit unions, in loans being made by them, on such terms and under such rules and regulations as the industrial commission may determine. It may buy and sell federal funds, or excess reserves, bankers acceptances, participation loans, and all securities issued by the United States government or its instrumentalities. It may invest its funds in bonds, notes, or debentures of any corporation duly incorporated under the laws of any state of the United States rated at "A" or higher by a nationally recognized rating service approved by the industrial commission, provided that such investments shall not be made to exceed for any one corporation, ten percent of the combined capital, and surplus of the Bank. It may make loans, to holders of Bank of North Dakota certificates of deposit and savings accounts, up to ninety percent of the value of the certificate and savings accounts offered as security. It shall not otherwise make loans or give its credit to any individual, association or private corporation, except that it may make loans to actual farmers who are residents of this state, if such loans are secured by duly recorded first mortgages on real estate in the state of North Dakota in amounts not to exceed one-half the value of the security and except United States insured and guaranteed loans as specifically authorized by law. The Bank, however, shall not loan more than thirty percent of its capital, nor in addition thereto, more than twenty percent of its deposits on real estate security.

Approved March 27, 1971

## CHAPTER 110

HOUSE BILL NO. 1207  
(Bunker)

INVESTMENT IN FEDERAL  
AGENCY STOCK

AN ACT to provide a method for the Bank of North Dakota to invest in certain government agency stocks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 6-09-15.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-09-15.2. BANK MAY INVEST IN CERTAIN GOVERNMENT AGENCY STOCKS--LIMIT.) The Bank of North Dakota may invest in stock of United States Government agencies, but such investments shall not exceed two percent of the Bank's combined capital and surplus.

Approved March 15, 1971

## CHAPTER 111

HOUSE BILL NO. 1114

(Giffey, Hilleboe, Opedahl)

(From Legislative Audit and Fiscal Review Committee Study)

## AUDITING OF BANK OF NORTH DAKOTA

AN ACT to amend and reenact section 6-09-29 of the North Dakota Century Code, relating to the responsibility of the department of banking and financial institutions for auditing the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-09-29 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-29. DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS TO MAKE EXAMINATIONS AND REPORTS.) The department of banking and financial institutions through the state examiner shall be responsible for annually auditing the Bank of North Dakota in accordance with generally accepted auditing standards, which shall include inspection and verification of the assets in its possession and under its control with sufficient thoroughness to ascertain with reasonable certainty whether the valuations are carried correctly on its books. The department of banking and financial institutions shall investigate the Bank's methods of operation and accounting and shall report the results of each such examination, audit, and investigation to the industrial commission as soon as practicable, and shall furnish one copy to the legislative assembly. Fees for such examinations shall be charged by the department of banking and financial institutions for the examinations in this section provided at the rate of forty dollars per day for the time used by the state examiner or other person designated by him in supervising, filing, and corresponding in connection with such report and for the time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examinations herein provided for.

Approved March 12, 1971

## CHAPTER 112

HOUSE BILL NO. 1063  
(Austin, Bunker, Halcrow, Henning, Hentges)  
(From Legislative Council Study)

INDUSTRIAL BUILDING  
MORTGAGE PROGRAM

AN ACT to create an industrial building mortgage program under the supervision of the Bank of North Dakota, providing for the administration of such program and for the transfer of certain moneys from the accumulated and undivided profits of the Bank of North Dakota to the mortgage insurance fund, and making an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. INDUSTRIAL BUILDING MORTGAGE PROGRAM - ADMINISTRATION.) The Bank of North Dakota shall administer an industrial building mortgage program as provided in this Act.

SECTION 2. PURPOSE.) It is declared that a statewide need exists for industrial buildings and for expansions to existing industrial buildings. It is also declared that it is in the interest of the public welfare and purpose to promote the expansion and diversification of industry, to increase employment, and to provide a larger taxable base for the economy of the state of North Dakota. Therefore, the industrial building mortgage program is created to encourage the making of mortgage loans for the purpose of furthering industrial expansion in the state, and thus improve the welfare of the public for the foregoing reasons and, by the stimulation of a larger flow of private investment funds from banks, building and loan associations, credit unions, savings and loan associations, insurance companies, and other financial institutions, including pension, retirement, and profit-sharing funds, meet the needs of industrial plant expansion.

SECTION 3. DEFINITIONS.) As used in this Act, the following words and terms shall have the following meanings unless the context shall indicate another meaning or intent:

1. "Bank" shall mean the Bank of North Dakota.
2. "Cost of project" shall mean the cost or fair market value of construction, lands, property rights, easements, financing charges, interest, engineering and legal services, plans, specifi-

cations, surveys, cost estimates, studies, and other expenses as may be necessary or incident to the development, construction, financing, and placing in operation of an industrial project.

3. "Federal agency" shall mean and include the United States of America, the president of the United States of America, and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States of America.
4. "Industrial project" shall mean any building, whether or not the authority has already insured mortgage payments under a mortgage on any such building in accordance with this Act, or other real estate improvement in North Dakota, and, if a part thereof, the land upon which such building or other real estate improvement may be located, provided that such building or other real estate improvement is to be used:
  - a. By any industry for the manufacturing, processing, or assembling of raw materials or manufactured products; or
  - b. For the providing of research or warehousing facilities for the benefit of any such industry,and provided further, that the Bank has determined that such building or other real estate improvement will tend to provide gainful employment for the people of North Dakota, increase the tax base of the economy, and diversify and expand industry so that periods of large-scale unemployment and distressed times may be avoided.
5. "Maturity date" shall mean the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.
6. "Mortgage" shall mean a first mortgage or security agreement on an industrial project together with the credit instruments thereby secured and creating and constituting a first lien of record; provided, however, a "first mortgage" shall include a second or subsequent mortgage or security agreement on an industrial project if:
  - a. The holder of such second or subsequent mortgage or security agreement is also the holder of a prior mortgage or security agreement on such

industrial project under which prior mortgage or security agreement the Bank is already insuring mortgage payments.

- b. No other person or legal entity holds an intervening mortgage, security interest, or lien on such industrial project prior to such second or subsequent mortgage or security interest.
7. "Mortgagee" shall mean the original lender approved by the Bank under a mortgage, and its successors and assigns, and may include all insurance companies, trust companies, banks, building and loan associations, credit unions, savings and loan associations, investment companies, savings banks, individuals, executors, administrators, guardians, conservators, trustees, and other fiduciaries, including pension, retirement, and profit-sharing funds.
8. "Mortgagor" shall mean an individual or corporation which obtains a loan under the provisions of this Act and which pledges property as security for such loan as provided in this Act.
9. "Mortgage payments" shall mean periodic payments by the mortgagor to the mortgagee required by the mortgage, and may include interest, installments of principal, taxes and assessments, land lease rentals, mortgage insurance premiums, and hazard insurance premiums, or any of them as the Bank may prescribe.

SECTION 4. POWERS.) In carrying out the provisions of this Act, the Bank is authorized and empowered:

1. To insure the payment of mortgage loans secured by industrial buildings, consistent with the terms and limitations expressed in this Act.
2. To accept from a federal agency, loans or grants for use in carrying out its purposes, and to enter into agreements with such agency respecting any such loans or grants.
3. In connection with the insuring of payments of any mortgage, to request for its guidance a finding of the planning board of the municipality, or if there is no planning board, a finding of the municipal officers of the municipality in which the industrial project is proposed to be located, or of the regional planning board of which such municipality is a member, as to the expediency and advisability of such project.

4. To enter into agreements with prospective mortgagees and mortgagors for the purpose of planning designing, constructing, acquiring, altering, and financing industrial projects.
5. To acquire, purchase, manage and operate, and hold and dispose of, real and personal property, to take assignments of rentals and leases, and make and enter into all contracts, leases, agreements, and arrangements necessary or incidental to the performance of its duties.
6. When in the opinion of the Bank it is necessary or advisable, in order to further the purposes of this Act, or to safeguard the mortgage insurance fund, to purchase, acquire, take assignments of notes, mortgages, and other forms of security and evidences of indebtedness, to purchase, acquire, attach, seize, accept, or take title to any industrial project by conveyance or, when an insured mortgage thereon is clearly in default, by foreclosure, and to sell, lease, or rent an industrial project for a use specified in subsection 4 of section 3 of this Act, or for any other use.

SECTION 5. DEFAULT BY MORTGAGORS.) When a mortgagor does not meet mortgage payments insured by the Bank by reason of its industrial project, the Bank, for the purpose of maintaining income from industrial projects on which mortgage loans have been insured by the Bank and for the purpose of safeguarding the mortgage insurance fund, may grant the mortgagor permission to lease or rent the property to a tenant for a use other than that specified in subsection 4 of section 3 of this Act, such lease or rental to be temporary in nature and subject to such conditions as the Bank may prescribe.

SECTION 6. MORTGAGE INSURANCE FUND.)

1. There is hereby created an industrial building mortgage insurance fund, hereinafter in this Act referred to as the "fund" which shall be used by the Bank as a nonlapsing, revolving fund for carrying out the provisions of this Act. To this fund shall be charged any and all expenses of the Bank for this purpose, including mortgage payments required by loan defaults, and to the fund shall be credited all mortgage insurance premiums and proceeds from the sale, disposal, lease, or rental of real or personal property which the Bank may receive under the provisions of this Act.
2. Moneys in the fund not currently needed to meet the expenses and obligations incurred in carrying out the provisions of this Act may be invested by

the Bank as provided by law.

SECTION 7. INSURANCE OF MORTGAGES.) The Bank, as the administrator of the fund created in this Act, is authorized, upon application of the proposed mortgagee, to insure mortgage payments required by a mortgage on any industrial project, upon such terms and conditions as the Bank may prescribe, and subject to the limitations of this Act, provided the aggregate amount of the unpaid principal balance of all obligations of all mortgages so insured outstanding at any one time shall not exceed five million dollars. To be eligible for insurance under the provisions of this Act a mortgage shall:

1. Be one which is made to and held by a mortgagee approved by the Bank.
2. Involve a principal obligation, including initial service charges and appraisal, inspection, and other fees approved by the Bank, not to exceed ninety percent of the cost of any project.
3. Have a maturity date satisfactory to the Bank, but in no case later than twenty-five years from the date of the mortgage for any project.
4. Contain complete amortization provisions satisfactory to the Bank requiring periodic payments, costs of local property taxes and assessments, land lease rentals, if any, and hazard insurance on the property and such mortgage insurance premiums as are required under section 8 of this Act, all as the Bank shall from time to time prescribe or approve.
5. Be in such form and contain such terms and provisions, with respect to property, insurance, repairs, alterations, payment of taxes and assessments, restrictions as to location of machinery and equipment, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters as the Bank may prescribe.

SECTION 8. MORTGAGE INSURANCE PREMIUMS.) The Bank is authorized to fix mortgage insurance premiums for the insurance of mortgage payments under the provisions of this Act, such premiums to be computed as a percentage, which shall not exceed three percent per annum, of the principal obligation of the mortgage in such manner in each case as the Bank shall determine on the basis of all pertinent available data. Such premiums shall be payable by the mortgagors or the mortgagees in such manner as shall be prescribed by the Bank. The amount of premium need not be uniform among the various loans insured.

SECTION 9. EXPENSES.) The Bank, subject to the approval of the industrial commission, may expend out of the fund such moneys as may be necessary for any expenses of the Bank in carrying out the provisions of this Act, including administrative, legal, actuarial, and other services.

SECTION 10. MORTGAGES ELIGIBLE FOR INVESTMENT.) Mortgages insured by the Bank under this Act and participations therein are hereby made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, building and loan associations, credit unions, savings and loan associations, executors, administrators, guardians, conservators, trustees and other fiduciaries, pension, profit-sharing, and retirement funds.

\*SECTION 11. MORTGAGE INSURANCE FUND BOARD.) The advisory board of the Bank of North Dakota shall constitute the mortgage insurance fund board. The mortgage insurance fund board shall approve all loans made pursuant to the provisions of this Act.

SECTION 12. LIMITATION - CREDIT OF BANK AND STATE NOT PLEDGED.) Nothing in this Act shall be construed to authorize or permit the Bank or any officer thereof to create any indebtedness of the Bank or of the state of North Dakota, or to incur any obligation of any kind or nature, except such as shall be payable solely from the fund created in this Act and the revenues appropriated and accumulated therein.

SECTION 13. TRANSFER OF FUNDS FROM PROFITS OF THE BANK OF NORTH DAKOTA - APPROPRIATION.) There is hereby transferred to the mortgage insurance fund the sum of \$500,000.00 from the accumulated, undivided profits of the Bank of North Dakota, such transfer to be made during the 1971-1973 biennium upon order of the industrial commission. There is hereby appropriated out of the mortgage insurance fund the sum of \$500,000.00, or so much thereof as may be necessary, for the purposes of carrying out the provisions of this Act.

\*NOTE: Section 11 of this Act was vetoed by the Governor. See chapter 612, this volume.

Approved March 27, 1971

## CHAPTER 113

HOUSE BILL NO. 1559  
(Streibel, Hoffner, Strinden, Reimers, Weber)  
(Committee on Delayed Bills)

TRANSFER OF JUDGE  
A.M. CHRISTIANSON PROJECT

AN ACT authorizing and directing transfer of the "Judge A. M. Christianson Project" established by resolution of the thirty-fourth session of the legislative assembly of the state of North Dakota to the Bank of North Dakota, subject to existing contracts and encumbrances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TRANSFER OF JUDGE A. M. CHRISTIANSON PROJECT.) All contracts for deed, tracts of real property, reserved minerals, leases, and miscellaneous assets and things of value belonging to the Judge A. M. Christianson Project located in Ward County, North Dakota, and held in the name of the state of North Dakota acting by and through the industrial commission of North Dakota, together with future increments, accruals, and recoveries coming, arising, or resulting from any of such things, or from dealing therewith in whatever form, are each and all hereby transferred, assigned, conveyed, and granted and shall be by the industrial commission of North Dakota delivered to the Bank of North Dakota in Bismarck, North Dakota. This transfer is self-executing; no evidence other than the provisions of this chapter shall be required to establish the fact of transfer of title to the Bank of North Dakota thereunder. Proper and sufficient delivery of all title documents shall be conclusively presumed. Everything received by the Bank of North Dakota under the provisions hereof shall be accepted and held by it as part of its general assets to be used for the benefit of the people of North Dakota.

SECTION 2. EXISTING CONTRACTS AND ENCUMBRANCES RECOGNIZED.) The transfer made by this Act shall be subject to all existing contracts, rights, easements, and encumbrances outstanding heretofore made or sanctioned by the industrial commission of North Dakota and shown of record in the minutes of said commission; in the files and records of the Bank of North Dakota, agent of said commission; and in the local real estate records. The Bank of North Dakota shall manage, operate, and supervise all properties transferred to it by this Act; shall have full power of sale with respect to same and with respect to each and every item thereof; may enforce all rights of the owner by all lawful means in its own name without

special power of attorney; and may make and execute all instruments of release or conveyance as agreements with respect to such assets may require, whether such agreements are made heretofore or hereafter.

Approved March 22, 1971

# BUILDING AND LOAN ASSOCIATIONS

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## CHAPTER 114

HOUSE BILL NO. 1428  
(Boustead)

### TIME LIMIT FOR PRESERVING RECORDS

AN ACT to amend and reenact section 7-04-23 of the North Dakota Century Code, relating to the destruction of records of savings and loan associations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 7-04-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-04-23. DESTRUCTION OF RECORDS.) No association shall be required to preserve its records of account or files for a longer period than six years next after the first day of January of the year following the date of such record or files, provided that such record or files have been reproduced on microfilm or other similar microphotographic record, which microfilm or other record shall be maintained for not less than twenty years. Nothing herein shall be construed to permit the destruction of ledger sheets showing unpaid balances in favor of depositors or investors nor shall this section be construed to limit the time when actions may be brought to recover such balances.

Approved March 27, 1971

# CORPORATIONS

## CHAPTER 115

SENATE BILL NO. 2270  
(Chesrown)

### DESTRUCTION OF ANNUAL REPORTS

AN ACT to amend and reenact section 10-23-01 of the North Dakota Century Code, relating to allowing the destruction of the annual reports of corporations after they have been on file for six years.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 10-23-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-23-01. ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS.) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall file, within the time prescribed by section 10-23-02, an annual report setting forth:

1. The name of the corporation and the state or county under the laws of which it is incorporated.
2. The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or county under the laws of which it is incorporated.
3. A brief statement of the character of the business in which the corporation is actually engaged in this state.
4. The names and respective addresses of the directors and officers of the corporation.
5. A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.
6. A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

7. A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in section 10-19-02.
8. A statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property of the corporation located within this state, and a statement, expressed in dollars, of the gross amount of business transacted by the corporation for the twelve months ending on the thirty-first day of December preceding the date herein provided for the filing of the annual report and the gross amount thereof transacted by the corporation at or from places of business in this state. If, on the thirty-first day of December preceding the time herein provided for the filing of such report, the corporation had not been in existence for a period of twelve months, or, in the case of a foreign corporation, had not been authorized to transact business in this state for a period of twelve months, the statement with respect to business transacted shall be furnished for the period between the date of incorporation or the date of its authorization to transact business in this state, as the case may be, and such thirty-first day of December.
9. Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine and assess the proper amount of fees payable by such corporation.

Such annual report shall be made on forms prescribed and furnished by the secretary of state, and the information therein contained shall be given as of the date of the execution of the report, except as to the information required by subsections 7, 8, and 9 which shall be given as of the close of business on the thirty-first day of December next preceding the date herein provided for the filing of such report, or, in the alternative, data of the fiscal year ending next preceding this report may be used. It shall be executed by the corporation by its president, a vice president, secretary, an assistant secretary, or treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and verified by such receiver or trustee. The secretary of state may destroy all the annual reports provided for in this section after they have been on file for six years.

Approved March 17, 1971

## CHAPTER 116

HOUSE BILL NO. 1496  
(Atkinson)

ARCHITECTS AND ENGINEERS  
PROFESSIONAL INCORPORATION

AN ACT to amend and reenact section 10-31-04 of the North Dakota Century Code, relating to the professional incorporation of architects and engineers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 10-31-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-31-04. PURPOSE FOR WHICH INCORPORATED.) A professional corporation may be organized pursuant to the provisions of this chapter only for the purpose of rendering one specific type of professional service and services ancillary thereto and shall not engage in any business other than rendering the professional service for which it was organized to render provided, however, that a professional corporation may own real and personal property necessary or appropriate for rendering the type of professional services it was organized to render and may invest its funds in real estate mortgages, stocks, bonds, and any other type of investment; and further providing that this statute shall not preclude a corporation organized pursuant to the provisions of chapter 10-31 from rendering more than one specific type of professional service if the services rendered are such as are set forth in chapters 43-03 and 43-19.1.

Approved March 16, 1971

# COUNTIES

## CHAPTER 117

SENATE BILL NO. 2139  
(Melland)

### COUNTY REDISTRICTING

AN ACT to create and enact section 11-07-03.1 of the North Dakota Century Code, and to amend and reenact sections 11-07-03 and 11-11-02 of the North Dakota Century Code, to provide an additional method of redistricting counties and electing county commissioners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 11-07-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-07-03. METHOD OF REDISTRICTING - ELECTION OF COMMISSIONERS AT LARGE IF REDISTRICTING NOT ACCOMPLISHED BY TIME CERTAIN.) In redistricting a county, the redistricting board shall make the districts as regular and compact in form as practicable, and as substantially equal in population as possible. In no event shall every district be formed in such a manner that the population of cities located within every district exceeds the population of the district area outside the cities in every district. In no event shall any commissioner's district vary in population more than ten percent from the average population per commissioner as determined in section 11-07-02, and any variance from the average population shall be justified in the statement filed pursuant to this section. The geographical boundaries of new districts created by the redistricting board shall be agreed upon by a majority of such board. Redistricting shall be completed by the filing, by the chairman of the redistricting board, of an accurate description of the approved geographical boundaries and a statement of the population of the new districts, including an explanation of any variances, with the county auditor. In the event that redistricting is required but not completed in the manner prescribed in this chapter, all commissioners' districts in such county shall be abolished and, notwithstanding the provisions of section 11-11-02, thereafter county commissioners for such county shall be elected at large without regard to district representation in the manner and at the time provided in this title and shall continue to be elected at large until a proper redistricting plan is filed as required by this chapter. Notwithstanding the provisions of this section, the redistricting board shall redistrict in the manner provided in section

11-07-03.1 if so directed by the board of county commissioners acting pursuant to that section.

SECTION 2.) Section 11-07-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

11-07-03.1. OPTIONAL METHOD OF REDISTRICTING - BOARD OF COUNTY COMMISSIONERS MAY EXERCISE OPTION - COMBINATION OF DISTRICTS - ELECTION AT LARGE OF CANDIDATES FROM DISTRICTS.) The board of county commissioners of any county which must redistrict under the provisions of this chapter may direct the county redistricting board to redistrict under the plan authorized by this section. In redistricting a county pursuant to this section, the redistricting board shall create districts of as nearly equal populations as is practicable, but such districts, when created wholly within the boundaries of a city, may coincide with the geographical boundaries of election wards. All of the candidates seeking the office of county commissioner in a county redistricted pursuant to this section shall be voted upon by the qualified electors of the entire county, but one of the commissioners to be elected must reside in each of the commissioners' districts created pursuant to this section. The official ballot shall designate the commissioner district of each candidate by having printed thereon the words "of commissioner district \_\_\_\_\_" in close proximity to the candidate's name. Where persons are seeking nomination as candidates for the office of county commissioner at a primary election, the two candidates from each of the commissioners' districts receiving the highest number of votes will be deemed nominated. If only one candidate is seeking nomination from a particular commissioner district, he will be deemed nominated. Following redistricting pursuant to this section, the board of county commissioners may combine two or more of the districts so created by resolution passed by a majority of the total membership of the board. In the event that two or more commissioners' districts are combined, the number of commissioners elected who must reside in the combined district shall be equal to the number of districts combined. In the event that a county commissioner shall change his place of residence within the county after election from a particular district, he shall be allowed to complete the remainder of that term of office. Candidates elected as county commissioners on a staggered basis as provided in section 11-07-04 shall be elected at large, but must reside in the same districts as the commissioners whom they are to succeed in office.

SECTION 3. AMENDMENT.) Section 11-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-02. COMMISSIONER MUST BE RESIDENT OF DISTRICT - EXCEPTIONS.) Each county commissioner shall be chosen by the qualified electors of the district of which he is a resident, except as otherwise provided in section 11-07-03 or 11-07-03.1.

Approved March 30, 1971

## CHAPTER 118

HOUSE BILL NO. 1229  
(Bunker)

FULL-TIME STATE'S ATTORNEYS  
AND COUNTY OFFICIALS SALARIES

AN ACT to amend and reenact subsection 2 of section 11-10-10 and sections 11-16-02 and 11-16-05 of the North Dakota Century Code, relating to providing that the position of states attorney in a county of over 35,000 population be a full-time position, the employment of assistant states attorneys, the restrictions on the powers of states attorneys, increasing the salaries of county officials, and to create and enact a section to provide for an effective date thereof.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 11-10-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The county auditor, county treasurer, county superintendent of schools, register of deeds, county judge, states attorney, and clerk of the district court each shall receive the following annual salary, payable monthly, for official services rendered:
  - a. Six thousand six hundred dollars in counties having a population not exceeding eight thousand.
  - b. Six thousand eight hundred dollars in counties having a population exceeding eight thousand population plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof, but not to exceed the total sum of nine thousand dollars, and provided, however, that in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision.
  - c. In counties having a population in excess of

thirty thousand the sum of nine thousand five hundred dollars, except that the states attorneys in counties having a population exceeding thirty-five thousand shall receive a salary of from fourteen thousand to twenty thousand dollars, to be determined by resolution of the board of county commissioners.

In counties having a county court of increased jurisdiction, the salaries of the judges of county courts of increased jurisdiction shall be as set out in section 27-08-08. The county superintendent of schools shall receive for any trips necessarily made within his county in the performance of school district reorganization duties the same mileage as he receives under the provisions of section 11-10-15. The board of county commissioners of any county may, by resolution, increase the salary of any full-time county official by an amount not to exceed ten percent above the salary provided in this section or section 27-08-08, if, in the judgment of such board, by reason of duties performed, the official merits the increase. Any county official performing duties on less than a full-time basis may be paid a salary set by the board of county commissioners in any amount up to ten percent less than the salary provided for that official in this section. However, no salary shall be less than it was on July 1, 1970.

SECTION 2. AMENDMENT.) Section 11-16-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-16-02. ASSISTANT - APPOINTMENT - DUTIES.) The states attorney may appoint an assistant states attorney within his county, who, when he has qualified by filing his oath of office, shall have the same powers as, and shall perform any and all duties required of, the states attorney. The states attorney shall be responsible, under his official bond, for any and all acts of such assistant.

SECTION 3. AMENDMENT.) Section 11-16-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-16-05. RESTRICTIONS ON POWERS OF STATES ATTORNEY - PENALTY FOR BREACH OF DUTY.) The states attorney shall not:

1. Present a claim, account, or other demand for allowance against the county, except for his own services, nor in any way advocate the relief asked for by the claim or demand of another.
2. Be eligible to or hold any judicial office except that of United States commissioner.
3. Receive a fee or reward from or on behalf of a

prosecutor or other individual for services in any prosecution or business to which it is his official duty to attend.

4. Be concerned as attorney or counsel for any party, other than the state or county, in any civil action depending upon, or arising out of, a state of facts upon which a pending and undetermined criminal prosecution depends.
5. Be concerned as attorney or counsel for any party, other than the state or county, in any action or proceeding whatsoever when employed by a county having a population exceeding thirty-five thousand.

A violation of any provision of this section shall constitute a misdemeanor punishable by a fine of not less than one hundred dollars and not more than five hundred dollars, and the offender may be removed from office.

SECTION 4. EFFECTIVE DATE.) The provisions of this Act with respect to states attorneys in counties having a population in excess of thirty-five thousand shall not be mandatory until January 6, 1975, except that such states attorneys affected by this Act may elect to be subject to its provisions on July 1, 1971.

Approved March 29, 1971

## CHAPTER 119

HOUSE BILL NO. 1077  
(Atkinson, Grant, Lang, Linderman, Strinden)  
(From Legislative Council Study)

COUNTY COMMISSIONER'S  
COMPENSATION

AN ACT to amend and réenact subsection 3 of section 11-10-10 and sections 23-24-05, 61-06-22, and 61-16-08 of the North Dakota Century Code, relating to salary and expenses of county commissioners and compensation of members of the governing bodies of vector control districts, irrigation districts, and water management districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 11-10-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Each county commissioner may receive an annual salary or per diem as provided by resolution of the board, which salary or per diem, together with mileage and expenses as hereinafter provided shall not exceed the following limits: In counties having a population of eight thousand or less, three thousand three hundred dollars; in counties having a population of over eight thousand and less than fifteen thousand, three thousand nine hundred fifty dollars; and in counties having a population of over fifteen thousand, four thousand eight hundred dollars; and for the purpose of fixing the maximums herein provided, population figures shall be those established by the most recent federal census. The allowance for meals and lodging expenses shall be at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses shall be at the same rate as provided by section 11-10-15, and shall be evidenced by a subvoucher or receipt as provided by section 21-05-01. As used in this section, the words "official business" shall include statewide meetings of the North Dakota county commissioners association.

If a board shall resolve to pay an annual salary pursuant to this subsection, it shall be paid in monthly installments.

SECTION 2. AMENDMENT.) Section 23-24-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-24-05. BOARD OF COMMISSIONERS - APPOINTMENT AND NUMBER.) When an order of the council creating a vector control district has been filed in the office of the county auditor of a county in which such district or a part of such district is situated a board of commissioners of such vector control district shall be appointed as provided herein, consisting of three members. Any resident freeholder in the district shall be eligible for appointment to the board of commissioners thereof. The term of commissioners first appointed shall be determined by lot. One commissioner shall hold office for a term of two years, one shall serve for a term of three years and one shall serve for a term of five years. The term of a commissioner shall commence on the date of his appointment. In case the office of a commissioner shall become vacant, the commissioner appointed to fill the vacancy shall serve the unexpired term of the member of the board of commissioners and shall receive the same per diem as members of the board. Each member shall receive the sum of fifteen dollars per day while performing his duties as a member of the board, and an allowance for actual meals and lodging expense in an amount not to exceed twelve dollars per day for each day spent in the performance of his duties, plus mileage expense reimbursement at the rate provided in section 54-06-09. The term of office of a member shall be deemed to have commenced on the date of his appointment to the board. Appointments to the board of commissioners shall be made by the state health council with the approval of the board of county commissioners, the board of city commissioners or township supervisors of any county, city, or township whose territory is embraced or included within said district.

SECTION 3. AMENDMENT.) Section 61-06-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-22. DIRECTORS AND OFFICERS - SALARY, MILEAGE, AND EXPENSES.) Each director shall receive the sum of fifteen dollars per day while performing his duties as a member of the board, and an allowance for actual meals and lodging expense in an amount not to exceed twelve dollars per day for each day spent in the performance of his duties, plus mileage expense reimbursement at the rate provided in section 54-06-09. The salary of the secretary, assessor, and treasurer shall be determined by the board of directors.

SECTION 4. AMENDMENT.) Section 61-16-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-08. ELIGIBILITY FOR APPOINTMENT TO BOARD - TERM OF

OFFICE - REMOVAL - FILLING VACANCIES - COMPENSATION OF COMMISSIONERS.) When a water management district has been created any resident freeholder in the district shall be eligible for appointment to the board of commissioners thereof. The terms of office of commissioners appointed to the first district board shall be determined by lot and shall be as herein provided. If such district board shall consist of three commissioners, one commissioner shall hold office for a term of two years, one shall serve for a term of three years, and one shall serve for a term of five years from the first day of January next following the date of their appointment. When a district board consists of five commissioners, two commissioners shall hold office for the term of two years, one for three years, one for four years and one commissioner a term of five years from the first day of January next following the date of their appointment. When a board shall consist of seven commissioners, two commissioners shall hold office for two years, two for three years, two for four years and one for five years from the first day of January next following the date of their appointment. When the term of office of a district commissioner has expired, his successor shall hold office for five years from the first day of January next following the date of their appointment. The term of office of a commissioner shall not terminate until his successor in office is appointed and qualified. In case the office of any district commissioner shall become vacant, the commissioner appointed to fill the vacancy shall serve the unexpired term of the member of the board whose office became vacant. Each member of the board of commissioners shall receive the sum of fifteen dollars per day while performing his duties as a member of the board, and an allowance for actual meals and lodging expense in an amount not to exceed twelve dollars per day for each day spent in the performance of his duties, plus mileage expense reimbursement at the rate provided in section 54-06-09. A commissioner may be removed from the board by the board of county commissioners after it appears to the board of county commissioners by competent evidence, and after a public hearing, if so requested by the commissioner subject to removal, at which hearing such commissioner must be apprised of and allowed ample opportunity to repudiate such evidence, that such commissioner has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office, habitual drunkenness, gross incompetency, or inability to perform the duties of office for reasons of health.

Approved March 29, 1971

## CHAPTER 120

SENATE BILL NO. 2344  
(Holand)

PHOTOGRAPHING COUNTY  
RECORDS

AN ACT to provide for the filing of a photographic or photostatic copy of an instrument required to be recorded by a county official.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. USE OF PHOTOGRAPHY IN MAKING COUNTY RECORDS.)  
Whenever a statute requires an order, will, or other instrument, document, or decree to be transcribed into a record book of a county official, the same may be done by affixing a photostatic or photographic copy thereof to a page of the record book. Such photostatic or photographic copy shall be certified as to correctness by the county official. The photostatic or photographic copy and the certificate shall then be affixed to the page of the record book, and the county official shall inscribe on such page the nature of the instrument affixed, the date recorded, and his signature.

Approved March 12, 1971

## CHAPTER 121

HOUSE BILL NO. 1078  
(Atkinson, Grant, Hoffner, Lang, Linderman, Strinden)  
(From Legislative Council Study)

CENTRAL FILING OF  
COUNTY DOCUMENTS

AN ACT to amend and reenact section 11-10-20 of the North Dakota Century Code, relating to the central filing of documents kept by certain county officials when directed by resolution of the board of county commissioners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 11-10-20 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-20. BOARD OF COUNTY COMMISSIONERS TO PROVIDE OFFICES, COURTROOM, JAIL - WHERE PUBLIC RECORDS KEPT - AUTHORIZATION FOR CENTRAL FILING OF DOCUMENTS OF REGISTER OF DEEDS, CLERK OF DISTRICT COURT, AND COUNTY JUDGE.) The board of county commissioners shall provide a courtroom and jail, and shall provide offices in the courthouse of the county for the sheriff, county treasurer, register of deeds, auditor, clerk of the district court, state's attorney, county judge, county superintendent of schools, and any other officer who has charge of public records. If there is no courthouse in the county or if the courthouse erected has not sufficient capacity, such offices shall be furnished by the county in a suitable building at the county seat for all elected officials, and at any place within the county for appointive or administrative officials, at the lowest rent to be obtained, provided that this section shall not apply where county officials may serve more than one county as may be otherwise authorized by law. The board of county commissioners may provide by resolution for the filing in a single location of documents maintained by the register of deeds, the clerk of the district court, and the county judge. The resolution shall state in which office the filing is to be done, the persons who are to have custody of and access to the central files, and shall list the documents which are to be centrally filed.

Approved March 4, 1971

## CHAPTER 122

HOUSE BILL NO. 1050  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(Legislative Council Study)

MOBILE HOME TAX  
ADMINISTRATION

AN ACT to amend and reenact section 11-10.1-06 of the North Dakota Century Code, relating to the duties of county directors of tax equalization in obtaining agricultural statistics; to repeal sections 4-01-01, 4-01-02, 4-01-03, 4-01-06, 4-01-07, 4-01-10, 4-01-11, 4-01-12, 4-01-13, and 4-01-14 of the North Dakota Century Code, relating to the collection of agricultural statistics by assessors, the furnishing of such statistics by county auditors, and the duties of the commissioner of agriculture in his capacity as state statistician; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 11-10.1-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10.1-06. ASSUMPTION OF CERTAIN DUTIES BY COUNTY DIRECTOR OF TAX EQUALIZATION AND TOWNSHIP CLERKS.) The county director of tax equalization shall succeed to all the powers and duties of the county auditor pertaining to the administration and enforcement of the mobile homes tax prescribed in chapter 57-55, assist the county auditor in preparation of assessment lists for taxing purposes and in the correction and omission procedures as defined in chapter 57-14, assist local equalization boards and assessors by providing information and instruction in the use of all methods and procedures to obtain uniform property assessments, and spot check all property assessments.

SECTION 2. REPEAL.) Sections 4-01-01, 4-01-02, 4-01-03, 4-01-06, 4-01-07, 4-01-10, 4-01-11, 4-01-12, 4-01-13, and 4-01-14 of the North Dakota Century Code are hereby repealed.

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

Approved February 20, 1971

## CHAPTER 123

SENATE BILL NO. 2398  
(Just, Gronhovd)

## COUNTY GARBAGE COLLECTION

AN ACT to create and enact subsection 15 of section 11-11-14 of the North Dakota Century Code; and to amend and reenact subsection 14 of section 11-11-14 of the North Dakota Century Code, relating to the powers and duties of boards of county commissioners regarding garbage collection and operation of sanitary landfills or other places of disposal, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 14 of section 11-11-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. To establish a garbage and trash collection system encompassing all or any part of the territory of the county, except such territory as is included within the boundaries of any incorporated city. The words "garbage and trash collection system" shall include the operation and maintenance of one or more sanitary landfill sites, or other types of processing sites for the disposal of trash and garbage. The board may operate such system in cooperation with any one or more political subdivisions in accordance with the provisions of chapter 54-40. The board may borrow money by issuing certificates of indebtedness, repayable from fees or special assessments, or both, which may be charged to the proper parcels of land or to persons receiving the direct benefits of the garbage and trash collection system, or repayable in such other manner as may be provided by law, in order to purchase the initial equipment and land necessary for operation of the system. If the board of county commissioners resolves to establish such a system, the expenses of establishing, operating, and maintaining it may be financed by fees charged to persons receiving direct benefits or by special assessment against the parcels of land properly charged therewith, or by both such fees and assessments. The assessment may be made, published, altered, appealed from, and confirmed under the procedures set forth in chapter 11-28.1; and

SECTION 2.) Subsection 15 of section 11-11-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

15. To do and perform such other duties as are or may be prescribed by law.

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

Approved March 27, 1971

## CHAPTER 124

SENATE BILL NO. 2358  
(Lips, Sanstead)

## BIDDER'S BOND CONTENTS

AN ACT to amend and reenact section 11-11-28 of the North Dakota Century Code, relating to bond or check to accompany bids before county commissioners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 11-11-28 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-28. BID MUST BE ACCOMPANIED BY A BOND.) A bid shall be accompanied by a bidder's bond in a sum equal to five per cent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state as a guaranty that the bidder will enter into the contract if it is awarded to him and that he will furnish the necessary bond.

Approved March 8, 1971

## CHAPTER 125

HOUSE BILL NO. 1213  
(Dornacker)

PUBLISHING MINUTES OF BOARD  
AND COUNCIL MEETINGS

AN ACT to amend and reenact sections 11-11-37 and 40-08-12 of the North Dakota Century Code, relating to the publication of minutes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 11-11-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-37. PROCEEDINGS OF BOARD OF COUNTY COMMISSIONERS TO BE PUBLISHED IN OFFICIAL NEWSPAPER - WHEN PUBLISHED.) The board of county commissioners shall cause to be published in the official newspaper of the county a full and complete report of its official proceedings at each regular and special meeting no later than thirty days after the meeting at which the report is read and approved. The publisher of the official newspaper shall cause the report of the proceedings of the board of county commissioners to be published in the issue of his paper next succeeding the time of its reception, and shall cause to be filed with the county auditor an affidavit of publication executed in the proper form.

SECTION 2. AMENDMENT.) Section 40-08-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-12. PUBLICATION OF PROCEEDINGS.) The city council shall publish a complete record of all its proceedings in its official newspaper no later than thirty days after the meeting at which the record is read and approved.

Approved March 12, 1971

## CHAPTER 126

HOUSE BILL NO. 1438  
(Atkinson, Wagner)

## COUNTY HEALTH PLANNING

AN ACT relating to comprehensive health planning by counties and county funding for areawide comprehensive health planning organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. COMPREHENSIVE HEALTH PLANNING BY COUNTIES AND COUNTY FUNDING OF AREAWIDE COMPREHENSIVE HEALTH PLANNING.) Any county may engage in comprehensive health planning and may appropriate funds to an areawide comprehensive health planning organization organized and approved under provisions of the state plan for comprehensive health planning, whether such organization be a public agency or private corporation.

Approved March 29, 1971

## CHAPTER 127

SENATE BILL NO. 2241  
(Freed, Unruh, Sanstead)

## FEE FOR BOARDING PRISONER

AN ACT to amend and reenact subsection 21 of section 11-15-07 of the North Dakota Century Code, relating to sheriffs' fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 21 of section 11-15-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. For boarding prisoners, a sum to be determined by the county commissioners, by resolution in advance, which sum shall in no case exceed three dollars and fifty cents per day;

Approved March 11, 1971

## CHAPTER 128

SENATE BILL NO. 2203  
(Sanstead, Freed)

SHERIFF'S ALLOWANCE ON  
SALE UNDER EXECUTION

AN ACT to amend and reenact section 11-15-09 of the North Dakota Century Code, relating to sheriff's allowances when plaintiff bids in property at sale.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 11-15-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-09. SHERIFF'S ALLOWANCES WHEN PLAINTIFF BIDS IN PROPERTY AT SALE.) When the person in whose favor an execution or order of sale shall have been issued in the district court shall bid in the property sold under the execution or pursuant to the judgment, the sheriff or other person making the sale shall receive the following fee, and no more:

1. When the amount for which the property is bid in does not exceed one thousand dollars, ten dollars; or
2. When the amount for which the property is bid in exceeds one thousand dollars, twenty dollars.

Approved March 19, 1971

## CHAPTER 129

HOUSE BILL NO. 1254  
(Metzger, Bunker)

## SHERIFF'S SALARY

AN ACT to provide for the salary of the county sheriff and deputy sheriffs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. SALARY OF COUNTY SHERIFF AND DEPUTY SHERIFFS.)

1. The salary of the county sheriff shall be regulated by the population in the respective counties according to the last preceding official federal census from and after the date when the official report of such census shall have been published by the director of the census or such other official as may be charged with the duty of making such official publication.

The county sheriff shall receive the following annual salary, payable monthly, for official services rendered:

- a. Seven thousand two hundred sixty dollars minimum salary in counties having a population not exceeding eight thousand.
- b. Seven thousand four hundred eighty dollars minimum salary in counties having a population exceeding eight thousand, plus additional compensation of one hundred dollars for each one thousand additional population or major fraction thereof, but not to exceed the total sum of nine thousand nine hundred dollars.
- c. Ten thousand four hundred fifty dollars minimum salary in counties having a population exceeding thirty thousand.
- d. The board of county commissioners of any county may, by resolution, increase the salary of the county sheriff by an amount not to exceed ten percent above the salary provided for in this section, if, in the judgment of such board, by reason of duties performed, the official merits the increase.

Approved March 12, 1971

## CHAPTER 130

HOUSE BILL NO. 1155  
(Bier)

## SHERIFF'S MILEAGE

AN ACT to amend and reenact section 11-15-12 of the North Dakota Century Code, relating to sheriff's mileage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 11-15-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-12. SHERIFF'S MILEAGE.) A sheriff or his deputy for each mile actually and necessarily traveled within this state in the performance of official duties, shall be allowed and paid only the following amounts:

1. The sum of twelve cents per mile when travel is by motor vehicle;
2. When travel is by rail or other common carrier the amount actually and necessarily expended therefor.

When such travel is outside the state in the performance of official duties, whether by motor vehicle or by rail or other common carrier, such officer shall be allowed and paid twelve cents per mile when such travel is by motor vehicle and if by rail or other common carrier his actual and necessary travel expenses.

Approved March 3, 1971

## CHAPTER 131

HOUSE BILL NO. 1378  
(Atkinson)

· DESTRUCTION OF  
CERTAIN COURT RECORDS

AN ACT to amend and reenact section 11-17-08 of the North Dakota Century Code, relating to destruction of certain court records by clerks of court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 11-17-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-17-08. CLERK OF COURT TO DESTROY CERTAIN RECORDS.) The clerks of the district courts and of county courts having increased jurisdiction are hereby authorized to remove from the files in their offices, and to destroy, all records in civil actions in which nothing has been filed of record for more than thirty years, or, if judgment has been entered, in which nothing has been filed of record for more than ten years if the judgment was not renewed or twenty years if the judgment was renewed, or in which the judgment has been satisfied, or in which the action has been dismissed. The clerk of any court of record may destroy shorthand notes that are on file in his office when such shorthand notes have been transcribed into any public record. The clerk of any court of record may destroy shorthand notes which have not been transcribed into public record in any action in which judgment has been entered and the time for appeal has expired, or in which the action has been dismissed, or in which the judgment has been satisfied. The clerk may also destroy exhibits in any case in which judgment has been entered and the time for appeal has expired, or in which the action has been dismissed, or in which the judgment has been satisfied.

Approved March 22, 1971

## CHAPTER 132

HOUSE BILL NO. 1109  
(Wagner)

## PERFORMANCE OF AUTOPSY

AN ACT to amend and reenact section 11-19A-11 of the North Dakota Century Code relating to autopsies by the medical county coroner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 11-19A-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-19A-11. CORONER MAY PERFORM AUTOPSY.) The coroner or his medical deputy, may, if he deems it necessary, take custody of the dead body for the purpose of autopsy. When the coroner does not deem an autopsy necessary, the sheriff and state's attorney may direct an autopsy be performed by the coroner or his deputy coroner, or pathologist.

Approved March 22, 1971

## CHAPTER 133

SENATE BILL NO. 2338  
(Coughlin, Sorlie, Goldberg, Anderson, Wilhite)

## RURAL SUBDIVISION IMPROVEMENT

AN ACT to empower county commissioners to levy special assessments in rural subdivisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) The county commissioners of any county in North Dakota, upon receipt of a petition bearing signatures of sixty per cent of the affected and benefited property owners in a rural, platted, zoned and recorded subdivision with restrictive covenants, and situated outside the corporate limits of any city in North Dakota, may install such improvements as road or street identification markers, road or street lights, and asphalt paving; such improvements to be billed back to the individual benefited property owners on an equal per lot basis in the form of a special assessment on the individual annual general property tax statement. Payments for special assessments levied in accordance with this section shall not exceed a period of five years and said special assessments shall constitute a lien on the affected and benefited property until paid. The special assessment provided in this section shall bear interest at the rate not to exceed seven per cent per annum from the date of the entry by the county treasurer, and the collection thereof may be made and enforced as delinquent taxes are enforced against real property.

SECTION 2.) Upon the filing of the petition by sixty per cent of the affected and benefited property owners the county commission may declare by resolution, the boundaries of the area to be affected and benefited and the said petition must bear signatures of sixty per cent of the property owners in the area so affected and benefited. The county commissioners' resolution shall specify the improvements to be made and the estimated cost thereof. Within ten days after the passing of such a resolution, notice, by mail, shall be given by the county auditor to each of the property owners affected and benefited, said notice to provide a hearing on said resolution within thirty days of the date of mailing said notice. At the conclusion of the hearing so called, the county commissioners shall affirm, modify or vacate the previous resolution.

Approved March 11, 1971

# CRIMES AND PUNISHMENTS

## CHAPTER 134

SENATE BILL NO. 2137  
(Lowe)

### PROJECTIONIST'S LIABILITY FOR OBSCENE MOVIES

AN ACT to amend and reenact sections 12-21-07, 12-21-09, and 12-21-11 of the North Dakota Century Code, to provide that certain motion picture theater employees shall not be liable for showing or possessing obscene motion pictures if acting within the scope of their employment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 12-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-21-07. SALE, EXHIBITION, AND DISTRIBUTION OF LEWD AND OBSCENE MATTER TO PERSONS UNDER TWENTY-ONE PROHIBITED.) No obscene, lewd, salacious, or lascivious book, pamphlet, picture, paper, letter, magazine, newspaper, writing, print, printing, film, negative, transcription, wire or tape recording, or other matter of indecent character, shall be sold, loaned, given away, shown, exhibited, distributed, advertised or offered for sale, loan, gift or distribution, or be held in possession with intent to sell, loan, give away, show, exhibit, or distribute, to anyone under the age of twenty-one. Any person, firm, copartnership or corporation who hires, uses, or employs anyone under the age of twenty-one to sell, give away, or in any manner distribute such matter, and any person who, having the care, custody, or control of a person under the age of twenty-one years, permits such person to sell, give away, or in any manner distribute such matter, shall also be guilty of a violation of sections 12-21-07, 12-21-09, and 12-21-11. The trial court shall take into consideration and give due weight to the approval by the national association known as the "Comics Code Authority", or such association's successors, of any comic books or publications in question under sections 12-21-07, 12-21-09, and 12-21-11. The provisions of this section with respect to the exhibition of, or the possession with intent to exhibit, any obscene, lewd, salacious, or lascivious matter shall not apply to a motion picture projectionist acting within the scope of his employment as an employee of any person, firm, or corporation exhibiting motion pictures pursuant to a license issued under the provisions of chapter 53-06, provided that such operator is not a manager and has no financial interest in his place of employment, other than wages.

SECTION 2. AMENDMENT.) Section 12-21-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-21-09. BUYING, SELLING, DISTRIBUTING, EXHIBITING, PREPARING, POSSESSION OF, OR BRINGING INTO STATE ANY EQUIPMENT FOR PREPARING, LEWD AND OBSCENE MATTER - DISTRIBUTION OF INDECENT ARTICLES - TIE-IN SALES.) No person, firm, copartnership, or corporation shall buy, sell, cause to be sold, advertised, lend, give away, offer, show, exhibit, distribute, cause to be distributed, or design, copy, draw, photograph, print, etch, engrave, cut, carve, make, publish, prepare, assist in preparing, solicit or receive subscriptions for, or hold in possession with intent to sell, lend, give away, offer, show, exhibit, distribute, or cause to be distributed, or bring or cause to be brought into the state any obscene, lewd, salacious, or lascivious book, pamphlet, picture, paper, letter, magazine, newspaper, writing, print, printing, film, negative, transcription, wire or tape recording, cast, cut, carving, figure, image, or other matter, article or instrument of indecent character or immoral use, or any equipment, machinery, or devices used or intended to be used in the preparation, manufacturing, or producing of such obscene matter and material. The trial court shall take into consideration and give due weight to the approval by the national association known as the "Comics Code Authority", or such association's successors, of any comic books or publications in question under sections 12-21-07, 12-21-09, and 12-21-11.

No person, firm, copartnership, or corporation shall as a condition to a sale or delivery for resale of any paper, magazine, book, periodical, or publication require that the purchaser or consignee receive for resale any other article, book, or other publication reasonably believed by the purchaser or consignee to be obscene, lewd, lascivious, filthy, indecent, or disgusting.

The provisions of this section with respect to the exhibition of, or the possession with intent to exhibit, any obscene, lewd, salacious, or lascivious matter shall not apply to a motion picture projectionist acting within the scope of his employment as an employee of any person, firm, or corporation exhibiting motion pictures pursuant to a license issued under the provisions of chapter 53-06, provided that such operator has no financial interest in his place of employment, other than wages.

SECTION 3. AMENDMENT.) Section 12-21-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-21-11. SEIZURE AND CONFISCATION OF EQUIPMENT USED IN PRODUCTION OR MANUFACTURE OF INDECENT LITERATURE OR ARTICLES AND OF VEHICLES USED IN DISTRIBUTION OF INDECENT ARTICLES AUTHORIZED.) Any peace officer of this state may seize any equipment used in the printing, production, or manufacture of indecent and obscene

literature, matter, or articles of whatever nature, and may seize any vehicle or other means of transportation used in the distribution of such indecent and obscene literature, matter, or articles, and may arrest any person in charge thereof, provided that such arrest shall not be made of a motion picture projectionist acting within the scope of his employment as an employee of any person, firm, or corporation exhibiting motion pictures pursuant to a license issued under the provisions of chapter 53-06, provided that such operator has no financial interest in his place of employment, other than wages. The procedures prescribed in chapter 29-31 of this Code relating to confiscation of equipment used in the commission of crimes shall apply and shall be followed in carrying out the provisions of this section.

Approved March 27, 1971

## CHAPTER 135

HOUSE BILL NO. 1394  
(Gerl, Mushik, Bunker)

## PUBLIC DANCING ON SUNDAY

AN ACT to amend and reenact section 12-21-19 of the North Dakota Century Code, relating to public dancing on Sunday, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 12-21-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-21-19. SUNDAY DANCES PROHIBITED - PUNISHMENT.) No person shall keep open, run, or permit the running of any place for public dancing, or permit the use of any place for public dancing between the hours of one o'clock a.m. on Sunday and eight o'clock a.m. the following Monday morning. Any person violating the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars for each offense.

Approved March 27, 1971

## CHAPTER 136

HOUSE BILL NO. 1287  
(Shablow, McGauvran, Rundle, Hensrud)

LEGAL JEOPARDY FOR  
SELF-DEFENSE

AN ACT relating to legal jeopardy in cases of self-defense or in aid of another in certain cases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. LEGAL JEOPARDY IN SELF-DEFENSE - AID TO ANOTHER - PROTECTION.) In addition to all other rights of self defense no person in this state or any person responding to a request or call of any peace officer of this state shall be placed in legal jeopardy nor be subject to civil damages for protecting, by any means reasonably necessary, himself, his family, or his real or personal property, or when coming to the aid of another who is being the victim of aggravated assault, armed robbery, holdup, rape, murder, or any other crime involving serious force or violence.

Approved March 12, 1971

## CHAPTER 137

HOUSE BILL NO. 1510  
(Metzger)

BOARDING PRISONERS OF  
UNITED STATES

AN ACT to amend and reenact section 12-44-42 of the North Dakota Century Code, relating to county jails and workhouses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 12-44-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-44-42. UNITED STATES LIABLE FOR EXPENSES.) The United States shall pay for the support and keeping of its prisoners. The United States shall pay such sum for guard hire and board of guards as actually is expended by the sheriff. A sheriff shall not employ more than one guard when the number of United States prisoners in his custody is less than six, and he may employ one additional guard for each additional six prisoners or fractional number thereof.

Approved March 15, 1971

## CHAPTER 138

SENATE BILL NO. 2336  
(Kautzmann)

INDUSTRIAL SCHOOL  
EMPLOYEE'S OATH

AN ACT to amend and reenact section 12-46-05 of the North Dakota Century Code, relating to the oath requirement by the employees of the state industrial school.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 12-46-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-46-05. QUALIFICATIONS OF SUPERINTENDENT, OFFICERS, AND EMPLOYEES.) The superintendent, before entering upon the duties of his office, shall take the oath prescribed for civil officers and furnish a bond in the penal sum of ten thousand dollars, which shall conform to the provisions of law applicable to the bonds of state officers and employees. The bond and oath shall be filed and retained in the office of the state treasurer.

Approved March 3, 1971

## CHAPTER 139

SENATE BILL NO. 2226  
(Sanstead, Chesrown)

PAROLE BOARD MEETINGS  
AND COMPENSATION

AN ACT to amend and reenact section 12-59-02 of the North Dakota Century Code, relating to meetings, quorum and compensation of the parole board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 12-59-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-59-02. MEETINGS - QUORUM - COMPENSATION.) The board shall organize by selecting a chairman. Meetings of the board shall be held at the state penitentiary on call of the chairman as often as required to properly conduct the business of the board, but in any event not less than six times per year. Two members shall constitute a quorum, and no action shall be taken without the concurrence of at least two members. Members shall be compensated at the rate of thirty dollars per day for each day actually and necessarily spent in the performance of their duties as board members plus the same mileage and expenses as are authorized for state officials and employees.

Approved March 3, 1971

## CHAPTER 140

SENATE BILL NO. 2322  
(Freed)

BUREAU OF CRIMINAL  
INVESTIGATION

AN ACT to amend and reenact section 12-60-01 of the North Dakota Century Code relating to changing the name of the North Dakota state bureau of criminal identification and apprehension.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 12-60-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-60-01. BUREAU CREATED.) A bureau of the state government, under the attorney general, is hereby created and is designated as the bureau of criminal investigation hereinafter referred to as the bureau.

Approved March 11, 1971

## CHAPTER 141

HOUSE BILL NO. 1083  
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)  
(Legislative Council Study)

BOARD OF MANAGERS OF BUREAU  
OF CRIMINAL IDENTIFICATION

AN ACT to repeal sections 12-60-02, 12-60-03, and 12-60-04 of the North Dakota Century Code, relating to the board of managers of the bureau of criminal identification and apprehension.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Sections 12-60-02, 12-60-03, and 12-60-04 of the 1969 Supplement to the North Dakota Century Code are hereby repealed.

Approved February 20, 1971

## CHAPTER 142

SENATE BILL NO. 2381  
(Holand)DETECTION OF ILLEGAL  
DRUG POSSESSION

AN ACT to create and enact subsection 10 of section 12-60-07 of the North Dakota Century Code, relating to the powers and duties of the bureau of criminal identification and apprehension.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 10 of section 12-60-07 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

10. To detect and apprehend persons illegally possessing or disposing of drugs.

Approved March 30, 1971

## CHAPTER 143

SENATE BILL NO. 2303  
(Freed)

## FURNISHING CRIME STATISTICS

AN ACT to create and enact section 12-60-13.1 of the North Dakota Century Code, relating to the furnishing of crime statistics by certain city and county officials to the superintendent of the state bureau of criminal identification and apprehension.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 12-60-13.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

12-60-13.1 COUNTY AND CITY OFFICIALS TO FURNISH CRIME STATISTICS TO SUPERINTENDENT.) In an effort to assist in controlling crime in the state through the use of reliable statistics relating to crimes and criminal activity, the superintendent, with the approval of the attorney general, may call upon and obtain from the clerks of district courts, county courts, justice courts, municipal courts, sheriffs, police departments, and states attorneys all information that he may deem necessary in ascertaining the condition of crimes and criminal activity in North Dakota; and it shall be the duty of the said officials to furnish any such information so requested by the superintendent on whatever forms or in whatever manner he may prescribe.

Approved March 11, 1971

# DEBTOR AND CREDITOR RELATIONSHIP

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## CHAPTER 144

SENATE BILL NO. 2334  
(Stroup, Nething, Pyle)

### BANK INSTALLMENT LOAN CHARGES

AN ACT to amend and reenact section 13-04-01 of the North Dakota Century Code, relating to installment bank loan charges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 13-04-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-04-01. INSTALLMENT BANK LOAN CHARGES.) Any bank organized under the laws of this state and under the jurisdiction and supervision of the state banking board, or any national banking association doing business in the state, making any loan of money not exceeding ten thousand dollars repayable in installments, may make a charge for such loan computed at a rate not exceeding six dollars per one hundred dollars per annum upon the total amount of the loan from the date thereof until the stated maturity date of the final installment thereof, which shall not exceed ten years and thirty-two days from the date of the loan, notwithstanding that such loan is required to be repaid in installments or that the loan is secured by mortgage, pledge, or other collateral, except that this chapter shall not apply to loans secured by realty. Any charge authorized by this chapter may be deducted in advance from the proceeds of such loan or may be included in the principal amount of the note or other instrument evidencing said loan and the aggregate amount thereof be payable in installments.

The minimum charge for any loan hereunder may be fifteen dollars.

Approved March 27, 1971

# DOMESTIC RELATIONS AND PERSONS

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## CHAPTER 145

HOUSE BILL NO. 1193  
(Hilleboe)

### DEFINING "MINOR" AND "ADULT"

AN ACT to amend and reenact sections 14-10-01 and 14-10-02 of the North Dakota Century Code, relating to the definition of a minor and an adult.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 14-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-10-01. "MINORS" DEFINED.) Minors are persons under eighteen years of age. Age shall be calculated from the first minute of the day on which persons are born to the same minute of the corresponding day completing the period of minority.

SECTION 2. AMENDMENT.) Section 14-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-10-02. "ADULTS" DEFINED.) All persons eighteen years of age and over are adults.

Approved February 26, 1971

## CHAPTER 146

SENATE BILL NO. 2287  
(Litten)

SEROLOGICAL TEST  
FOR SYPHILIS

AN ACT to amend and reenact section 14-03-13 of the North Dakota Century Code, to provide that the standard serological test for syphilis required for filing of application for marriage license may be performed by any laboratory approved by the state health officer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 14-03-13 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-13. "STANDARD SEROLOGICAL TEST" DEFINED.) A standard serological test shall be a laboratory test for syphilis approved by the state health officer and shall be performed by the state department of health, or by any other laboratory approved by the state health officer. The county judge shall collect a fee of not to exceed fifty cents for each serological test performed in this state, which shall be paid by him into the state treasury on the first day of July. The fee shall be collected from each applicant for a marriage license upon whom the test has been performed. State public health laboratories outside of the state of North Dakota which have been approved by the state health officer shall make their own arrangements as to the amount and manner of collecting their fees for the service.

Approved March 19, 1971

## CHAPTER 147

HOUSE BILL NO. 1108  
(Wagner)

PHYSICIAN'S CERTIFICATE  
FOR MARRIAGE LICENSE

AN ACT to amend and reenact subsection 3 of section 14-03-17 of the North Dakota Century Code, relating to physician's certificate for marriage license application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 14-03-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A certificate of a duly licensed physician other than the person seeking the license, showing that neither of the contracting parties is a person afflicted with syphilis, and reporting any other contagious venereal disease if the physician detects the same; and

Approved March 24, 1971

## CHAPTER 148

HOUSE BILL NO. 1319  
(Mushik, Laughlin, Rocheleau)

MARRIAGE RECORDS -  
TRANSMISSION TO BUREAU  
OF VITAL STATISTICS

AN ACT to amend and reenact section 14-03-22 of the North Dakota Century Code, and to repeal section 14-03-23 of the North Dakota Century Code, relating to keeping marriage records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 14-03-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-03-22. RECORDS OF MARRIAGE AND LICENSE FEE.) When a license is returned to the county judge with the certificate of the person performing the marriage ceremony properly filled out and signed, the judge shall file the license in his office and retain it as part of his records. For the issuance and filing of a marriage license the county judge shall collect the sum of six dollars from the party applying for the license and shall deposit the same monthly with the county treasurer. The judge shall prepare a copy of the license and certificate and transmit them to the registrar of vital statistics who shall record them in a book of records kept in his office for that purpose. The registrar shall index his records and upon request shall issue certified copies of the recorded license and certificate for a one-dollar fee. He shall keep an accurate account of these fees and shall turn them over to the state treasurer by the fifteenth of each month for crediting to the general fund.

SECTION 2. REPEAL.) Section 14-03-23 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1971

## CHAPTER 149

HOUSE BILL NO. 1097  
(Hilleboe)

DIVORCE DUE TO  
IRRECONCILABLE DIFFERENCES

AN ACT to create and enact section 14-05-09.1 of the North Dakota Century Code and to amend and reenact section 14-05-03 of the North Dakota Century Code, relating to allowing irreconcilable differences as grounds for divorce.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 14-05-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-05-03. CAUSES FOR DIVORCE.) Divorces may be granted for any of the following causes:

1. Adultery.
2. Extreme cruelty.
3. Willful desertion.
4. Willful neglect.
5. Habitual intemperance.
6. Conviction of felony.
7. Insanity for a period of five years, the insane person having been an inmate of an institution for such period, and affected with any psychosis. No divorce shall be granted because of insanity until after a thorough examination of such insane person by three physicians who are recognized authorities on mental diseases, one of which physicians shall be the superintendent of the state hospital for the insane, or the chief medical officer of a veterans administration hospital or government institution within or without the state of North Dakota, the other two physicians to be appointed by the court before whom the action is pending, all of whom shall agree that such insane person is incurable. No divorce shall be granted to any person whose husband or wife is an inmate

of an institution, except a United States Government hospital or institution, in any other than the state of North Dakota, unless the person applying for such divorce shall have been a resident of the state of North Dakota for at least five years.

8. Irreconcilable differences.

SECTION 2.) Section 14-05-09.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

14-05-09.1. IRRECONCILABLE DIFFERENCES DEFINED.) Irreconcilable differences are those grounds which are determined by the court to be substantial reasons for not continuing the marriage and which make it appear that the marriage should be dissolved.

Approved March 18, 1971

## CHAPTER 150

HOUSE BILL NO. 1463  
(Atkinson)

PROOF IN DEFAULT  
DIVORCES

AN ACT to repeal section 14-05-19 of the North Dakota Century Code, relating to affirmative proof required.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 14-05-19 of the North Dakota Century Code is hereby repealed.

Approved March 16, 1971

## CHAPTER 151

HOUSE BILL NO. 1465  
(Atkinson)FAMILY COURT ORDER  
FOR SUPPORT

AN ACT to amend and reenact section 14-05-23 of the North Dakota Century Code, relating to temporary alimony and suit money.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 14-05-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-05-23. TEMPORARY SUPPORT, RESTRAINING ORDERS, ATTORNEY FEES, AND CUSTODY.) During any time in which an action for divorce is pending or a family court has jurisdiction, the court, upon application of a party, may issue, ex parte, an order requiring a party to pay such support as may be necessary for the support of a party and any minor children of the parties and attorney fees and awarding custody of any minor children to any party. Such orders may be issued and served in accordance with such rules as are promulgated and filed with the clerks of the district courts within the judicial district from time to time by the district judges of the judicial district. The party to whom the order is directed shall have the right, upon motion, to have a hearing upon the necessity for the issuance of such an order or the amounts to be paid, and unless such a motion is served and filed in the office of the clerk of the district court within five days after service of an order issued under the provisions of this section, the order shall be final and nonappealable pending a final determination of the issues raised by the pleadings or until further order of the court.

Approved March 15, 1971

## CHAPTER 152

HOUSE BILL NO. 1461  
(Atkinson)

TEMPORARY SUPPORT IN  
SEPARATION ACTION

AN ACT to amend and reenact section 14-06-02 of the North Dakota Century Code, relating to temporary maintenance and counsel fees in action for separation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 14-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-06-02. TEMPORARY SUPPORT, RESTRAINING ORDERS, ATTORNEY FEES, AND CUSTODY.) During any time in which an action for separation is pending or a family court has jurisdiction, the court, upon application of a party, may issue, ex parte, an order requiring a party to pay such support as may be necessary for the support of a party and any minor children of the parties and attorney fees and awarding custody of any minor children to any party. Such orders may be issued and served in accordance with such rules as are promulgated and filed with the clerks of the district courts within the judicial district from time to time by the district judges of the judicial district. The party to whom the order is directed shall have the right, upon motion, to have a hearing upon the necessity for the issuance of such an order or the amounts to be paid, and unless such a motion is served and filed in the office of the clerk of the district court within five days after service of an order issued under the provisions of this section, the order shall be final and non-appealable pending a final determination of the issues raised by the pleadings or until further order of the court.

Approved March 15, 1971

## CHAPTER 153

HOUSE BILL NO. 1455  
(R. Peterson, Bunker, Henning)

STEPFATHER'S LIABILITY  
FOR STEPCHILDREN

AN ACT to amend and reenact section 14-09-09 of the North Dakota Century Code, relating to the liability of a stepfather for support of stepchildren, and to repeal section 50-09-08.1 of the North Dakota Century Code, relating to stepfather's liability for dependent children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 14-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-09-09. LIABILITY OF STEPFATHER FOR SUPPORT.) A stepfather is not bound to maintain his wife's dependent children, as defined in section 50-09-01, unless he receives them into his family. If he receives them into his family, he is liable, to the extent of his ability, to support them during the marriage and so long thereafter as they remain in his family. Such liability may be enforced against him by any person furnishing necessaries to such children. If he receives them into his family and supports them, it is presumed that he does so as a parent, in which case they are not liable to him for their support, nor he to them for their services. The legal obligation of a natural or adoptive father to support his children is not affected by the liability imposed upon their stepfather by this section.

SECTION 2. REPEAL.) Section 50-09-08.1 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 29, 1971

## CHAPTER 154

HOUSE BILL NO. 1111  
(Wagner)

TREATING MINORS FOR  
VENEREAL DISEASE

AN ACT to permit a physician to examine and treat a minor for venereal disease without parental consent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. MINORS - TREATMENT FOR VENEREAL DISEASE.) Any person of the age of fourteen years or older may contract for and receive examination, care, or treatment for venereal disease without permission, authority, or consent of a parent or guardian.

Approved March 27, 1971

## CHAPTER 155

HOUSE BILL NO. 1107  
(Wagner)

## BLOOD DONATIONS BY MINORS

AN ACT to permit any person over eighteen years of age to be a blood donor without parental authority.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. BLOOD DONATIONS BY MINORS.) Any person of the age of eighteen years or over shall be eligible to donate blood without the necessity of permission or authorization of parent or guardian.

Approved March 3, 1971

## CHAPTER 156

HOUSE BILL NO. 1204  
(R. Peterson, Atkinson)

MINOR STUDENT'S  
CAPACITY TO BORROW

AN ACT relating to the removal of disability of certain minors in making an educational loan, and constituting the Uniform Minor Student Capacity to Borrow Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) As used in this Act:

1. "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
2. "Educational institution" means a university, college, community college, junior college, high school, technical, vocational or professional school, or similar institution, wherever located, approved or accredited by the appropriate official, department or agency of this state for the purposes of this Act, or by the appropriate official, department or agency of the state in which the institution is located; and
3. "Educational loan" means a loan or other aid or assistance for the purpose of furthering the obligor's education at an educational institution.

SECTION 2. LIMITED REMOVAL OF DISABILITY OF MINORS.) Any written obligation signed by a minor sixteen or more years of age in consideration of an educational loan received by him from any person is enforceable as if he were an adult at the time of execution, but only if prior to the making of the educational loan an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution.

SECTION 3. APPLICATION AND CONSTRUCTION.) This Act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among those states which enact it.

SECTION 4. SHORT TITLE.) This Act may be cited as the Uniform Minor Student Capacity to Borrow Act.

Approved March 3, 1971

## CHAPTER 157

HOUSE BILL NO. 1161  
(Eagles, Hentges)

## ADOPTION

AN ACT to create chapter 14-15 of the North Dakota Century Code, relating to adoptions and constituting the Revised Uniform Adoption Act, and to repeal chapter 14-11 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 14-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

14-15-01. DEFINITIONS.) As used in this chapter, unless the context otherwise requires,

1. "Child" means a son or daughter, whether by birth or adoption;
2. "Court" means the district court of this state, and when the context requires means the court of any other state empowered to grant petitions for adoption;
3. "Minor" means an individual under the age of eighteen years;
4. "Adult" means an individual who is not a minor;
5. "Agency" means any person certified, licensed, or otherwise specially empowered by law or rule to place minors for adoption;
6. "Person" means an individual, corporation, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

14-15-02. WHO MAY BE ADOPTED.) Any individual may be adopted.

14-15-03. WHO MAY ADOPT.) The following individuals may adopt:

1. A husband and wife together although one or both

- are minors;
2. An unmarried adult;
  3. The unmarried father or mother of the individual to be adopted;
  4. A married individual without the other spouse joining as a petitioner, if the individual to be adopted is not his spouse, and if
    - a. The other spouse is a parent of the individual to be adopted and consents to the adoption;
    - b. The petitioner and the other spouse are legally separated; or
    - c. The failure of the other spouse to join in the petition or to consent to the adoption is excused by the court by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances constituting an unreasonable withholding of consent.

14-15-04. VENUE - INCONVENIENT FORUM - CAPTION.)

1. Proceedings for adoption must be brought in the court for the place in which, at the time of filing or granting the petition, the petitioner or the individual to be adopted resides or is in military service or in which the agency having the care, custody, or control of the minor is located.
2. If the court finds in the interest of substantial justice that the matter should be heard in another forum, the court may transfer stay or dismiss the proceeding in whole or in part on any conditions that are just.
3. The caption of a petition for adoption shall be styled substantially "In the Matter of the Adoption of \_\_\_\_\_." The person to be adopted shall be designated in the caption under the name by which he is to be known if the petition is granted. If the child is placed for adoption by an agency, any name by which the child was previously known shall not be disclosed in the petition, the notice of hearing, or in the decree of adoption.

14-15-05. PERSONS REQUIRED TO CONSENT TO ADOPTION.)

1. Unless consent is not required under section 14-15-06, a petition to adopt a minor may be granted only if written consent to a particular adoption has been

executed by:

- a. The mother of the minor;
  - b. The father of the minor, if the father was married to the mother at the time the minor was conceived or at any time thereafter, the minor is his child by adoption, or he has otherwise legitimated the minor according to the laws of the place in which the adoption proceeding is brought;
  - c. Any person lawfully entitled to custody of the minor or empowered to consent;
  - d. The court having jurisdiction to determine custody of the minor, if the legal guardian or custodian of the person of the minor is not empowered to consent to the adoption;
  - e. The minor, if more than ten years of age, unless the court in the best interest of the minor dispenses with the minor's consent; and
  - f. The spouse of the minor to be adopted.
2. A petition to adopt an adult may be granted only if written consent to adoption has been executed by the adult and the adult's spouse.

14-15-06. PERSONS AS TO WHOM CONSENT AND NOTICE NOT REQUIRED.)

1. Consent to adoption is not required of:
  - a. A parent who has deserted a child without affording means of identification, or who has abandoned a child;
  - b. A parent of a child in the custody of another, if the parent for a period of at least one year has failed significantly without justifiable cause (i) to communicate with the child or (ii) to provide for the care and support of the child as required by law or judicial decree;
  - c. The father of a minor if the father's consent is not required by section 14-15-05 (1) (b);
  - d. A parent who has relinquished his right to consent under section 14-15-19;
  - e. A parent whose parental rights have been terminated by order of court under section

14-15-19;

- f. A parent judicially declared incompetent or mentally defective if the court dispenses with the parent's consent;
  - g. Any parent of the individual to be adopted, if the individual is an adult;
  - h. Any legal guardian or lawful custodian of the individual to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty days or who, after examination of his written reasons for withholding consent, is found by the court to be withholding his consent unreasonably; or
  - i. The spouse of the individual to be adopted, if the failure of the spouse to consent to the adoption is excused by the court by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances constituting an unreasonable withholding of consent.
2. Except as provided in section 14-15-11, notice of a hearing on a petition for adoption need not be given to a person whose consent is not required or to a person whose consent or relinquishment has been filed with the petition.

14-15-07. HOW CONSENT IS EXECUTED.)

1. The required consent to adoption shall be executed at any time after the birth of the child and in the manner following:
  - a. If by the individual to be adopted, in the presence of the court;
  - b. If by an agency, by the executive head or other authorized representative, in the presence of a person authorized to take acknowledgments;
  - c. If by any other person, in the presence of the court or in the presence of a person authorized to take acknowledgments;
  - d. If by a court, by appropriate order or certificate.
2. A consent which does not name or otherwise identify the adopting parent is valid if the consent contains a statement by the person whose consent it is that the person consenting voluntarily executed the consent irrespective of disclosure of the name or

other identification of the adopting parent.

14-15-08. WITHDRAWAL OF CONSENT.)

1. A consent to adoption cannot be withdrawn after the entry of a decree of adoption.
2. A consent to adoption may be withdrawn prior to the entry of a decree of adoption if the court finds, after notice and opportunity to be heard is afforded to petitioner, the person seeking the withdrawal, and the agency placing a child for adoption, that the withdrawal is in the best interest of the individual to be adopted and the court orders the withdrawal.

14-15-09. PETITION FOR ADOPTION.)

1. A petition for adoption shall be signed and verified by the petitioner, filed with the clerk of the court, and state:
  - a. The date and place of birth of the individual to be adopted, if known;
  - b. The name to be used for the individual to be adopted;
  - c. The date petitioner acquired custody or date of placement of the minor and the name of the person placing the minor;
  - d. The full name, age, place and duration of residence of the petitioner;
  - e. The marital status of the petitioner, including the date and place of marriage, if married;
  - f. That the petitioner has facilities and resources, including those available under a subsidy agreement, suitable to provide for the nurture and care of the minor to be adopted, and that it is the desire of the petitioner to establish the relationship of parent and child with the individual to be adopted;
  - g. A description and estimate of value of any property of the individual to be adopted; and
  - h. The name of any person whose consent to the adoption is required, but who has not consented, and facts or circumstances which excuse the lack of his consent normally required to the adoption.

2. A certified copy of the birth certificate or verification of birth record of the individual to be adopted, if available, and the required consents and relinquishments shall be filed with the clerk.

14-15-10. REPORT OF PETITIONER'S EXPENDITURES.)

1. Except as specified in subsection 2, the petitioner in any proceeding for the adoption of a minor shall file, before the petition is heard, a full accounting report in a manner acceptable to the court of all disbursements of anything of value made or agreed to be made by or on behalf of the petitioner in connection with the adoption. The report shall show any expenses incurred in connection with:
  - a. The birth of the minor;
  - b. Placement of the minor with petitioner;
  - c. Medical or hospital care received by the mother or by the minor during the mother's prenatal care and confinement; and
  - d. Services relating to the adoption or to the placement of the minor for adoption which were received by or on behalf of the petitioner, either natural parent of the minor, or any other person.
2. This section does not apply to an adoption by a stepparent whose spouse is a natural or adoptive parent of the child.
3. Any report made under this section must be signed and verified by the petitioner.

14-15-11. NOTICE OF PETITION - INVESTIGATION AND HEARING.)

1. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing shall be given by the petitioner to (a) the public welfare board; (b) any agency or person whose consent to the adoption is required by this act but who has not consented; and (c) a person whose consent is dispensed with upon any ground mentioned in paragraphs (a), (b), (g), (h), and (i) of subsection 1 of section 14-15-06 but who has not consented. The notice to the public welfare board shall be

accompanied by a copy of the petition.

2. An investigation shall be made by the public welfare board, a county welfare board, a licensed child-placing agency, or any other qualified agency or person designated by the court, to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor.
3. A written report of the investigation shall be filed with the court by the investigator before the petition is heard.
4. The report of the investigation shall contain an evaluation of the placement with a recommendation as to the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.
5. Unless directed by the court, an investigation and report is not required in cases in which an agency is a party or joins in the petition for adoption, a stepparent is the petitioner, or the person to be adopted is an adult. In other cases, the court may waive the investigation only if it appears that waiver is in the best interest of the minor and that the adoptive home and the minor are suited to each other. The public welfare board which is required to consent to the adoption may give consent without making the investigation.
6. The public welfare board or the agency or persons designated by the court to make the required investigation may request other departments or agencies within or without this state to make investigations of designated portions of the inquiry as may be appropriate and to make a written report thereof as a supplemental report to the court and shall make similar investigations and reports on behalf of other agencies or persons designated by the courts of this state or another place.
7. After the filing of a petition to adopt an adult the court by order shall direct that a copy of the petition and a notice of the time and place of the hearing be given to any person whose consent to the adoption is required but who has not consented. The court may order an appropriate investigation to assist it in determining whether the adoption is in the best interest of the persons involved.

8. Notice shall be given in the manner appropriate under rules of civil procedure for the service of process in a civil action in this state or in any manner the court by order directs. Proof of the giving of the notice shall be filed with the court before the petition is heard.

14-15-12. REQUIRED RESIDENCE OF MINOR.) A final decree of adoption shall not be issued and an interlocutory decree of adoption does not become final, until the minor to be adopted, other than a stepchild of the petitioner, has lived in the adoptive home for at least six months after placement by an agency, or for at least six months after the public welfare board or the court has been informed of the custody of the minor by the petitioner, and the public welfare board or court has had an opportunity to observe or investigate the adoptive home.

14-15-13. APPEARANCE - CONTINUANCE - DISPOSITION OF PETITION.)

1. The petitioner and the individual to be adopted shall appear at the hearing on the petition, unless the presence of either is excused by the court for good cause shown.
2. The court may continue the hearing from time to time to permit further observation, investigation, or consideration of any facts or circumstances affecting the granting of the petition.
3. If at the conclusion of the hearing the court determines that the required consents have been obtained or excused and that the adoption is in the best interest of the individual to be adopted, it may (a) issue a final decree of adoption; or (b) issue an interlocutory decree of adoption which by its own terms automatically becomes a final decree of adoption on a day therein specified, which day shall not be less than six months nor more than one year after the date of issuance of the decree, unless sooner vacated by the court for good cause shown.
4. If the requirements for a decree under subsection 3 have not been met, the court shall dismiss the petition and determine the person to have custody of the minor, including the petitioners if in the best interest of the minor. In an interlocutory decree of adoption the court may provide for observation, investigation, and further report on the adoptive home during the interlocutory period.

14-15-14. EFFECT OF PETITION AND DECREE OF ADOPTION.)

1. A final decree of adoption and an interlocutory

decree of adoption which has become final, whether issued by a court of this state or of any other place, have the following effect as to matters within the jurisdiction or before a court of this state:

- (a) Except with respect to a spouse of the petitioner and relatives of the spouse, to relieve the natural parents of the adopted individual of all parental rights and responsibilities, and to terminate all legal relationships between the adopted individual and his relatives, including his natural parents, so that the adopted individual thereafter is a stranger to his former relatives for all purposes including inheritance and the interpretation or construction of documents, statutes, and instruments, whether executed before or after the adoption is decreed, which do not expressly include the individual by name or by some designation not based on a parent and child or blood relationship; and
  - (b) To create the relationship of parent and child between petitioner and the adopted individual, as if the adopted individual were a legitimate blood descendant of the petitioner, for all purposes including inheritance and applicability of statutes, documents, and instruments, whether executed before or after the adoption is decreed, which do not expressly exclude an adopted individual from their operation or effect.
2. Notwithstanding the provisions of subsection 1, if a parent of a child dies without the relationship of parent and child having been previously terminated and a spouse of the living parent thereafter adopts the child, the child's right of inheritance from or through the deceased parent is unaffected by the adoption.
  3. An interlocutory decree of adoption, while it is in force, has the same legal effect as a final decree of adoption. If an interlocutory decree of adoption is vacated, it shall be as though void from its issuance, and the rights, liabilities, and status of all affected persons which have not become vested shall be governed accordingly.

14-15-15. APPEAL AND VALIDATION OF ADOPTION DECREE.)

1. An appeal from any final order or decree rendered under this act may be taken in the manner and time provided for appeal from a judgment in a civil action.

2. Subject to the disposition of an appeal, upon the expiration of one year after an adoption decree is issued the decree cannot be questioned by any person including the petitioner, in any manner upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless, in the case of the adoption of a minor the petitioner has not taken custody of the minor, or, in the case of the adoption of an adult, the adult had no knowledge of the decree within the one year period.

14-15-16. HEARINGS AND RECORDS IN ADOPTION PROCEEDINGS - CONFIDENTIAL NATURE.) Notwithstanding any other law concerning public hearings and records,

1. All hearings held in proceedings under this act shall be held in closed court without admittance of any person other than essential officers of the court, the parties, their witnesses, counsel, persons who have not previously consented to the adoption but are required to consent, and representatives of the agencies present to perform their official duties;
2. All papers and records pertaining to the adoption whether part of the permanent record of the court or of a file in the public welfare board or in an agency are subject to inspection only upon consent of the court and all interested persons; or in exceptional cases, only upon an order of the court for good cause shown; and
3. Except as authorized in writing by the adoptive parent or the adopted child or upon order of the court for good cause shown in exceptional cases, no person shall be required to disclose the name or identity of either an adoptive parent or an adopted child.

14-15-17. RECOGNITION OF FOREIGN DECREE AFFECTING ADOPTION.) A decree of court terminating the relationship of parent and child or establishing the relationship by adoption issued pursuant to due process of law by a court of any other jurisdiction within or without the United States shall be recognized in this state and the rights and obligations of the parties as to matters within the jurisdiction of this state shall be determined as though the decree were issued by a court of this state.

14-15-18. APPLICATION FOR NEW BIRTH RECORD.) Within thirty days after an adoption decree becomes final, the clerk of the court shall prepare an application for a birth record in the new name of the adopted individual and forward the application to the appropriate vital statistics office of the

place, if known, where the adopted individual was born and forward a copy of the decree to the public welfare board of this state for statistical purposes.

14-15-19. RELINQUISHMENT AND TERMINATION OF PARENT AND CHILD RELATIONSHIP.)

1. The rights of a parent with reference to a child, including parental right to control the child or to withhold consent to an adoption, may be relinquished and the relationship of parent and child terminated in or prior to an adoption proceeding as provided in this section.
2. All rights of a parent with reference to a child, including the right to receive notice of a hearing on a petition for adoption, may be relinquished and the relationship of parent and child terminated by a writing, signed by the parent, regardless of the age of the parent,
  - a. In the presence of a representative of an agency taking custody of the child, whether the agency is within or without the state or in the presence and with the approval of a judge of a court of record within or without this state in which the minor was present or in which the parent resided at the time it was signed, which relinquishment may be withdrawn within ten days after it is signed or the child is born, whichever is later; and the relinquishment is invalid unless it states that the parent has this right of withdrawal; or
  - b. In any other situation if the petitioner has had custody of the minor for two years, but only if notice of the adoption proceeding has been given to the parent and the court finds, after considering the circumstances of the relinquishment and the long continued custody by the petitioner, that the best interest of the child requires the granting of the adoption.
3. In addition to any other proceeding provided by law, the relationship of parent and child may be terminated by a court order issued in connection with an adoption proceeding under this act on any ground provided by other law for termination of the relationship, and in any event on the ground (a) that the minor has been abandoned by the parent, (b) that by reason of the misconduct, faults, or habits of the parent or the repeated and continuous neglect or refusal of the parent, the minor is without proper parental care and control, or subsistence, education, or other

care or control necessary for his physical, mental, or emotional health or morals, or, by reason of physical or mental incapacity the parent is unable to provide necessary parental care for the minor, and the court finds that the conditions and causes of the behavior, neglect, or incapacity are irremediable or will not be remedied by the parent, and that by reason thereof the minor is suffering or probably will suffer serious physical, mental, moral, or emotional harm, or (c) that in the case of a parent not having custody of a minor, his consent is being unreasonably withheld contrary to the best interest of the minor.

4. For the purpose of proceeding under this act, a decree terminating all rights of a parent with reference to a child or the relationship of parent and child issued by a court of competent jurisdiction in this or any other state dispenses with the consent to adoption proceedings of a parent whose rights or parent and child relationship are terminated by the decree and with any required notice of an adoption proceeding other than as provided in this section.
5. A petition for termination of the relationship of parent and child made in connection with an adoption proceeding may be made by:
  - a. Either parent if termination of the relationship is sought with respect to the other parent;
  - b. The petitioner for adoption, the guardian of the person, the legal custodian of the child, or the individual standing in parental relationship to the child;
  - c. An agency; or
  - d. Any other person having a legitimate interest in the matter.
6. Before the petition is heard, notice of the hearing thereon and opportunity to be heard shall be given the parents of the child, the guardian of the person of the child, the person having legal custody of the child, and, in the discretion of the court, a person appointed to represent any party.
7. Notwithstanding the provisions of subsection 2, a relinquishment of parental rights with respect to a child, executed under this section, may be withdrawn by the parent, and a decree of a court terminating the parent and child relationship

under this section may be vacated by the court upon motion of the parent, if the child is not on placement for adoption and the person having custody of the child consents in writing to the withdrawal or vacation of the decree.

14-15-20. ADOPTION AND LEGITIMATION BY CONDUCT.) Notwithstanding the other provisions of this chapter, the father of an illegitimate minor adopts and legitimates a minor by publicly acknowledging the minor as his child, receiving the minor into his home, with the consent of his wife, if he is married, and otherwise treating the minor as if the minor were legitimate. Thereafter, the minor is deemed the legitimate child of the father for all purposes from the time of birth of the minor, the same as if the adoption had been finally decreed pursuant to this chapter.

14-15-21. APPLICATION AND CONSTRUCTION.) This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it.

14-15-22. SHORT TITLE.) This chapter may be cited as the Revised Uniform Adoption Act.

14-15-23. EFFECT ON PENDING PROCEEDINGS.) Any adoption or termination proceedings pending on the effective date of this chapter is not affected thereby.

SECTION 2. REPEAL.) Chapter 14-11 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1971

# EDUCATION

## CHAPTER 158

HOUSE BILL NO. 1045

(Bier, Knudson, G. Larson, R. Peterson, Stoltenow, Stone, Wagner)

### EDUCATION LAW REVISION

AN ACT to create and enact sections 15-19-08, 15-38-04.1, and 15-47-02.1, and chapters 15-20.1, 15-34.1, 15-34.2, 15-40.1, 15-40.2, and 15-53.1 of the North Dakota Century Code, relating to high school correspondence work, school holidays, discontinuance of schools, vocational education and vocational rehabilitation, compulsory attendance, transportation, state school aid, transfer of students and nonresident tuition, reorganization, annexation, and involuntary dissolution; to amend and reenact sections 12-10-06, 15-22-09, 15-28-01, and 15-28-02, subsections 1, 2, 3, and 14 of section 15-29-08, sections 15-41-06, 15-47-21, 15-47-27, 15-47-33, and 15-49-02, subsection 3 of section 57-15-14, sections 57-15-24, 57-16-04, 57-55-03, 57-55-04, and 16-01-15 of the North Dakota Century Code, relating to personal interest in contracts by public officers, duties of county superintendents, school board elections, powers and duties of school boards, equalization of assets and liabilities among school districts, time for renewal of teachers' contracts, high school course requirements, length of school term, personal interest in school district contracts, tax levy limitations in school districts, county mill levy for schools, mobile home taxation, and voting on certain questions; and to repeal sections 15-22-21, 15-22-22, 15-38-04, 15-41-18, 15-41-19, 15-47-19, and 15-47-20, and chapters 15-20, 15-27, 15-34, 15-40, and 15-53 of the North Dakota Century Code, relating to vocational education and vocational rehabilitation, organization and dissolution of public school districts, compulsory attendance, transportation, state school aid, reorganization, annexation, dissolution of school districts, notice of hearing on dissolution, school holidays, admission of nonresident high school students and tuition fees, equalization of indebtedness by arbitration, and levy by board of arbitration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 15-19-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-19-08. HIGH SCHOOL CORRESPONDENCE WORK.) The amount of

money appropriated by the legislative assembly for correspondence work for a biennium, or so much thereof as may be necessary, shall be expended first by the state board of public school education for high school work by correspondence.

SECTION 2.) Section 15-38-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-38-04.1. SCHOOL HOLIDAYS DEFINED.) The following days shall be school holidays, and schools shall not be in session thereon:

1. Every Sunday;
2. New Year's Day, the first day of January;
3. The anniversary of the Declaration of Independence, the fourth day of July;
4. Christmas Day, the twenty-fifth day of December;
5. Memorial Day, the last Monday in May;
6. Thanksgiving Day, the fourth Thursday in November;
7. Good Friday, the Friday next preceding Easter Sunday; and
8. Every day appointed by the president of the United States or by the governor of this state for a public holiday;

provided that, if the first day of January, the fourth day of July, or the twenty-fifth day of December falls upon a Sunday, the school holiday shall be the Monday following. Schools shall be in session as usual on all other legal holidays which do not fall upon a Saturday or Sunday, provided that at least one hour shall be devoted to patriotic exercises consistent with the day. In communities in which community celebrations are held, school shall not be held when so prescribed by the school board on Veterans' Day, the fourth Monday in October; nor shall school be held when so prescribed by the school board, in a schoolhouse which is used as a polling place on a day upon which an election is held throughout the state. If any holiday upon which schools are to be closed under this section falls upon a day which would otherwise be a school day, school districts shall be entitled to foundation aid payments and teachers shall be paid therefor.

SECTION 3.) Section 15-47-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-47-02.1. DISCONTINUANCE OF SCHOOLS BY SCHOOL BOARD.) Any elementary or high school may be discontinued by action of

the school board when proper and convenient school facilities for the pupils can be provided in some other public school. In determining what constitutes proper and convenient school facilities, the board shall consider the distance of each child from the nearest other school and all surrounding circumstances. The board may furnish transportation to the nearest school, or may pay an extra allowance over and above the schedule of payments provided for in section 15-34.2-03 or furnish the equivalent thereof in tuition or lodging at some other public school. In case of a dispute between a parent or guardian of a pupil of the school district and the board as to whether the board has furnished or arranged to furnish adequate facilities, the matter may be submitted by such parent or guardian to the board of arbitration consisting of the county superintendent of schools, one arbitrator named by the parent or guardian, and one arbitrator named by the board, and the determination of the arbitrators, after hearing, shall be binding.

SECTION 4.) Chapter 15-20.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

\* 15-20.1-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "State board" shall mean the state board of vocational education which is the state board of public school education.
2. "Director" shall mean the director of vocational education.
3. "Division" shall mean the division of vocational rehabilitation established by this chapter.
4. "Division director" shall mean the director of the division of vocational rehabilitation.
5. "Employment handicap" shall mean a physical or mental condition which constitutes, contributes to, or, if not corrected, will probably result in an obstruction to occupational performance.
6. "Disabled individual" shall mean any person who has a substantial employment handicap.
7. "Vocational rehabilitation" and "vocational rehabilitation services" shall mean any services provided directly or through public or private instrumentalities, found by the director to be necessary to compensate a disabled individual for his employment handicap, and to enable him to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance, counseling and placement rehabilitation training, physical restoration,

\*NOTE: Section 15-20.1-01 was also amended by section 1 of House Bill No. 1533, chapter 171.

transportation, occupational licenses, customary occupational tools and equipment maintenance, and training books and materials.

8. "Rehabilitation training" shall mean all necessary training provided to a disabled individual to compensate for his employment handicap including, but not limited to, manual, preconditioning, prevocational, vocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities.
9. "Physical restoration" shall mean any medical, surgical, or therapeutic treatment necessary to correct or substantially reduce a disabled individual's employment handicap within a reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory conditions.
10. "Prosthetic appliance" shall mean any artificial device necessary to support or take the place of a part of the body or to increase the acuity of a sense organ.
11. "Occupational licenses" shall mean any license, permit, or written authority required by any governmental unit to be obtained in order to engage in an occupation.
12. "Maintenance" shall mean money payments not exceeding the estimated cost of subsistence during vocational rehabilitation.
13. "Regulations" shall mean regulations made by the director, or the division director, as the case may be, with the approval of the state board.

15-20.1-02. STATE BOARD OF VOCATIONAL EDUCATION - DIRECTOR OF VOCATIONAL EDUCATION - APPOINTMENT, QUALIFICATIONS, ASSISTANTS, DUTIES.) The state board of public school education shall be the state board of vocational education. The state board, acting through the office of the superintendent of public instruction, shall appoint a director and executive officer for vocational education who shall be charged with the administration, under the direction and supervision of the board, of the provisions of this chapter relating to vocational education. The state board, acting through the office of the superintendent of public instruction, shall designate such assistants to the director as may be necessary to carry out the provisions of this chapter. The duties, terms of office, and compensation of the director and of his assistants shall be determined by the state board. The

director shall hold as a minimum a baccalaureate degree received from a recognized college or university. He shall enforce such rules and regulations as the state board may adopt and shall prepare such reports concerning vocational education as the state board may require.

15-20.1-03. POWERS AND DUTIES OF STATE BOARD RELATING TO VOCATIONAL EDUCATION.) The state board shall have all authority necessary to cooperate with the United States office of education in the department of health, education, and welfare, or other department or agency of the United States of America in the administration of acts of Congress relating to vocational education, including the following powers and duties:

1. To administer any legislation enacted by the legislative assembly of this state pursuant to or in conformity with acts of Congress relating to vocational education.
2. To administer the funds provided by the federal government and by this state for the promotion of vocational education, and to contract with:
  - a. Any public or private institution or agency, board of trustees of any agricultural and training school, or school district of this state; or
  - b. Any public or private institution or agency, or political subdivision of another state.
3. To formulate plans for the promotion of vocational education in such subjects as are an essential and integral part of the public school system of education in this state.
4. To provide for the preparation of teachers.
5. To fix the compensation of such officers and assistants as may be necessary to administer the federal acts and the provisions of this chapter relating to vocational education and to pay the same and other necessary expenses of administration from any funds appropriated for such purpose.
6. To make studies and investigations relating to vocational education.
7. To promote and aid in the establishment of schools, departments, or classes, and to cooperate with local communities in the maintenance of vocational schools, departments, or classes.
8. To prescribe the qualifications and provide for the certification of teachers, directors, and supervisors.

9. To cooperate with governing bodies of school districts and with organizations and communities in the maintenance of classes for the preparation of teachers, directors, and supervisors of vocational education, to maintain classes for such purposes under its own direction and control, and to establish and control, by general regulations, the qualifications to be possessed by persons engaged in the training of vocational teachers.

15-20.1-04. ACCEPTANCE OF BENEFITS OF FEDERAL ACTS IN VOCATIONAL EDUCATION AND VOCATIONAL REHABILITATION - COOPERATION WITH FEDERAL GOVERNMENT.) The state of North Dakota hereby accepts all of the provisions and benefits of the acts of Congress to assist states to:

1. Maintain, extend, and improve existing programs and develop new programs in vocational education; and
2. Provide for the vocational rehabilitation of disabled persons

in accordance with state statutes and policies of the state board, and the state board shall comply with such conditions as may be necessary to secure the full benefit of such acts. The state board shall cooperate pursuant to agreement with the federal government in carrying out the purposes of any federal act pertaining to vocational education and vocational rehabilitation, and shall adopt such methods of administration as may be found by the federal government to be necessary for the proper and efficient operation of such agreement.

\*15-20.1-05. CUSTODY AND PAYMENT OF VOCATIONAL EDUCATION AND VOCATIONAL REHABILITATION FUNDS.) The state board shall be charged with the duty of administering all funds that are received from federal and state sources for vocational education and vocational rehabilitation purposes. All such moneys received shall be placed in the custody of the state treasurer, and shall be paid by the department of accounts and purchases as directed by certificate of the state board.

15-20.1-06. REIMBURSEMENT OF SCHOOLS TEACHING SUBJECTS IN VOCATIONAL EDUCATION.) The state board shall reimburse approved public or private institutions or agencies, or political subdivisions of this state or of another state, giving instruction in vocational education from funds allocated for that purpose. The state board may prorate the sums available if funds are insufficient to reimburse at the rate established by the state board.

15-20.1-07. COOPERATION OF SCHOOL BOARDS IN VOCATIONAL EDUCATION.) The governing body of any school district and the board of trustees of any county agricultural and training school

\*NOTE: Section 15-20.1-05 was also amended by section 2 of House Bill No. 1533, chapter 171.

may cooperate with the state board in the establishment and maintenance of schools, departments, or classes giving instruction in vocational education as approved by the state board, and may use any moneys raised by public taxation for such purposes in the same manner as the moneys for other school purposes are used for the maintenance and support of public schools. When any school, department, or class giving instruction in vocational education has been approved by the state board, it shall be entitled to share in any federal and state funds available for vocational education.

15-20.1-08. VOCATIONAL SCHOOLS AUTHORIZED - MILL LEVY.) Any county or counties within this state may, upon resolution of the board or boards of county commissioners of such county or counties, establish and maintain a school for the purpose of providing vocational education. For the purpose of maintaining such vocational school, the county or counties may levy a tax of not to exceed three mills upon all taxable property within such county or counties. Such levy shall be in addition to any other mill levies authorized by law, if approved by a majority of those voting on the question at a countywide special, primary, or general election, and after a public hearing has been held thereon.

15-20.1-09. BOARD MEMBERSHIP - POWERS AND DUTIES.) The school board of a vocational school district shall consist of not to exceed seven members, elected from geographical districts which shall be as nearly equal in population as is practicable at the same time and for the same terms as are other county officials. The boundaries of the geographical districts shall be determined by the board of county commissioners or, in the case of several counties combining to form a district, by the boards of county commissioners sitting jointly. The board or boards of county commissioners, as the case may be, shall also appoint the members of the original school board who shall serve until the next regular election of county officials. The provisions of section 15-28-02 shall not apply to a school board elected or appointed in accordance with this section. Such school board shall be governed by title 15 of this Code and shall possess all of the powers granted to a public school board by section 15-29-08 or any other provision of law, insofar as such powers are consistent with the provisions of sections 15-20.1-08 through 15-20.1-11.

15-20.1-10. SPECIFIC POWERS - TUITION PAYMENTS - BOND ISSUES.) The school board of a vocational school district is specifically authorized to accept on behalf of the district any real or personal property available for distribution by the United States or any of its departments or agencies, and also, to accept any federal grants which may be made available in the field of vocational education. It may accept enrollments and set the amount of tuition for students residing outside of the district, provided that the amount of tuition so set shall not exceed the difference between the average cost per student for

educating a student in the district and the payment, if any, received by the district from a county equalization fund on behalf of such student. Payments from the county equalization fund of the student's county of residence on behalf of each student attending a vocational school shall be made to the vocational school of attendance at the same rate as paid for high school students. A vocational school district shall be deemed a municipality within the meaning of section 21-03-01.

15-20.1-11. CURRICULUM - GENERAL POWERS AND DUTIES.) The curriculum offered students by a vocational school shall be as determined by the school board, provided that such curriculum shall be submitted annually to the state board for approval, and only an approved curriculum shall be offered.

15-20.1-12. DIRECTOR OF DIVISION OF VOCATIONAL REHABILITATION.) The state board shall contain a division of vocational rehabilitation. The division shall be administered, under the general supervision and direction of the state board by the division director appointed by such board, in accordance with established personnel standards and on the basis of his education, training, experience, and demonstrated ability. In carrying out his duties under this chapter, the division director:

1. Shall make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility and investigation and determination thereof for vocational rehabilitation services, procedures for fair hearings, and such other regulations as he finds necessary to carry out the purposes of this chapter relating to vocational rehabilitation.
2. Shall establish, with the approval of the state board, appropriate subordinate administrative units within the division.
3. Shall appoint, with the approval of the state board, such personnel as he deems necessary for the efficient performance of the functions of the division.
4. Shall prepare and submit to the state board annual reports of activities and expenditures and, prior to each regular session of the legislature, estimates of sums required for carrying out the provisions of this chapter relating to vocational rehabilitation, and estimates of the amounts to be made available for this purpose from all sources.
5. Shall make certification for disbursement, in accordance with regulations, of funds available for vocational rehabilitation purposes.

6. Shall take, with the approval of the state board, such other action as he deems necessary or appropriate to carry out the provisions of this chapter relating to vocational rehabilitation.
7. May delegate, with the approval of the state board, to any officer or employee of the division such of his powers and duties, except the making of regulations and the appointment of personnel, as he finds necessary to carry out the provisions of this chapter relating to vocational rehabilitation.

15-20.1-13. ADMINISTRATION OF VOCATIONAL REHABILITATION.) Except as otherwise provided by law, the state board shall provide vocational rehabilitation services to disabled individuals determined by the division director to be eligible therefor. In carrying out the purposes of this chapter, the division, among other things, may:

1. Cooperate with other departments, agencies, and institutions, both public and private, in providing for the vocational rehabilitation of disabled individuals, in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of this chapter relating to vocational rehabilitation, such programs, facilities, and services as may be necessary or desirable.
2. Enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned.
3. Conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals.

\*15-20.1-14. REHABILITATION SERVICES PROVIDED TO ANY DISABLED INDIVIDUAL - ELIGIBILITY.) Vocational rehabilitation services shall be provided to any disabled individual who is:

1. A resident of the state at the time of filing his application therefor, and whose vocational rehabilitation the division director determines, after full investigation, can be satisfactorily achieved; or
2. Eligible therefor under the terms of an agreement with another state or with the federal government.

\*15-20.1-15. REHABILITATION SERVICES PROVIDED TO DISABLED INDIVIDUALS REQUIRING FINANCIAL ASSISTANCE.) Except as may be otherwise provided by law or as may be specified in any agreement with the federal government with respect to classes of individuals certified to the state board thereunder, the following rehabilitation services shall be provided at public cost only to

\*NOTE: Section 15-20.1-14 was also amended by section 3 of House Bill No. 1533, chapter 171.

\*NOTE: Section 15-20.1-15 was also amended by section 4 of House Bill No. 1533, chapter 171.

disabled individuals found to require financial assistance with respect thereto:

1. Physical restoration.
2. Transportation not provided to determine the eligibility of the individual for vocational rehabilitation services and the nature and extent of the services necessary.
3. Occupational licenses.
4. Customary occupational tools and equipment.
5. Maintenance.
6. Training books and materials.

15-20.1-16. GIFTS - AUTHORIZATION TO ACCEPT AND USE.) The director and the division director, with the approval of the state board, may accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this chapter. Gifts made under such conditions as in the judgment of the state board are proper and consistent with the provisions of this chapter may be so accepted and shall be held, invested and reinvested, and used in accordance with the conditions of the gift.

15-20.1-17. MAINTENANCE NOT ASSIGNABLE.) The right of a disabled individual to vocational rehabilitation maintenance under this chapter shall not be transferable or assignable at law or in equity.

15-20.1-18. HEARINGS ALLOWED TO AGGRIEVED PERSONS.) Any individual applying for or receiving vocational rehabilitation who is aggrieved by any action or inaction of the division shall be entitled, in accordance with regulations, to a fair hearing by the state board.

15-20.1-19. MISUSE OF VOCATIONAL REHABILITATION LISTS AND RECORDS.) It shall be unlawful, except for purposes directly connected with the administration of the vocational rehabilitation program, and in accordance with regulations prescribed by the state board, for any person or persons to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, or names of, or any information concerning persons applying or receiving vocational rehabilitation, directly or indirectly derived from the records, papers, files, or communications of the state or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

15-20.1-20. LIMITATION OF POLITICAL ACTIVITY.) No officer or employee engaged in the administration of the vocational rehabilitation program shall use his official authority or influence, or permit the use of the vocational rehabilitation

program, for the purposes of interfering with an election or affecting the results thereof, or for any partisan political purposes. No such officer or employee shall take any active part in the management of political campaigns or participate in any political activity, except that he shall retain the right to vote as he may please and to express his opinion as a citizen on all subjects. No such officer or employee shall solicit or receive, nor shall any such officer or employee be obliged to contribute or render any service, assistance, subscription, assessment, or contribution for any political purpose. Any officer or employee violating this provision shall be subject to discharge or suspension.

15-20.1-21. REPORT OF STATE BOARD TO GOVERNOR AND SECRETARY OF STATE.) The state board shall make a biennial report to the governor and the secretary of state on or before the first day of October of each even-numbered year as prescribed by section 54-06-03 and subsection 6 of section 54-06-04. The state board in its report shall set forth the condition of vocational education and vocational rehabilitation in the state, a list of the schools to which federal and state aid for vocational education and vocational rehabilitation has been given, and a detailed statement of the expenditures of federal and state funds for that purpose.

SECTION 5.) Chapter 15-34.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-34.1-01. COMPULSORY ATTENDANCE.) Every parent, guardian, or other person who resides within any school district, or who resides upon any government base or installation without any school district, and has control over any educable child of an age of seven years to sixteen years who does not fall under the provisions of sections 15-34.1-02 or 15-34.1-03, shall send or take such child to a public school each year during the entire time such school is in session.

\*15-34.1-02. COMPULSORY ATTENDANCE - DEAF, MUTE, BLIND, OR MENTALLY DEFICIENT PERSONS.) Every parent, guardian, or other person who has control over any deaf, mute, blind, or mentally deficient child of an age of seven years to twenty years, inclusive, shall send the child, if deaf or mute, to the school for the deaf at Devils Lake or other adequate institution for the entire school year, unless excused by the superintendent of that institution; and if blind, to the school for the blind at Grand Forks or other adequate institution for the entire school year, unless excused by the superintendent of said institution; and if mentally deficient, to the state school at Grafton or other adequate institution for the entire school year, unless excused by the superintendent of that institution. Adequate institution shall mean any school, public or private, specializing in the training of handicapped children as stated.

15-34.1-03. COMPULSORY ATTENDANCE - EXCEPTIONS.) The

\*NOTE: Section 15-34.1-02 was also amended by section 3 of House Bill No. 1479, chapter 162.

parent, guardian, or other person having control of a child required to attend school by the provisions of this chapter shall be excused by the school board from causing the child to attend school whenever it shall be shown to the satisfaction of the board, subject to appeal as provided by law, that one of the following reasons exists:

1. That the child is in attendance for the same length of time at a parochial or private school approved by the county superintendent of schools. No such school shall be approved unless the branches of instruction usually taught in the public schools are taught therein. The approval or disapproval of such school by the county superintendent shall be subject to appeal to the superintendent of public instruction.
2. That the child has acquired the branches of learning taught in the public schools and has completed high school.
3. That the child actually is necessary to the support of his family, which shall be a question of fact to be determined by the governing board of the district with the approval of the county superintendent of schools, and such determination shall be subject to review by the superintendent of public instruction on appeal.
4. That the child is in such physical or mental condition as to render attendance or participation in the regular or special education program inexpedient or impracticable. Such condition shall be shown by a declaration of a licensed physician if required by the board.

15-34.1-04. PROSECUTION FOR VIOLATION OF COMPULSORY ATTENDANCE LAW - OFFICERS CHARGED WITH ENFORCEMENT.) Every school board member, school superintendent, principal, truant officer, and teacher in any school system in this state, and every county superintendent of schools shall be charged with the enforcement of the provisions of this chapter relating to compulsory school attendance. Such enforcement shall extend to all children who are offered school facilities by the district, regardless of whether or not they actually reside within the district. Such persons shall inquire into all cases of alleged violation of such provisions and shall obtain from any parent, guardian, or other person having custody of any child of school age not attending school in accordance with the requirements of this chapter the reason, if any, for such absence. In school districts not having a school superintendent, the county superintendent of schools shall be notified of any violation of the compulsory school attendance law, and such county superintendent shall report the facts of the violation to the state's attorney of the county. In school districts which have a school superintendent, the school

superintendent or principal shall report to the state's attorney of the county the facts in connection with any violation of the compulsory attendance law. The state's attorney shall prosecute any person who violates the compulsory school attendance provisions of this chapter. The school board of any school district having more than five hundred inhabitants may employ a truant officer to assist in the enforcement of the compulsory school attendance provisions.

\* 15-34.1-05. VIOLATION OF COMPULSORY ATTENDANCE PROVISIONS - PENALTY.) Any parent, guardian, or other person failing to comply with the requirements of this chapter is guilty of a misdemeanor and shall be punished by a fine of not less than five dollars nor more than twenty-five dollars for the first offense, and by a fine of not less than ten dollars nor more than fifty dollars for the second and each subsequent offense.

SECTION 6.) Chapter 15-34.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-34.2-01. VEHICULAR TRANSPORTATION OR LODGING MAY BE FURNISHED AT OPTION OF SCHOOL BOARD.) The school board of any school district in the state, in its discretion, may furnish to each family living in the district:

1. Vehicular transportation; or
2. The equivalent of the payments specified in section 15-34.2-03 in lodging at some other public school if the same is acceptable to the family.

The board shall not accord the benefits of either subsection 1 or subsection 2 of this section to any family which is receiving payments under section 15-34.2-03. In the event any school board elects to furnish vehicular transportation by public conveyance, the distance that each student must reside from his school in order to be entitled to such transportation may be determined by the school board in each district, but all students in the district shall be treated on the same basis in accordance with such determination. The furnishing of benefits under this chapter may be extended to families living in the district for the purpose of transporting students to another school district or county agricultural and training school within the state, or another school district outside the state, if the attendance of such students in the other districts is in accordance with the provisions of this title governing the same.

15-34.2-02. TRANSPORTATION OF NONRESIDENT STUDENTS - AGREEMENT - EXCEPTION.) 1. The school board of any school district may furnish vehicular transportation to nonresident students. No transportation shall be furnished unless the district of the students' residence and the admitting district have entered into an agreement for such transportation. Any

\*NOTE: Section 15-34.1-05 was also amended by section 1 of Senate Bill No. 2503, chapter 177.

district that furnishes transportation to nonresident students but has not entered into an agreement with the district of the students' residence therefor, shall not be entitled to receive any county equalization fund or state payments for the transportation of the nonresident students.

2. Notwithstanding the provisions of subsection 1 of this section, transportation may be provided to nonresident students whose parents or guardians have entered into an agreement for the payment of tuition costs for such students, and have agreed to pay the transportation costs. The amount of such transportation costs shall be determined by the school board of the admitting district, and shall not exceed the average per-pupil cost of transportation.

15-34.2-03. TRANSPORTATION - PAYMENT OPTIONAL WITH SCHOOL BOARD - SCHEDULE.) The school board of any school district in the state may pay, in its discretion, to each family living more than two miles from a school in the district which is taught the required length of time, a sum per day for each day's attendance of a student or students of such family, when transported by a member of the family or by a conveyance furnished or paid for by the family, or when the family has paid for lodging for the child, according to the distance between the home of the family and the school, at the rate of ten cents per day for each one-half mile over two miles. Such distance shall be measured by the route from the front door of the nearest operating school to the front door of the family's residence according to the most convenient public course of travel. Payments for transportation shall not be limited to the amount set forth in this section where the student or students are required to be transported to another school because the school which they had been attending is closed.

15-34.2-04. DEMAND FOR PAYMENT, WAIVER.) Demand for any payments authorized by a school board under the provisions of this chapter shall be made by the family entitled thereto before the close of the school year, or the same shall be deemed to be waived. Any payment which has not been made within one year following the date of the demand shall be deemed to have been refused and the claim to have expired.

15-34.2-05. TRANSPORTATION EXPENSE - REPORT OF CLERK.) The clerk of the school board shall include an item in his annual statement setting forth any amounts spent for transportation of students or in making any payment in lieu of transportation.

15-34.2-06. PAYMENT OF BOARD AND LODGING FOR HIGH SCHOOL STUDENTS PERMITTED - LEVY.) If more convenient or economical, any school district may pay a reasonable allowance instead of providing vehicular transportation for eligible high school students residing in the district to attend a county agricultural and training school or a high school in another district. Any school

district that furnishes either transportation or an allowance for board and lodging for students attending high schools in another district may levy a tax not to exceed five mills for such purposes, which levy shall not be subject to any mill levy limitations prescribed by law.

15-34.2-07. VEHICULAR TRANSPORTATION - BIDS, CONTRACTS, BONDS.) The school board of any school district which furnishes vehicular transportation to any of its schools, prior to the opening of school each year, shall enter into written contracts for the furnishing of such transportation for the ensuing school year. If the vehicle furnished is privately owned, the owner or lessee of the vehicle and the school board may enter into a contract, which shall not exceed seven years' time. The board shall give at least ten days' notice of the time and place of the letting of such contracts and shall call for sealed bids therefor by publication in a newspaper of general circulation within such district. The notices shall describe the route to be covered by each contract and shall state that the board reserves the right to reject any and all bids, that a bond will be required of each successful bidder in the sum of five hundred dollars or such greater sum as may be set by the board, conditioned for the faithful performance of the duties prescribed by the contract, and that the bids submitted must name the person or persons who will operate the vehicle and describe the nature of the vehicle.

15-34.2-08. CONTRACT FOR VEHICULAR TRANSPORTATION - CONDITIONS FOR GRANTING.) The school board shall let the contract, in each case, to the lowest responsible bidder who furnishes a bond as described in section 15-34.2-07, which will be approved by the board, and who agrees to use a vehicle which, in the judgment of the board, meets standards imposed by the superintendent of public instruction under sections 39-21-27 and 39-21-27.1, is a safe, comfortable, and suitable vehicle for the purpose, and who names one or more drivers who, in the judgment of the board, are competent and responsible. No contract shall be entered into with any member of the board, but a member of the board may be designated in the contract as the operator of a vehicle.

15-34.2-09. CONTENTS OF VEHICULAR TRANSPORTATION CONTRACT - RESTRICTIONS.) The superintendent of public instruction shall prepare a standard form of contract for the furnishing of vehicular transportation and shall distribute copies thereof, upon request, to the various school districts. A contract for the furnishing of vehicular transportation shall:

1. Provide for the operation of any vehicle used in such transportation by the person or persons named in the contract.
2. Describe the vehicle or vehicles which shall be used for the transportation.
3. Describe the route or routes as fixed by the school

board which the vehicle or vehicles described in the contract shall cover, and provide for the amount of compensation to be paid for transportation.

4. Provide that in case it shall become necessary to change in any particular the route or routes specified in the contract, an equitable adjustment of the compensation payable under the contract shall be made by the board and the contract holder.

The contract shall be assignable only upon the written approval of the board. No vehicle other than one described in the contract shall be used to transport students and no person other than the persons named in the contract shall operate any school bus without the written permission of the school board. In temporary emergencies, the president of the board may grant such permission in writing, but permission given by the president of the board under this section shall be valid only until the next regular or special meeting of the board.

15-34.2-10. ARBITRATION OF DISAGREEMENT AS TO COMPENSATION ON CHANGE OF ROUTE.) In case of a change in the route or routes specified in a vehicular transportation contract and the failure of the school board and the contract holder to agree on an adjustment of the compensation specified in the contract, the matter shall be submitted to arbitration. One arbitrator shall be appointed by the board, and one shall be appointed by the contract holder. The two arbitrators thus appointed shall appoint a third arbitrator. The award of the arbitrators shall adjust the compensation of the contract holder to meet the changed situation and shall be binding upon the district and the contract holder.

15-34.2-11. TRANSPORTATION OF STUDENTS - AUTHORITY OVER DRIVERS AND STUDENTS.) The operator or operators of vehicles used in the transportation of students under a contract entered into as provided in this chapter shall be under the supervision and direction of the board, superintendent, principal, and teachers of the schools at all times while on duty. The disciplinary authority of the schools shall exist over all students while being transported to and from the schools, and the operator shall be charged with their control and discipline while they are being transported.

15-34.2-12. SCHOOL BOARDS' AUTHORITY TO PURCHASE SCHOOL BUS EQUIPMENT.) School boards shall have the power to purchase a bus body, a chassis, or a complete motor bus. Such bus body, chassis, or complete motor bus shall meet the standards set up under the authority of section 39-21-27.1. School boards shall be required to advertise for bids in accordance with the provisions of section 15-47-15. School boards may use money in the general fund to purchase a bus body, a chassis, or a complete motor bus on the installment plan, provided that the payment of such plan shall not extend over a period greater than four years.

15-34.2-13. STORAGE FACILITIES FOR BUSES.) School boards shall have the power to lease for purchase, purchase, or construct storage facilities for school buses upon advertised bids as provided in section 15-47-15. For the purpose of such lease for purchase, purchase, or construction, the school board may use moneys in the general fund or the building fund of the district which are not otherwise obligated.

15-34.2-14. QUALIFICATIONS, CHARACTER, AND AGE OF SCHOOL BUS DRIVERS.) The driver of a school bus shall be in good physical and mental health, able-bodied, free from communicable diseases, and shall have normal use of both hands, both feet, both eyes, and both ears. It shall be the duty of school boards to designate reputable physicians to examine each driver annually. It shall be the duty of each driver to present the physician's certificate of physical fitness to the employing school board before a contract is signed. Such driver shall possess a good moral character, shall be at least eighteen and not more than sixty-five years of age, and shall be required to have a North Dakota driver's license. The term school bus as used in this section shall mean a passenger motor vehicle having an actual seating capacity of twelve or more passengers.

15-34.2-15. TRANSPORTATION OF STUDENTS OUTSIDE STATE BY SCHOOL BUS - WHEN PERMITTED.) A school district may extend its route into a bordering state for the purpose of transporting students from such bordering state when the superintendent of public instruction has entered into a reciprocal agreement with such bordering state as provided in chapter 15-40.2.

15-34.2-16. TRANSPORTATION OF NONPUBLIC ELEMENTARY AND HIGH SCHOOL STUDENTS - CONDITIONS.) When authorized by the school board of a public school district providing transportation for public elementary and high school students, elementary and high school students attending nonpublic schools may be transported on public school buses to and from the point or points on established public school bus routes on such days and during the times that the public school district may authorize and agree to the transportation of such students only when there is passenger room available on such buses, according to the legal passenger capacity for such buses, when such buses are scheduled according to the provisions of this section; provided, however, no payments shall be made from county equalization funds or state funds for any mileage costs for any deviation from the established public routes which may be caused by any agreement entered into pursuant to this section.

\*15-34.2-17. PREPARATION FOR RELIGIOUS DUTIES - ABSENCE FROM PUBLIC SCHOOLS - DEAF, BLIND, MENTALLY DEFICIENT MAY NOT BE PAID TRANSPORTATION.) Parents, guardians, or other persons having control of a child of compulsory school age may have such child excused from school attendance for the purpose of sending him to any parochial school to prepare such child for religious duties, for a total period of not exceeding six months in the

\*NOTE: Section 15-34.2-17 was also amended by section 1 of House Bill No. 1046, chapter 178.

aggregate, and such period may extend over one or more years. No transportation shall be furnished and no payments shall be made under the provisions of this chapter for any child who is attending a parochial school under the provisions of this section nor for any deaf, blind, or mentally deficient child who is not attending the public schools of the district lawfully.

SECTION 7.) Chapter 15-40.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-40.1-01. DEFINITION OF "HIGH SCHOOL STUDENT".) As used in this chapter and in the provisions relating to payments from the county equalization fund, the term "high school student" shall include only students who:

1. Have completed all of the work of the first eight grades, but have not completed the work of the twelfth grade.
2. Are residents of this state.

15-40.1-02. STATE SCHOOL AID.) All payments authorized by this chapter shall be made by the state treasurer out of the general fund of the state within the limits of legislative appropriation.

15-40.1-03. COUNTY EQUALIZATION FUND - HOW CONSTITUTED.) There shall be in each county a county equalization fund which shall consist of the taxes collected by virtue of the mill levy made as provided by section 57-15-24 and payments from the state under the provisions of this chapter after the deductions are made as provided in section 15-39-23. The distribution of moneys in county equalization funds shall only be made pursuant to the provisions of this chapter. If an apportionment of a county equalization fund is withheld from any district, it shall be retained in the fund and disbursed in the same manner as other moneys in the fund. Grants from the state under the provisions of this chapter shall be converted into and become a part of the county equalization fund of each county.

15-40.1-04. DETERMINATION OF SUMS DUE COUNTY EQUALIZATION FUNDS.) For purposes of this section:

1. "County average" means the countywide average percentage of market value at which taxable property in a county has been assessed after final equalization.
2. "State average" means the statewide average percentage of market value at which all taxable property in the state has been assessed after final equalization.

Immediately following the final meeting of the state board of equalization, the state tax commissioner shall certify to the superintendent of public instruction the countywide average

percentage of market value at which all taxable property in each county has been assessed after final equalization and the state-wide average percentage of market value at which all taxable property in the state has been assessed after final equalization. The superintendent of public instruction shall then determine the amount of the grants-in-aid to which each county is entitled. Any county which, according to the certificate of the tax commissioner, has a county average that is equal to the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county multiplied by twenty and five-tenths mills, and the balance will be the amount of aid to which the county is entitled.

Any county which, according to the certificate of the tax commissioner, has a county average that is less than the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county after adjusting such valuation upwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the county is entitled for such fund.

Any county which, according to the certificate of the tax commissioner, has a county average that is more than the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county the product of the taxable assessed valuation of the property in the county after adjusting such valuation downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the county is entitled for such fund.

The superintendent of public instruction shall determine the product of the taxable valuation of property in the county, after adjusting such valuation upwards or downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty-one mills. The superintendent of public instruction shall certify such amount to the county auditor of each county that has a county average that is less than or more than the state average, which shall be converted to mills and levied by the county auditor upon all taxable property in the county in lieu of the twenty-one mill levy specified in section 57-15-24.

15-40.1-05. DISTRIBUTION OF PAYMENTS TO COUNTY EQUALIZATION FUNDS - DUTY OF DEPARTMENT OF ACCOUNTS AND PURCHASES.) The superintendent of public instruction shall certify to the department of accounts and purchases a list of all county equalization funds in the state, together with a statement of payments

equal to one-fourth of the total payments made to each respective equalization fund during the previous fiscal year, and the department of accounts and purchases shall pay each county equalization fund such amounts due, within the limits of legislative appropriation, on or before September fifteenth of each year. The superintendent of public instruction, after certifying to the respective county auditors the amount that shall be levied on all taxable property in accordance with section 15-40.1-04, shall determine what amounts in addition to the September fifteenth payments are necessary to constitute one-half of the payments due to each county equalization fund for the current school year, and shall certify to the department of accounts and purchases a list of all county equalization funds in the state, together with a statement of the payments due such funds. On or before December first, the department of accounts and purchases shall pay to each county equalization fund, within the limits of legislative appropriation, the amounts needed in addition to the September fifteenth payment in order to constitute fifty percent of the sum found to be due under the provisions of this chapter. On or before February first, payments equal to one-fourth of the total payments shall be made to each respective equalization fund, and the balance shall be paid on or before April first.

\*15-40.1-06. DECLARATION OF LEGISLATIVE INTENT.) It is the intent of the legislative assembly to support elementary and secondary education in this state from state and county funds based on the educational cost per pupil, exclusive of the cost of physical facilities, transportation, and current indebtedness. It is hereby found that the educational cost per pupil during the first year of the 1969-1971 biennium is two hundred thirty dollars and for the second year of the biennium the educational cost is two hundred forty dollars and shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in sections 15-40.1-07 and 15-40.1-08. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 shall have an educational cost of two hundred twenty dollars, which shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-07 for the school year of 1970-71.

15-40.1-07. HIGH SCHOOL PER-PUPIL PAYMENTS - AMOUNT - STUDENT ATTENDING SCHOOL IN FOREIGN STATE.) There shall be paid each year from the county equalization fund to all school districts operating high schools, to school districts contracting to educate high school pupils in a federal school, all county agricultural and training schools, the state school for the blind, the state school for the deaf, and the state industrial school, that amount of money resulting from multiplying the factor 1.32 times the educational cost per pupil as provided in section 15-40.1-06 for each high school pupil registered in such schools each year, subject to adjustment as provided in section 15-40.1-09. However, no payment shall be made for those pupils

\*NOTE: Section 15-40.1-06 was also amended by section 1 of Senate Bill No. 2093, chapter 185.

for whom federal agencies provide education. Such payments shall not be made unless four or more units of standard high school work approved by the superintendent of public instruction are offered during the current year, only certificated teachers have been employed, and the other standards prescribed by this chapter have been met. Districts that did not maintain high schools during the year of 1964-1965 shall not be eligible for payments unless they have a minimum enrollment of twenty-five pupils if four years of high school work are offered, a minimum enrollment of twenty pupils if three years of high school work are offered, a minimum enrollment of fifteen pupils if two years of high school work are offered, and a minimum enrollment of ten pupils if one year of high school work is offered.

15-40.1-08. ELEMENTARY PER-PUPIL PAYMENTS - AMOUNT.) There shall be paid out of the county equalization fund to school districts of the county operating elementary schools, to school districts contracting to educate elementary pupils in a federal school, to the state school for the blind, the state school for the deaf, and the state industrial school, employing teachers holding valid certificates or permits, payments based on the number of registered students at the beginning of each school year, adjusted as provided in section 15-40.1-09, as follows:

1. In one-room rural schools there shall be paid that amount of money resulting from multiplying the factor of 1.25 times the educational cost per pupil as provided in section 15-40.1-06 for each of the first sixteen pupils in average daily membership, and for each additional pupil in average daily membership there shall be paid .9 times the educational cost per pupil as provided in section 15-40.1-06, except that no payment shall be made for more than twenty pupils in average daily membership.
2. In elementary schools having under one hundred pupils in average daily membership there shall be paid that amount of money resulting from multiplying the factor of 1.0 times the educational cost per pupil as provided in section 15-40.1-06 for each of the first twenty pupils in average daily membership in each classroom or for each teacher and for each additional pupil in average daily membership in each classroom or for each teacher there shall be paid .9 times the educational cost per pupil as provided in section 15-40.1-06, except that no payment shall be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher.
3. In elementary schools having one hundred or more pupils in average membership there shall be paid that amount of money resulting from multiplying the factor of .9 times the educational cost per pupil as provided in section 15-40.1-06 for each of the first thirty pupils

in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than thirty pupils in average membership in each classroom or for each teacher.

15-40.1-09. APPLICATION FOR PAYMENTS - VERIFICATION AND DETERMINATION OF PAYMENTS FOR HIGH SCHOOL STUDENTS - REPORT OF COUNTY SUPERINTENDENT OF SCHOOLS - APPEAL.) Immediately upon the completion of the registration of students at the beginning of each school term and in no event later than September tenth of each year, the clerk of each school district within or without this state which is claiming payments from a county equalization fund under the provisions of this chapter shall file with the county superintendent of schools a claim on a form prescribed by the superintendent of public instruction stating the number of students registered in high school and elementary grades for which payments are claimed, and such other information as may be reasonably requested by the superintendent of public instruction. Not later than December first, the superintendent of public instruction shall certify to the department of accounts and purchases a list of the school districts and schools not operated by school districts entitled to payments from the county equalization fund, together with the amounts to which the several districts and schools are entitled. Such certification shall include an adjustment in the amounts to which the districts and schools are entitled, based upon the difference between payments made under this chapter to such districts and schools for the previous school year as compared to the amount calculated, as provided in sections 15-40.1-07 and 15-40.1-08, upon the average daily membership during the previous school year. For purposes of this chapter, "average daily membership" shall mean the total days all students in a given school are in attendance, including legal school holidays and days set aside for a North Dakota education association convention, plus the total days all students are absent, divided by one hundred eighty days. School districts educating children of agricultural migratory workers during the months of June, July, and August shall not be restricted to payments for a one-hundred-eighty-day school term.

Immediately upon the termination of the school term and in no event later than July fifteenth of each year, the clerk of each school district within or without this state which has received payments from a county equalization fund under the provisions of this chapter shall file with the county superintendent of schools a verified statement of the name, residence, and membership of elementary and high school students as provided for in this section, and number of units of high school work taken by each high school student enrolled during the previous school year. Such statement shall be attested to by the county superintendent of schools. The county superintendent shall investigate the validity of the statement and shall determine the residence and other qualifications of each student named in the statement filed with him. He shall certify to the superintendent of public instruction on or before September first of each year the number of

enrolled students in each district in his county for the previous school year upon which any adjustment may be based as provided in this section. If any statement is disallowed in whole or in part, notice thereof and the names of students who are disallowed shall be reported to the superintendent of public instruction and to the district filing the statement. Any district may appeal to the superintendent of public instruction from the determination of the county superintendent of schools on or before September fifteenth in the year in which the determination is made. The superintendent of public instruction may change or modify the determination of the county superintendent if the evidence submitted by the district warrants a modification. The judgment of the superintendent of public instruction shall be final.

\* 15-40.1-10. PAYMENTS OF COUNTY EQUALIZATION FUNDS TO SCHOOLS AND SCHOOL DISTRICTS.) County equalization funds shall be paid to schools and school districts as follows:

1. STATE PER-PUPIL PAYMENTS. As soon as possible after receiving per-pupil payments from the state as provided for in section 15-40.1-05, and in any event no later than September twenty-fifth, December fifteenth, February fifteenth, and April fifteenth, the county superintendent of schools shall certify to the county auditor a list of the schools or school districts within or without the state that are entitled to per-pupil payments from the county equalization fund and the amounts thereof. The county auditor shall pay to each district or school the amount certified upon receiving the certificate. Payments shall be made by auditor's warrants and shall be deposited in the general fund of the district or school.
2. COUNTY TWENTY-ONE MILL LEVY PER-PUPIL PAYMENTS. All moneys accumulated in the county equalization fund from the twenty-one mill county levy and from all other sources except the state per-pupil payments referred to in subsection 1 of this section, shall be paid by the county auditor, after certification by the county superintendent of schools, to the schools and school districts entitled thereto, on or before March thirty-first and May fifteenth of each year. Payments shall be made by auditor's warrants and shall be deposited in the general fund of the district or school.

If a school district embraces land in more than one county, the county superintendent of schools of the county in which the largest portion of the area of the school district is located shall determine the county equalization fund payments for such district and shall certify to the auditor of each county the amount to be paid by such county which shall be in the same ratio as the number of pupils of the school district residing in such county bears to the total number of pupils of the district.

\*NOTE: Section 15-40.1-10 was also amended by section 1 of Senate Bill No. 2494, chapter 186.

15-40.1-11. FRACTIONAL PAYMENTS.) Should the moneys in the county equalization fund be insufficient to make all payments, the payments to the various school districts or schools shall be prorated by the county superintendent of schools on a fractional basis. When fractional payments are made, additional payments may be made from time to time as sufficient moneys come into such fund, so as to make full payments under this chapter, provided that if the appropriation made by the legislative assembly is inadequate to meet all claims against such appropriation and is thus the cause of the insufficiency in the county equalization fund, such prorated fractional payments made pursuant to this section shall constitute payment in full.

15-40.1-12. BALANCE IN FUND AFTER PAYMENTS - HOW DIVIDED.) Any balance remaining in the county equalization fund after making payments as provided for in sections 15-40.1-07, 15-40.1-08, and 15-40.1-18, shall be divided among those school districts with territory in the county. Each district with territory in the county shall receive a proportionate amount of the fund according to the average daily membership of students residing within the county, without regard to whether such students attend schools in that county or in another county. No payments shall be made for students attending school outside of the state.

15-40.1-13. RECEIPTS FROM FEDERAL FUNDS.) All moneys paid to the state by the secretary of the treasury of the United States under the provisions of an Act of Congress of February 25, 1920, chapter 85, 41 Statutes at Large, page 437, entitled "An Act to Promote the Mining of Coal, Phosphate, Oil, Oil Shale, Gas, and Sodium on the Public Domain", shall be credited to the state general fund and shall be distributed only pursuant to the terms of this chapter. Such moneys shall be deemed the first moneys withdrawn or expended from the general fund for state school aid purposes.

15-40.1-14. TAYLOR GRAZING ACT FUNDS - DISPOSITION.) Payments to the state from the federal government under the provisions of 43 United States Code 315i (the Taylor Grazing Act), shall be apportioned by the state treasurer among the counties in the state in the proportion that the number of acres of Taylor Grazing Act land in each county bears to the total amount of such land in the state. Such distributions shall be credited to the county equalization fund of the county receiving them and expended for the support of the public schools.

15-40.1-15. DEFINITIONS.) The following words when used in sections 15-40.1-16 through 15-40.1-18 shall have the meanings respectively ascribed to them in this section:

1. "School district" means any type of school district prescribed by the laws of this state.
2. "Route" means a highway, road, or street over and upon

which a school bus regularly travels in accordance with a schedule maintained for the transportation of pupils from their homes to schools.

3. "Daily mileage" means twice the distance computed to the nearest tenth of a mile traveled in a single trip by each school bus over its scheduled route or routes.
4. "School bus" means any vehicle or other means of conveyance owned or operated by a school district or any vehicle subject to a contract for transportation of school pupils in accordance with the provisions of section 15-34.2-07.

\*15-40.1-16. AID FOR TRANSPORTATION.) There shall be paid from the county equalization fund to each school district providing school bus transportation in contract school buses or in district-owned and operated school buses, a sum equal to seven cents per mile for school buses having a capacity of up to nineteen pupils and fourteen cents per mile for school buses having a capacity of twenty or more pupils. Such payments shall be made only to school districts operating school buses in accordance with the laws of this state relating to standards for school buses, and to the qualifications of school bus drivers. Certification as to compliance with the laws of this state in regard to school buses and their drivers shall be made in such manner and in such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section.

15-40.1-17. APPLICATION FOR TRANSPORTATION PAYMENTS.) On or before July fifteenth of each year, the clerk of each school district in this state providing school bus transportation shall certify to the county superintendent of schools the number of school buses operated on a contract basis or owned and operated by the district, the manufacturer's rated pupil capacity of each such bus, the daily mileage each such bus traveled on a school bus route during the school year in transporting pupils to and from school, the amount of transportation payments claimed, and such other information as the superintendent of public instruction may require. On or before the first day of September in each year, the county superintendent of schools shall certify all claims for transportation payments submitted by school districts in the county to the state superintendent of public instruction. At the time the county superintendent of schools certifies such claims to the superintendent of public instruction, he shall also give notice to any district of any disallowance that may have been made by him in the claim for transportation payments. Any district may appeal the decision of the county superintendent of schools to the superintendent of public instruction on or before the fifteenth day of September of any year in which the determination is made. The superintendent of public instruction may change or modify the determination of the county superintendent if the evidence submitted by the district warrants a

\*NOTE: Section 15-40.1-16 was also amended by section 1 of Senate Bill No. 2460, chapter 187.

modification. The judgment of the superintendent of public instruction shall be final.

15-40.1-18. STATE TRANSPORTATION PAYMENTS TO COUNTY EQUALIZATION FUND - COUNTY EQUALIZATION FUND TRANSPORTATION PAYMENTS TO SCHOOL DISTRICTS.) State payments to county equalization funds and the distribution of such payments from county equalization funds to school districts, as aid for transportation, shall be as follows:

1. STATE TRANSPORTATION PAYMENTS TO COUNTY EQUALIZATION FUNDS. The superintendent of public instruction shall determine the total amount of payments to be made to the county equalization fund of each county for transportation aid. The department of accounts and purchases shall pay the sum certified by the superintendent of public instruction to each county, where it shall be credited to the county equalization fund. Such payments shall be made in the same manner and at the same time as other payments from the state to county equalization funds are made, as provided in section 15-40.1-05.
2. COUNTY EQUALIZATION FUND PAYMENTS TO SCHOOL DISTRICTS. Payments from the county equalization fund to the respective school districts entitled to payment therefrom shall be upon warrant of the county auditor at the same time and in the same manner as state and county per-pupil payments from the county equalization fund to the respective school districts are made, as provided in section 15-40.1-10.

15-40.1-19. SUPERINTENDENT OF PUBLIC INSTRUCTION - RULE-MAKING POWER - PREPARATION OF BLANK FORMS.) The superintendent of public instruction may make such rules and regulations governing the certification by the county superintendents of schools of the information and evidence required by the provisions of this chapter and governing appeals from decisions of the county superintendents of schools, as may be necessary. He shall prepare and distribute among the county superintendents of schools blanks forms for the certificates of the school districts to the county superintendents and of the county superintendents to the superintendent of public instruction.

15-40.1-20. PENALTY FOR FALSE REPORT.) Any school official who shall falsify any report in connection with the administration of the state fund and county equalization funds shall be guilty of a misdemeanor.

SECTION 8.) Chapter 15-40.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-40.2-01. TRANSFER OF PUPILS TO OTHER DISTRICTS - TUITION AGREEMENTS.) The school board of any district may send elementary

or high school pupils into another school district when, because of shorter distances and other conveniences, it is to the best interests of the school district to do so, and in such instances the board may pay the tuition of such pupils to the district to which they are sent. The school board may arrange, and when petitioned to do so by a majority of electors of the district, shall arrange with the school boards of other districts, to send pupils to such other districts who can be taught conveniently therein, and for the payment of their tuition and for furnishing and paying for their transportation to and from the schools in such other districts.

15-40.2-02. RECEIVING OF PUPILS BY ADMITTING DISTRICTS.) Any school district shall admit elementary and high school pupils from other districts to its schools when it can be done without injuring or overcrowding such schools and after the board of the sending district and the board of the admitting district have entered into an agreement governing the attendance of such pupils as may be enrolled or when tuition will be paid by a parent or guardian in the manner provided for in this chapter.

15-40.2-03. LEGISLATIVE INTENT RELATING TO TUITION PAYMENTS.) It is the intent of the legislative assembly that school districts educating pupils in other school districts shall pay the full cost of education. Such costs shall be determined on the basis of average daily membership and shall include annual expenditures from the general fund and annual educational expenditures from all special funds. To such average current operating expense in the county for elementary or high school students, as the case may be, shall be added double the statewide total of all school districts' annual expenditures from sinking and interest funds, plus double the statewide total of all school districts' annual tax receipts to the building funds, divided by the average daily membership of the state. From this amount, there shall be deducted for each individual pupil such payments as are received for him from the county equalization fund and state payments received by the admitting district, and a credit applied for any school taxes paid to the admitting district by the parent or guardian of the admitted pupil. The amount remaining shall be the tuition charge for the individual pupil, and shall be paid under the provisions of this chapter.

If the district of residence and the parent or guardian are both paying tuition, the credit allowed under this section for taxes paid to the admitting district by the parent or guardian shall be credited to the district of residence and the parent or guardian in proportion to the amount of tuition paid by each.

Nothing contained in this chapter shall affect the right of a school district to charge and collect such tuition as may be fixed by agreement from pupils who are not residents of this state, in accordance with the provisions of section 15-40.2-10.

15-40.2-04. NONRESIDENT TUITION PAYMENTS MANDATORY - PAYMENTS ARE EXCLUSIVE.) Any school district that admits non-resident pupils to its schools as provided by this chapter, shall

charge tuition for such pupils. The whole amount of such tuition shall be paid by the district from which the pupil is admitted, in accordance with section 15-40.2-03, or by his parent or guardian, in accordance with section 15-40.2-06.

No school district shall charge or collect from any non-resident pupil, his parent or guardian, or the district of his residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident pupils.

15-40.2-05. APPLICATION OF PARENT OR GUARDIAN FOR PAYMENT OF TUITION BY DISTRICT.) The parent or guardian of any pupil who is a resident of a district may apply to the school board of the school district of residence of the pupil for approval of the payment of tuition charges to another school district for attendance of the pupil in such other school district. If the school board of the district of residence shall approve such application, it shall pay the tuition charges. In the event such application shall be disapproved, the parent or guardian of the pupil may file an appeal with the county superintendent of schools, and a three-member committee consisting of the county judge, state's attorney, and the county superintendent of schools shall within fifteen days consult with the school boards of the districts concerned and with the parent or guardian of the pupil concerned and render a decision in regard to payment of the tuition charges. In making such decision, the committee shall determine whether the pupil is a high school pupil, which, for purposes of this section, shall be defined to mean grades nine to twelve, inclusive, or whether the pupil is an elementary school pupil, which, for purposes of this section, shall be defined to mean grades one through eight, inclusive, and then proceed in accordance with the following:

1. HIGH SCHOOL. If the pupil is a high school pupil and the committee finds that the attendance of such pupil is necessitated by shorter distances, previous attendance in another high school, inadequacy of curriculum considering the educational needs of the particular pupil, or other reasons of convenience, it shall approve the payment of tuition by the district of residence of the pupil, obligating such district of residence to pay the same. The committee's approval for the payment of tuition may be for any fixed number of school terms, up to the completion of the pupil's high school education. The decision of the committee may be appealed to the state board of public school education and the decision of the board shall be final.
2. ELEMENTARY. If the pupil is an elementary pupil and the committee finds that the attendance of such pupil is necessitated by shorter distances or other reasons of convenience, it shall approve the payment of tuition by the district of residence of the pupil, obligating such district of residence to pay the same.

The committee's approval for the payment of tuition shall be limited to one school term, and subsequent applications for the payment of tuition may be made annually. The decision of the committee shall be final.

If any portion of the school district lies in more than one county, the committee shall consist of the county judge, state's attorney, and county superintendent of schools from each county lying within the district, and the concurrence of at least two members from each county shall be necessary for a majority of the committee. In the event that the district of residence of the pupil does not comply with the decision requiring that the tuition charges be paid, the admitting district shall notify the county superintendent of schools of the county of the pupil's residence and the state superintendent of public instruction of such fact, and upon verification by the county superintendent of schools that such tuition payments are in fact due the admitting district and are unpaid, all county equalization fund payments including payments from the state for foundation aid to the district of residence of the pupil, shall be withheld until the tuition due has been fully paid.

This section shall not be construed to require the district of residence to provide pupil transportation or payments in lieu thereof, for pupils for whom the payment of tuition has been approved.

15-40.2-06. PAYMENT OF TUITION BY PARENT OR GUARDIAN - WHAT TUITION CONTRACT SHALL CONTAIN.) If the payment of tuition for pupils attending school in another district is refused by the school board of the pupil's residence and, upon application by the parent or guardian, the three-member committee disapproves the payment of tuition, such tuition may be paid by the parent or guardian of the pupil. Not less than one-half of the yearly tuition shall be paid by the parent or guardian on the date of enrollment, and the school board of the admitting district shall execute a contract in writing with the parent or guardian of the pupil requiring the payment of any balance of tuition on or before the first day of the second semester.

15-40.2-07. PAYMENT OF TUITION BY FEDERAL GOVERNMENT, AUTHORITY TO ACCEPT.) Payments under title 1 of Public Law 874 may be accepted as tuition for a nonresident pupil by an admitting district, if the parent of such pupil both resides and is employed upon an installation owned by the federal government, and the school boards of the district of residence and the admitting district both approve the payment of such sum in lieu of other tuition for the nonresident student.

15-40.2-08. RESIDENCY DETERMINATION IN CHILD PLACEMENT CASES - DECISION BY THREE-MEMBER COMMITTEE - PROVISIONS OF SECTION 15-40.2-05 TO APPLY.) For purposes of applying this chapter, the school district in which a child resides shall be construed to be the residence district of such child:

1. At the time any court order or order of a juvenile supervisor shall have been issued requiring such child to stay for any prescribed period at a foster home or home maintained by any nonprofit corporation; or
2. At the time of any placement for any prescribed period of time by a county or state welfare agency with the consent of the parent or guardian at a foster home or home maintained by any nonprofit corporation.

Such residence district shall be liable for tuition upon claim by the admitting district, provided that in the event of placement by a county or state welfare agency with the consent of the parent or guardian, the determination of tuition may be subject to an appeal filed with the county superintendent of schools and the three-member committee referred to in section 15-40.2-05 shall within fifteen days consult with the school boards of the districts concerned and with the parent or guardian of the pupil concerned and render a decision in regard to the tuition charges. Those provisions of section 15-40.2-05 relating to multicounty districts, notification of unpaid tuition, and withholding of county equalization fund payments and state payments shall apply to this section.

15-40.2-09. ATTENDANCE IN PUBLIC SCHOOLS OF BORDERING STATES, WHEN PERMITTED - CONTINUATION OF ATTENDANCE WHEN DISTRICT ANNEXED OR REORGANIZED.) Students may attend a school in a bordering state under the following circumstances:

1. A student who lives within twenty miles of another state or in a county bordering on another state may, with the approval of the school board, attend a public school in a bordering state, and the school board of the school district within which such student resides may contract with the bordering state for the education of such student.
2. A student who resides within a school district which is annexed to or reorganized with another district or districts, and which has been sending students to a school district in a bordering state because of proximity or terrain, shall be permitted to attend or continue attending school in the district in the bordering state.

If a request for attendance is denied under subsection 1 or 2 by the school board of the district in which the student resides, an appeal may be made to the three-member committee referred to in section 15-40.2-05. The decision of the committee may be appealed by the school board, or the parent or guardian of the student, to the state board of public school education, whose decision shall be final. In the event that the district does not comply with a decision requiring that tuition charges be paid, county equalization fund payments and state payments shall be withheld as provided in section 15-40.2-05.

Payments shall be made by the county of the pupil's residence to the school district in the bordering state for attendance under the provisions of this section in an amount equal to the per-pupil payments as provided in sections 15-40.1-07 or 15-40.1-08, as the case may be, and the remainder of the pupil's tuition as determined under section 15-40.2-10 shall be paid by the district of the pupil's residence. Pupils attending public schools in bordering states in accordance with this section shall be certified by the district in the bordering state to the county superintendent of the county of the pupil's residence, and payments shall be made from the county to the school district in the bordering state.

This section shall not be construed to require the district of residence to provide pupil transportation, or payments in lieu thereof, for pupils for whom the payment of tuition has been approved.

15-40.2-10. RECIPROCAL MASTER AGREEMENTS FOR PUPIL ATTENDANCE IN OTHER STATES.) The superintendent of public instruction may enter into reciprocal master agreements with the appropriate state educational agencies or officers of bordering states in regard to the cost of educating elementary and high school pupils in the public schools in such bordering states. Such reciprocal agreements may provide for payment on a per-pupil basis from the county equalization fund for pupils from this state attending schools in bordering states in a sum equal to payments received by the district of the pupil's residence from the county equalization fund. The superintendent of public instruction, by certificate to the department of accounts and purchases, shall authorize payments from the appropriation for state payments to the county equalization fund for the attendance of pupils in bordering states, and the department of accounts and purchases, within the limits of legislative appropriations, shall make such payments. The balance of the tuition payment by the pupil's district of residence shall not exceed the amount established by reciprocal agreement less the amount paid from the county equalization fund to the school district in the bordering state.

15-40.2-11. FEDERAL TUITION CONTRACTS.) The school board may make arrangements for the education of pupils in a federal school and contract with federal officials for such education. Such contracts may be in the form of tuition charges mutually agreed upon, the sharing of education operational costs and facilities, or any other type of contract which will be agreeable to the school district.

15-40.2-12. LEVY FOR TUITION CHARGES PERMITTED.) The school board of any school district approving the payment of high school tuition charges or required to make such payments under the provisions of this chapter may levy an amount sufficient to pay tuition charges, which levy shall not be subject to any mill levy limitations prescribed by law.

SECTION 9.) Chapter 15-53.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-53.1-01. DEFINITIONS.) In this chapter unless the context or subject matter otherwise clearly requires:

1. "Reorganization of school districts" shall mean and include the formation of new school districts, the alteration of the boundaries of established school districts, and the dissolution or disorganization of established school districts, through or by means of:
  - a. The uniting of two or more established districts.
  - b. The subdivision of one or more districts.
  - c. The transfer to an established district of a part of the territory of one or more districts; or the attachment thereto of all or any part of the territory of one or more districts subject to disorganization for any of the reasons now specified by law; or the transfer therefrom of any part of the territory of one or more districts subject to disorganization for any of the reasons now specified by law; or the transfer therefrom of any part of the territory of said established districts.
  - d. Any combination of the methods of the aforementioned.
2. "County committee" and "state committee" shall mean, respectively, the county committee for the reorganization of school districts and the state committee for the reorganization of school districts hereinafter provided for by this chapter.
3. "County superintendent" shall mean the county superintendent of schools.

15-53.1-02. REORGANIZATION NOT TO INCLUDE ANNEXATION OR DISSOLUTION.) Article III, reorganization of school districts, shall not apply to article II, annexation of public school districts, or article IV, involuntary dissolution of public school districts, except where specifically referenced in articles II and IV. It is the intent of the legislative assembly that articles II and IV of this chapter shall remain separate and additional methods for the changing of school district boundaries.

#### ARTICLE II - Annexation of Public School Districts

15-53.1-03. PUBLIC SCHOOL DISTRICTS - AREAS WHICH ARE OR MAY BECOME.) All school districts in the state of North Dakota, except the Fargo school district, are public school districts and shall be governed by the provisions of this article. Any

area may be constituted a public school district in the manner prescribed and shall be governed thereafter by the provisions of this article. When any territory or area is added to a city, such addition, upon incorporation into the city, shall become a part of the school district comprising or embracing the city. The term "city" as used in this chapter shall include any community or communities established or which have come into existence as a result of federal projects carried on within this state and which are situated upon government-owned property.

15-53.1-04. PUBLIC SCHOOL DISTRICTS - CORPORATE POWERS - CORPORATE NAME - NAME CHANGE.) Every public school district shall be a body corporate for school purposes and the name of such school district shall be substantially as follows:

" \_\_\_\_\_ Public School District No. \_\_\_\_\_  
of \_\_\_\_\_ County, State of North Dakota."

The school district shall possess all the powers and shall perform all the duties usual to corporations for public purposes or conferred upon it by law. Under its name it may sue and be sued, enter into contracts, and convey such real and personal property as shall come into its possession by will or otherwise. It may have a corporate seal by which its official acts may be attested. Whenever in the judgment of the school board of any school district it is deemed desirable to change the name of the school district, or whenever one-third of the electors of the district shall submit a petition requesting a change in the name of the school district, the board shall submit the proposed name change at the next school election. Upon ratification of the proposed change of such name by a majority of the ballots cast on the question, the school district shall be renamed accordingly. The clerk of the school board of the district shall notify the county auditor, the county superintendent of schools, and the superintendent of public instruction of any change in the name of the district.

\*15-53.1-05. ATTACHMENT OF ADJACENT TERRITORY TO SCHOOL DISTRICT - PETITION.) Territory contiguous to a public school district, whether in the same county or in another, may be attached to such school district by the county committee upon written application signed by two-thirds of the electors of the contiguous territory after hearing and subject to the provisions of section 15-53.1-29. The sufficiency of the petition and the determination of the number of electors necessary to constitute a two-thirds majority shall be determined by the county committee. As used in the words "territory contiguous" in this section, the word "territory" shall mean all or any portion or part of an organized school district, and the word "contiguous" shall mean any two or more tracts which are in actual contact at least to the extent of touching at a common corner.

\*15-53.1-06. ANNEXATION HEARINGS - EQUALIZATION - NOTICE OF HEARINGS.) Before detaching territory from one school district or annexing territory to another school district, the county

\*NOTE: Section 15-53.1-05 was also amended by section 2 of House Bill No. 1545, chapter 195.

\*NOTE: Section 15-53.1-06 was also amended by section 2 of House Bill No. 1545, chapter 195.

committee shall hold a hearing on the annexation therefor. At least fourteen days prior to the time the hearing is to be held, the committee shall cause notice of such hearing to be published in the official newspaper of the county in which the school district is located, or if no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in this state. At such hearing the county committee shall receive testimony for the purpose of determining the value and amount of all school property and all bonded and other indebtedness of each school district affected by a change in boundaries, and shall consider the amount of all outstanding indebtedness and make an equitable adjustment of all property, assets, debts and liabilities among the districts involved; and, if the annexation is approved by the state committee, the county committee may cause a tax to be levied against each district affected in accordance with the provisions of section 15-47-21 which will equalize the several interests fairly. If the adjoining district is in another county or counties, the county committees of all counties affected shall consider and jointly effect the annexation if a majority of the members of each of the county committees approve the annexation. In the event that the annexation is approved by a majority of the members of one or more county committees, the county superintendent of the county in which the annexing district is located shall submit the annexation to the state committee for approval or disapproval, and in such instance approval of the annexation shall have the same effect as approval by all county committees. If the annexation does not receive the approval of any county committee, it shall not be presented to the state committee. An appeal from the decision of the state committee may be had to the district court of the county in which the annexing district is located, in accordance with applicable provisions of chapter 28-32.

\* 15-53.1-07. EFFECTIVE DATE OF ATTACHMENT OR DETACHMENT - VOTING PLACES.) If territory is annexed to a school district or detached therefrom, under the provisions of this article, the change in boundaries shall become effective the next July first after the final approval by the state committee unless another effective date is provided for by the county committee or in the petition. If territory is attached to an existing school district, the electors in such attached territory shall vote on school matters at the nearest polling place in the district to which it is attached.

#### Article III - Reorganization of Public School Districts

15-53.1-08. TITLE AND PURPOSE.) This article shall be known and may be cited as an "Act to Provide for the Reorganization of School Districts". It shall have for its purpose the formation of new school districts and the alteration of the boundaries of established school districts in order to provide a more nearly equalized educational opportunity for pupils of public schools, a higher degree of uniformity of school tax rate among districts, and wiser use of public funds expended for the

\*NOTE: Section 15-53.1-07 was also amended by section 1 of Senate Bill No. 2198, chapter 196.

support of the public school system.

15-53.1-09. CLASSIFICATION OF ELEMENTARY SCHOOL DISTRICTS WHERE COUNTY AGRICULTURAL AND TRAINING SCHOOLS ARE LOCATED.) For purposes of school district reorganization as provided in this article, an elementary school district in which a county agricultural and training school is located shall be considered a high school district.

15-53.1-10. STATE BOARD AS STATE COMMITTEE.) The state committee shall be the state board of public school education.

\*15-53.1-11. COUNTY COMMITTEE - SIZE, COMPENSATION, VACANCIES, TERM.) In each county in this state there shall be a county committee which shall be formed by the selection of one resident from each of the county commissioner districts within the county. Each member shall receive the actual and necessary expenses incurred by him in the performance of his official duties in accordance with the schedule for state officers and employees. In addition thereto, each member may also receive five dollars as compensation for each meeting of the committee actually attended by him. All payments for compensation and expenses shall be made upon warrant by the department of accounts and purchases as directed by the department of public instruction from moneys appropriated for that purpose.

The term of each county committee member shall be three years, staggered so that one term shall expire each year. Members of the county committee shall be selected by appointment by the county superintendent of schools with the approval of the board of county commissioners. Vacancies shall be filled in the same manner for the unexpired portion of the term. In the event a committee member shall fail, refuse, or be unable to perform his duties as a member of such committee, the county superintendent of schools, upon petition of a majority of the school boards having territory in whole or in part within the district which such committee member was appointed to represent, shall declare the position of such member upon the committee to be vacant, and shall immediately appoint a new member to the committee from that district.

15-53.1-12. COUNTY COMMITTEE - MEETINGS - QUORUM.) A chairman who shall be the presiding officer shall be selected from among the members of the county committee by majority vote, and shall serve for one year and until a successor is chosen. The county superintendent shall be the secretary of the committee, but shall have no vote. Meetings of the committee shall be held upon call of the chairman or a majority of the members thereof. A majority of the members of the committee shall constitute a quorum. The county superintendent shall be allowed and paid his actual and necessary expenses incurred while in the performance of his duties. Additional expenses shall be chargeable and payable as an expense of the county.

\*NOTE: Section 15-53.1-11 was also amended by section 3 of House Bill No. 1545, chapter 195.

15-53.1-13. STATE'S ATTORNEY TO REPRESENT COMMITTEE.) The state's attorney of any county within which a school district is located in whole or in part shall, upon request of the county committee, act as legal advisor of and render opinions in writing to the committee or its officers. The state's attorney shall also defend the committee or any of its officers in any legal proceedings arising out of the conduct of the business of the board. In the event that the defense in such proceedings would result in a conflict with the duties of such state's attorney in regard to other public officials or under any law, the board of county commissioners shall employ a special counsel to represent the committee or defend against such proceedings. Compensation of special counsel, in such amount as may be agreed to by the county commissioners, shall be paid out of the county general fund.

15-53.1-14. COMPREHENSIVE STUDY OF COUNTY MADE BY COUNTY COMMITTEE - CONSIDERATIONS.) The county committee may make a comprehensive study of the county school system whenever deemed necessary in order to consider and determine:

1. The taxable assessed valuation of existing districts and the differences in such valuation under possible reorganization plans.
2. The size, geographical features, and boundaries of the districts.
3. The number of pupils attending school and the population of the districts.
4. The location and condition of school buildings and their accessibility to the pupils.
5. The location and condition of roads, highways, and natural barriers within the districts.
6. The school centers where children residing in the districts attend high school.
7. Conditions affecting the welfare of the teachers and pupils.
8. The boundaries of other governmental units and the location of private organizations.

The committee shall also give due consideration in the preparation of a plan for the reorganization of school districts to the educational needs of local communities; to economies in transportation and administration; to the future use of existing satisfactory school buildings, sites, and playfields; to a reduction in disparities in per-pupil valuation among school districts; to the equalization of the educational opportunities of pupils;

and to any other relevant matters which in its judgment are of importance.

15-53.1-15. DETERMINATION AND ADJUSTMENT OF PROPERTY, ASSETS, DEBTS AND LIABILITIES AMONG DISTRICTS.) The county committee shall determine the value and amount of all school property and all bonded and other indebtedness of each school district affected in a reorganization plan, and shall consider the amount of all outstanding indebtedness and make an equitable adjustment of all property, assets, debts and liabilities among the districts involved after the hearing provided for in section 15-53.1-16.

15-53.1-16. PUBLIC HEARING ON PROPOSALS FOR REORGANIZATION - HEARING TESTIMONY FOR ADJUSTING.) The county committee shall hold a public hearing on the advisability of any proposal by such committee for the reorganization of school districts which involves the formation of a new district or the transfer from one established district to another of any territory in which children of school age reside. Notice of hearings shall be given by publishing a notice in the official county newspaper at least fourteen days prior to the date of such hearing. If the county committee fails to call such hearing and to give the required public notice, a petition signed by twenty-five percent of the electors in the area proposed to be included in the new school district and presented to the committee shall make it mandatory for a hearing to be called. The notice of such hearing shall be published within ten days after the date of filing of the petition, and shall set forth the date selected for the hearing, which shall not be more than twenty days after the date of publication. The county committee shall also hear at such time as may be fixed by it, testimony offered by any person or school district interested in any proposal of the county committee to form a new district, to transfer territory from one school district to another, or to attach to an established district or districts all or any part of another district subject to disorganization for any of the reasons now specified by law; such testimony to be heard for the purpose of finding and determining the following:

1. The value and amount of all school property of whatever nature involved in the proposed action.
2. The nature, amount, and value of all bonded, warrant, and other indebtedness of each school district affected by the proposed action, including all unexecuted obligations with separate consideration given to the amount of outstanding indebtedness incurred for current expenses, the amount incurred for permanent improvements, and the location of such improvements in order that an equitable adjustment of all property, debts and liabilities among the districts involved be made.

The county committee shall keep a record of all hearings on

the reorganization of school districts and of all findings and terms of adjustment of property, debts and liabilities among the districts involved, and shall submit the same to the state committee at the time of submitting a plan as provided in section 15-53.1-17. A subcommittee composed of not less than three members of a county committee, or three members of the county committee of each county concerned in case territory in two or more counties is involved, may hold any hearing that the county committee is required to hold.

15-53.1-17. REORGANIZATION PLAN PREPARED AND SUBMITTED TO STATE COMMITTEE.) The county committee shall prepare and submit to the state committee a comprehensive plan for the reorganization of school districts within the county. Such plan shall be accompanied by:

1. A map showing the boundaries proposed under any plan for the reorganization of school districts, prepared and submitted in compliance with the provisions of this article.
2. A description of the boundaries aforementioned.
3. Recommendations respecting the location of schools, the utilization of existing buildings, the construction of new buildings, including dormitories, and the transportation requirements under the proposed plan for the reorganization of school districts. Such recommendations shall not be binding upon such proposed school district except as otherwise provided by law.
4. A summary of the reasons for such proposed reorganization of school districts.
5. Recommendations specifying whether such reorganized districts shall have five, seven, or nine-member school boards, and whether such members shall be elected at large or from designated geographic districts.
6. Such other reports, records, and materials as the state committee may require.

15-53.1-18. PLAN INVOLVING TERRITORY IN MORE THAN ONE COUNTY.) A plan for the reorganization of school districts involving territory lying in two or more counties shall be prepared by joint action of a special committee composed of not less than three members of the county committee of each county involved and shall be submitted to each respective county committee for its approval. In the event that the reorganization plan is approved by a majority of the members of one or more county committees, or the members of one or more of the special committees fail or refuse to meet with the committee or committees from other

counties, the county superintendent of the county in which the largest number of pupils who would be affected by the proposed new district reside shall submit the reorganization plan to the state committee for approval or disapproval. Approval of the reorganization plan by the state committee shall have the same effect as approval by all the county committees. If the reorganization plan fails to receive the approval of any county committee, it shall not be presented to the state committee for review.

15-53.1-19. COMPLETED PLANS FOR DISTRICT OR DISTRICTS MAY BE SUBMITTED PRIOR TO COMPREHENSIVE COUNTY PLAN.) The county committees, from time to time, may submit to the state committee a plan for the reorganization of one or more districts without awaiting the completion of a comprehensive plan; provided, however, that such plan fits into and becomes an integral part of such comprehensive plan as the county committee is required to prepare.

15-53.1-20. STATE COMMITTEE - POWERS AND DUTIES.) The state committee shall:

1. Aid county committees in carrying out their powers and duties under this article by furnishing them, with the assistance of the employed staff of the state committee, with other necessary clerical assistance, and with such plans of procedure, standards, data, maps, forms, and other materials and services as may be necessary.
2. Receive, file, and examine plans and data for the reorganization of school districts submitted by county committees, and shall approve such plans and data when they are found by the state committee to provide for a satisfactory school district system for the counties and the state and for an equitable adjustment of property, debts and liabilities. Whenever a plan submitted by a county committee is found by the state committee to be unsatisfactory, or whenever the terms of adjustment so submitted are found not to be fair and equitable, the state committee shall so notify the county committee and upon request shall assist the county committee in the revision of the plan or terms of adjustment, which revision shall be completed by the county committee and resubmitted within ninety days after such notification.
3. Appoint a county committee, in case no county committee is elected, as required in section 15-53.1-11, or in case a committee so elected shall fail or refuse to submit plans, records, reports, and other data as provided for in this article.
4. Transmit to the county superintendent of each county affected a copy of the plan for reorganization of school districts approved by the state committee; a copy of approved terms of adjustment of property, debts and

liabilities; a statement of the findings and conclusions of the state committee respecting such approved plans and terms of adjustment; and copies of maps, reports, records, and all other pertinent material submitted to the state committee by the county committee.

5. Establish standards by the promulgation of rules and regulations to govern the county and state committees for school district reorganization in the development and approval of school district reorganization plans or annexation proceedings. Such standards shall require any school district to be formed or reorganized under any reorganization plan or annexation proceedings providing for the operation of a high school to have sufficient tax base and fiscal capacity to clearly permit the reorganized district to offer the minimum curriculum prescribed by section 15-41-24 taught by teachers possessing the qualifications required by section 15-41-25. Exceptions to such standards shall be allowed by the county or state committees only in extreme cases where because of sparsity of population or geographical barriers it is absolutely impossible to obtain compliance with them. No reorganization plan or annexation proceedings shall be approved by the county or state committees unless it shall have logical boundaries following a uniform pattern without undue irregularities.

15-53.1-21. STATE COMMITTEE - EMPLOYEES.) The superintendent of public instruction shall be the director of school district reorganization. The director shall appoint and employ such personnel as may be necessary to enable the committee to carry out the powers and duties imposed upon it by this chapter and to fix the compensation for such appointees and employees.

15-53.1-22. APPROVED PLAN RECEIVED BY COUNTY SUPERINTENDENT - DUTY OF SUPERINTENDENT TO CALL SPECIAL ELECTION - DEFINITION OF VOTING UNITS - FAVORABLE RESULTS.) Upon receipt from the state committee of an approved plan for the reorganization of school districts, and approved terms of adjustment of property, debts and liabilities among the districts involved, the county superintendent shall call a special election of the voters residing within the territory of the proposed new district, such election to be held at the place or places therein which have been determined by the county superintendent to be convenient for the voters. In holding such election, all existing districts within the proposed new district containing one or more incorporated cities regardless of number or size shall vote as a single unit, and all existing districts within such proposed new district regardless of number or size which do not contain one or more incorporated cities shall vote as a single unit. For the purposes of this section, all districts containing incorporated cities shall be considered an incorporated area, and all districts which do not contain at least one incorporated city shall be considered

an unincorporated area. Notice of such election, stating the time and place of holding the election, shall be published by the county superintendent in the official county newspaper at least fourteen days before the election. The election notices shall clearly state that the election has been called for the purpose of affording the voters an opportunity to approve or reject a proposal for the formation of a new school district and shall also contain a description of the boundaries of the proposed new district and a statement, if there be any, of the terms of adjustment of property, debts and liabilities applicable thereto. The county superintendent shall appoint judges and clerks of the elections and the election shall be held and conducted in the same manner and the polls shall open and close at the same time as specified for elections in public school districts. The result of the elections shall be certified and delivered to the county superintendent within three days after the closing of the polls. If a majority of all votes cast by the electors residing within the unincorporated area of a proposed new district and the majority of all votes cast by the electors within the incorporated area of a proposed new district are both in favor of the formation of the district, the county superintendent shall make the proper adjustment of the property, assets, debts and liabilities as provided in such approved plan and shall organize and establish such districts and in so doing shall perform all other necessary duties that are required by law to be performed by the county superintendent in connection with the organization and establishment of new school districts of any kind or type.

15-53.1-23. ELECTIONS FOR CONSOLIDATING OR REORGANIZING TWO OR MORE REORGANIZED SCHOOL DISTRICTS.) Notwithstanding the provisions of section 15-53.1-22, whenever reorganization proceedings are had for the purpose of consolidating or otherwise affecting two or more school districts previously reorganized under the provisions of chapter 15-53 or 15-53.1, each of such reorganized school districts shall vote as a separate unit and such reorganization proceedings shall be adopted only when approved by all voting units.

15-53.1-24. TRANSPORTATION REQUIRED.) A reorganization plan shall provide for the transportation of students and shall specify if family-type or public school bus-type of transportation shall be used, and if such plan is approved by the voters of the new proposed district, then it shall be mandatory upon the school board of such district to provide adequate and practical transportation of the type specified, except that if family-type transportation is specified, the school board may later substitute public school bus transportation. A reorganized school district shall not be bound by the schedule of payments or limitations provided in section 15-34.2-03, and shall establish such schedule of transportation payments as may be proper under the circumstances affecting that district, but in no event shall such newly established schedule of payments be less than the amounts specified in section 15-34.2-03 for family conveyance-type transportation.

15-53.1-25. PROPOSAL REJECTED, REVISION MADE - NEW ELECTION HELD.) If a proposal for the formation of a new school district is rejected by the voters at the election provided for in section 15-53.1-22, the county committee may at any time after three months from the date of such election, and after a public hearing is held in the manner provided in section 15-53.1-16, make such revision as it deems advisable in the boundaries proposed for such new district and in the terms of adjustment of the property, debts and liabilities thereof, as the case may be, and resubmit the same to the state committee for approval. If the boundaries of the proposed new district or the terms of adjustment, as the case may be, as revised, are approved by the state committee, notice thereof shall be transmitted to the county superintendent, as provided for in section 15-53.1-20. Upon receipt of such notice the county superintendent shall call, in the manner and for the purpose specified in section 15-53.1-22, a special election of the voters residing within the revised boundaries of the proposed new district. If a majority of all votes cast by the electors residing within the unincorporated area of a proposed new district and a majority of all votes cast by electors within the incorporated area of the proposed new district are both in favor of the formation of the district, the county superintendent shall proceed to organize and establish such district and to perform the necessary duties related thereto in the same manner and to the same effect as is provided in section 15-53.1-22.

15-53.1-26. SCHOOL BOARDS IN REORGANIZED AND ORIGINAL DISTRICTS.) After the establishment of any new school district, the school board for such new school district shall be elected at the regular annual school district election or at a special election called by the county superintendent of schools for that purpose. The first election to elect a school board in a newly reorganized district shall be governed by the provisions of chapter 15-28. Members of school boards elected in the newly reorganized districts shall not enter upon the duties of such office until the time specified in section 15-53.1-28. School boards in original school districts included within a reorganized district shall continue and remain in existence until the time specified in section 15-53.1-28 at which time the new school board elected for the newly reorganized district as provided in this section shall become the governing body of such school districts; provided, however, that prior to the completion of the reorganization of any school district under the provisions of this article, the existing school board of any school district shall not contract or place such district under any obligation, except upon the recommendation of the county committee. Subsequent annual elections in such school district shall be governed by the laws pertaining hereto.

\*15-53.1-27. CONTINUANCE OF ELEMENTARY SCHOOLS IN REORGANIZED DISTRICTS.) Each elementary school included in reorganized school districts shall be kept in session as provided by law, except that any school may be discontinued when the people in the old district where the school is located, by a majority vote, approve its closing or when a petition requesting that the school

\*NOTE: Section 15-53.1-27 was also amended by section 1 of House Bill No. 1352, chapter 197.

be discontinued is signed by two-thirds of the electors in the old district where the school is located and is presented to the school board in the reorganized district. The board may reopen such school at any time upon its own motion.

15-53.1-28. EFFECTIVE DATE OF APPROVED REORGANIZATION PLANS - TRANSFER OF ALL PROPERTY.) Any reorganization plan voted upon and approved shall become operative and effective on the first day of July following its final approval. Any officer of a school district incorporated in whole or in part into a reorganized school district shall within thirty days from the date the reorganization is effective, turn over to the reorganized school district all of the property and other assets as finally adjusted and determined by the county committee. Unless it is otherwise agreed and provided by the reorganization plan, debts, obligations, and liabilities of the several districts or parts of districts incorporated into the reorganized district shall become the general debt, obligation, and liability of the reorganized district

15-53.1-29. VOLUNTARY PROPOSALS FOR ORGANIZATION OR ALTERATION OF SCHOOL DISTRICTS.) Proposals for the organization of a new school district, for the consolidation of two or more districts, or for the alteration of the boundaries of established school districts, by any of the means provided for by law, must be submitted by the county committee to the state committee for final approval:

1. After a hearing on petitions is held by the county committee; or
2. After action is taken by the county committee in cases where no petition is required; or
3. For approval before proposals are submitted to the vote of the electors,

as the law may require in each case. Such proposals shall be approved by the county committee and approved by the state committee if in the judgment of said committees they constitute an acceptable part of a comprehensive program for the reorganization of the school districts of the county.

15-53.1-30. COUNTY AND STATE OFFICERS TO COOPERATE WITH COMMITTEES.) The county and state officers shall make available to the county committee and the state committee such information from public records in their possession as is essential to such committees in the performance of their duties.

15-53.1-31. DUTIES IMPOSED UPON COUNTY SUPERINTENDENT AND OFFICERS WHERE REORGANIZED DISTRICTS CONSTITUTE JOINT DISTRICTS.) The duties imposed upon and required to be performed by the county superintendent under the provisions of this chapter or under other provisions of law are in like manner imposed upon and required to be performed by all county superintendents affected by a reorganization of school districts involving territory in two or more counties.

15-53.1-32. APPEAL FROM DECISION OF COUNTY COMMITTEE IN MAKING ADJUSTMENTS OF PROPERTY, DEBTS AND LIABILITIES.) An appeal may be taken to the district court on any question of adjustment of property, debts and liabilities among the districts involved in which the power to make an adjustment or adjustments has been extended by this chapter. Any person feeling aggrieved by the decision of the county committee after the hearing provided for in section 15-53.1-16 may appeal from such decision. Such appeal shall be taken within thirty days after the decision of the committee on the adjustment of the property, debts and liabilities, by serving a written notice of appeal upon a member of the county committee. If the court finds the terms of the adjustment in question to be not legally or equitably constituted, it shall make an adjustment that is equitable and legal. Any determination by the court with respect to the adjustment of property, debts and liabilities among the districts or areas involved shall not otherwise affect the validity of the reorganization or creation of any district or districts under the provisions of this article.

15-53.1-33. ANNEXATION OF REMAINING PORTIONS OF REORGANIZED DISTRICT TO OTHER DISTRICTS.) When a portion of any public school district has become a part of a reorganized school district under this article and a portion of the public school district is not included in the reorganized district, such remaining portion, having a net assessed valuation as defined in subsection 7 of section 57-02-01 of less than one hundred thousand dollars for each teacher employed in the remaining territory, shall become a part of a school district adjacent thereto in the following manner:

1. The county committee shall, within forty-five days after the reorganized district has been approved by the voters, order a hearing for the purpose of determining to which district or districts the remaining territory shall be annexed.
2. The hearing shall be held in a designated school-house, or a designated place located in the remaining territory, and notice of the time and place of the hearing shall be given by publication in the official county newspaper at least fourteen days before the date of the hearing. Within ten days after the hearing, the county committee shall make an order annexing the remaining territory to adjacent school district or districts.
3. At such hearing the county committee shall receive testimony for the purpose of determining the value and amount of all school property and all bonded and other indebtedness of such school district affected by a change in boundaries, and shall consider the amount of all outstanding indebtedness and make an equitable adjustment of all property, assets, debts

and liabilities among the districts involved; and, if the annexation is approved by the state committee, the county committee may cause a tax to be levied against each district affected in accordance with the provisions of section 15-47-21 which will equalize the several interests fairly.

4. The decision of the county committee shall be reviewed by the state committee and approved if in the judgment of the state committee the effect of the decision is consistent with the existing program for the reorganization of the school districts of the county.

15-53.1-34. SALE OR REMOVAL OF SCHOOL BUILDINGS IN REORGANIZED DISTRICTS.) On motion of the school board, or on petition of a majority of the electors in an original school district included in a reorganized district established in accordance with the provisions of this article, for the sale or removal of a schoolhouse in such district, if the building has not been used as a public school for the preceding school year, the school board of the reorganized district may have the school building moved to the place designated in the petition, or sold if the petition so provides. The proceeds of such sale shall be placed in either the general fund or the building fund or the reorganized district, in the discretion of the school board. In the event such sale or removal is to a political subdivision of this state, it may be made for less than the fair market value of the school building upon motion unanimously approved by the school board.

\* 15-53.1-35. TRANSFER OF LAND UPON REORGANIZATION OR ANNEXATION.) The legal title to all land owned by an original school district which has been included in a reorganized district or annexed to another district and which is not subject to a possibility of reverter or right of re-entry if title is held by other than the original district, shall be vested in the school board of the reorganized school district or the district to which such property is annexed upon approval of the reorganization plan by the electors or upon orders of the county superintendent of schools or the reorganization committee, as the case may be. If the reorganized district or district to which such property is annexed includes less than the whole of the former district, legal title to the land of the former district shall vest in the school board of the district in which such land is situated after reorganization or annexation. A certificate prepared by the county superintendent of schools wherein the land in question is located, stating the legal description of the land involved, and the fact that the school district formerly owning the land has become either annexed, attached, or reorganized with another school district, may be recorded in the office of the register of deeds of the county in which the land is situated.

\* 15-53.1-36. PUBLICATION COSTS OF REORGANIZATION NOTICES.) All costs of publishing such notices as may be required in school district reorganization proceedings as provided in this article

\*NOTE: Section 15-53.1-35 was also amended by section 4 of House Bill No. 1545, chapter 195.

\*NOTE: Section 15-53.1-36 was also amended by section 5 of House Bill No. 1545, chapter 196.

shall be paid by each of the districts affected by the plan in the same proportion as the amount of each district's territory relates to the amount of territory of the newly proposed school district, should the reorganization plan fail to be approved by the voters at the election at which the plan is submitted. Should such reorganization plan be approved at the election, all such costs shall be paid by the newly reorganized school district.

15-53.1-37. REORGANIZED SCHOOL DISTRICTS - PROPORTIONATE RATE OF TAX - DEFINITION OF "AGRICULTURAL LANDS".) Where any school district is in the process of being formed or reorganized under the provisions of this article, the county committee shall include in its reorganization plan submitted under the provisions of section 15-53.1-17, a recommendation for a proportionate rate of tax for school purposes to be levied on and between agricultural land and personal property having taxable situs on agricultural land as one class of property within the proposed reorganized school district, and other taxable property as a second class of property in the same school district, where an unequal tax burden would result from a uniform rate of tax on all property in the district. This proportionate rate between classes of property shall be approved, disapproved, or adjusted by the state committee. For purposes of this section, "agricultural lands" shall have the same meaning and classification as "agricultural lands" within the purview of subsection 15 of section 57-02-08 wherein farm structures and improvements located on such lands are in a class for tax exemption.

15-53.1-38. ALTERATION OF PROPORTIONATE RATE.) After approval or adjustment by the state committee, the proportionate rate of tax between the two classes of property set forth in section 15-53.1-37 shall not be altered by the school board of the new district without approval by vote of a majority in each class of the respective taxpayers affected. For the purposes of such vote, a person shall vote as a member of one class only, and where there is a conflict in his interests because he will pay taxes under section 15-53.1-37 on properties in both classes, he shall vote as an owner of the class of property on which his residence is situated.

15-53.1-39. CHANGES IN REORGANIZATION PLAN.) At any time after the reorganization plan has become effective, any provision of the reorganization plan theretofore or thereafter adopted, including those affecting the adjustment of assets and liabilities but excepting those provisions defining the boundaries of the district, may be changed by a majority vote of the electorate without approval of the state or county committees. The school board in the reorganized district may, upon its own motion, or shall, upon the filing with it of a petition containing a number of signatures equal to at least one-third of the total number of votes cast at the most recent school district election, submit the question of authorizing the change at the next regular or special election. The new election shall follow the election procedure provided in section 15-53.1-22 and shall involve the same

geographic areas as were concerned with the original reorganization election. Electors within any territory which has been annexed to the reorganized district shall vote with either an incorporated area or unincorporated area depending on the status of the annexed area at the time of its annexation and as defined by section 15-53.1-22. If a majority of all votes cast by the electors residing in each of the geographic areas are in favor of the proposed change, then the proposed change shall be effected.

\*15-53.1-40. POWERS OF SCHOOL BOARD IN REORGANIZED DISTRICT - EXCEPTIONS.) After five years from the effective date of the reorganization plan, the school board of a reorganized district shall exercise the powers granted to a school board by section 15-29-08 or any other provision of law regardless of limitations contained in the reorganization plan. The provisions of this section shall not be construed as authorizing the school board of a reorganized district to exercise any powers prohibited or limited by sections 15-53.1-24, 15-53.1-27, 15-53.1-34, 15-53.1-38, or 15-53.1-39.

#### Article IV - Involuntary Dissolution of Public School Districts

15-53.1-41. DISSOLUTION OF SCHOOL DISTRICTS - DUTY OF COUNTY SUPERINTENDENT.) The county superintendent shall notify the county committee:

1. When any school district within the county has had its assessed valuation reduced to an amount which will no longer enable the district to raise sufficient funds to carry on normal school operations;
2. When any school district within the county has not operated a school by the thirty-first day of December of the year following the calendar year in which such operation ceased, providing fifty percent of the pupils from such school district are not attending schools in another state; or
3. Of the existence of territory not organized into a school district.

Upon receipt of such notice, the county committee shall forthwith give notice of hearing to dissolve the school district or attach the unorganized territory to other districts in the manner provided in section 15-53.1-29 and shall, after approval by the state committee, provide for its attachment to one or more adjoining school districts effective July first next following the approval. Qualified electors residing in the attached territory shall be entitled to vote and hold office in the school district to the same extent as all other qualified electors residing therein, and such territory shall be part of the school district as fully in every respect as if it had been included in the district when organized. Nothing herein shall prevent the district from

\*NOTE: Section 15-53.1-40 was also amended by section 2 of House Bill No. 1352, chapter 197.

providing for the education of such children to the extent that its current budget in the judgment of the school board will permit, or shall relieve the district from any existing responsibility for the education of children attending its schools before the effective date of the order. Nothing herein shall change the effect of any election held within the school district pursuant to chapter 15-48 before the effective date of the order. This section applies to all school districts in the state including the board of education of the city of Fargo and the district under its jurisdiction for school purposes.

15-53.1-42. NOTICE OF HEARING - ORDER OF ATTACHMENT - JOINT COUNTY ACTION.) The county superintendent upon order of the county committee shall notify the clerk of each school district adjoining any district which is to be dissolved pursuant to section 15-53.1-41, and any unorganized territory recommended for attachment as therein provided, that a hearing will be held and the time and the place of the hearing by the county committee, for the purpose of determining to which school district or districts the dissolved or unorganized territory will be attached. At such hearing, the county committee shall receive testimony for the purpose of adjusting properties, debts and liabilities of the district to be dissolved in accordance with the provisions of section 15-53.1-06. Upon or after such hearing the county committee shall by resolution order the district dissolved and its territory attached, or the unorganized territory attached, to one or more adjoining school districts in such manner as will, in its judgment, provide the best educational opportunities for pupils of the public schools and the wisest use of public funds for the support of the public school system in such school districts and attached territory. The order shall become effective July first following the date of the order or resolution and after approval by the state committee, as provided in section 15-53.1-41. If that portion of the order providing for attachment of the dissolved or unorganized territory is rendered ineffective or suspended for any reason, the portion of the order providing for the dissolution shall also be suspended until such time as the attachment becomes effective. If any of such adjoining district is situated wholly or partly in a county other than that which included the district to be dissolved or the unorganized territory affected, any order attaching territory to such adjoining school district shall become effective only upon the adoption of a concurring resolution by the county committee of the other county in which it is situated.

SECTION 10. AMENDMENT.) Section 12-10-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-10-06. PERSONAL INTEREST IN CONTRACT BY PUBLIC OFFICER - PUNISHMENT - EXCEPTION.) Every public officer authorized to sell or lease any property, or make any contract in his official capacity, who contrary to law voluntarily becomes interested

individually in such sale, lease, or contract, directly or indirectly, is guilty of a misdemeanor. Provided, however, that contracts of purchase or employment, by a political subdivision, may be entered into with an officer of such political subdivision if such contracts are unanimously approved by the other members of the governing body of the political subdivision by a finding unanimously adopted by such other members and entered in the official minutes of the governing body, to be necessary for the reason that the services or property obtained are not otherwise available at equal cost. The provisions of this section shall not apply to sales, leases, or contracts entered into between school boards and school board members or school officers.

SECTION 11. AMENDMENT.) Section 15-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-22-09. DUTIES IN GENERAL.) The county superintendent of schools shall have the general superintendence of the schools in the county except those in districts which employ a district superintendent of schools and shall exercise such other powers and perform such other duties as are prescribed by law.

SECTION 12. AMENDMENT.) Section 15-28-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-01. SCHOOL BOARD MEMBERS, NUMBER, AND TERMS - ELECTIONS TO BE AT LARGE - REORGANIZED DISTRICTS VOTE ONCE.)

1. Each school board of a public school district in this state shall be composed of five members, unless:

- a. Such district has increased its membership under the provisions of this section;
- b. Such district has increased its membership under the provisions of any prior law permitting such increase; or
- c. Such district is, at the time of the effective date of this section, operating with a school board composed of a greater or lesser number of members than five, in which case the number of members of such board shall remain unchanged unless increased under the provisions of subsection 2 of this section.

2. The number of school board members in any public school district may be increased to either five, seven, or nine if a petition signed by at least one-third of the voters of the school district as determined by the number of persons voting at the most recent annual school district election is filed with the school board asking for such increase, and the increase is approved by a majority of the voters of the district voting at a special election called for that purpose. If approved, the additional members shall be elected to the board at the next annual

school district election in the same manner as other school board members. If the total number of board members after the increase is approved is five, two shall serve until the first annual election, two until the second annual election, and one until the third annual election thereafter. If the total number of board members after the increase is approved is seven, three shall serve until the first annual election, two until the second annual election, and two until the third annual election thereafter. If the total number of board members after the increase is approved is nine, three shall serve until the first annual election, three until the second annual election, and three until the third annual election thereafter. All such members shall serve for the terms prescribed above and until their successors are elected and qualified, and the length of the respective terms of those members elected as a result of the increase in membership of the board shall be determined by lot. In no event shall the length of any term which existed prior to the increase in membership and which is held by a member who has duly qualified, be modified by such determination. Terms subsequent to the first shall be for the normal term of three years, and until a successor is elected and qualified. School board members shall be elected at large, except that if the district in which they are elected has been reorganized under the provisions of chapter 15-53 or article III of chapter 15-53.1, such members may be elected either at large or by geographical area. In districts reorganized under the provisions of chapter 15-53 or article III of chapter 15-53.1, in which an increase in the membership of the board is proposed, the election on the reorganization plan shall take the place of the petition and election requirements of this subsection, and approval of the reorganization plan shall have the same effect as if the approval were by the election provided for in this subsection.

SECTION 13. AMENDMENT.) Section 15-28-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-02. RURAL MEMBERS OF SCHOOL BOARD.) When a school district is composed of six or more sections of land having a city within its boundaries and when the population of the school district does not exceed two thousand persons, at least two members of the school board shall be residents upon farms outside the corporate limits of the city. When a school district is composed of six or more sections of land and has within its boundaries a city with a population of more than two thousand but less than fifteen thousand persons, and has at least twenty-five families residing upon farms outside the corporate limits of the city but upon farmsteads located within the school district and sending children to school in such school district, at least one member of the board shall be a resident upon a farm outside the corporate limits of the city. Provided that when the assessed taxable valuation of the rural area of a school district containing a city is greater than the assessed taxable valuation of the urban area of the district, the majority of

the members of the school board shall reside upon farms outside the corporate limits of the city.

For purposes of this section, school board members shall be considered as rural members and as residing upon a farm if they reside within a city that according to the latest federal census has a population of two hundred or less and is located within a school district that has four or more incorporated cities within its boundary.

SECTION 14. AMENDMENT.) Subsection 1 of section 15-29-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To establish for all children of legal school age residing within the district, a system of free public schools which shall furnish school privileges equally and equitably.

SECTION 15. AMENDMENT.) Subsection 2 of section 15-29-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To organize, establish, operate, and maintain such elementary and high schools as it may deem requisite and expedient, to acquire sites and construct buildings and other facilities in connection therewith, and to change the location of or discontinue such schools and liquidate the assets thereof in the manner prescribed by law; provided that no site shall be acquired or building constructed, or no school shall be organized, established, operated, maintained, discontinued, or changed in location without the approval of the state board of public school education if outside the boundary of the district.

SECTION 16. AMENDMENT.) Subsection 3 of section 15-29-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. To send pupils into another school district, and to make arrangements for the education of pupils in a federal school and contract with federal officials for such education, all as provided by law.

SECTION 17. AMENDMENT.) Subsection 14 of section 15-29-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. To admit to the schools of the district pupils from other districts as provided by law, and to make rules and regulations for such admission, for the assignment and distribution of pupils to and among the schools, and for their transfer from one school to another.

SECTION 18. AMENDMENT.) Section 15-41-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-41-06. HIGH SCHOOL COURSES - REQUIREMENTS - CREDITS.) Four units of high school work shall be considered the minimum number of any year from the ninth grade to the twelfth grade, inclusive. All unit courses shall be taught a minimum of forty minutes a day for at least one hundred eighty days, subject to the provisions of section 15-47-33, except that all natural science courses shall exceed forty minutes to such an extent as may be determined by the superintendent of public instruction. In all high schools and in all schools maintaining any of the grades from the ninth to the twelfth, inclusive, and doing high school work, it shall be made possible for each grade to complete four units of work each year. The work which is done by pupils in any school which does not conform to the requirements contained in this section shall not be accredited by the superintendent of public instruction through state high school examinations or otherwise.

SECTION 19. AMENDMENT.) Section 15-47-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-21. TAX LEVIES FOR EQUALIZATION BETWEEN SCHOOL DISTRICTS LIMITED - REMITTANCE TAX.) When the amount to be levied on each of several districts or parts of districts affected by a change in school district boundaries has been determined, a list of the several amounts shall be made, and the respective amounts shall be set forth opposite the name of the district to which it is chargeable. The entire levy shall be stated substantially in the form provided for certifying school taxes, shall be addressed to the county auditor, and shall be signed by a majority of the members of the county committee or committees. Opposite the several descriptions of property on the tax list shall be entered the names of the school districts within which the property is situated. The levy shall be a valid levy on the taxable property of each district. Not more than fifteen mills of the levy shall be extended against the taxable property in any one year, and the levy, not exceeding fifteen mills on the dollar, shall be extended from year to year until the whole amount has been levied. The county auditor shall preserve the levies and shall extend the several rates from year to year as required by law for school district taxes, and the tax shall be collected at the same time and in the same manner as other taxes are collected, and paid over to the proper school district within which the property upon which the tax is paid is situated. The proceeds of taxes upon parts of districts lying outside of the district with which they are equalized shall be paid to the treasurer of the school district within which the property is situated. The taxes levied for equalization purposes shall be in addition to all other taxes for school purposes. The provisions of this section shall apply to proceedings under article

II, annexation, and article IV, involuntary dissolution, of chapter 15-53.1, but shall not apply to article III, reorganization, of chapter 15-53.1 except where specifically so referenced.

SECTION 20. AMENDMENT.) Section 15-47-27 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 15-47-27. TIME FOR RENEWAL OF TEACHERS' CONTRACTS.) Any teacher who has been employed by any school district, the director of institutions, or the state board of higher education in this state during any school year, shall be notified in writing by the school board, the director of institutions, or the state board of higher education, as the case may be, not earlier than the fifteenth day of February and not later than the fifteenth day of April in the school year in which he or she has been employed to teach, of the determination not to renew the teacher's contract for the ensuing school year, if such determination has been made; and failure to give such written notice on or before said date shall constitute an offer to renew the contract for the ensuing school year under the same terms and conditions as the contract for the then current year. On or before April fifteenth in any year and not earlier than February fifteenth, all teachers shall be notified of a date, which shall not be less than thirty days after the date of such notice, upon which they will be required to accept or reject proffered re-employment, and failure on the part of the teacher to accept said offer within such time shall be deemed to be a rejection of the offer. Any teacher who shall have accepted the offer of re-employment, either by the action or nonaction of the school board, the director of institutions, or the state board of higher education, on or before April fifteenth, as herein provided, shall be entitled to the usual written contract for the ensuing school year, as provided by law and shall notify the school board, the director of institutions, or the state board of higher education, in writing of his or her acceptance or rejection on or before the date specified or before May fifteenth, whichever is earlier. Failure on the part of the teacher to provide such notification shall relieve the school board, the director of institutions, or the state board of higher education, of the continuing contract provision of sections 15-47-26 through 15-47-28. Nothing in this section shall be construed as in any manner repealing or limiting the operation of any existing law with reference to the dismissal of teachers for cause.

SECTION 21. AMENDMENT.) Section 15-47-33 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-33. LENGTH OF ELEMENTARY AND SECONDARY SCHOOL YEAR TERM.) All elementary and secondary schools in this state shall provide at least one hundred eighty days of classroom instruction during each school term. Any day in which classes cannot be held because of acts of God, epidemic, or failure of physical

\*NOTE: Section 15-47-27 was further amended by section 2 of Senate Bill No. 2332, chapter 190.

facilities shall be included in the one hundred eighty days provided for in this section.

SECTION 22. AMENDMENT.) Section 15-49-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-49-02. PERSONAL INTEREST IN SCHOOL DISTRICT CONTRACTS PROHIBITED - EXCEPTIONS.) No school board member or other school officer shall be interested personally, directly or indirectly, in any contract requiring the expenditure of school funds unless such contract has been unanimously approved by the school board, and a finding made and unanimously adopted by the board and entered into the official minutes that the services or property to be furnished are not otherwise obtainable elsewhere at equal cost. Regardless of this section, any school board, by resolution duly adopted, may provide for the contracting at any time thereafter, for minor supplies or incidental expenses with members of its school board or other school officers, except that the amount thereof shall not exceed that amount required for the acceptance of bids as set forth in section 15-47-15. Any violation of the provisions of this section shall be a misdemeanor.

SECTION 23. AMENDMENT.) \*Subsection 3 of section 57-15-14 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Any school district giving four years of standard high school work may levy taxes not to exceed thirty-four mills; provided that there shall be no limitation upon the taxes which may be levied by any school district having a total population in excess of four thousand according to the last federal decennial census if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted and approved by a majority of the electors voting at any regular or special election upon such question. In the event such election is held in a reorganized district, it shall be conducted and approved or disapproved in the same manner and subject to the same conditions as provided in section 15-53.1-22 for elections for approval of school district reorganization plans. The question of authorizing or discontinuing such unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of not less than ten percent of the electors of the district as determined by the county superintendent for such county in which such school is located; provided, however, that the approval of discontinuing such unlimited taxing authority shall not affect the tax levy in the calendar year in which the election is held. The election shall be

\*NOTE: Subsection 3 of section 57-15-14 was further amended by section 1 of Senate Bill No. 2324, chapter

held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing an unlimited mill levy;

SECTION 24. AMENDMENT.) Section 57-15-24 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-24. COUNTY MILL LEVY FOR SCHOOLS.) The county auditor, at the time the annual levy of taxes is made, shall levy a tax of twenty-one mills on the dollar on all taxable property in the county to be placed in the county equalization fund for apportionment as provided by law except that the county auditor of any county which, according to the certificate of the tax commissioner, has on a countywide average assessed its taxable property at a percentage of market value that is either less or more than the statewide average percentage of market value at which all taxable property has been assessed shall convert the amount certified to him by the superintendent of public instruction to mills and make such levy upon all taxable property in the county in lieu of such twenty-one mill levy specified by this section. The levy provided for in this section shall be over and above any tax levy limitations provided by law.

SECTION 25. AMENDMENT.) Section 57-16-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-16-04. INCREASE MAY BE FOR FIVE YEARS - EXTENSION - DISCONTINUANCE.) The governing board of the school district may submit the question of authorizing an excess levy for the current year and not to exceed four succeeding years. The notice of election shall give the year or years for which authorization is sought for an excess levy as well as the percentage of excess which is to be voted upon. Prior to the termination of the excess levy, such levy may be extended for a term not to exceed the original term of the increase upon the unanimous approval by the governing board of the school district, and further extensions may be made for the same number of years prior to each termination date upon the unanimous approval of the governing board of the school district. The question of discontinuing such extended excess levy in any school district shall be submitted to the electorate at the next regular election upon the filing with the school board of a petition containing the signatures of not less than ten percent of the electors of the district as determined by the county superintendent for such county in which such school is located; provided, however, that the approval of discontinuing such extended excess levy shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in section 15-53.1-22 for elections for approval of school district reorganization plans.

SECTION 26. AMENDMENT.) Section 57-55-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-03. WHEN TAXES BECOME DUE AND DELINQUENT.) The tax for a trailer shall become due upon expiration of fifteen days after such trailer is brought into this state and upon January fifteenth of each year thereafter. If the tax on any mobile home or trailer house, or sleeping trailer becomes due between January fifteenth and March seventeenth and, if not paid on or before March seventeenth, it shall become delinquent on the following first day of April, at which time a penalty of two percent of the amount of delinquent tax shall be added. If the tax on any mobile home or trailer house, or sleeping trailer shall become due after March seventeenth, it shall become delinquent on the fifteenth day after it became due and, if not paid on or before that day, shall be subject to a penalty of two percent of the amount of delinquent tax. An additional penalty of one percent of the amount of any delinquent and unpaid tax shall attach on the first day of each calendar month, not including however, the month in which the tax became delinquent. The total penalties shall not exceed ten percent of the amount of tax. Taxes may be prorated in three equal installments, if the amount of the tax due is forty dollars or more and upon application of the taxpayer. Upon application for installment payments, the county auditor shall authorize payment of the tax in not to exceed three equal installments, due without penalty, on or before April first, July first, and October first of the year in which the tax becomes due. The penalty provided in this section shall also apply to installment payments, which shall become delinquent fifteen days after the date said installment was due and payable.

SECTION 27. AMENDMENT.) Section 57-55-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-04. TAXES - HOW DETERMINED - DISBURSEMENT.) The tax for each trailer shall be determined by the county auditor by placing a valuation on such trailer and its contents pursuant to standards and guides as determined by the state tax commissioner and applying such value to the total of all of the most recent mill levies applying to property within the taxing district wherein the trailer is located.

SECTION 28. AMENDMENT.) Section 16-01-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-01-15. CERTAIN QUESTIONS NOT TO BE VOTED UPON FOR THREE MONTHS.) Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter shall not again be

submitted to a vote until a period of at least three months shall have expired and in no event shall more than two elections on the same general matter be held within twelve consecutive calendar months.

SECTION 29. REPEAL.) Chapters 15-20, 15-27, 15-34, 15-40, and 15-53 of the 1969 Supplement to the North Dakota Century Code; sections 15-22-21, 15-22-22, 15-38-04, and 15-41-18 of the 1969 Supplement to the North Dakota Century Code; and sections 15-41-19, 15-47-19, and 15-47-20 of the North Dakota Century Code are hereby repealed.

Approved March 8, 1971

## CHAPTER 159

SENATE BILL NO. 2127  
(Hernett)

INVESTMENT OF SCHOOL  
TRUST FUNDS

AN ACT to amend and reenact sections 15-01-02, 15-03-04, 15-03-15, and 15-03-18 of the North Dakota Century Code, relating to the investment of various permanent funds under the control of the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-01-02. POWERS - CONTROL OF PUBLIC LANDS AND PERMANENT FUNDS.) The board shall have:

1. Full control of the selection, appraisalment, rental, sale, disposal, and management of:
  - a. Lands donated or granted by or received from the United States or from any other source for the support and maintenance of the common schools.
  - b. All lands which shall fall to the state by escheat.
  - c. All lands donated or granted by or received from the United States or from any other source for the maintenance of the educational, penal, or charitable institutions.
  - d. All lands acquired by the state through the investment of the permanent school funds of the state as the result of mortgage foreclosure or otherwise.

2. Full control of the investment of the permanent funds derived from the sale of any of the lands described in subsection 1 of this section.
3. Full control of such percent of the proceeds of any sale of public lands as may be granted to the state by the United States on such sale.
4. Full control of the proceeds of any property that shall fall to the state by escheat and of the proceeds of all gifts and donations to the state for the support or maintenance of the common schools, and of all other property otherwise acquired by the state for the maintenance of the common schools. Any gift to the state not specifically appropriated to any other purpose shall be considered as a gift for the support and maintenance of the common schools.

\*SECTION 2. AMENDMENT.) Section 15-03-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-04. INVESTMENT OF FUNDS - PURCHASE OF SECURITIES AND MORTGAGES - APPRAISAL.) Subject to the provisions of section 15-03-05, the board of university and school lands shall invest the money belonging to the permanent funds under its control in the following securities:

1. First mortgages on farm lands and improvements thereon in this state to the extent such mortgages are guaranteed or insured by the United States or any instrumentality thereof, or if not so guaranteed or insured, not exceeding in amount one-half of the actual value of the property on which the same may be loaned, such value to be determined by the board of appraisal of school lands.
2. All investments that are enumerated under section 21-10-07 of this Code as legal investments for the state investment board.

SECTION 3. AMENDMENT.) Section 15-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-15. MEETING TO CONSIDER INVESTMENTS AND APPROVAL OF FARM LOANS - NOTICE - VOTE REQUIRED.) The board of university and school lands shall not purchase nor approve the purchase of any securities nor approve the application for any farm loan except at a meeting of the board held pursuant to a notice given by the secretary of the board to every member in time to afford each member an opportunity to be present at the meeting. The notice shall specify that the question of the purchase or the action on a proposal for the purchase of

\*NOTE: Section 15-03-04 was also amended by section 1 of House Bill No. 1479, chapter 162.

certain securities or the approval of the application for certain farm loans is to be considered at the meeting. A majority vote of all the members of the board shall be required to purchase any securities or to approve the application for any farm loan, and such vote shall be taken by yeas and nays and shall be duly recorded in the books of the board. The president of the Bank of North Dakota or an officer of the Bank designated by him shall serve as counsel and advisor to this board and must approve, with the exception of farm loans, the investment of funds in securities enumerated in section 21-10-07 of the North Dakota Century Code.

SECTION 4. AMENDMENT.) Section 15-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-18. COMMISSIONER TO RECEIVE AND PRESENT OFFERS FOR SALES OF SECURITIES - MAINTAIN RECORDS OF MORTGAGES AND SECURITIES.) The commissioner of university and school lands shall receive and present to the board all offers for the sale of securities. He shall keep such books as may be necessary to register and describe all securities and mortgages purchased or taken by the board for the benefit of any of the permanent funds under its control. The books kept by the commissioner shall be ruled to permit:

1. The registry of the name and residence of the person offering to sell any bonds, securities, or mortgages.
2. If bonds, the designation of the municipality, corporation, or sovereignty for which the offer is made.
3. A full and detailed description of every governmental bond, whether of the United States, this or any other state, or a municipality, and the date, number, series, amount, and rate of interest of each bond, and when the interest and principal, respectively, are payable.
4. If mortgages, a description of the property mortgaged.
5. If any other security, a full and detailed description of the security according to sound accounting principles.

The foregoing record shall be made before the completion of the purchase of any bond, security, or mortgage.

Approved March 11, 1971

## CHAPTER 160

SENATE BILL NO. 2037  
(Goldberg, L. Larson, Lowe,  
Melland, Robinson, Wenstrom, Wilhite)  
(Legislative Council Study)

## LAND DEPARTMENT FEES

AN ACT to authorize the board of university and school lands to charge fees, and to repeal section 15-02-10 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. BOARD OF UNIVERSITY AND SCHOOL LANDS TO SET AND ESTABLISH FEES - COLLECTIONS.) The board of university and school lands shall have authority to set and establish fees in amounts equal to the cost of the issuance of patents, deeds, leases, assignments, land contracts, holding land sales, furnishing documents, and receiving and processing all loans made by the board. All leasing fees for agricultural purposes shall be collected by the county treasurer of the county wherein such land is leased at the time the first payment is made for leases, and such funds shall be deposited in the general fund of the county. All other fees provided for in this section shall be deposited in the general fund of the state treasury.

SECTION 2. REPEAL.) Section 15-02-10 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 161

SENATE BILL NO. 2217  
(Committee on Appropriations)

## STATE LAND MAINTENANCE FUND

AN ACT to create and provide for the creation of a state land maintenance fund, and to amend and reenact sections 15-01-05, 15-03-02 and 15-03-03 of the North Dakota Century Code, relating to the payment of salaries and expenses of the office of commissioner of university and school lands from such fund, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. CREATION OF MAINTENANCE FUND - INCOME DERIVED FROM STATE ASSETS.) Ten per centum (10%) of the income derived from any state assets under the control of the board of university and school lands shall constitute a fund to be known as the state lands maintenance fund.

SECTION 2. PAYMENT OF SALARIES AND EXPENSES FROM MAINTENANCE FUND - VOUCHERS AND WARRANTS.) All salaries and expenses of the office of the commissioner of university and school lands shall be paid from said state lands maintenance fund upon vouchers in duplicate, approved by the commissioner, setting forth the accounts covered thereby, duly itemized, one copy to be retained in the commissioner's office and the other to be filed with the department of accounts and purchases, and warrants for the payment thereof drawn by said department of accounts and purchases upon said fund.

SECTION 3. APPORTIONMENT OF MAINTENANCE FUND BALANCES QUARTERLY.) Any balance remaining over a minimum balance of twenty thousand dollars in said state lands maintenance fund on March 31, June 30, September 30 and December 31 of each year shall be apportioned by the department of accounts and purchases among the several funds from which derived.

SECTION 4. AMENDMENT.) Section 15-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-01-05. EXPENSES OF BOARD - HOW PAID - LIMITATIONS.) Necessary incidental expenses of the board, within the limits of any appropriation made therefor by the legislative assembly, shall be paid by the department of accounts and purchases from

the state land maintenance fund upon satisfactory vouchers. The department of accounts and purchases shall issue its warrant for such expenses.

SECTION 5. AMENDMENT.) Section 15-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-02. INTEREST AND INCOME FROM GRANT LANDS.) All moneys accumulating in the interest and income fund arising from the sale or leasing of any lands granted by the state or by the constitution of the state of North Dakota for any institution of higher education of the state are pledged specifically for the maintenance of the institution for which such lands were granted after deducting the cost of administering such funds as provided in this act.

SECTION 6. AMENDMENT.) Section 15-03-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-03. STATE TREASURER TO HAVE CUSTODY OF CERTAIN SCHOOL FUNDS.) The state treasurer shall be the custodian of all funds arising from the sale or leasing of any lands granted to any institution of higher education, and such funds shall be deposited with him. He shall keep a separate fund for each institution of higher education to which a land grant has been made, exclusive of institutional funds which may be subject to the order of the president as hereinafter specified. All funds in the hands of the state treasurer shall be kept by him in separate accounts on behalf of the several institutions and such funds shall be used exclusively for the benefit of the institution to which they belong after deducting the cost of administering such funds as provided in this act.

SECTION 7. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 27, 1971

## CHAPTER 162

HOUSE BILL NO. 1479  
(Mertens)

SCHOOL FUNDS -  
AUTHORIZED INVESTMENTS

AN ACT to amend and reenact sections 15-03-04 and 15-06-01, subdivision h of subsection 2 of section 15-39-01, sections 15-47-02, 25-07-01, 25-07-05, and 25-07-07 of the North Dakota Century Code, and to amend and reenact section 15-34.1-02 as contained in section 5 of House Bill No. 1045, as approved by the forty-second legislative assembly, deleting the words "and dumb" from the phrase "deaf and dumb" and substituting the word "deaf" for the word "mute", and to amend and reenact section 25-07-04 of the North Dakota Century Code, relating to the age at which deaf children shall be allowed to attend the school for the deaf.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

\*SECTION 1. AMENDMENT.) Section 15-03-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-03-04. INVESTMENT OF FUNDS - PURCHASE OF BONDS AND MORTGAGES - APPRAISAL.) Subject to the provisions of section 15-03-05, the board of university and school lands shall invest the money belonging to the permanent funds of the common schools, the state university and school of mines, the state industrial school, the agricultural college, the school for the deaf, the state normal schools, and other permanent funds derived from the sale of original grant lands or from any other source, in the following securities:

1. Bonds of school corporations, counties, townships, and municipalities within the state;
2. Bonds issued for construction of drains within the state;
3. Bonds of the United States;
4. Bonds of the state of North Dakota; or
5. First mortgages on farm lands and improvements thereon in this state to the extent such mortgages are guaranteed or insured by the United States or any

\*NOTE: Section 15-03-04 was also amended by section 2 of Senate Bill No. 2127, chapter 159.

instrumentality thereof, or if not so guaranteed or insured, not exceeding in amount one-half of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisal of school lands.

SECTION 2. AMENDMENT.) Section 15-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-06-01. "ORIGINAL GRANT LANDS" DEFINED.) The term "original grant lands" shall mean all of the public lands which heretofore have been or hereafter may be granted to the state by the United States for the support and maintenance of the common schools or for the support and maintenance of the university, the school of mines, the state industrial school, the agricultural college, the school for the deaf, any normal school, or any other educational, penal, or charitable institution, and any lands which have been obtained by the state through a trade of any such lands for other lands. Original grant lands which have been sold on contract shall retain their character as such grant lands until the contract has been paid up and a patent issued therefor.

SECTION 3. AMENDMENT.) Section 15-34.1-02 as contained in section 5 of House Bill No. 1045, as approved by the forty-second legislative assembly, is hereby amended and reenacted to read as follows:

15-34.1-02. COMPULSORY ATTENDANCE - DEAF, BLIND, OR MENTALLY DEFICIENT PERSONS.) Every parent, guardian, or other person who has control over any deaf child of at least four years of age, or control over any blind, or mentally deficient child of an age of seven years to twenty years, inclusive, shall send the child, if deaf, to the school for the deaf at Devils Lake or other adequate institution for the entire school year, unless excused by the superintendent of that institution; and if blind, to the school for the blind at Grand Forks or other adequate institution for the entire school year, unless excused by the superintendent of said institution; and if mentally deficient, to the state school at Grafton or other adequate institution for the entire school year, unless excused by the superintendent of that institution. Adequate institution shall mean any school, public or private, specializing in the training of handicapped children as stated.

\*SECTION 4. AMENDMENT.) Subdivision h of subsection 2 of section 15-39-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

h. The school for the deaf;

SECTION 5. AMENDMENT.) Section 15-47-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*NOTE: Chapter 15-39 was repealed by section 2 of House Bill No. 1517, chapter 184.

15-47-02. STATE INSTITUTIONS OF HIGHER EDUCATION ARE PART OF FREE PUBLIC SCHOOL SYSTEM.) The university and the school of mines at Grand Forks, the agricultural college at Fargo, the state normal schools at Valley City, Mayville, Minot, and Dickinson, the school for the deaf at Devils Lake, the school of forestry at Bottineau, the school of science at Wahpeton, the normal and industrial school at Ellendale, and all other schools established by law and maintained by taxation constitute the system of free public schools of the state.

SECTION 6. AMENDMENT.) Section 25-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-07-01. SCHOOL FOR THE DEAF - MAINTAINED - LOCATION - PURPOSE.) There shall be maintained at Devils Lake, in Ramsey County, an institution for the education of the deaf which shall be known as the school for the deaf.

SECTION 7. AMENDMENT.) Section 25-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-07-04. QUALIFICATIONS FOR ADMISSION TO SCHOOL FOR DEAF - RESIDENTS OF STATE ENTITLED TO FREE EDUCATION.) In order to be admitted as a pupil in the school for the deaf, an applicant's hearing must be impaired to such extent that he cannot make suitable progress in the public schools of the state. An applicant must be at least four years of age, capable of caring for himself, and capable of receiving an education. The superintendent shall furnish application blanks upon request, and no person shall be admitted to the institution until the application giving such information as the director of institutions may require has been returned to and approved by the superintendent. An applicant admitted to the school must be transported thereto at the expense of his parents or of the county of which he is a resident. Each such applicant who is a resident of this state and who, because of his handicap, is unable to receive an education in the public schools, shall be entitled to receive an education in the school for the deaf at the expense of the state.

SECTION 8. AMENDMENT.) Section 25-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-07-05. ADMISSION OF NONRESIDENTS.) Deaf children of suitable age who are not residents of this state shall be entitled to an education in the school for the deaf upon payment in advance of the cost of such education as shall be determined by the director from time to time. Nonresident children, however, shall not be received to the exclusion of children who are residents of this state.

SECTION 9. AMENDMENT.) Section 25-07-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-07-07. TRANSPORTATION OF INDIGENT CHILDREN TO AND FROM SCHOOL FOR DEAF.) The board of county commissioners shall order paid by the county the expenses of transportation to and from the school for the deaf of any indigent deaf child admitted to the school, and at the time of levying other taxes, shall levy a sum sufficient for such transportation. In order to avoid long delay in transporting indigent children to and from the school, the superintendent may pay for such transportation and forward an itemized statement of the expense thereof to the county auditor, and the board of county commissioners shall order the repayment thereof to the superintendent, who shall account for such money to the director.

Approved March 8, 1971

## CHAPTER 163

HOUSE BILL NO. 1369  
(Gackle)

IMPROVEMENTS ON  
LEASED SCHOOL LANDS

AN ACT to amend and reenact section 15-08-26 of the North Dakota Century Code, relating to the time in which a lessee may remove improvements he has placed on the land when the land is sold.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-08-26 of the 1969 Supplement to the North Dakota Century Code is hereby amended an reenacted to read as follows:

15-08-26. REMOVAL OF OR PAYMENT FOR IMPROVEMENTS UPON TERMINATION OF LEASE.) The lessee of any lands under the control of the board of university and school lands, at the expiration of the lease or within one hundred twenty days after receiving notice of the sale of the land which he is leasing may remove any improvements which he has placed upon such lands if such removal can be accomplished without material damage to the land. If the land is leased or sold to any person other than the holder of the lease, the person purchasing or leasing the land, in addition to paying the purchase price or rental of the land, shall pay to the prior lessee the reasonable value of all permanent improvements placed upon the land by the prior lessee with the written consent of the commissioner of university and school lands.

In computing the reasonable value of such improvements, due regard shall be given to the cost of acquisition or construction and depreciation over a period of not to exceed ten years. If the parties are unable to agree upon the value of such improvements, the value shall be determined by a board composed of the commissioner or someone designated by him and of a person appointed by each of the parties in disagreement.

Approved March 4, 1971

## CHAPTER 164

SENATE BILL NO. 2486  
(Litten, Longmire)

BOARD ACCEPTING  
AND SELLING GIFTS

AN ACT to create and enact section 15-10-12.1 of the North Dakota Century Code, to provide a procedure for the acceptance of buildings by the board of higher education, and to amend and reenact section 15-10-12 of the North Dakota Century Code, relating to the acceptance of gifts and bequests by the board of higher education, and the sale of property received as a gift or bequest.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-10-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-12. BOARD MAY ACCEPT GIFTS AND BEQUESTS - STATE TREASURER TO HAVE CUSTODY OF SCHOOL FUNDS.) The state board of higher education may, subject to the limitations of section 15-10-12.1, receive donations, gifts, grants, and bequests offered or tendered to or for the benefit of any institution of higher education under its control or subject to its administration, and all moneys coming into the hands of the board as donations, gifts, grants, and bequests shall be used for the specific purpose for which they are donated or given. A special operating fund, for each institution of higher education under the control of the board or subject to its administration, shall be maintained within the state treasury and all institutional income and institutional collections of public funds of each institution, except institutional funds received as donations, gifts, grants, and bequests, shall be placed in such special fund for the use of the institution for which such money was raised. All rent, interest, or income from land, money, or property, donated or granted by the United States and allocated to specific institutions of higher learning under the terms of the Enabling Act and the state Constitution shall be deposited in such special operating fund of each institution and expended in accordance with the provisions of section 159 of the Constitution. The director of accounts and purchases shall direct the state treasurer to make transfers from each institution's general fund appropriation to each institution's special operating fund on a monthly basis in amounts as may be necessary for the operation and maintenance of each institution for the next month, except that at the beginning of the twenty-fourth month

of the biennium the balance of funds not transferred from the general fund appropriation shall be deposited in the special operating funds of such institutions. All such transfers shall be subject to proration in the same manner as other appropriations are prorated in the event insufficient funds are available to meet expenditures from the general fund. Sinking funds for the payment of interest and principal of institutional revenue bonds shall be deposited pursuant to section 15-55-06.

SECTION 2.) Section 15-10-12.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-10-12.1. ACCEPTANCE OF BUILDINGS AND CAMPUS IMPROVEMENTS - APPROVAL OF BUDGET COMMITTEE.) The state board of higher education may, with the approval of the budget committee of the legislative council, authorize the use of land under the control of the board and construct buildings and campus improvements thereon which are financed by donations, gifts, grants, and bequests. The budget committee of the legislative council may establish guidelines regarding the types of gifts for minor improvements which shall not require the approval of such committee based upon the financial impact of such construction projects upon the state of North Dakota. The state board of higher education may, with the approval of the budget committee of the legislative council, authorize the sale of any real property or buildings which an institution of higher learning has received by gift or bequest. The budget committee may prescribe such conditions for the sale of the property as it deems necessary, including, but not limited to, requiring an appraisal and the advertisement for bids.

Approved March 22, 1971

## CHAPTER 165

SENATE BILL NO. 2284  
(Litten, Longmire)

POWERS OF BOARD  
OF HIGHER EDUCATION

AN ACT to amend and reenact subsection 1 of section 15-10-17 of the North Dakota Century Code, relating to the powers and duties of the state board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 15-10-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To appoint and remove the president or other faculty head, and the professors, instructors, teachers, officers, and other employees of the several institutions under its control, and to fix their salaries within the limits of legislative appropriations therefor, and to fix the terms of office and to prescribe the duties thereof, provided that the consideration of the appointment or removal of any such personnel shall be in executive session if the board chooses unless the person or persons involved request that the meeting shall be open to other persons or the public;

Approved March 12, 1971

## CHAPTER 166

SENATE BILL NO. 2211  
(Holand)

## CONFIDENTIAL COLLEGE RECORDS

AN ACT to amend and reenact subsection 2 of section 15-10-17 of the North Dakota Century Code, relating to the powers and duties of the state board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 15-10-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To have custody of the books, records, grounds, buildings, and all other property of such institutions, and to authorize such institutions to maintain confidential records containing personal information regarding their prospective, current, or former students or regarding patients at the medical center rehabilitation hospital at the university of North Dakota, with the information in such records subject to release by the institution only upon a court order or the express or implied consent of the student or patient involved. A prospective, current, or former student shall be deemed to have consented to the release of all records to a prospective employer upon application for employment to that employer, provided the position is of such a nature as to require security clearance. The board may procure all necessary apparatus, instruments, and appurtenances for instruction in said schools within the limits of legislative appropriations therefor;

Approved March 27, 1971

## CHAPTER 167

HOUSE BILL NO. 1055  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(From Legislative Council Study)

## ALUMNI BUILDING TAX EXEMPTION

AN ACT to amend and reenact section 15-11-26 of the North Dakota Century Code, relating to the exemption from the property tax of the alumni building at the University of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-11-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-11-26. ALUMNI BUILDING - TITLE TO SITE - TITLE TO BUILDING.) The title to the ground selected by the alumni association for an alumni building shall remain forever in the state, subject to the purposes specified. The title to the alumni building shall remain in the alumni association until it may be relinquished or granted formally to the state.

Approved March 15, 1971

## CHAPTER 168

HOUSE BILL NO. 1491  
(Hildebrand, Mertens)

JUNIOR COLLEGE BOND  
ISSUES AND FEES

AN ACT to amend and reenact sections 15-18-03 and 15-18-04.1 of the North Dakota Century Code, relating to tuition and fees at junior colleges and off-campus educational centers, and to amend and reenact section 15-55-18 of the North Dakota Century Code, relating to bond issues for junior colleges and off-campus educational centers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-18-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-03. TUITION AND FEES IN JUNIOR COLLEGE - USE OF TUITION AND FEE REVENUE - DUTY OF SCHOOL BOARD - TAX LEVY AUTHORIZED ON VOTE OF PEOPLE - MAINTENANCE OF DEPARTMENT.) On or before August fifteenth in each year, the school board of a public school district which maintains a junior college shall determine the rate of tuition and fees required to be paid by all students attending the department, whether or not the students are residents of the district, and these tuition and fee charges may be at a different rate for the students nonresident in the district than for students resident in the district. Tuition and fee revenue may be used to retire bonds issued in accordance with section 15-55-18. Every public school district maintaining a junior college under the provisions of this chapter may levy a tax of not to exceed eight mills, the proceeds of which shall be used for the maintenance and operation of the junior college. When submitting the question at the election, the board may specify a levy of less than the eight-mill limit authorized, and if such a limited levy is approved by the voters, subsequent levies shall not exceed the limited levy without another election authorizing a greater levy, but no election shall ever authorize a greater total levy than eight mills. The tax levy for the support of a junior college shall be in addition to all other levies authorized by law for such school districts, and the proceeds of the levy shall be used exclusively for the support, operation, and maintenance of a junior college.

SECTION 2. AMENDMENT.) Section 15-18-04.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-04.1. ESTABLISHMENT OF OFF-CAMPUS EDUCATIONAL CENTER - TUITION AND FEES - USE OF TUITION AND FEE REVENUE.) The school board of any school district which includes a city having a population of more than seven thousand five hundred according to the latest federal census, may enter into an agreement with a state-supported institution of higher education for the establishment and maintenance of an off-campus educational center offering college or university level courses, provided such agreement is approved by the state board of higher education. The school shall determine the tuition and fees to be paid by all students attending the off-campus educational center, regardless of their residence, and these charges may be at a different rate for the students nonresident in the district than for students resident in the district. Tuition and fee revenue may be used to retire bonds issued in accordance with section 15-55-18.

SECTION 3. AMENDMENT.) Section 15-55-18 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-18. BOND ISSUE FOR JUNIOR COLLEGES AND OFF-CAMPUS EDUCATIONAL CENTERS.) The board of education of any school district having a junior college or off-campus educational center as provided in chapter 15-18 is hereby authorized and empowered to issue and sell tax exempt bonds for the purpose of constructing buildings, adding to or repairing or renovating existing buildings, furnishing or equipping these buildings, or operating and maintaining these buildings for its junior college or off-campus educational center students. The total principal amount of such bonds shall not exceed two and one-half million dollars. The bonds authorized by this section shall be retired from revenues of the buildings and facilities constructed under the provisions of this section. The board of education may also use tuition and fee revenue to retire these bonds. These bonds shall never become a general obligation of the school district, or the state of North Dakota.

Approved March 16, 1971

## CHAPTER 169

HOUSE BILL NO. 1460  
(R. Peterson, Boustead, Hildebrand)

## STATE AID FOR JUNIOR COLLEGES

AN ACT to amend and reenact sections 15-18-07 and 15-18-09 of the North Dakota Century Code, relating to state aid for junior colleges or educational centers and the method of payment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-18-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-07. STATE AID FOR JUNIOR COLLEGES OR EDUCATIONAL CENTERS.) There shall be paid to each school district maintaining a junior college or educational center operated by a state-supported institution of higher education meeting the standards and eligibility requirements prescribed in section 15-18-08, out of funds appropriated for this purpose, the sum of two hundred dollars which shall be paid for every student in attendance during the two full semesters or fall, winter, and spring quarters. In addition, the sum of three hundred dollars shall be paid for every student in attendance during the two full semesters or fall, winter, and spring quarters at a junior college or educational center, provided the school district, city, or county shall levy taxes of not less than four mills for the support of such junior college or educational center in accordance with the provisions of sections 15-18-03, 15-18-04.2, or 15-18-05. For the purpose of this section, a "student" shall mean a person enrolled and in attendance, exclusive of temporary absences, in a junior college or educational center operated by a state-supported institution of higher education for a period of not less than thirty days, and carrying a course of study of not less than twelve class hours during each calendar week in academic courses meeting standards prescribed by the state board of higher education, or in vocational courses meeting standards prescribed by the state board for vocational education. A class hour shall mean not less than fifty minutes of instruction or supervised laboratory training. Each student enrolled for a period of more than thirty days in any one quarter or semester, but less than two complete semesters or three complete quarters, shall entitle the school district to receive proportionate payments based upon the number of weeks the student is enrolled and in

attendance, exclusive of temporary absences, bears to the total weeks in the two complete semesters or three quarters. Such calculations shall exclude weeks of regular vacation time.

If the funds appropriated for the purpose of carrying out the provisions of this section should prove to be insufficient based on the number of students in attendance at a junior college or educational center as provided in this section, the amounts to be paid to such junior colleges or educational centers shall be reduced in such a manner so that the payments for each student in attendance at a junior college or educational center will be made on a pro rata basis.

SECTION 2. AMENDMENT.) Section 15-18-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:.

15-18-09. METHOD OF PAYMENT.) On or before July first of each year, the dean or chief administrative officer of each junior college or educational center operated by a state-supported institution of higher education or the superintendent of each school district claiming state aid payments under section 15-18-07, shall file with the commissioner of higher education a verified statement containing the name and residence of each student enrolled in academic courses for whom payments are claimed, together with a listing of each course of study and the number of class hours for which such student was enrolled and in attendance, exclusive of temporary absences, during each week of the period for which payment is claimed; and such dean, officer, or superintendent shall file with the state director for vocational education a verified statement containing the name and residence of each student enrolled in vocational courses for whom payments are claimed, together with a listing of each course of study and the number of class hours for which such student was enrolled and in attendance, exclusive of temporary absences, during each week of the period for which payment is claimed. Such other information shall be submitted as may be requested by the state board of higher education or the state board for vocational education. The state board of higher education and the state board for vocational education shall consider all claims submitted for payment from each school district, and shall forward to the director of accounts and purchases a certified list of all school districts entitled to payments under section 15-18-07, together with the amount of the approved payments. The director of accounts and purchases shall immediately issue a warrant to each school district entitled to payment in accordance with the certified statements submitted by the state board of higher education and the state board for vocational education. The decision of the state board of higher education, or the state board for vocational education, as the case may be, in regard to all claims for payment shall be final.

Approved March 27, 1971

## CHAPTER 170

SENATE BILL NO. 2113  
(Litten)

## DIVISION OF INDEPENDENT STUDY

AN ACT to amend and reenact sections 15-19-01, 15-19-02, 15-19-03, and 15-19-06 of the North Dakota Century Code, relating to the establishment of high school correspondence courses, the administration of the division of independent study, the duties of superintendents of schools, and special operating funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-19-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-01. HIGH SCHOOL CORRESPONDENCE COURSES - ESTABLISHMENT - ENROLLMENT OF PUPILS - COURSES OF INSTRUCTION.) The state shall provide correspondence courses through the division of independent study under the following provisions:

1. A complete high school curriculum by correspondence which has been specifically determined by the state board of public school education as proper and suitable for instruction under correspondence methods, such determination and approval to be made not less than once in each school year, shall be maintained upon the campus of one of the state institutions of higher education by the state board of public school education.
2. Unless specifically excused in writing upon the course application forms by the superintendent or an administrator of the school approving the enrollment application, all pupils under the age of sixteen taking advantage of the provisions of this chapter shall be required to attend their local district schools and to study their correspondence lessons under the supervision of a local supervisor. If not required to attend their local schools, their work may be done at such place as may be designated by

the state director in accordance with the rules of the state board of public school education. If in attendance at a local school, pupils shall be supplied with desk space in their respective school without charge, and they shall attend school regularly, and shall be under the same disciplinary supervision of the teachers as the other school pupils.

3. The high school correspondence work shall be completed in accordance with the rules and regulations established by the state board of public school education.
4. Correspondence pupils shall pay for books and materials used by them, postage required to mail reports to the division, and such other fees as may be prescribed by the board of public school education.

SECTION 2. AMENDMENT.) Section 15-19-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-02. ADMINISTRATION - DIRECTOR OF DIVISION OF INDEPENDENT STUDY - APPOINTMENT AND DUTIES.) The program of and all activities related to the division of independent study shall be the responsibility of and under the supervision of the state board of public school education acting through the superintendent of public instruction. The state director of the division of independent study shall be appointed by the state board of public school education acting through the office of the superintendent of public instruction. The director, under the supervision of the superintendent of public instruction shall carry out his responsibilities in the administration of the division of independent study in the manner approved by the state board of public school education. The board shall determine the director's qualifications and fix his compensation within limits of legislative appropriations. The director may be discharged at the will of a majority of the state board of public school education. The director shall be responsible to and carry out all policies and directives of the state board of public school education in the administration of the program of the division of independent study.

SECTION 3. AMENDMENT.) Section 15-19-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-03. DUTIES OF SUPERINTENDENTS OF SCHOOLS - AUTHORIZATION OF ENROLLMENTS.) All applications for enrollment of persons under the age of sixteen years shall be approved by the superintendent or an administrator of a school in the district

prior to acceptance of enrollment by the division of independent study. All applications for enrollment of persons under the age of sixteen not residing in a high school district shall be approved by the county superintendent of schools prior to the acceptance of such enrollment.

SECTION 4. AMENDMENT.) Section 15-19-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-19-06. SPECIAL OPERATING FUND - DEPOSIT OF COLLECTIONS - TRANSFERS FROM GENERAL FUND APPROPRIATIONS - ADMINISTRATIVE OPERATIONAL FUND - PREPARATION OF BUDGET.) A special operating fund for the division of independent study shall be maintained within the state treasury and all income and fees collected by the division of independent study from any source shall be remitted monthly by the director to the state treasurer and credited to such special operating fund. All expenditures from such fund shall be within the limits of legislative appropriations and shall be made upon vouchers, signed and approved by the superintendent of public instruction. Upon approval of such vouchers by the state auditing board, warrant-checks shall be prepared by the department of accounts and purchases. The state treasurer shall make periodic transfers upon order of the director of the department of accounts and purchases from the division of independent study general fund appropriation to such special operating fund whenever its balance falls so low as to require supplementation.

The state board of public school education may, if it deems advisable, establish an administrative operational fund, of not to exceed ten thousand dollars, out of the special operating fund for the division of independent study. The administrative operational fund so established shall be deposited in the Bank of North Dakota and may be drawn upon by the state director of the division of independent study for the payment of necessary expenses in the administration and operation of the division of independent study within the limits and regulations prescribed by the board of public school education. The director shall submit a full, minute, and itemized statement of every expenditure made during the month to the board in accordance with such rules and regulations as the board may prescribe, and thereafter the board may, in its discretion, periodically authorize additional transfers to the administrative operational fund, but the balance in such fund shall never exceed ten thousand dollars, and any unencumbered balance therein at the end of any biennium shall revert to the state treasury. The administrative operational fund may not be used to pay salaries or expenses of the director. The board shall determine the amount of the bond to be posted by the director.

The director shall prepare the budget request of the division of independent study for submission to the state budget

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board. The budget request shall be approved by the state board of public school education prior to its submission for consideration by the director of the budget.

Approved February 19, 1971

## CHAPTER 171

HOUSE BILL NO. 1533  
(Eagles)

VOCATIONAL EDUCATION  
AND REHABILITATION

AN ACT to amend and reenact sections 15-20.1-01, 15-20.1-05, 15-20.1-14, and 15-20.1-15 of the North Dakota Century Code, as contained in section 4 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, relating to definitions, custody, and payment of vocational education and vocational rehabilitation funds, and rehabilitational services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-20.1-01 of the North Dakota Century Code, as contained in section 4 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-20.1-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "State board" shall mean the state board of vocational education which is the state board of public school education.
2. "Director" shall mean the director of vocational education.
3. "Division" shall mean the division of vocational rehabilitation established by this chapter.
4. "Division director" shall mean the director of the division of vocational rehabilitation.
5. "Regulations" shall mean regulations made by the director, or the division director, as the case may be, with the approval of the state board.

SECTION 2. AMENDMENT.) Section 15-20.1-05 of the North Dakota Century Code, as contained in section 4 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-20.1-05. CUSTODY AND PAYMENT OF VOCATIONAL EDUCATIONAL AND VOCATIONAL REHABILITATION FUNDS.) The state board shall

be charged with the duty of administering all funds that are received from federal and state sources for vocational education and vocational rehabilitation purposes. All such moneys received shall be placed in the custody of the state treasurer, and shall be paid by the department of accounts and purchases as directed by the division director or the director of vocational education.

SECTION 3. AMENDMENT.) Section 15-20.1-14 of the North Dakota Century Code, as contained in section 4 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-20.1-14. REHABILITATION SERVICES PROVIDED TO ANY DISABLED INDIVIDUAL - ELIGIBILITY.) Vocational rehabilitation services shall be provided to any disabled individual:

1. Whose vocational rehabilitation the division director determines, after full investigation, can be satisfactorily achieved; or is
2. Eligible therefor under the terms of an agreement with another state or with the federal government.

SECTION 4. AMENDMENT.) Section 15-20.1-15 of the North Dakota Century Code, as contained in section 4 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-20.1-15. REHABILITATION SERVICES PROVIDED TO DISABLED INDIVIDUALS REQUIRING FINANCIAL ASSISTANCE.) Except as may be otherwise provided by law or as may be specified in any agreement with another state or with the federal government, rehabilitation services shall be provided at public cost to disabled individuals found to require financial assistance.

Approved March 29, 1971

## CHAPTER 172

HOUSE BILL NO. 1386  
(Eagles, R. Peterson)

## BOARD OF PUBLIC SCHOOL EDUCATION

AN ACT to amend and reenact section 15-21-17 of the North Dakota Century Code, relating to the state board of public school education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-21-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-21-17. COMPOSITION OF STATE BOARD OF PUBLIC SCHOOL EDUCATION.) The state board of public school education shall consist of the superintendent of public instruction, and one qualified elector from each judicial district within the state, to be appointed by the governor subject to the consent of the senate. Nominations shall be made by the governor from a list of three names for each position to be filled on such board, such names to be selected by a committee consisting of the president of the North Dakota state's attorneys association, the president of the North Dakota school administrators association, and the president of the North Dakota school boards' association. Appointive members shall serve for terms of six years, arranged so that the term of two members shall expire on June thirtieth of each even-numbered year. The governor shall fill vacancies upon the committee and all members so appointed as well as the members of the original committee shall possess all the powers of regularly appointed and confirmed members, pending confirmation by the senate or its refusal to confirm. At all times, two members of the board shall be members of the North Dakota school boards' association. The superintendent of public instruction shall also serve as executive director and secretary of such board, shall call such meetings as may be required, shall supervise and carry out the policies of the board in relation to all functions of the board, and shall employ such personnel as shall be necessary to carry on such responsibilities as may be placed upon the board by law. The board shall annually elect a member of the board to serve as chairman. Appointive members shall be compensated at the rate of thirty dollars per day for each day actually and necessarily spent in the performance of their duties as board members and all members shall receive reimbursement for actual necessary expenses incurred in the performance of

their duties from the biennial appropriation of the department of public instruction at the same rates as provided by law for other state officers. The board shall have authority to call upon any state office, officer, department, or agency for such advise and assistance as it may from time to time require.

Approved March 22, 1971

## CHAPTER 173

SENATE BILL NO. 2452  
(Holand)

QUALIFICATIONS OF COUNTY  
SUPERINTENDENT OF SCHOOLS

AN ACT to amend and reenact section 15-22-02 of the North Dakota Century Code, relating to qualifications of the county superintendent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-22-02. QUALIFICATIONS.) The county superintendent of schools shall be a qualified elector under the general laws of the state, a graduate of a reputable college, or other institution of higher learning, shall hold at least a first grade professional certificate, and successful experience in teaching. Be it further provided that this section shall not be retroactive but that anyone serving as county superintendent on the effective date of this section shall show evidence annually of work toward a first grade professional certificate.

Approved March 19, 1971

## CHAPTER 174

SENATE BILL NO. 2044  
(Berube, Longmire, Nasset, Swedlund)  
(From Legislative Council Study)

## DISTRICT SCHOOL BOARD - QUORUM

AN ACT to amend and reenact section 15-29-01 of the North Dakota Century Code, relating to school board meetings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-29-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-01. SCHOOL BOARD - QUORUM - MAJORITY VOTE.) The public school district school board shall consist of the members elected according to the provisions of chapter 15-28. A majority of the board shall constitute a quorum, and the agreement of a majority of those members present shall be necessary for the transaction of any business.

Approved February 20, 1971

## CHAPTER 175

SENATE BILL NO. 2043  
(Berube, Longmire, Nasset, Swedlund)  
(From Legislative Council Study)

## COMPENSATION OF SCHOOL BOARD

AN ACT to amend and reenact section 15-29-05 of the North Dakota Century Code, relating to the compensation of school board members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-29-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-05. COMPENSATION OF BOARD MEMBERS.) Each member of the school board may receive not in excess of ten dollars as compensation for each meeting of the board actually attended by him, but no compensation shall be allowed for more than eighteen meetings in any one year. In addition thereto, each member of the school board may receive mileage at the rate of eight and one-half cents per mile for going to and returning from meetings of the school board attended by him, limited to eighteen meetings per year, and for other necessary board approved travel performed while engaged on official business of the board. Any mileage claimed shall not exceed the number of miles between the points traveled as measured by the most usual route.

Approved February 19, 1971

## CHAPTER 176

HOUSE BILL NO. 1246  
(McGauvran)

## HANDLING OF SCHOOL DISTRICT FUNDS

AN ACT to amend and reenact section 15-29-13 and subsection 4 of section 57-39.2-04 of the North Dakota Century Code relating to the expenditure of school district funds and sales tax exemptions for such funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-29-13 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-29-13. FORM OF WARRANTS - HOW WARRANTS PAID BY TREASURER - INCIDENTAL REVOLVING FUND.) The treasurer shall pay out moneys only upon the presentation of a warrant signed by the president of the board and countersigned by the clerk, and only if there is money in his hands or subject to his order sufficient for the payment thereof. The form of warrant to be used by a school district shall be prescribed by the superintendent of public instruction. When making payment of a warrant on school district funds, the school district treasurer shall countersign the warrant and insert the name of the depository bank thereon, and the warrant, when so countersigned, shall become a check on the school district depository. Immediately upon countersigning any warrant and inserting the name of the depository bank thereon, he shall enter the payment in his treasurer's record. The treasurer shall not issue a check on the depository bank except as provided in this section.

The school board may, by resolution, establish an incidental revolving fund in the depository bank and designate the superintendent of schools or such other school administrator as the board may select to draw checks directly on such fund for such incidental expenses as the school board may direct in the resolution. The amount in such fund shall be drawn from the general fund as provided in the first paragraph of this section and shall never exceed one thousand dollars at any one time. The superintendent or other school administrator designated to draw checks on such fund shall submit a monthly report to the school board listing the checks drawn, the payee and the purpose for which the check was drawn.

SECTION 2. AMENDMENT.) Subsection 4 of section 57-39.2-04

of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs, and the gross receipts from educational, religious, or charitable activities, where the entire amount of such receipts is expended for educational, religious, or charitable purposes and the gross receipts derived by any public school district if such receipts are expended in accordance with section 15-29-13.

Approved March 30, 1971

## CHAPTER 177

SENATE BILL NO. 2503  
(Barth)

## COMPULSORY SCHOOL ATTENDANCE

AN ACT to amend and reenact section 15-34.1-05 of the North Dakota Century Code, as contained in section 5 of House Bill No. 1045, as enacted by the Forty-second Legislative Assembly, relating to penalties for violating compulsory school attendance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-34.1-05 of the North Dakota Century Code, as contained in section 5 of House Bill No. 1045, as enacted by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-34.1-05. VIOLATION OF COMPULSORY SCHOOL ATTENDANCE PROVISIONS - PENALTY.) Any parent, guardian, or other person failing to comply with the requirements of this chapter is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars for the first offense, and by a fine of not more than two hundred dollars for the second and each subsequent offense.

Approved March 22, 1971

## CHAPTER 178

HOUSE BILL NO. 1046  
(Bier, Knudson, G. Larson, R. Peterson, Stoltenow, Wagner)  
(From Legislative Council Study)

## RELIGIOUS RELEASE TIME

AN ACT to amend and reenact section 15-34.2-17 of the North Dakota Century Code, as contained in section 6 of House Bill No. 1045, relating to release time for religious instruction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-34.2-17 of the North Dakota Century Code, as contained in section 6 of House Bill No. 1045, is hereby amended and reenacted to read as follows:

15-34.2-17. SCHOOL BOARDS TO RELEASE STUDENTS FOR RELIGIOUS INSTRUCTION.) Upon the request of an elementary or high school student's parent or guardian, the school board of a public school district shall release such student for a period of not to exceed one hour per week for religious instruction, at such times as prescribed by the school board after consultation with the parent or guardian of such student.

Approved March 22, 1971

## CHAPTER 179

HOUSE BILL NO. 1509  
(Stoltenow, G. Larson, Olienyk, Halcrow)

## SCHOOL CONSTRUCTION STANDARDS

AN ACT to create and enact subsection 9 of section 15-35-02 of the North Dakota Century Code, relating to standards for the construction of school buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 9 of section 15-35-02 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

9. Building construction shall be in accordance with standards promulgated by the superintendent of public instruction by rule or regulation, and may include buildings of metal construction.

Approved March 16, 1971

## CHAPTER 180

SENATE BILL NO. 2178  
(Sanstead, Jones)

## TEACHING BY ALIENS

AN ACT to amend and reenact sections 15-36-07 and 15-36-11 of the North Dakota Century Code, relating to citizenship requirements for teachers' certificates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-36-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-36-07. CITIZENSHIP REQUIREMENT BEFORE CERTIFICATION.) A teacher's certificate shall not be issued to any person who is not a citizen of the United States of America or who has not declared his intention to become a citizen of the United States. Except for the provisions of section 15-36-11, no person who is not a citizen or has not declared his intention to become a citizen shall be eligible to enter into a contract to teach in any public school in this state.

SECTION 2. AMENDMENT.) Section 15-36-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-36-11. CERTIFICATE REQUIRED.) No person who is not the holder of either a valid first or second grade professional certificate shall be employed or permitted to teach in any of the public schools of the state, except that teachers unable to be certified because they are not citizens of this state or because they have not declared their intention to become a citizen of this state, but are otherwise qualified to teach in North Dakota, may be employed on a temporary basis if they are approved annually by the superintendent of public instruction. The employment of such teachers in accordance with this section shall not cause any foundation aid payments to be withheld from the school districts by whom they are employed.

Approved March 27, 1971

## CHAPTER 181

SENATE BILL NO. 2461  
(Kautzmann, Ringsak)

## DEFINITION OF "TEACHER"

AN ACT to amend and reenact subsection 1 of section 15-39-01 of the North Dakota Century Code, relating to definitions under the teachers' insurance and retirement fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT.) Subsection 1 of section 15-39-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Teacher" shall include:
  - a. All persons employed in teaching in any state institution or by any school board or other governing body of any school district of this state;
  - b. All superintendents, assistant superintendents, and business managers employed in any state institution or in the school system of any school district in this state, except that in the case of the state industrial school and the Grafton state school, the superintendent or assistant superintendent may, at his option, be defined as a teacher for the purposes of this chapter;
  - c. All principals, assistant principals, and special teachers in any state institution or in the school system of any school district in this state;
  - d. The superintendent of public instruction and all county superintendents of schools and their assistants;
  - e. All supervisors of instruction;
  - f. All state school inspectors and supervisors;
  - g. Every person engaged as president, dean, school librarian, or registrar of any state institution;

\*NOTE: Subsection 1 of section 15-39-01 was also amended by section 1 of Senate Bill No. 2347, chapter 182, and was repealed by section 2 of House Bill No. 1517, chapter 184.

- h. The secretary of the North Dakota education association and any assistants to the secretary holding at least a first grade professional certificate;
- i. The commissioner of higher education; and
- j. Any person who serves in the capacity of substitute or part-time teacher and earns more than the maximum allowed by the Federal Social Security Act for the receipt of full social security benefits in any one school year.

Approved March 29, 1971

## CHAPTER 182

SENATE BILL NO. 2347  
(Sanstead, G. Larson)

OPTIONAL RETIREMENT FOR  
NONPUBLIC SCHOOL TEACHERS

AN ACT to create and enact section 15-39-14.1 of the North Dakota Century Code, relating to optional assessments for nonpublic schools and nonpublic school teachers; and to amend and reenact subsection 1 of section 15-39-01, and sections 15-39-10, 15-39-14, 15-39-15, 15-39-16, 15-39-17, 15-39-18, 15-39-20, 15-39-21, 15-39-22, 15-39-27, 15-39-28, 15-39-30, 15-39-35, 15-39-37.1, and 15-39-40, relating to definitions, membership, assessments, retention of assessments from salaries, statements of assessments to county superintendents of schools, transmission of moneys to state treasurer, preservation of assessment reports, eligibility, retirement annuities, and application and discontinuance of annuities pertaining to the teachers' insurance and retirement fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 15-39-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 15-39-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Teacher" shall include:

- a. All persons employed in teaching in any state institution or by any school board or other governing body of any school district of this state;
- b. All superintendents, assistant superintendents, and business managers employed in any state institution or in the school system of any school district in this state except that in the case of the Grafton state school, the superintendent or assistant superintendent may, at his option, be defined as a teacher for the purposes of this chapter;
- c. All principals, assistant principals, and special teachers in any state institution or in the school system of any school district in this state;

\*NOTE: Subsection 1 of section 15-39-01 was also amended by section 1 of Senate Bill No. 2461, chapter 181, and was repealed by section 2 of House Bill No. 1517, chapter 184.

- d. The superintendent of public instruction and all county superintendents of schools and their assistants;
- e. All supervisors of instruction;
- f. All state school inspectors and supervisors;
- g. Every person engaged as president, dean, school librarian, or registrar of any state institution;
- h. The secretary of the North Dakota education association and any assistants to the secretary holding at least a first grade professional certificate;
- i. The commissioner of higher education;
- j. Any person who serves in the capacity of substitute or part-time teacher and earns more than the maximum allowed by the Federal Social Security Act for the receipt of full social security benefits in any one school year; and
- k. Any person employed in teaching as lay faculty in a nonpublic school in the event he elects to become a member of the fund as provided in this chapter. As used in this subdivision, the term "lay faculty" shall mean any person who teaches elementary or high school students in a nonpublic school, and is neither a member of an ecclesiastical order or religious house, or an ordained clergyman.

\*SECTION 2. AMENDMENT.) Section 15-39-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-10. COMPULSORY MEMBERSHIP IN FUND - EXCEPTION.) Every person who since January 1, 1914, has become, or hereafter shall become, a teacher in any of the public schools of this state, or who since January 1, 1920, has become, or hereafter shall become, a teacher in any state institution, shall be a member of the fund, except as provided in this section and in section 15-39-11, and by becoming such teacher, shall be deemed conclusively to have undertaken and agreed to payment of the assessments in the amounts established from time to time and to the deduction of such assessments from his salary as provided in this chapter. Every person who since July 1, 1971, has become, or hereafter shall become, a teacher in a nonpublic school in this state, shall be a member of the fund, if he so elects and pays the assessments levied under this chapter. Any person who has attained the age of fifty years before becoming a teacher in any of the public schools of the state or in any state institution shall have the option of declining membership in the fund.

SECTION 3. AMENDMENT.) Section 15-39-14 of the 1969

\*NOTE: Section 15-39-10 was repealed by section 2 of House Bill No. 1517, chapter 184.

Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-14. AMOUNT OF ASSESSMENTS.) Every teacher who is a member of the fund shall be assessed upon his salary for the teachers' insurance and retirement fund. The total amount of assessments paid, however, shall not be less than the full amount of annuity to which the teacher shall be entitled under the provisions of this chapter for the first year of retirement. When a political subdivision or institution covered by the benefits of the teachers' retirement fund provides sick leave and employs substitute teachers at additional cost to said subdivisions or institutions, they shall be assessed three percent per annum but in no event be required to pay in excess of one hundred fifty dollars per year as matching fund for any one teaching position. Teachers employed on a full-time basis shall be assessed three percent per annum, but not more than two hundred twenty-five dollars per year. The provisions of this section with regard to the assessment contained herein shall apply to nonpublic schools, subject to the qualifications of section 15-39-14.1.

SECTION 4.) Section 15-39-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

\*15-39-14.1. ASSESSMENT OPTIONAL AS TO NONPUBLIC SCHOOLS AND NONPUBLIC SCHOOL TEACHERS.) Any nonpublic school teacher electing to become a member of the fund shall notify the nonpublic school in accordance therewith, as required by section 15-39-13, and the nonpublic school shall advise the teacher whether it assents to payment of the assessment prescribed by section 15-39-14. If the nonpublic school assents, it shall pay the assessment and perform all other acts required of it under this chapter. If the nonpublic school declines to pay the assessment, it shall be paid by the teacher in addition to the assessment deducted from his salary. In this event, the assessment which would otherwise have been paid by the nonpublic school shall be deducted from the teacher's salary and forwarded to the board as provided in this chapter. Once having assented to the payment of the assessment for a specific teacher, a nonpublic school shall be required to continue payment of the assessment as long as that teacher remains a member of the fund and continues teaching at that nonpublic school.

SECTION 5. AMENDMENT.) Section 15-39-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-15. TEACHER COMING FROM SCHOOL NOT INCLUDED IN PROVISIONS OF CHAPTER TO PAY BACK ASSESSMENTS.) Any teacher who comes from a public or nonpublic school or an educational institution supported by public taxation out of North Dakota and becomes a teacher in a public or nonpublic school or state institution within North Dakota may elect to have any or all years of out-of-state teaching accredited in North Dakota, provided he

\*NOTE: Chapter 15-39 was repealed by section 2 of House Bill No. 1517, chapter 184.

declares his request to the board of trustees of this fund for such out-of-state credit within the first year after he begins teaching in North Dakota or within one year of the time when such out-of-state teaching combined with teaching within North Dakota shall aggregate twenty-five years. Every such teacher shall be advised of the provisions of this section by the school board or nonpublic school in writing at the time of employment, and a copy of such notice with written acknowledgment thereof, shall be filed with the teachers' insurance and retirement fund board. Before receiving any retirement annuity, he shall pay assessments to the fund for the number of years of out-of-state teaching he elects, based upon his first annual salary in a public or nonpublic school or state institution in this state, or, if he has taught in North Dakota previously, upon his first salary in the state after his resumption of teaching in this state. After July 1, 1949, assessments payments on out-of-state teaching shall be equal to the percentage or amount that would have been assessed against his salary and interest and the amount of matching payment and interest in dollars that would have been paid by the school district or nonpublic school or state institution during the years immediately preceding employment in the state for which credit is granted. Any teacher who shall have paid assessments to the fund for out-of-state teaching in excess of the amounts herein provided under any law existing at such time shall, upon his request, have such excess assessment refunded to him. The rate of interest shall be equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota.

SECTION 6. AMENDMENT.) Section 15-39-16 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-16. RETENTION OF ASSESSMENTS FROM SALARIES.) The assessments due to the fund shall be deducted from the salary of each member of the fund each month as follows:

1. Each school board or other governing body of any school district or of any county agricultural and training school shall retain the amounts of the assessments provided in this chapter from the monthly salary of each teacher in the district or county agricultural and training school who is subject to the provisions of this chapter.
2. Each nonpublic school shall retain the amounts of the assessments provided in this chapter from the monthly salary of each teacher who elects to become a member of the fund.
3. The governing body of each state institution shall cause the disbursing officer or secretary of each such institution to retain the amounts of the assessments provided in this chapter from the monthly salary of each teacher in the institution who is a member of the fund.

\*NOTE: Section 15-39-16 was repealed by section 2 of House Bill No. 1517, chapter 184.

4. The board of county commissioners of each county shall retain the amounts of assessments provided in this chapter from the monthly salary of each county superintendent of schools and each assistant county superintendent of schools who is a member of the fund.
5. The department of accounts and purchases shall retain the amounts of the assessments provided in this chapter from the monthly salary of the superintendent of public instruction, his deputies, and assistants, and from the monthly salary of each state school inspector or supervisor subject to the provisions of this chapter.
6. The state board of higher education shall cause the deductions required under the provisions of this chapter to be made from the monthly salary of the commissioner of higher education.
7. The board of directors of the North Dakota education association shall cause the deductions required under the provisions of this chapter to be made from the monthly salary of the secretary of the North Dakota education association.

The governing body or officer of each school district, nonpublic school, state institution, county, or other organization shall furnish to each teacher from whose salary any deductions are made for assessments as provided in this chapter a statement showing the amount of such deductions. Any teacher who has an option of becoming a member of the fund shall authorize the officer or governing body described in this chapter to make the required salary deductions from each monthly salary due him.

SECTION 7. AMENDMENT.) Section 15-39-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-17. ASSESSMENTS AND CONTRIBUTIONS AND STATEMENTS THEREOF TO BE FORWARDED TO COUNTY TREASURER.) The disbursing officers of each nonpublic school and public school district, and of each county, between June twentieth and June thirtieth of each year, shall forward to the treasurer of the county the assessments deducted and retained as provided in this chapter, and in addition thereto, except for nonparticipating nonpublic schools, contributions to the fund in an amount equal to such assessments shall be set aside from funds available for the payment of the salary of the teachers, except that no contribution by any nonpublic school or public school district, as determined by a teacher's contribution, shall exceed two percent of the teacher's salary or one hundred fifty dollars per year as matching fund for any one teaching position. Such contributions shall be forwarded to the treasurer of the county. Provided, however, that if a teacher fails to complete the term, the nonpublic school or public school district shall not be required to match said teacher's salary in

\*NOTE: Section 15-39-17 was also amended by section 2 of House Bill No. 1119, chapter 183, and was repealed by section 2 of House Bill No. 1517, chapter 184.

entirety but shall pay the proportional part of the maximum assessments required for the time that teacher taught, unless such requirement increases the amount of assessments to be paid, in which event the assessments shall be that computed on the actual salary the teacher received. Said disbursing officer shall forward the contributions with a statement, verified by the clerk of the school district, the administrator of the nonpublic school, or the county auditor, as the case may be, and containing the following information:

1. The name and monthly salary of each teacher.
2. The number of months of school taught during the school year for which the statement is made by each teacher in the public schools of the district, or the number of months of operation of each nonpublic school or school organization over which the governing board has jurisdiction.
3. The number of months during which schools were operated in each district, or the number of months of operation of each nonpublic school or school organization in the year covered by the report.
4. The total salary of each teacher.
5. The total amount withheld from the salary of each teacher and contributed by the public school district, nonpublic school, or county in accordance with the provisions of this chapter.
6. The total amount withheld from the salaries of all the teachers in the district, nonpublic school, or school organization for the school year next preceding.
7. The total number of years each teacher listed in the report has taught in the public or nonpublic schools of the state.

SECTION 8. AMENDMENT.) Section 15-39-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-18. STATEMENT OF ASSESSMENTS TO COUNTY SUPERINTENDENT OF SCHOOLS AND AUDITOR.) At the time the governing body of each school district, nonpublic school, or school organization sends the statement described in section 15-39-17 to the county treasurer, it shall send a copy thereof to the county superintendent of schools and one to the auditor of the county in which any school described therein is located.

SECTION 9. AMENDMENT.) Section 15-39-20 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*NOTE: Section 15-39-18 was repealed by section 2 of House Bill No. 1517, chapter 184.

\* 15-39-20. REPORT OF ASSESSMENTS IN COUNTY TO BE MADE BY COUNTY SUPERINTENDENT OF SCHOOLS.) Every county superintendent of schools, between the thirtieth day of June and the tenth day of July of each year, shall furnish to the board a report containing an itemized and consolidated account of the statements received by him from the school boards, nonpublic schools, and other governing bodies of school organizations in the county and a statement of the total amount withheld from the salaries of all of the teachers included in the report.

SECTION 10. AMENDMENT.) Section 15-39-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-21. MONEYS DERIVED FROM ASSESSMENTS AND CONTRIBUTIONS TO BE TRANSMITTED TO STATE TREASURER.) Between July fifteenth and August first of each year, the county treasurer, the secretary or disbursing officer of each state institution, the department of accounts and purchases, the state board of higher education, and the board of directors of the North Dakota education association shall transmit to the state treasurer the assessments deducted and retained as provided in this chapter and which have been received by such officer or board under the provisions of this chapter, and in addition thereto, contributions to the fund in an amount equal to such assessments shall be set aside from funds available for the payment of the salary of the teachers, except that no contribution paid by any school district, nonpublic school, association, board, office, or institution, as determined by a teacher's contribution, shall exceed four percent of the teacher's salary or the maximum contribution as specified in section 15-39-14 of this chapter. Such contributions shall be transmitted to the state treasurer. The transmitting officer shall certify to the board under oath the amount of moneys received and transmitted as assessments for and contributions to the fund, and if the transmitting officer is other than a county treasurer, he shall furnish to the board a statement showing the name and monthly salary of each teacher from whom assessments have been collected by him, the total salary of such teacher, the number of months in which such teacher was employed during the year for which the statement is made, the total amount withheld from the salary of each teacher and contributed by each state institution, the state, the state board of higher education, and the North Dakota education association, in accordance with the provisions of this chapter, the total amount withheld from the salaries of all teachers included in the statement, and the total number of years each teacher listed in the statement has been a teacher in the state.

SECTION 11. AMENDMENT.) Section 15-39-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-22. ASSESSMENTS REPORTS TO BE PRESERVED.) The board, and each county superintendent of schools, county treasurer,

\*NOTE: Section 15-39-20 was repealed by section 4 of House Bill No. 1119, chapter 183, and also by section 2 of House Bill No. 1517, chapter 184.

\*NOTE: Section 15-39-21 was repealed by section 4 of House Bill No. 1119, chapter 183, and also by section 2 of House Bill No. 1517, chapter 184.

\*NOTE: Section 15-39-22 was repealed by section 2 of House Bill No. 1517, chapter 184.

county auditor, school board, managing body of any school organization, nonpublic school, board of county commissioners, disbursing officer of each state institution, state board of higher education, and board of directors of the North Dakota education association shall keep complete records of the data contained in any reports and shall retain copies of any statements made by or to such officer or board under the provisions of this chapter.

SECTION 12. AMENDMENT.) Section 15-39-27 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-27. ELIGIBILITY TO PARTICIPATE IN FUND.) Any teacher who is employed as such in a public or nonpublic school or state institution and who has complied with the provisions of this chapter may retire and receive the annuity provided for in section 15-39-28 in the following cases:

1. After a period or periods aggregating twenty-five years of service as a teacher, of which eighteen years, including the last five years, of teaching shall have been spent in public or nonpublic schools or state institutions of this state, if such teacher shall have paid into the fund all of the assessments required under the provisions of this chapter. If a teacher shall retire before attaining the age of fifty-five years, eligibility for the retirement annuity shall be deferred until the age of fifty-five years is attained.
2. After a period or periods aggregating fifteen years of service as a teacher in public or nonpublic schools or state institutions of this state, when such teacher suffers from total disability, such total disability to be determined by the board after an examination of such teacher has been made by two physicians appointed by the board. The annuity is payable, during the period of such total disability, only if such teacher shall have paid into the fund all of the assessments required under the provisions of this chapter. Said annuity is payable only during the period of such disability. The fees of such physicians shall be paid by the applicant. Payment of the annuity based upon such disability shall commence the first month following the determination of the disability by the board and the payment of any deficiency in assessments as provided in this section, regardless of the age of the teacher at such time. Payment of the annuity shall continue for and during such period of disability and terminate with the month following recovery from such disability. The board shall ascertain by inspections annually or as often as necessary to determine the disability status of an annuitant.

\*NOTE: Section 15-39-27 was repealed by section 2 of House Bill No. 1517, chapter 184.

3. A teacher who has met all requirements for an annuity, except that of actual retirement from teaching, but continues to teach shall have the right to select option one or option two, as described in section 15-39-29, and to name a beneficiary to receive, in the event of the teacher's death, the reduced retirement allowance as provided in sections 15-39-28 and 15-39-29. A written designation of the choice of option and beneficiary must be filed with the board of trustees of this fund in order for such choices to be effective. A teacher may make alterations in such choice of options at any time before retirement. If a continuing teacher who has duly registered such choices with the board should die before retiring from teaching, he shall be considered to have retired on the date of his death, and his designated beneficiary, if living, shall receive the retirement allowance for life as provided by the terms of the option previously selected by the teacher. The reduced retirement allowance shall be computed on the ages of teacher and beneficiary as of the date of death of the teacher. Should a continuing teacher later retire voluntarily before death, then sections 15-39-28 and 15-39-29 shall apply directly, except that any previously registered choice of option and beneficiary shall continue in full force and effect and may not be changed.
4. After a period aggregating ten years of service as a teacher in the public or nonpublic schools or state institutions of this state, a teacher who has attained the age of fifty-five years shall be eligible to receive an annuity ratably reduced in proportion to the number of years thereof.

If an applicant for annuities under either subsection 1 or subsection 2 or subsection 4 of this section has not paid into the fund assessments equal to the amounts required to be paid under section 15-39-14, he shall pay any deficiency into the fund before receiving the annuity.

SECTION 13. AMENDMENT.) Section 15-39-28 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-28. RETIREMENT ANNUITY.) Each teacher who shall have retired from service in the public or nonpublic schools, or state institutions under the provisions of section 15-39-27 shall be entitled to receive an annuity as follows:

1. If said teacher shall have attained the age of fifty-five years at the time of applying for the annuity, he annually and for life, shall be entitled to receive as an annuity a sum equal to two percent of the total

\*NOTE: Section 15-39-28 was repealed by section 2 of House Bill No. 1517, chapter 184.

earnings as salary for the years of teaching service for which assessments were paid. Said annuity, however, shall not be less than seven hundred fifty dollars in any one year upon completion of twenty-five years of service and shall be subject to all the provisions of this chapter. Provided, however, a teacher who has completed twenty-five years of teaching service in compliance with the retirement law and has earned an annuity of fifteen hundred dollars at that age and continues to teach beyond that time shall be eligible to annuity increases of seventy-five dollars per year, for each year of teaching thereafter. Provided further that a teacher who has completed twenty-five years of teaching service in compliance with retirement law and attained the age of fifty-five may have her annuity calculated at that age and granted the seven hundred fifty dollar minimum if her total salary is less than thirty-seven thousand five hundred dollars. Provided further that if said teacher continues to teach the annuity shall be increased by one hundred twenty-five dollars per year until the annuity reaches fifteen hundred dollars, after which time the annuity shall be increased by seventy-five dollars per year.

2. If said teacher shall have retired and applied for an annuity under the provisions of section 15-39-27, subsection 2, he shall receive as an annuity a sum equal to two percent of the total earnings at salary for the years of teaching service for which assessments were paid. Said annuity, however, shall not be less than three hundred dollars in any one year, subject to all the provisions of this chapter.
3. If any person retiring under this chapter shall resume service as a teacher of a public or nonpublic school or state institution in this or any other state, the retirement allowance paid to such person shall cease during the time of such employment but shall again be paid at the same amount and under the same conditions after subsequent retirement, except that in addition to retirement benefits earned prior to the resumption of teaching, such teacher shall be entitled to such additional retirement benefits as may be earned during the period in which teaching is resumed.
4. No annuity payments shall commence before the applicant shall have arrived at the age of fifty-five years, except in the case of retirement based on disability as provided in section 15-39-27.
5. If said teacher shall have retired and applied for an annuity under the provisions of section 15-39-27, subsection 4, he shall receive as an annuity a sum equal to two percent of the total earnings in salaries

for the years of teaching service for which assessments were paid. Said annuity, however, shall not be less than three hundred dollars in any one year, subject to all the provisions of this chapter.

SECTION 14. AMENDMENT.) Section 15-39-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-30. WRITTEN APPLICATION FOR ANNUITIES REQUIRED.) Any person who has complied with the provisions of this chapter and who desires to retire from active service in the public or nonpublic schools of this state, or in state institutions, shall apply in writing to the board for the annuities provided in this chapter.

SECTION 15. AMENDMENT.) Section 15-39-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-35. ANNUITIES DISCONTINUED ON RESUMPTION OF TEACHING.) Any person who has retired from teaching under the provisions of this chapter may become a teacher again in a public or nonpublic school or state institution, and thereupon his annuity payments shall be discontinued during the time he continues to teach. Payment of the annuity shall be resumed upon his further retirement.

SECTION 16. AMENDMENT.) Section 15-39-37.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39-37.1. PERIOD OF ADVANCED TRAINING COUNTED AS TEACHING SERVICE.) A teacher who, after July 1, 1969, attends a college, university, or other recognized school during periods other than summer sessions, for the purpose of improving his qualifications in the teaching profession shall be entitled to have such periods while in attendance at such college, university, or school credited as teaching service under the provisions of this chapter upon the payment of the assessments which would have been collected from him if he had continued as a teacher during the time of such college, university, or school attendance, plus the payment by him of the amount that would have been paid to the fund in his behalf from the school district, nonpublic school, or state institution where he was employed. Such back assessments must be paid prior to or at the time of retirement under this chapter, provided that:

1. The teacher must have taught at least one full school year in North Dakota immediately preceding his entrance into the college, university, or school and that immediately following such training he shall have taught not less than one full school year in a public or nonpublic school or state institution of this state.
2. The period of college, university, or school attendance

\*NOTE: Section 15-39-35 was repealed by section 2 of House Bill No. 1517, chapter 184.

that may be credited as teaching service shall not exceed three full academic years, exclusive of summer schools.

3. Payments on back assessments shall be based on the salary received by the teacher during the first year of teaching following the college, university, or school attendance, together with simple interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota, except that no interest shall be charged on assessments for the period while actually in attendance at the college, university, or school.

SECTION 17. AMENDMENT.) Section 15-39-40 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-40. WITHDRAWAL OF MEMBER FROM FUND - DEATH OF MEMBER - REFUND.) Any teacher who shall cease to be a teacher in the public or nonpublic schools or state institutions of this state without receiving any benefit or annuity from the fund upon such retirement, upon making written application therefor to the board shall be entitled to the return of one-half of the amount of assessments which he has paid into the fund on salaries earned prior to July 1, 1947, and the return of the full amount of assessments which he has paid into the fund on salaries earned after July 1, 1947, with interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota. If such teacher, after having withdrawn from the fund as provided in this section, shall again become a teacher in the public or nonpublic schools or state institutions of this state, he may, prior to or at the time of retirement under this chapter, elect either to return to the fund the amount which was returned to him, with simple interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota, from the time of such withdrawal, or to commence participation in the fund as though teaching for the first time. Any teacher who shall have made payments for the purpose of returning withdrawals to the fund, may, prior to retirement, notify the board of his intention to reject credits for prior teaching in North Dakota, and the board shall thereupon refund to such teacher all money paid into the fund as a return of previous withdrawals, together with simple interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota. Any such teacher may again at the time of retirement under this chapter elect to return such withdrawals to the fund, and shall at the time be permitted to pay the amount of such withdrawals into the fund together with interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota, and receive credit for such prior teaching.

Any teacher who has elected to have out-of-state teaching service counted as teaching service under the provisions of this

\*NOTE: Section 15-39-40 was repealed by section 2 of House Bill No. 1517, chapter 184.

chapter, may notify the board of his decision not to have such out-of-state service counted as teaching service, and shall have his assessment, and the accrued interest thereon, reduced correspondingly, provided that such decision and notification to the board shall be made prior to the time that any portion of the assessment for out-of-state teaching service has been paid by him. If the teacher who is or was a member of the fund shall die before he has retired as provided in this chapter his designated beneficiary, or if no beneficiary has been designated, his executor or administrator, or if no executor or administrator has been appointed, then the surviving spouse or heirs at law shall be entitled to receive from the fund the total amount without interest to which the beneficiary or heirs may be entitled.

For purposes of this section, assessments returned or refunded shall include those assessments that have been paid into the fund for military service and out-of-state teaching service.

Approved March 29, 1971

## CHAPTER 183

HOUSE BILL NO. 1119  
(Giffey, Hilleboe, Opedahl)  
(From Legislative Audit and Fiscal Review Committee Study)

## CONTRIBUTIONS TO RETIREMENT FUND

AN ACT to create and enact section 15-39-17.1; to amend and reenact sections 15-39-03 and 15-39-17; and to repeal sections 15-39-19, 15-39-20, and 15-39-21, all of the North Dakota Century Code, relating to contributions to the teachers' insurance and retirement fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-39-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*15-39-03. BOARD OF TRUSTEES OF THE TEACHERS' INSURANCE AND RETIREMENT FUND - MEMBERSHIP - APPOINTMENT.) The teachers' insurance and retirement fund shall be managed by a board of five trustees known as the board of trustees of the teachers' insurance and retirement fund. The state treasurer and the superintendent of public instruction shall be ex officio members of the board. The other three members shall be appointed by the governor from among the members of the teachers' insurance and retirement fund. One appointive member may be a retired member of the fund. The term of office of the appointive members of the board shall be for three years and shall begin on the first day of July next succeeding their appointment.

SECTION 2. AMENDMENT.) Section 15-39-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 15-39-17. ASSESSMENTS AND CONTRIBUTIONS AND STATEMENTS THEREOF.) The disbursing officers of each school district, county, institution, and organization employing a teacher as defined in this chapter shall make the assessments and contributions as provided in this chapter on a quarterly basis. The contributions to the fund shall be made from funds available for the payment of teachers' salaries, except that no contribution by any school district, as determined by a teachers' contribution, shall exceed two percent of the teacher's salary or one hundred fifty dollars per year as matching fund for any one teaching position. If a teacher fails to complete the term, however, the contribution required shall be the proportional part of the maximum assessments

\*NOTE: Section 15-39-03 was repealed by section 2 of House Bill No. 1517, chapter 184.

\*NOTE: Section 15-39-17 was also amended by section 7 of Senate Bill No. 2347, chapter 182, and was repealed by section 2 of House Bill No. 1517, chapter 184.

required for the time that teacher taught, unless such requirement increases the amount of assessments to be paid in which event the assessments shall be that computed on the actual salary the teacher received. The disbursing officer shall forward to the board, before July thirty-first of each year, a report for the fiscal year ending on June thirtieth, or a report indicating that no assessable salaries have been paid, whichever the case may be, verified by the clerk of the school district, county auditor, or officer of such other organizations and institutions required to make such reports. Reports shall contain such information as may be requested by the board except that annual reports from school districts shall include the following information:

1. The name and monthly salary of each teacher.
2. The number of months of school taught during the school year for which the statement is made by each teacher in the public schools of the district or school organization over which the governing board has jurisdiction.
3. The number of months during which schools were operated in each district or school organization in the year covered by the report.
4. The total salary of each teacher.
5. The total amount withheld from the salary of each teacher and contributed by the school district or county in accordance with the provisions of this chapter.
6. The total amount withheld from the salaries of all the teachers in the district or school organization for the school year next preceding.
7. The total number of years each teacher listed in the report has taught in the public schools of the state.

SECTION 3.) Section 15-39-17.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

\*15-39-17.1. DEPOSIT OF ASSESSMENTS AND CONTRIBUTIONS.)

Following payment for salaries assessable under this chapter, the assessments and contributions withheld and made by the disbursing officer of a school district, state agency, county, or other organization or institution authorized to make assessments and contributions under this chapter shall be deposited with the teachers' insurance and retirement board office, except that no deposit shall be required on a quarterly basis when accumulated assessments and contributions are less than one hundred dollars. The board shall issue a receipt, a copy of which shall be attached as evidence of payment to the annual report to the board as provided for in section 15-39-17. Amounts to be deposited

\*NOTE: Section 15-39-17.1 was repealed by section 2 of House Bill No. 1517, chapter 184.

for the month of June and such amounts not previously deposited along with the receipts issued by the board for previous deposits shall accompany the annual report to the board.

\* SECTION 4. REPEAL.) Sections 15-39-19, 15-39-20, and 15-39-21 of the North Dakota Century Code are hereby repealed.

Approved March 29, 1971

\*NOTE: Section 15-39-20 and section 15-39-21 were also amended by sections 9 and 10, respectively, of Senate Bill No. 2347, chapter 182; and were repealed by section 2 of House Bill No. 1517, chapter 184.

## CHAPTER 184

HOUSE BILL NO. 1517  
(Knudson, Hildebrand, R. Peterson)

## TEACHERS FUND FOR RETIREMENT

AN ACT to create a new system of retirement benefits for teachers, providing for a tax levy and for assessments, and creating chapter 15-39.1 of the North Dakota Century Code; and repealing chapter 15-39 of the North Dakota Century Code, relating to teachers' insurance and retirement fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 15-39.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-39.1-01. TEACHERS FUND FOR RETIREMENT CREATED.) There is hereby created the teachers fund for retirement, which, upon the effective date of this Act shall consist of the following:

1. All monies contained in the teachers insurance and retirement fund accumulated pursuant to chapter 15-39 of the North Dakota Century Code; and
2. All monies thereafter received by the state treasurer under the provisions of this chapter.

15-39.1-02. PRIOR FUND TERMINATED.) The teachers insurance and retirement fund shall, on the effective date of this Act, cease to exist and the board administering said fund shall no longer function. All obligations of the teachers insurance and retirement fund shall be assumed by the newly created fund.

15-39.1-03. RIGHTS UNDER PRIOR ACT PRESERVED.) No person shall be caused to be deprived of rights vested under the chapter superseded hereby. Any such person may elect to claim his retirement benefits according to the provisions of the retirement program for teachers in effect prior to the effective date of this Act.

15-39.1-04. DEFINITIONS.) For purposes of this chapter, unless the context or subject matter otherwise requires:

1. "Teacher" shall include:
  - a. All persons employed in teaching in any state

institution or by any school board or other governing body of any school district of this state, including superintendents, assistant superintendents, business managers, principals, assistant principals and special teachers employed in any state institution or in the school system of any school district in this state, except that the superintendent and assistant superintendent of the Grafton state school may be brought within this definition at their option.

- b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, state school supervisors and inspectors, every person engaged as president, dean, school librarian or registrar of any state institution, the secretary of the North Dakota Education Association, all assistant secretaries and professional staff of such association, and the commissioner of higher education.
  - c. Any person who serves in the capacity of substitute or part-time teacher and earns more than the maximum allowed by the Federal Social Security Act for the receipt of full social security benefits in any one school year.
2. "State institution" shall include all state colleges and universities, the school of forestry, the school of science, the school for the blind, the school for the deaf and dumb, the Grafton state school and the state training school.
  3. "Fund" shall mean the teachers fund for retirement.
  4. "Board" shall mean the board of trustees of the teachers fund for retirement.

The term "teacher" shall not include persons connected with any professional school or college of any state institution as lecturers who are engaged in the practice of their respective professions and with whom teaching is merely an avocation.

15-39.1-05. MANAGEMENT OF FUND.) The fund shall be managed by a board of trustees, which shall consist of the state treasurer, the superintendent of public instruction and three persons to be appointed by the governor. One of the appointees shall be a woman and a majority of the board shall at all times consist of persons who are members of the fund. The term of the office of the appointees shall be three years with said terms fixed to terminate on June 30th of alternate years. The term of each appointee shall commence on July 1st next succeeding his appointment.

15-39.1-06. ORGANIZATION OF BOARD.) The board may hold meetings as may be necessary for the transaction of business and a meeting may be called by the president or any two members of the board upon reasonable notice to the other members of the board. The president for the ensuing year shall be elected at the first meeting following July 1st of each year. The state treasurer shall act ex officio as treasurer and the board shall be empowered to employ a secretary, who need not be a member of the board and who shall perform such duties as the board may prescribe.

15-39.1-07. VACANCIES - RULE MAKING POWER.) Vacancies which may occur among the appointed members of the board shall be filled by the governor and the appointee shall complete the term for which the original member was selected. The board may adopt such rules as may be necessary to fulfill the responsibilities of the board.

15-39.1-08. COMPENSATION OF MEMBERS.) Members of the board, excluding ex officio members, shall be compensated for attendance at meetings from the fund at the rate of fifty dollars per day, plus actual expenses of travel, food and lodging.

15-39.1-09. MEMBERSHIP IN FUND AND ASSESSMENTS.) Every teacher shall be a member of the fund and shall be assessed upon his salary four percent per annum, which shall be deducted monthly and paid to the state treasurer by the disbursing official of the governmental body by which the teacher is employed. Every governmental body employing a teacher shall pay to the state treasurer a sum equal to four percent per annum of the salary of each teacher employed by it, but not to exceed a matching payment in excess of five hundred dollars annually. All such sums shall be paid quarterly to the state treasurer who shall set the same aside in the teachers fund for retirement.

15-39.1-10. ELIGIBILITY TO BENEFITS.) Any teacher having ten years of teaching credit in the fund and who has attained the age of sixty-five years, or who attained the age of sixty-five years and completed his final year of teaching in 1971, shall be entitled to receive monthly benefits from the fund, until death, in an amount equal to the following:

1. One percent of the monthly salary of the teacher for the school year next preceding the effective date of this Act for each year of service of said teacher prior to the effective date of the Act; and
2. One and one-half percent of the monthly salary of the teacher for each year subsequent to the effective date of the Act.

Monthly salary within the meaning of this provision shall be deemed to be an amount equal to one-twelfth of the annual salary of the teacher. If for any reason the earnings of the teacher

for the year next preceding the effective date of this Act are shown to have been non-representative of his typical earnings, the board shall readjust the credit to be allowed for past years of service to the last year of typical earnings.

15-39.1-11. RIGHTS VESTED WHEN.) When any teacher has paid assessments for a period of ten years, he shall have a vested right to a retirement annuity but he shall receive no payments hereunder until he attains the age of sixty-five years unless he shall elect to claim an early retirement as hereinafter set forth.

15-39.1-12. EARLY RETIREMENT.) Any teacher who has acquired a vested right to a retirement annuity as set forth in section 11 of this Act may retire at any time prior to the normal retirement age as set forth herein but the benefits to which he shall then be entitled shall be reduced to the actuarial equivalent of the benefit credits earned to the date of early retirement.

15-39.1-13. ANNUITIES EXEMPT FROM LEGAL PROCESS.) The annuities payable under the provisions of this chapter shall not be subject to attachment, garnishment, execution or other seizure or process, nor shall they be subject to sale, assignment, pledge, mortgage or other alienation.

15-39.1-14. RETIREMENT NOT MANDATORY - WHEN RETIREMENT OCCURS.) Nothing in this Act shall be construed as requiring retirement at any specific age. If the teacher elects to teach beyond age sixty-five and is permitted to do so by the body for whom he works, he shall continue to earn credits at the same rate as prior to the age of sixty-five. Retirement shall be deemed to have occurred and benefits shall be payable from the date of last teaching prior to the filing of a written application for retirement benefits, except in the case of a teacher whose rights in the fund have become vested but who chooses not to retire prior to age 65, in which case the benefits shall be paid from the date such teacher attains the age of sixty-five.

15-39.1-15. WITHDRAWAL FROM FUND - RETURN TO TEACHING.) Any teacher who has withdrawn from the fund as set forth in this chapter may, upon returning to teaching in this state, regain credit for prior teaching by repaying to the fund, with interest, at a rate to be set by the board, the amount which was returned to him on withdrawal.

15-39.1-16. OPTION OF TEACHERS ELIGIBLE TO RECEIVE ANNUITIES.) At any time after his retirement under the circumstances provided in this chapter and before the first annuity payment shall become due, a teacher may elect to receive the actuarial equivalent, at that time, of the regular retirement allowance for life, in the form of a reduced retirement allowance payable throughout his life with either, but not both of the following additional provisions:

Option one. Upon the death of the teacher, the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as the teacher shall have nominated by written designation filed with the board at the time of retirement; or

Option two. Upon the death of the teacher, one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as the teacher shall have nominated by written designation filed with the board at the time of retirement.

The amount of the reduced retirement allowance payable upon the exercise of either of such options shall be computed upon an actuarial basis through the use of standard actuarial tables and based upon the ages of the teacher and his designated beneficiary.

15-39.1-17. DEATH OF MEMBER.) If the death of a member who has not acquired a vested interest should occur prior to retirement, a refund of his assessments accumulated with interest shall be made to such beneficiary as he may designate, or, if no beneficiary is designated, the same shall be paid to his estate. His assessments shall earn interest from the July 1 following the date the assessment is made with the interest credit each year determined at the current rate for one-year certificates then being paid by the Bank of North Dakota.

If the death of a member who has acquired a vested interest should occur prior to retirement, then his beneficiary may apply for a refund of his assessments accumulated with interest as described in the above paragraph. In lieu of such refund, the beneficiary may elect to receive a monthly annuity in accordance with option one as set forth in section 16 of this Act, with the amount of such annuity being determined as though the deceased member had retired under the option on the first day of the month in which his death occurred. If any applicant for an annuity under this section has not paid into the fund assessments equal to the amounts required to be paid under section 15-39.1-09, he shall pay any deficiency into the fund before receiving the annuity.

15-39.1-18. DISABILITY RETIREMENTS.) Any teacher as defined in this chapter may also retire and receive a disability annuity if after a period aggregating fifteen years of service as a teacher in this state, such teacher suffers from total disability. Such total disability to be determined by the board after an examination of such teacher has been made by two physicians appointed by the board. The fees of such physicians shall be paid by the applicant.

The amount of the disability annuity shall be equal to the retirement benefit credits which the member has earned to the date of disablement. The disability annuity shall continue until

the death or prior recovery of the disabled annuitant. The board shall ascertain by examinations annually or as often as necessary to determine the continued disability status of a disabled annuitant.

If a disabled annuitant recovers and returns to active teaching, he shall retain the retirement benefit credits which he earned prior to the time of disablement and the credits which he earned after his return to active teaching shall be added to those earned prior to his disablement.

15-39.1-19. ANNUITIES DISCONTINUED ON RESUMPTION OF TEACHING.) Any person who has retired from teaching under the provisions of this chapter may become a teacher again in a public school or state institution and thereupon his annuity payments shall be discontinued during the time he continues to teach. Payment of the annuity shall be resumed upon his further retirement.

15-39.1-20. WITHDRAWAL FROM FUND.) When a member of the fund ceases to be eligible under the terms of this chapter to participate in the fund, he may withdraw from the fund and shall be then entitled to receive a refund of assessments accumulated with interest credited for each year as determined at the current rate for one-year certificates then being paid by the Bank of North Dakota. Such refund shall be in lieu of any other benefits to which the member may be entitled under the terms of this chapter.

15-39.1-21. EFFECT ON EXISTING OBLIGATIONS.) Nothing herein contained shall be construed to affect existing retirement benefits and all obligations of the teachers insurance and retirement fund existing on July 1, 1971, shall be assumed and paid from the teachers' fund for retirement. Amounts which persons retired on July 1, 1971, are receiving shall be frozen as of that date and shall not be deemed increased by this chapter.

15-39.1-22. ANNUAL REPORT OF BOARD.) On or before the first day of October of each year, the board shall report for the fiscal year ending the thirtieth day of June preceding. A copy of the report shall be submitted at the annual meeting of the members, which shall be at the time and place of the annual meeting of the North Dakota education association, and a copy of the report shall be included in the biennial report of the superintendent of public instruction to the governor.

15-39.1-23. FAILURE TO ACCOUNT AND REPORT DEPRIVES DISTRICT OF RIGHT TO PARTICIPATE IN STATE PAYMENTS.) No school district shall share in the apportionment of any money from the state for any year unless the school board, or an officer thereof, has made the reports required by the board as permitted by this chapter and has paid over for credit to the fund the amounts required to be paid by this chapter.

15-39.1-24. TEACHER ENTITLED TO ADDITIONAL CREDIT.) A teacher may receive additional credit for teaching toward retirement in the following instances and manner:

1. Any teacher who comes from a school or educational institution supported by public taxation out of North Dakota and who becomes a teacher within the meaning of this chapter may elect to have any or all years of out-of-state teaching credited hereunder, which credit may be claimed at any time prior to retirement and provided that interest shall be paid on all payments required under this subsection at a rate equal to the rate being paid on one-year certificates by the Bank of North Dakota. Every such teacher shall be advised of the provisions of this section by the school board in writing at the time of employment, and a copy of such notice with written acknowledgement thereof, shall be filed with the board. Before receiving any retirement annuity, such teacher shall pay into the fund an amount equal to the amount of assessments for the number of years of out-of-state teaching that he elects based upon his first annual salary in North Dakota, which shall also be the basis of the retirement benefits to which he shall be entitled to receive. He shall also pay the full amount which the employing body would have had to pay as matching funds for the years to be credited.
2. Any teacher who, within twenty-four months of entering the military service of the United States of America, was engaged in the occupation of teaching in the state of North Dakota, and who received an honorable discharge from such service, shall be entitled to have the time of such service credited under the terms of this chapter upon his return to teaching and the payment of the assessments, including the matching funds of the employing body, based upon his first annual salary on return to teaching in the state. Any teacher who has made such back payments for military service may elect prior to retirement, to receive the return of such payments, with interest at the rate being paid by the Bank of North Dakota on one-year certificates of deposit, and reject the military service credit and the board shall forthwith refund said amounts. The teacher, at retirement, may again elect to claim the benefits of this section. The same rights shall be available to a teacher who has been engaged in teaching in North Dakota prior to such time but was attending an institution of higher learning for the purpose of improving himself in such profession within twenty-four months of the time of entry into the armed services. All payments required under this subsection shall be made with interest at the rate being paid on one-year certificates by the Bank of North Dakota.

3. A teacher who attends a college, university, or other recognized school during periods other than summer sessions, for the purpose of improving his qualifications in the teaching profession shall be entitled to have such periods while in attendance at such college, university, or school credited as teaching service under the provisions of this chapter upon the payment of the assessments which would have been collected from him if he had continued as a teacher during the time of such college, university, or school attendance, plus the payment by him of the amount that would have been paid to the fund in his behalf from the school district or state institution where he was employed. Such back assessments must be paid prior to or at the time of retirement under this chapter, provided that:
  - a. The teacher must have taught at least one full school year in North Dakota immediately preceding his entrance into the college, university, or school and that immediately following such training he shall have taught not less than one full school year in a public school or state institution of this state; and
  - b. The period of college, university, or school attendance that may be credited as teaching service shall not exceed three full academic years, exclusive of summer schools; and
  - c. Payments on back assessments shall be based on the salary received by the teacher during the first year of teaching following the college, university, or school attendance, together with simple interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota, except that no interest shall be charged on assessments for the period while actually in attendance at the college, university, or school.

15-39.1-25. CERTAIN RIGHTS AND OBLIGATIONS FIXED.) Notwithstanding any other provisions of law, the laws pertaining to the teachers' fund for retirement, as contained in chapter 15-39.1, shall apply to teachers, superintendents, assistant superintendents, principals, assistant principals, special teachers, supervisors of instruction and other supervisors, presidents, deans, school librarians, and registrars employed by any state institution under the supervision and control of the board of higher education and the commissioner of higher education, only in the form and substance as chapter 15-39 existed as of July 1, 1967, and all such persons shall have only such rights, benefits, and privileges as provided in chapter 15-39 as it existed on July 1, 1967. Such persons shall be responsible or liable for only

those costs or assessments provided for in chapter 15-39 as such laws and chapter existed on July 1, 1967. The board of higher education or any institution under the supervision or control of the board of higher education shall not be liable for any costs, assessments, or payments under the provisions of chapter 15-39 in excess of that provided or required under the provisions of chapter 15-39 as such laws and chapter existed on July 1, 1967. It is hereby declared to be the intent of the legislative assembly to freeze the rights, benefits, privileges, assessments, payments, and obligations of the persons, offices, and institutions specified in this section to those rights, benefits, privileges, assessments, payments, and obligations as they existed under the provisions of chapter 15-39 as such laws and chapter existed in form and substance as of July 1, 1967, and that all legislative enactments subsequent to such date shall not affect or apply to those persons, offices, and institutions specified in this section or their rights, benefits, privileges, assessments, payments, and obligations as fixed by this section.

15-39.1-26. INVESTMENT OF MONEYS IN FUND.) Investment of the fund shall be under the supervision of the state investment board in accordance with chapter 21-10, except that the state investment board shall have the authority to contract with insurance companies, trust banks, or other financial institutions to hold and invest fund moneys, provided that the total amount of all moneys so placed shall not exceed an amount equal to twenty percent of the total moneys of the fund. Such moneys shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. Such moneys may be expended by the state investment board by the preparation of an appropriate voucher and submitting such voucher to the department of accounts and purchases.

15-39.1-27. "YEAR" DEFINED - COMPUTING FOR PART-TIME TEACHERS.) In computing the terms of service of a teacher under the provisions of this chapter, a year shall be a legal school year at the time and place where such service was rendered. Where the service was rendered in schools not included within the provisions of this chapter, a time less than a legal school year in this state shall not be included as a full year but only as such proportion of a year as the number of teaching weeks in each year taught in such excluded school bears to the number of weeks required at such time to constitute a legal year in this state.

At least four hours per day for twenty days per month shall constitute a month's teaching credit toward a retirement annuity for part-time teachers.

15-39.1-28. MILL LEVY FOR TEACHERS' RETIREMENT.) Any school district by resolution of its school board may levy a tax of not to exceed two mills on the assessed taxable valuation

within the district, the proceeds to be used for the purposes of meeting the district's contribution to the fund arising under this Act. The mill levy permitted by this section shall be in addition to any tax levy limitations now prescribed by law.

\* SECTION 2. REPEAL.) Chapter 15-39 of the North Dakota Century Code is hereby repealed, provided that reference thereto may be made to fix rights of persons arising prior to the enactment of this Act.

Approved March 27, 1971

\*NOTE: This section repeals chapter 15-39, NDCC, which chapter was also affected by chapters 162, 181, 182, and 183 of this volume.

## CHAPTER 185

SENATE BILL NO. 2093  
(Holand, Nasset)  
(From Legislative Council Study)

## FOUNDATION AID PAYMENTS

AN ACT to amend and reenact section 15-40.1-06 of the North Dakota Century Code, as contained in section 7 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, relating to legislative intent for foundation aid payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-40.1-06 of the North Dakota Century Code, as contained in section 7 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-40.1-06. DECLARATION OF LEGISLATIVE INTENT.) It is the intent of the legislative assembly to support elementary and secondary education in this state from state and county funds based on the educational cost per pupil, exclusive of the cost of physical facilities, transportation, and current indebtedness. It is hereby found that the educational cost per pupil during the first year of the 1971-1973 biennium is two hundred fifty dollars and for the second year of the biennium the educational cost is two hundred sixty dollars and shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in sections 15-40.1-07 and 15-40.1-08. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 shall have an educational cost of two hundred twenty dollars, which shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40.1-07.

Approved March 27, 1971

## CHAPTER 186

SENATE BILL NO. 2494  
(Nasset, G. Larson)

## PER-PUPIL PAYMENTS

AN ACT to amend and reenact section 15-40.1-10 of the North Dakota Century Code, as contained in section 7 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, relating to payments of county equalization funds to schools and school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-40.1-10 of the North Dakota Century Code, as contained in section 7 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-40.1-10. PAYMENTS OF COUNTY EQUALIZATION FUNDS TO SCHOOLS AND SCHOOL DISTRICTS.) County equalization funds shall be paid to schools and school districts as follows:

1. STATE PER-PUPIL PAYMENTS. As soon as possible after receiving per-pupil payments from the state as provided for in section 15-40.1-05, and in any event no later than September twenty-fifth, December fifteenth, February fifteenth, and April fifteenth, the county superintendent of schools shall certify to the county auditor a list of the schools or school districts within or without the state that are entitled to per-pupil payments from the county equalization fund and the amounts thereof. The county auditor shall pay to each district or school the amount certified upon receiving the certificate. Payments shall be made by auditor's warrants and shall be deposited in the general fund of the district or school.
2. COUNTY TWENTY-ONE MILL LEVY PER-PUPIL PAYMENTS. All moneys accumulated in the county equalization fund from the twenty-one mill county levy and from all other sources except the state per-pupil payments referred to in subsection 1 of this section, shall be paid by the county auditor, after certification by the county superintendent of schools, to the schools and school districts entitled thereto, on or before March thirty-first and May

fifteenth of each year. Payments shall be made by auditor's warrants and shall be deposited in the general fund of the district or school.

If a school district embraces land in more than one county, the county superintendent of schools of the county in which the largest portion of the area of the school district is located shall determine the county equalization fund payments for such district and shall certify to the auditor of each county the amount to be paid by such county which shall be in the same ratio as the number of pupils of the school district residing in such county bears to the total number of pupils of the district. At the time the county equalization fund payment is paid to the county in which the largest portion of the area of the school district is located, a duplicate copy of the remittance advice accompanying the payment shall be forwarded to the county superintendent of schools of the county in which the largest portion of the area of the school district is located.

Approved March 29, 1971

CHAPTER 187

SENATE BILL NO. 2460  
(Holand)

STATE AID FOR SCHOOL  
TRANSPORTATION

AN ACT to amend and reenact section 15-40.1-16 of the North Dakota Century Code, as contained in section 7 of House Bill No. 1045, relating to aid for transportation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-40.1-16 of the North Dakota Century Code, as contained in section 7 of House Bill No. 1045, is hereby amended and reenacted to read as follows:

15-40.1-16. AID FOR TRANSPORTATION.) There shall be paid from the county equalization fund to each school district providing school bus transportation in contract school buses or in district owned and operated school buses a sum equal to seven cents per mile for school buses having a capacity of up to nineteen pupils and sixteen cents per mile for school buses having a capacity of twenty or more pupils. Such payments shall be made only to school districts operating school buses in accordance with the laws of this state relating to standards for school buses, and to the qualifications of school bus drivers. Certification as to the compliance with the laws of this state in regard to school buses and their drivers shall be made in such manner and in such detail as the superintendent of public instruction may require at the time an application is made for payments provided under this section.

Approved March 27, 1971

## CHAPTER 188

HOUSE BILL NO. 1236  
(Kingsbury, Berg)

DISCONTINUING COUNTY  
AGRICULTURAL SCHOOLS

AN ACT to provide for the discontinuance of county agricultural and training schools; to repeal section 15-42-29 of the North Dakota Century Code and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. COUNTY AGRICULTURAL AND TRAINING SCHOOLS - DISCONTINUANCE - DISPOSAL OF ASSETS.) The board of county commissioners of any county may, by resolution, determine to discontinue the county agricultural and training school. Such resolution shall be published once each week for two consecutive weeks in the official county newspaper. If within thirty days following the last publication of the resolution a petition containing the signatures of qualified electors of the county at least equal in number to ten percent of the vote cast for governor at the most recent general election at which a governor was elected is submitted to the county commissioners requesting that the question of discontinuance of the school be submitted to the electors of the county, the question of such discontinuance shall be submitted to the electors of the county at the next general election or at a special election called by the board for such purpose. Such election shall be held in the same manner and upon the notice prescribed by law for other elections. The published and posted notice of the election shall state its object. If no petition is filed or, if a petition is filed and a majority of the electors voting upon the question favor the discontinuance of the school, the board of county commissioners may proceed to dispose of all the physical assets, real and personal, in such manner as may be in the best interest of the county and any public school district interested in purchasing the same.

SECTION 2. REPEAL.) Section 15-42-29 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

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

Approved March 12, 1971

## CHAPTER 189

SENATE BILL NO. 2496  
(Sanstead)

## NONRESIDENT SCHOOL DISTRICT CLERK

AN ACT to amend and reenact section 15-47-05 of the 1969 Supplement to the North Dakota Century Code, relating to the qualifications of a school district clerk.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-47-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-05. QUALIFICATIONS OF SCHOOL ELECTORS AND OFFICERS.) Any person who is a qualified elector under the general laws of the state is qualified to vote at the election of school officers in any school district of the state in which he is a resident, and is eligible to the office of school district treasurer, or member of the school board, or may be appointed as a judge or clerk of election. The school district clerk need not be a resident of the district.

Approved March 18, 1971

## CHAPTER 190

SENATE BILL NO. 2332  
(Longmire, Unruh)

## RENEWAL OF TEACHERS' CONTRACTS

AN ACT to amend and reenact section 15-47-26 of the North Dakota Century Code and section 15-47-27 of the North Dakota Century Code, as contained in section 20 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, relating to the time of renewal of teachers' contracts and defining the term "teacher".

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-47-26 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-26. DEFINITIONS.) The term "teacher" as used in sections 15-47-27 and 15-47-28, shall be construed to include all teachers, principals, and superintendents in all public school districts within this state, and all persons employed in teaching in any state institution, except institutions of higher education.

SECTION 2. AMENDMENT.) Section 15-47-27 of the 1969 Supplement to the North Dakota Century Code as contained in section 20 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-47-27. TIME FOR RENEWAL OF TEACHERS' CONTRACTS.) Any teacher who has been employed by any school district or the director of institutions in this state during any school year, shall be notified in writing by the school board or the director of institutions, as the case may be, not earlier than the fifteenth day of February and not later than the fifteenth day of April in the school year in which he or she has been employed to teach, of the determination not to renew the teacher's contract for the ensuing school year, if such determination has been made; and failure to give such written notice on or before said date shall constitute an offer to renew the contract for the ensuing school year under the same terms and conditions as the contract for the then current year. On or before April fifteenth in any year and not earlier than February fifteenth, all teachers shall be notified of a date, which shall not be less than thirty days after the date of

such notice, upon which they will be required to accept or reject proffered re-employment, and failure on the part of the teacher to accept said offer within such time shall be deemed to be a rejection of the offer. Any teacher who shall have accepted the offer of re-employment, either by the action or nonaction of the school board or the director of institutions, on or before April fifteenth, as herein provided, shall be entitled to the usual written contract for the ensuing school year, as provided by law and shall notify the school board or the director of institutions in writing of his or her acceptance or rejection on or before the date specified or before May fifteenth, whichever is earlier. Failure on the part of the teacher to provide such notification shall relieve the school board or the director of institutions of the continuing contract provision of section 15-47-26 through 15-47-28. Nothing in this section shall be construed as in any manner repealing or limiting the operation of any existing law with reference to the dismissal of teachers for cause.

Approved March 19, 1971

## CHAPTER 191

SENATE BILL NO. 2333  
(Sanstead, Jones)

## PROCEDURE FOR DISMISSING TEACHERS

AN ACT to amend and reenact section 15-47-38 of the North Dakota Century Code, providing for procedure for fair dismissal of teachers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-47-38 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-38. LEGISLATIVE INTENT IN EMPLOYMENT OF TEACHERS  
- NOTIFICATION OF DISCHARGE OR FAILURE TO RENEW - HEARING.)

1. The legislative assembly, in recognition of the value of good employer-employee relationships between school boards of this state and the teachers employed in the school systems, the need to recruit and retain qualified teachers in this state, and further in recognition of the many intangibles in evaluating the performance of individual members of the teaching profession, urges that each school board of this state ensure through formally adopted policies, that channels of communication exist between the board, supervisory personnel, and teachers employed within its school system. It is the intent of the legislative assembly that in the very sensitive area of discharge of teachers for cause prior to the expiration of the term of the teachers' contracts, or in decisions not to renew the contracts of teachers, that recognition be given by school boards to damage that can result to the professional stature and reputation of such teachers, which stature and reputation were acquired only after the expenditure of substantial time and money in obtaining the necessary qualifications for such profession and in years of practicing the profession of teaching; and that in all decisions of school boards relating to discharge or refusal to renew contracts, all actions of the board be taken with consideration and dignity, giving the maximum consideration to basic fairness and decency.

2. The school board of any school district contemplating discharging a teacher prior to the expiration of the term of the teacher's contract, or contemplating not renewing a teacher's contract shall notify such teacher in writing of such fact at least ten days prior to the date of discharge or final date to renew the teacher's contract. Such teacher shall be informed in writing that he may request and appear at a meeting to be held by the school board prior to the final decision of such teacher's discharge or failure to renew such teacher's contract. The school board shall give an explanation and shall discuss at such meeting its reasons for the contemplated decision of the board in discharging such teacher or refusing to renew the teaching contract of the teacher. The meeting shall be an executive session of the board unless both the school board and the teacher requesting such meeting shall agree that it shall be open to other persons or the public. The teacher may be represented at the meeting by a person of his own choosing. If the teacher so requests, he shall be granted a continuance of not to exceed seven days by the board, unless for good cause otherwise shown. No cause of action for libel or slander shall lie for any statement expressed either orally or in writing at any executive session of a school board held for the purposes provided in this section.

Approved March 29, 1971

## CHAPTER 192

HOUSE BILL NO. 1361  
(Knudson)

REGULATING TRADE AND  
CORRESPONDENCE SCHOOLS

AN ACT to create and enact section 15-50-12 of the North Dakota Century Code, relating to the regulation of trade and correspondence schools and to amend and reenact sections 15-50-01, 15-50-02, 15-50-03, 15-50-04, 15-50-08, 15-50-09, 15-50-10 and 15-50-11.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-50-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-50-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Private trade, industrial, vocational, technical, business" and "correspondence schools" mean schools maintained or classes conducted for the purpose of teaching any trade, industrial, vocational, technical, business occupation or educational subjects for profit or for a tuition charge, and shall exclude schools or colleges regularly chartered and authorized by the laws of the state of North Dakota to grant degrees, endowed schools which offer approved courses without profit, schools exclusively engaged in training physically handicapped persons, or schools conducted by any person for the education and training of his own employees;
2. "Board" means the state board of vocational education;
3. "Executive officer" means the officer who directs the policy making of the division of vocational education. The director of vocational education is by board appointment the executive officer for vocational education;
4. "Solicitor" means a person who solicits business for a private trade, industrial, vocational, technical, business and correspondence school or who offers to sell or sells any such instruction or course of instruction. The private schools referred to in this paragraph, include those within and outside the state

of North Dakota.

SECTION 2. AMENDMENT.) Section 15-50-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-50-02. LICENSE PROCURED - FROM WHOM.) Every private trade, industrial, vocational, technical, business or correspondence school, shall procure a license from the executive officer of the state board for vocational education.

SECTION 3. AMENDMENT.) Section 15-50-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-50-03. LICENSING OF PRIVATE TRADE, INDUSTRIAL, VOCATIONAL, TECHNICAL, BUSINESS AND CORRESPONDENCE SCHOOLS - REQUIREMENTS.)

1. The executive officer is empowered to issue a license upon compliance with the terms and provisions of this chapter.
2. Application for a license shall be made to the executive officer upon a form prescribed and furnished by him.
3. A license shall not be issued until the executive officer has approved the method and content of the advertising, the standards and methods of instruction, the equipment and housing provided, the qualifications of the teachers, the form and contents of the student enrollment agreement or contract, the sufficiency of its resources and equipment, and its accreditation by a recognized accrediting agency.
4. If the license is granted it shall be issued upon the faithful performance of all agreements and contracts with students, as disclosed by the application for license, and the compliance with this chapter and all rules and regulations prescribed thereunder. Every license shall expire on the thirtieth day of June following the date of issuance. Licenses may be renewed subject to the continued compliance with the rules and regulations of this chapter.

SECTION 4. AMENDMENT.) Section 15-50-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

## 15-50-04. SOLICITORS REQUIRED TO PROCURE PERMITS.)

1. Every solicitor, before engaging in such business, first shall procure a permit from the executive officer.
2. A permit shall be issued only upon written application to the executive officer. The application shall be upon a form prescribed and furnished by the executive officer and shall be accompanied by twenty-five dollars, the fee for such permit. If the application is granted, the permit shall not be issued until the applicant has filed with the executive officer a continuing surety bond to the state of North Dakota in the penal sum of one thousand dollars, conditioned for the faithful performance of all contracts and agreements with students by the solicitor and the employing private trade, industrial, vocational, technical, business or correspondence school, as disclosed by the application for the permit, and for the compliance by the solicitor with this chapter and all rules and regulations prescribed thereunder. Every permit shall expire on the thirtieth day of June following the date of issuance.

SECTION 5. AMENDMENT.) Section 15-50-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-50-08. REMEDY OF STUDENT DEFRAUDED BY MISREPRESENTATION - TREBLE DAMAGES.) Any person who is defrauded by a misrepresentation made by an officer or agent of a private school defined in this chapter, or by any advertisement or circular issued by it, or by any person who sells textbooks to the said school or to the pupils thereof, may recover from such school or person three times the amount paid.

SECTION 6. AMENDMENT.) Section 15-50-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-50-09. REFUND OF TUITION FEES.) Private trade, industrial, vocational, technical, business and correspondence schools shall refund tuition and other charges when written notice of cancellation is given by the student in accordance with the following schedule:

1. When notice is received prior to, or within seven days after completion of the first day of instruction, or after receipt of the first correspondence lesson by the school, all tuition and other charges except twenty-five dollars thereof shall be refunded to the student.

2. When notice is received prior to, or within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the course, all tuition and other charges except twenty-five percent thereof shall be refunded to the student.
3. When notice is received upon or after completion of one-fourth of the course, but prior to the completion of one-half of the course, all tuition and other charges except fifty percent thereof shall be refunded to the student.
4. When notice is received upon or after the completion of fifty percent of the course, no tuition or other charges shall be refunded to the student.

The provisions of this section shall not prejudice the right of any student to recovery in an action against any private trade, industrial, vocational, technical, business or correspondence school for breach of contract or fraud.

SECTION 7. AMENDMENT.) Section 15-50-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-50-10. NEGOTIATION OF PROMISSORY INSTRUMENTS.) No private, trade, industrial, vocational, technical, business or correspondence school shall negotiate any promissory instrument received as payment for tuition or other charges prior to the completion of one-half of the course of instruction.

SECTION 8. AMENDMENT.) Section 15-50-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-50-11. CANCELLATION OF CONTRACT FOR INSTRUCTION.) Any person shall have the right for any cause to rescind, revoke, or cancel a contract for a course of instruction at any private trade, industrial, vocational, technical, business and correspondence school within seven days after entering into such contract without incurring any tort or contract liability. In such event, the private trade, industrial, vocational, technical, business and correspondence school may retain the amount of tuition and other charges as set forth in subsection 1 of section 15-50-09.

SECTION 9. AMENDMENT.) Section 15-50-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-50-12. LIST OF APPROVED SCHOOLS.) The executive officer shall send a list of approved schools as defined in this chapter annually in September and as deemed necessary, to all superintendents of school districts, county superintendent of schools, and guidance counselors certified by the department of public instruction.

Approved March 29, 1971

## CHAPTER 193

HOUSE BILL NO. 1047  
(Bier, Knudson, G. Larson, R. Peterson, Stone, Wagner)  
(From Legislative Council Study)

## MEDICAL CENTER ADVISORY COUNCIL

AN ACT to amend and reenact section 15-52-03 of the North Dakota Century Code, relating to the medical center advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-52-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-03. MEDICAL CENTER ADVISORY COUNCIL - MEMBERS, TERMS, MEETINGS.) In order to assure the proper coordination and integration of the North Dakota state medical center with all other health and welfare activities of the state, a permanent medical center advisory council is hereby established to advise, consult, and make recommendations to the university administration, and to the several agencies represented on said medical center advisory council concerning the program of said North Dakota state medical center, the adaptation thereof to the needs of the state and to the requirements and facilities of the several agencies involved, and the use of said North Dakota state medical center and its facilities by the various institutions and agencies of the state and its political subdivisions. The medical center advisory council shall consist of seven members, two to be named by the governor, and one to be named by and from the membership of each of the following: The public welfare board of North Dakota, the state board of higher education, or such boards or departments as shall succeed them or any of them; the state health officer of the North Dakota state department of health; the North Dakota state medical association; and the North Dakota hospital association.

The representatives named by the state agencies and boards above referred to shall be selected to serve as members of the medical center advisory council for periods of at least one year, but in no instance may they serve longer than their term of office on the public agency.

The representatives from the North Dakota state medical association and the North Dakota hospital association shall serve a term of three years or until their successors are

named and qualified.

The two members appointed by the governor shall serve for three-year terms as representatives of the public at large. The medical center advisory council shall name its own chairman and the dean of the university of North Dakota medical school shall serve as executive secretary thereof. The medical center advisory council shall meet in January and June of each year, and, from time to time, on its own motion or upon request of the university administration, to consider plans and programs of action for the North Dakota state medical center, and make its recommendations thereon to the several agencies of the state and its political subdivisions involved and to the legislature.

Approved March 22, 1971

## CHAPTER 194

SENATE BILL NO. 2083  
(Lips, Morgan, Sanstead)  
(Legislative Council Study)

## MEDICAL CENTER LOAN FUND

AN ACT to amend and reenact sections 15-52-10, 15-52-15, subsection 3 of section 15-52-16, sections 15-52-17, 15-52-18, 15-52-19, 15-52-20, 15-52-21, 15-52-22, 15-52-23, 15-52-24, 15-52-25, 15-52-26, and 15-52-28 of the North Dakota Century Code; and to repeal sections 15-52-11, 15-52-12, 15-52-13, and 15-52-14 of the North Dakota Century Code, to provide for the abrogation of the medical center loan fund board and for the transfer of the functions of such board to the university of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-52-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-10. MEDICAL CENTER LOAN FUND.) There is hereby created a medical center loan fund which shall be administered by the university of North Dakota under the direction and control of the board of higher education. As used hereafter in this chapter, the word "university" shall mean the university of North Dakota under the direction and control of the board of higher education.

SECTION 2. AMENDMENT.) Section 15-52-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-15. DUTIES RELATED TO LOAN FUND.) It shall be the duty of the university to receive and pass upon, and to allow or disallow, all applications for loans submitted by qualified applicants who desire to complete an education in medicine or dentistry for the purpose of entering medical or dental practice in the state of North Dakota. It shall also be the duty of the university to compile a list of cities, towns, and other municipalities in this state without a qualified physician or dentist or with an insufficient number of qualified physicians or dentists, and to endeavor to supply physicians or dentists to such cities, towns, and other municipalities.

SECTION 3. AMENDMENT.) Subsection 3 of section 15-52-16 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Can present to the university satisfactory proof that he or she has been accepted as a student in the third or fourth year of a qualified and reputable four-year school of medicine or dentistry, or will be so accepted upon payment of tuition; and

SECTION 4. AMENDMENT.) Section 15-52-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-17. LOAN INVESTIGATIONS.) The university shall make a careful investigation to ascertain the truth of all matters set forth in applications received by it, and for that purpose may propound such examinations and questions for each applicant as it deems proper. The investigation shall include a study of the ability of the applicant or the applicant's parents to pay his own expenses at an out-of-state medical or dental school, and preference shall be given to qualified applicants who, or whose parents, are unable to pay the applicant's expenses at such medical or dental school.

SECTION 5. AMENDMENT.) Section 15-52-18 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-18. AMOUNT OF LOANS.) Loans may be granted to qualified applicants by the university in amounts not in excess of two thousand dollars for the purpose of completing the third year of medical or dental study and a sum not to exceed two thousand dollars for the purpose of completing the fourth year of medical or dental study in a qualified and reputable four-year school of medicine or dentistry. However, if the applicant agrees in writing to enter medical or dental practice in a city, town, or municipality in this state which is without a qualified physician or dentist or in need of additional medical or dental personnel, then such applicant may be granted a loan of two thousand five hundred dollars for the purpose of completing the third year of medical or dental study and a like sum for the purpose of completing the fourth year of medical or dental study.

SECTION 6. AMENDMENT.) Section 15-52-19 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-19. LOAN PAYMENTS.) Loans authorized by sections 15-52-10 through 15-52-28 may be apportioned in such manner as to pay directly to the medical or dental school to which any

applicant is admitted such funds as are required by that school for tuition and other expenses of study. The balance shall be paid directly to the applicant upon such terms and conditions as may be established by the university.

SECTION 7. AMENDMENT.) Section 15-52-20 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-20. LOAN CONDITIONS.) Loans granted by the university under the terms of sections 15-52-10 through 15-52-28 are to be upon the condition that the full amount thereof shall be repaid in cash with six percent interest annually from the date of each payment pursuant to a loan agreement, the repayment to be in yearly installments on a schedule set by the university and the first installment becoming due and payable one year from the date on which the applicant completes his internship if a medical student or one year from the date of graduation from a dental school if a dental student. If prior approval is obtained from the university, such first installment shall not become due and payable until one year from the date on which the applicant completes additional residency or other advanced study or military service of not more than three years' duration. In the case of applicants who have agreed to enter medical or dental practice in a North Dakota municipality of five thousand population or less which is either without a qualified physician or dentist or in need of additional medical or dental personnel, each year of actual practice in such municipality shall be equivalent to repayment of one-fifth of the unpaid balance of the loan and of one-fifth of the accrued interest thereon. The term "practice" under the agreement and repayment provisions of this chapter includes employment in the state of North Dakota as a medical intern.

SECTION 8. AMENDMENT.) Section 15-52-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-21. LOAN AGREEMENT - SUIT - DEFENSES.) Each applicant before being loaned any funds hereunder shall enter into a contract with the university agreeing to the terms and conditions set forth in the preceding sections and rules and regulations promulgated thereunder. For the purposes of sections 15-52-10 through 15-52-28, the defenses of minority and of the statutes of limitation are hereby removed as to any applicant granted a loan by the committee, and such contracts shall be in all respects legal and binding. The university may sue in its own name any applicant for any balance due on any such contract, and is authorized to compromise or settle litigation with respect to any such contract.

SECTION 9. AMENDMENT.) Section 15-52-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-22. LOAN CANCELLATION OR SUSPENSION.) The university shall have authority to cancel any contract, or to suspend or recall payments thereunder, in the event an applicant

1. Fails in his course of study; or
2. Withdraws from the school of medicine or dentistry he is attending; or
3. Is expelled or suspended by such school; or
4. Otherwise becomes a clearly unsuitable risk; or
5. Having agreed to enter practice in a specified city, town, or other municipality, fails to carry out such agreement within a reasonable time or withdraws from practice therein before full repayment of his loan.

SECTION 10. AMENDMENT.) Section 15-52-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-23. REMEDIES.) In the event the university finds it necessary to cancel a contract or to suspend or recall payments, it may commence legal proceedings for the recovery of all sums loaned to the applicant, together with interest thereon, the total of which sums shall become due and owing immediately upon the mailing to the applicant of written notice of the decision to cancel the contract or to suspend or recall payments thereunder.

SECTION 11. AMENDMENT.) Section 15-52-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-24. LOAN INSURANCE.) The university may require an applicant to obtain a policy of life insurance payable to it to ensure repayment of the loan in the event of the applicant's death. It may enter into any other appropriate arrangement designed to ensure repayment.

SECTION 12. AMENDMENT.) Section 15-52-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-25. DEPOSIT AND PAYMENT OF FUNDS.) All funds made available to the university pursuant to the provisions of this chapter are to be deposited by it and are to be paid out only upon vouchers signed by the official properly designated by the board of higher education.

SECTION 13. AMENDMENT.) Section 15-52-26 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-26. AVAILABILITY OF FUNDS.) The board of higher education is hereby directed and authorized to make available to the university, from the portion of the proceeds of the one-mill levy provided by article 60 of the Constitution of North Dakota as the board of higher education shall have retained in its possession pursuant to the provisions of section 15-52-09 for the purpose of establishing third and fourth year courses of medicine at the university of North Dakota, such funds as may be required for the operation of the medical center loan fund, but not in excess of one hundred thousand dollars in any one year.

SECTION 14. AMENDMENT.) Section 15-52-28 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-28. BIENNIAL REPORT.) The board of higher education shall prepare a biennial report as prescribed by subsection 6 of section 54-06-04 of the activities related to the loan fund and submit such report to the governor and secretary of state, together with such recommendations as the board deems desirable.

SECTION 15. REPEAL.) Sections 15-52-11, 15-52-12, 15-52-13, and 15-52-14 of the North Dakota Century Code are hereby repealed.

Approved February 19, 1971

## CHAPTER 195

HOUSE BILL NO. 1545  
(Stoltenow, Knudson)

## ANNEXATION TO SCHOOL DISTRICTS

AN ACT to amend and reenact sections 15-53.1-05, 15-53.1-06, 15-53.1-11, 15-53.1-35, and 15-53.1-36 of the North Dakota Century Code, as contained in section 9 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, relating to annexation hearings, county committees, attachment of contiguous territory to school districts, transfers of land upon reorganization or annexation, and publication of reorganization notices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-53.1-05 of the North Dakota Century Code, as contained in section 9 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-53.1-05. ATTACHMENT OF CONTIGUOUS TERRITORY TO SCHOOL DISTRICT - PETITION.) Territory contiguous to a public school district, whether in the same county or in another, may be attached to such school district by the county committee upon written application signed by two-thirds of the electors in the contiguous territory after hearing and subject to the provisions of section 15-53.1-29. The sufficiency of the petition and the determination of the number of electors necessary to constitute a two-thirds majority shall be determined by the county committee. As used in the words "territory contiguous" in this section, the word "territory" shall mean all or any portion or part of an organized school district, and the word "contiguous" shall mean any two or more tracts which are in actual contact at least to the extent of touching at a common corner.

SECTION 2. AMENDMENT.) Section 15-53.1-06 of the North Dakota Century Code, as contained in section 9 of House Bill No. 1045, as approved by the forty-second legislative assembly, is hereby amended and reenacted to read as follows:

15-53.1-06. ANNEXATION HEARINGS - EQUALIZATION - NOTICE OF HEARINGS.) Before detaching territory from one school district or annexing territory to another school district, the county committee shall hold a hearing on the annexation thereof. At least fourteen days prior to the time the hearing is to be held, the committee shall cause notice of such hearing to be

published in the official newspaper of the county in which the school district is located, or if no newspaper is published in the county, the notice shall be published in a newspaper in an adjoining county in this state. At such hearing the county committee shall receive testimony for the purpose of determining the value and amount of all school property and all bonded and other indebtedness of each school district affected by a change in boundaries, and shall consider the amount of all outstanding indebtedness and make an equitable adjustment of all property, assets, debts and liabilities among the districts involved; and, if the annexation is approved by the state committee, the county committee may cause a tax to be levied against each district affected in accordance with the provisions of section 15-47-21 which will equalize the several interests fairly. If the adjoining district is in another county or counties, the county committee of all counties affected shall consider and jointly effect the annexation if a majority of the members of each of the county committees approve the annexation. In the event that the annexation is approved by a majority of the members of one or more county committees, the county superintendent of the county in which the annexing district is located shall submit the annexation to the state committee for approval or disapproval, and in such instance approval of the annexation shall have the same effect as approval by all county committees. If the annexation does not receive the approval of any county committee, it shall not be presented to the state committee. An appeal from the decision of the state committee may be had to the district court of the county in which the annexing district is located, in accordance with applicable provisions of chapter 28-32.

SECTION 3. AMENDMENT.) Section 15-53.1-11 of the North Dakota Century Code, as contained in section 9 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-53.1-11. COUNTY COMMITTEE - SIZE, COMPENSATION, VACANCIES, TERM.)

1. In each county in this state there shall be a county committee which shall be formed by the selection of one resident from each of the county commissioner districts within the county. Each member shall receive the actual and necessary expenses incurred by him in the performance of his official duties in accordance with the schedule for state officers and employees. In addition thereto, each member may also receive five dollars as compensation for each meeting of the committee actually attended by him. All payments for compensation and expenses shall be made upon warrant by the department of accounts and purchases as directed by the department of public instruction from moneys appropriated for that purpose.

The term of each county committee member shall be

three years, staggered so that one term shall expire each year. Members of the county committee shall be selected by appointment by the county superintendent of schools with the approval of the board of county commissioners. Vacancies shall be filled in the same manner for the unexpired portion of the term. In the event a committee member shall fail, refuse, or be unable to perform his duties as a member of such committee, the county superintendent of schools, upon petition of a majority of the school boards having territory in whole or in part within the district which such committee member was appointed to represent, shall declare the position of such member upon the committee to be vacant, and shall immediately appoint a new member to the committee from that district.

2. In the event that the county is redistricted and as a consequence two or more members of the county committee are placed in the same county commissioner district, a new member shall be appointed who is a resident of the new unrepresented district or districts, and as between the two or more members currently serving on the county committee who are residents in the other district, that member shall serve whose term expires latest in point of time, and if all the terms shall expire at the same time, the two or more members shall decide who shall serve by lot. In the event that the county, through redistricting, thereafter elects its county commissioners at large, members of the county committee shall continue to be selected from those commissioner districts established by the districting plan in effect at the time the county is districted at large.

SECTION 4. AMENDMENT.) Section 15-53.1-35 of the North Dakota Century Code, as contained in section 9 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-53.1-35. TRANSFER OF LAND UPON REORGANIZATION OR ANNEXATION.) The legal title to all land owned by an original school district which has been included in a reorganized district or annexed to another district and which is not subject to a possibility of reverter or right of re-entry if title is held by other than the original district, shall be vested in the school board of the reorganized school district or the district to which such property is annexed upon approval of the reorganization plan by the electors or upon orders of the county superintendent of schools or the reorganization committee, as the case may be. If the reorganized district or district to which such property is annexed includes less than the whole of the former district, legal title to the land of the former district shall vest in the school board of the district in which such land is situated after reorganization or annexation. A certificate prepared by the

county superintendent of schools of the county wherein the land in question is located, stating the legal description of the land involved, and the fact that the school district formerly owning the land has become either annexed, attached, or reorganized with another school district, may be recorded in the office of the register of deeds of the county in which the land is located.

SECTION 5. AMENDMENT.) Section 15-53.1-36 of the North Dakota Century Code, as contained in section 9 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

15-53.1-36. COSTS OF REORGANIZATION ELECTIONS.) All costs of any election required in school district reorganization proceedings shall be paid by each of the districts affected by the plan in the same proportion as the amount of each district's territory relates to the amount of territory of the newly proposed school district, should the reorganization plan fail to be approved at the election. Should such reorganization plan be approved at the election, all such costs shall be paid by the newly reorganized school district.

Approved March 29, 1971

## CHAPTER 196

SENATE BILL NO. 2198  
(Nasset, Berube, Pyle, Redlin, Roen)

DISTRICT CONTRACTING  
PRIOR TO ANNEXATION

AN ACT to amend and reenact section 15-53.1-07 of the North Dakota Century Code, as contained in section 9 of House Bill No. 1045, relating to the contracting by a school board prior to the effective day of annexation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-53.1-07 of the North Dakota Century Code, as contained in section 9 of House Bill No. 1045, is hereby amended and reenacted to read as follows:

15-53.1-07. EFFECTIVE DATE OF ATTACHMENT OR DETACHMENT - EQUALIZATION - VOTING PLACES.) If territory is annexed to a school district or detached therefrom, under the provisions of this article, the change in boundaries shall become effective the next July first after the final approval by the state committee unless another effective date is provided for by the county committee or in the petition, and all the assets and liabilities of the district involved shall be equalized as provided in section 15-53.1-15. If territory is attached to an existing school district, the electors in such attached territory shall vote on school matters at the nearest polling place in the district to which it is attached. Prior to the completion of the annexation of any school district under the provisions of this article, the existing school board of any school district shall not contract or place such district under any obligation, except upon the recommendation of the county committee.

Approved March 17, 1971

## CHAPTER 197

HOUSE BILL NO. 1352  
(Bier, R. Peterson)

CONTINUANCE OF SCHOOLS  
IN REORGANIZED DISTRICTS

AN ACT to amend and reenact sections 15-53.1-27 and 15-53.1-40 of the North Dakota Century Code as contained in section 9 of House Bill No. 1045, as approved by the forty-second legislative assembly, relating to the continuance of elementary schools in reorganized school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-53.1-27 of the North Dakota Century Code as contained in section 9 of House Bill No. 1045, as approved by the forty-second legislative assembly, is hereby amended and reenacted to read as follows:

15-53.1-27. CONTINUANCE OF ELEMENTARY SCHOOLS IN REORGANIZED DISTRICTS.) Each elementary school included in reorganized school districts shall be kept in session as provided by law, except that any school may be discontinued when the people in the old district where the school is located, by a majority vote, approve its closing or when a petition requesting that the school be discontinued is signed by two-thirds of the electors in the old district where the school is located and is presented to the school board in the reorganized district. The board may reopen such school at any time upon its own motion. This provision shall apply for five years from and after the effective date of the reorganization plan. After such five-year period any school may be closed by action of the school board, provided that any school so closed for a period of one year or more, may be reopened by action of the school board, and shall be reopened when the electors in the old district so decide by majority vote, or by a petition presented to the school board in the reorganized district signed by two-thirds of the electors in the old district. Such school may be reopened only at the beginning of the next regular school term which follows by at least ninety days the date of the election or the date the validity of the petition is verified.

SECTION 2. AMENDMENT.) Section 15-53.1-40 of the North Dakota Century Code as contained in section 9 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly,

is hereby amended and reenacted to read as follows:

15-53.1-40. POWERS OF SCHOOL BOARD IN REORGANIZED DISTRICT - EXCEPTIONS.) After five years from the effective date of the reorganization plan, the school board of a reorganized district shall exercise the powers granted to a school board by section 15-29-08 or any other provision of law regardless of limitations contained in the reorganization plan. The provisions of this section shall not be construed as authorizing the school board of a reorganized district to exercise any powers prohibited or limited by sections 15-53.1-24, 15-53.1-34, 15-53.1-38, or 15-53.1-39.

Approved March 29, 1971

## CHAPTER 198

SENATE BILL NO. 2248  
(Goldberg, Litten)

## ISSUANCE OF INTERIM WARRANTS

AN ACT to create and enact section 15-55-05.1 of the North Dakota Century Code, relating to the issuance of interim warrants for revenue producing projects at the state institutions of higher learning, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 15-55-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-55-05.1. INTERIM FINANCING.) The board may provide for interim financing pending completion of revenue producing projects at state institutions of higher learning and financing the cost thereof and may authorize the issuance and sale of special interim warrants for that essential governmental purpose, such warrants to be paid with interest from the proceeds of definitive bonds issued in accordance with this chapter. The board shall arrange for the proper preparation and sale of such warrants and shall issue such warrants in an aggregate principal amount not exceeding the sum of bonds authorized and necessary to finance completion of the project. Such interim warrants shall be subject to call and prepayment on thirty days prior written notice to the place of payment at par and accrued interest to date of prepayment at the option of the board; shall mature not more than two years from their date; and may bear such rate or rates of interest as the board may provide, not exceeding seven percent per annum. Such interim warrants may be sold on the basis of par plus accrued interest to date of delivery, as may be considered by the board to be proper, but interest cost to maturity for any such warrants shall not exceed a rate of seven percent per annum. Such interim warrants shall have all of the qualities and incidents of negotiable paper and shall not be subject to taxation by the state of North Dakota or by any county, municipality, or political subdivision therein. Such interim warrants shall be eligible for investment of funds the same as definitive bonds are or would be eligible for investment under the provisions of section 15-55-08.

Such warrants shall not constitute a general obligation indebtedness of the state of North Dakota nor of the institution for which they are issued nor of the state board of higher

education nor of the individual members, officers, or agents thereof; shall be payable solely out of the proceeds of definitive bonds to be issued for the project under the provisions of this chapter; and the warrants issued and sold shall so state.

SECTION 2. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 17, 1971

## CHAPTER 199

HOUSE BILL NO. 1042  
(K. Johnson, J. Peterson, Reimers, Solberg, Tweten)  
(From Legislative Council Study)

FINANCIAL RECORDS ON  
REVENUE PRODUCING BUILDINGS

AN ACT to create and enact sections 15-55-20 and 15-55-21 of the North Dakota Century Code, relating to the maintaining of financial records and expenses of revenue producing buildings or other revenue producing campus improvements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 15-55-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-55-20. FINANCIAL RECORDS REQUIRED.) Each institution under the control of the board of higher education which has constructed revenue producing buildings or other revenue producing campus improvements shall maintain records of financial accounts to provide a record of revenues received and expenses incurred in the use of each revenue producing building or other revenue producing campus improvement. The definition of "expenses incurred" shall include, but not be limited to, the estimated value of heat, electricity, water, repairs, insurances, and janitorial and maintenance services provided. From the information recorded in such records, appropriate financial statements shall be prepared and included in the institutions' published and audited annual or biennial financial reports.

SECTION 2.) Section 15-55-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

15-55-21. EXPENSES TO BE PAID FROM GROSS REVENUES.) Expenses incurred as defined in section 15-55-20 of the North Dakota Century Code shall be payable from the gross revenues of the revenue bond project, except in those instances where contracts or revenue bond indentures in existence on the effective date of this section provide that such payments shall not be charged to the gross revenues.

Approved March 22, 1971

## CHAPTER 200

HOUSE BILL NO. 1360  
(Miedema)

## STATE AID FOR SPECIAL EDUCATION

AN ACT to amend and reenact section 15-59-06 of the North Dakota Century Code, relating to funds provided by the legislative assembly for reimbursement for special education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-59-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-06. STATE CO-OPERATION IN SPECIAL EDUCATION.) Exceptional children who are enrolled in approved programs of special education shall be deemed to be regularly enrolled in the school and school districts providing such program and shall be included in determination of elementary and high school per pupil payments from the county equalization fund whether such pupils are regularly attending school in the school or school district receiving such payments or not. Upon the determination by the director of special education that the school district has made expenditures for each exceptional child in such program equal to the average expenditures made in such district for elementary or high school students, as the case may be, and that the parents of a child receiving special education under such program, or the legally responsible person, have made adequate efforts to provide needed education or that adequate reasons otherwise exist for the provision of special education to such child, the director by vouchers drawn upon funds provided by the legislative assembly for such purpose may provide reimbursement to such school or school district in an amount not exceeding one and one-half times the state average per pupil cost of education computed by the department of public instruction for the previous school year for such child per year for instruction and two times the state average per pupil cost of education computed by the department of public instruction for the previous year for such child per year for transportation, equipment, and residential care.

Approved March 29, 1971

## CHAPTER 201

SENATE BILL NO. 2204  
(Holand)

STUDENTS WITH PHYSICAL  
OR MENTAL DISABILITIES

AN ACT to amend and reenact section 15-59-07 of the North Dakota Century Code, relating to the education of students with physical handicaps and learning disabilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-59-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-07. EDUCATION OF STUDENTS WITH PHYSICAL HANDICAPS AND LEARNING DISABILITIES - CONTRACT.) If any school district in this state has any educable elementary or high school student who in the opinion of a qualified psychologist, a medical doctor, and the district superintendent is unable to attend the public schools in the district because of a physical handicap or because of a learning disability, such school district shall contract with any accredited private nonsectarian nonprofit corporation within or without the state which has proper facilities for the education of such student, if there are no public schools in the state with the necessary facilities which will accept such student. No school district shall enter into a contract with any private nonsectarian nonprofit corporation for the education of any student having a physical handicap or learning disability, unless the curriculum provided by such school and the contract has been approved in advance by the superintendent of public instruction. The contract shall provide that such school district agrees to pay to the private nonsectarian nonprofit corporation as part of the cost of educating such student an amount for the school year equal to three times the state average per-pupil elementary or high school cost, depending on whether the enrollment would be in a grade or high school department, provided that such payment shall not exceed the actual per-pupil cost incurred by such private, nonsectarian nonprofit corporation. The district of the student's residence shall be reimbursed from funds appropriated by the legislative assembly for the foundation aid program, in an amount equal to sixty percent of the payment made to such private, nonsectarian nonprofit corporation. If the attendance of such student at such school is for less than a school year, then the contract shall provide for such lesser amount prorated on a monthly basis. The reimbursement herein provided to the contracting district from

the foundation aid program shall be in lieu of any other foundation aid to which the district might otherwise be entitled.

As used in this section, the term "learning disability" shall mean a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written languages, and which may be manifested in disorders of listening, thinking, talking, reading, writing, spelling, or arithmetic. The term "learning disability" shall include, but not be limited to, such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia; but shall not include learning problems due primarily to visual hearing or motor handicaps, mental retardation, emotional disturbance, or environmental disadvantage.

Approved March 27, 1971

## CHAPTER 202

SENATE BILL NO. 2061  
(Coughlin, Holand, Kautzmann, Lips, Litten, Van Horn)  
(From Legislative Council Study)

## COUNTY BOARDS OF SPECIAL EDUCATION

AN ACT to amend and reenact section 15-59.1-01 of the North Dakota Century Code, relating to the county board of special education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-59.1-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59.1-01. COUNTY BOARD OF SPECIAL EDUCATION.) The county superintendent of schools shall appoint a county board of special education which shall consist of from three to five members from within the county, and each member thus appointed shall be subject to approval by the board of county commissioners. Terms of office shall be for two years and shall be arranged as follows:

1. If three members are appointed, no more than two terms shall expire in any one year.
2. If four members are appointed, no more than two terms shall expire in any one year.
3. If five members are appointed, no more than three terms shall expire in any one year.

At the time of the initial appointment, the decision as to which terms are to expire at the end of the first year shall be determined by lot by the county superintendent of schools. Vacancies shall be filled in the same manner as original appointment. The county superintendent of schools shall serve as secretary and executive officer of the board. Expenses of members of the board shall be paid in the same manner as expenses of other county officials are paid. The board of county commissioners may in its discretion provide for additional per diem compensation.

Approved March 27, 1971

## CHAPTER 203

SENATE BILL NO. 2429  
(Longmire)

## DIRECTOR OF SURPLUS PROPERTY

AN ACT to amend and reenact subsection 5 of section 15-61-02 and section 15-61-04 of the North Dakota Century Code, relating to authority of the director of surplus property and disposition of charges made for surplus property and making an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 5 of section 15-61-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The director of surplus property is authorized and empowered to participate with other surplus property agencies in screening and acquiring surplus property, and to make such certifications, take such action, make such expenditures and enter into such contracts, agreements and undertakings for and in the name of the state including co-operative agreements with any federal agencies providing for utilization by and exchange between them of the property, facilities, personnel and services of each by the other, require such reports and make such investigations as may be required by law or regulation of the United States of America in connection with the disposal of real property and the receipt, warehousing, and distribution of personal property received by the director of surplus property from the United States of America.

SECTION 2. AMENDMENT.) Section 15-61-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-61-04. TRANSFER CHARGES.) Any charges made or fees assessed by the director of surplus property for the acquisition, warehousing, distribution, or transfer of any property of the United States of America for educational, public health or civil defense purposes, including research, shall be limited to those reasonably related to the costs of care and handling in respect to its acquisition, receipt, warehousing, distribution or transfer by the director of surplus property and, in the case of real

property, such charges and fees shall be limited to the reasonable administrative costs that the director of surplus property has incurred in effecting transfer.

The charges or fees assessed and collected by the director of surplus property shall be deposited with the state treasurer in the surplus property special fund and any funds not needed to administer the surplus property program under this chapter and not otherwise appropriated for such administrative costs are hereby appropriated to make refunds to donees in accordance with existing federal regulations 45 C.F.R. 14.5(2)(i), 45 C.F.R. 14.7(f) and 45 C.F.R. 14.7(d).

Approved March 3, 1971

## CHAPTER 204

HOUSE BILL NO. 1498  
(Raymond, Wilkie, Giffey)

## INDIAN SCHOLARSHIPS

AN ACT to amend and reenact sections 15-63-01 and 15-63-05 of the North Dakota Century Code relating to the state board of Indian scholarships and scholarship payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 15-63-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-01. STATE BOARD FOR INDIAN SCHOLARSHIPS.) There is hereby established a state board for Indian scholarships consisting of an Indian appointed by the governor, the executive director of the state Indian affairs commission, and the commissioner of higher education. The commissioner of higher education shall serve as chairman and the executive director of the state Indian affairs commission shall serve as secretary of the board for Indian scholarships.

SECTION 2. AMENDMENT.) Section 15-63-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-05. SCHOLARSHIP PAYMENTS - CONDITIONS.) Upon the granting of a scholarship and acceptance thereof, the recipient shall be entitled to a credit in fees in the enrolling institution of higher learning to apply toward the cost of registration, health, activities, board, books, and other necessary items of not to exceed five hundred dollars per quarter for three quarters, or seven hundred fifty dollars per semester for two semesters, in any academic year. After the enrolling institution has deducted the amount due such institution, the remaining balance shall be given to the recipient for necessary expenses during the quarter or semester. At the beginning of each quarter or semester of a regular academic year, the board for Indian scholarships shall certify to the state auditor the name of each recipient and the amount payable, and the state auditor shall issue his warrant to the state treasurer who shall pay the amount of the scholarship to the institution of higher learning in which the recipient is enrolled. Renewal of the scholarship award shall be subject to the maintenance of a minimum grade average of "C" in the courses taken.

Approved March 24, 1971

## CHAPTER 205

SENATE BILL NO. 2283  
(Unruh)

## REGIONAL MEDICAL EDUCATION BOARD

AN ACT creating a regional medical education board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REGIONAL MEDICAL EDUCATION BOARD - CREATION - PURPOSES - MEMBERSHIP.) A regional medical education board to be known as the midwestern board for medical and allied health education is hereby created as an agency of the government. This board which initially may be comprised of representatives of the states of Iowa, Minnesota, North Dakota, and South Dakota shall promote the education and training of doctors of medicine and other health services personnel, including, but not limited to, the general practice of family medicine and placing particular emphasis on meeting the need for additional health services in the smaller municipalities and rural areas of the region.

SECTION 2. BOARD ACTIVITIES.) The regional medical education board shall participate in programs designed to fulfill the purposes described in section 1 of this Act for the benefit of the citizens of the states comprising the region. Applicants for training from the region, to the greatest extent practicable, shall be given preference for participation in the programs.

SECTION 3. POWERS OF THE BOARD.) The board shall be appointed as provided in section 4 of this Act. The board shall have the following powers:

1. To enact bylaws.
2. To elect, following enactment of identical or substantially similar legislation, any states and provinces of Canada as members of the region, and to prescribe the terms and conditions of such membership.
3. To sue and be sued.
4. To make contracts, both public and private, to carry out any of the purposes and powers conferred by this Act in accordance with such standards as

it may determine.

5. To employ all necessary personnel, professional and otherwise, under such terms and conditions as it may prescribe.
6. To participate in the planning and development of any needed physical facilities, including clinical and academic facilities.
7. To encourage and participate in studies of the need for medical and allied health personnel throughout the region.

SECTION 4. APPOINTMENT OF MEMBERS.) Each state or Canadian province having membership on the board shall appoint five members to the board in the manner prescribed by law in the member state or province making the appointment. Membership on the board from this state shall be appointed by the governor as follows: one state senator; one state representative; the dean of the medical school at the university of North Dakota, or his designee; the commissioner of higher education, or his designee; and the president of the state medical association, or his designee. Vacancies on the North Dakota membership of the board shall be filled as provided in this section. Members shall be appointed for two-year terms of office, and the first appointments shall be made immediately following the effective date of this Act.

SECTION 5. COMMENCEMENT OF BOARD ACTION.) When two or more states have joined the region, the appointees of such states shall constitute the board, and shall be empowered to assume the powers and duties set forth in this Act.

SECTION 6. BOARD VOTING - QUORUM.) The members of the board shall be entitled to one vote each. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action of the board shall be only at a meeting at which a majority of the members are present.

SECTION 7. TERMINATION OF MEMBERSHIP.) A member state or province of the region may terminate its membership in a manner prescribed by the laws of the member state or province, but all funds, property, and otherwise, of the withdrawing state which have been granted to the board shall continue to be the property of the board, unless all remaining party states and the withdrawing state conclude an appropriate agreement therefor to the contrary.

SECTION 8. ACCEPTANCE OF GIFTS AND GRANTS.) The board may apply for, receive, and accept a gift, bequest, devise, or grant of money or property, either public or private, and may comply with the requirements of the donor as a condition

thereof.

SECTION 9. BOARD TO SEEK FUNDING.) The board shall seek funding from each member state or province in the public interest in a way so as to equalize the contribution of each member to the greatest extent possible in conducting its programs.

SECTION 10. BOARD AUTHORIZED TO CONTRACT.) The board may accomplish any of the purposes prescribed in this Act through the medium of cooperative agreements and contracts with state or federal agencies or instrumentalities or with privately owned and operated agencies and institutions engaged in medical and allied health services education, undergraduate and graduate. Such cooperative agreements or contracts, however, shall ensure continuous financial and other support for the facility by appropriate means.

SECTION 11. BOARD TO REPORT ANNUALLY.) The board shall report to the legislative bodies of each state or province comprising the region, and the chief executive officer of each, on or before December first of each year concerning its programs and needs, financial and otherwise.

SECTION 12. MEMBERS' EXPENSES - NO COMPENSATION.) North Dakota board members shall receive no compensation from this state for service on the board, but shall be allowed to recover their actual and necessary travel expenses incurred in attending meetings of the board, at the rates provided for other state officials and employees. All members, except the president of the state medical association, shall receive their expenses, on voucher submitted, from moneys appropriated to their agency, department, board, or institution. The president of the state medical association shall receive his expense reimbursement from moneys appropriated to the state medical school, on vouchers approved by the dean of that school.

Approved March 19, 1971

## CHAPTER 206

HOUSE BILL NO. 1203  
(Raymond)

CONSTRUCTION OF  
UNIVERSITY PARKING LOT

AN ACT to authorize the state board of higher education to sell self-liquidating tax-exempt bonds and provide for the use of the proceeds of such self-liquidating bonds for the purpose of constructing or purchasing revenue producing campus improvements at institutions of higher learning in this state under the jurisdiction of the board, at such maximum amounts, at such locations, and for such other purposes as are hereinafter provided.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) In accordance with the provisions of chapter 15-55 of the North Dakota Century Code, the state board of higher education is hereby authorized and empowered to issue and sell self-liquidating tax-exempt bonds for the purpose of constructing or purchasing revenue producing campus improvements at institutions of higher learning in this state under the jurisdiction of the board, at such maximum amounts, at such locations and for such purposes as hereinafter provided;

- |  |               |
|--|---------------|
| 1. University of North Dakota, Grand Forks           |               |
| a. Parking lots                                      | \$ 50,000.00  |
| 2. North Dakota state school of science,<br>Wahpeton |               |
| a. Parking lots                                      | \$ 100,000.00 |

Bonds issued under the provisions of this Act shall never become a general obligation of the state of North Dakota.

SECTION 2.) The proceeds resulting from the sale of bonds authorized under section 1 of this Act, or so much thereof as may be necessary, are hereby appropriated for the construction authorized in section 1. Any unexpended balances from the sale of bonds shall be placed in sinking funds for the retirement of the bonds authorized in section 1.

Approved March 27, 1971

## CHAPTER 207

HOUSE BILL NO. 1311  
(Halcrow, Jenkins, Anderson, Kingsbury)

## SUGAR BEET RESEARCH CENTER

AN ACT to authorize the state board of higher education to approve construction of a sugar beet research and service center on or off the campus of North Dakota state university, and repealing chapter 198 of the 1969 Session Laws of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) The state board of higher education is hereby authorized to approve construction of a sugar beet research and service center on or off the campus of North Dakota state university. Such center shall be built solely with private funds and such federal moneys as may be obtained for this purpose. No state funds shall be expended for such purpose. No permission for the construction of the center shall be granted until the board has assurance that the funds for the payment of such construction are available. In the event the full amount of funds necessary to construct such service center facility is not available, the board may proceed with construction of a component portion of such facility if sufficient funds are available to pay for the construction of such portion. The board shall have the authority to enter into an agreement for the sale or lease of such facility with the Red River Valley Sugar Beet Growers Association, Incorporated, or such other private or federal agency as will agree to conduct sugar beet research, for so long as such property is used for a sugar beet research and service center. Any such lease shall provide that maintenance and services charges shall be borne by the lessee. These charges may include sewer, water, heat, electricity, custodial and insurance costs. If such property is sold, transferred and conveyed, the necessary deed shall be executed by the governor and attested by the secretary of state.

SECTION 2. REPEAL.) Chapter 198 of the 1969 Session Laws of North Dakota is hereby repealed.

Approved March 27, 1971

## CHAPTER 208

HOUSE BILL NO. 1313  
(Jenkins)

NORTH DAKOTA STATE  
UNIVERSITY LAND SALE

AN ACT directing the state board of higher education to sell and transfer certain land and improvements thereon owned by the state of North Dakota for the use and benefit of the North Dakota state university of agriculture and applied science, and appropriating the proceeds of such sale to the state board of higher education for the purpose of acquiring other land, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) The state board of higher education is hereby authorized to sell and transfer to the Fargo Industrial Development Commission, a nonprofit community organization at Fargo, North Dakota, for a minimum purchase price of thirty two thousand six hundred forty seven dollars, land owned by the state of North Dakota and held for the use and benefit of the North Dakota state university of agriculture and applied science, which land is located in the northeast quarter of section thirty-four, township one hundred forty north, range forty-nine west, Cass County, North Dakota, and which is more particularly described as follows:

A triangular portion of the northeast one quarter of section thirty-four, township one hundred forty north, range forty-nine west of the fifth principal meridian, lying south of the Burlington-Northern Railway right-of-way, situated in the county of Cass and state of North Dakota, and comprising twenty-three and eight tenths acres more or less, excluding existing rights-of-way.

Upon sale of such land, the proceeds of the sale are hereby appropriated to the state board of higher education for the purpose of acquiring replacement land, as determined by the state board of higher education, in the name of the state of North Dakota for the use and benefit of the North Dakota state university of agriculture and applied science. Such appropriation shall not revert to the general fund at the end of the biennium. Upon the sale of the above described land, the deed to the purchaser shall be executed by the governor and attested by the secretary of state.

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

Approved March 17, 1971

## CHAPTER 209

HOUSE BILL NO. 1368  
(Committee on Appropriations)

CESSATION OF OPERATIONS  
AT UND-ELLENDALE BRANCH

AN ACT to cease operation of university of North Dakota-Ellendale branch as an institution of higher education and for its conversion to an alternative use, to authorize the state board of higher education to pay the revenue bonds of 1969 for the new men's dormitory and the revenue bonds for Hicks Hall and Crabtree Hall from the insurance proceeds in the fire replacement fund, and making an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. ELLENDALE BRANCH TO CEASE OPERATION - ALTERNATIVE USE TO BE FOUND.) At a date determined by law, the university of North Dakota-Ellendale branch shall cease operation as an ongoing institution of higher education and shall not continue to educate students, grant degrees, hold classes, or continue its administration; however, routine maintenance and custodial care of the institutional facilities shall be provided. The legislative council is hereby directed to create a special committee, of nine members, the members of which shall include four citizens of the community of Ellendale selected by the chairman of the legislative council, to determine a use for the physical facilities of the university of North Dakota-Ellendale branch other than that of an institution of higher education. All members shall be voting members, and those who are not members of the legislative assembly shall be paid travel expenses and per diem in the same manner as provided for legislative members pursuant to section 54-35-10 of the North Dakota Century Code. It shall be the duty of the committee to study and determine an alternative use for the physical facilities. The committee may use such moneys appropriated from fire insurance proceeds held by the board of higher education for the university of North Dakota-Ellendale branch as may be appropriated by the legislative assembly.

SECTION 2.) The state board of higher education is hereby authorized and directed to pay the revenue bonds of 1969 for the new men's dormitory, the revenue bonds for Hicks Hall and Crabtree Hall at the state teacher's college at Ellendale, from the insurance proceeds in the fire replacement funds.

SECTION 3. APPROPRIATION.) There is hereby appropriated to the state board of higher education from the university of North Dakota-Ellendale branch fire replacement funds in the

state treasury the sum of \$25,000.00, or so much thereof as may be necessary, for purposes specified in section 1 of this Act, and the sum of \$366,500.00 or so much thereof as may be necessary, for the purposes specified in section 2 of this Act. The board shall first use the sums in the respective bond sinking funds for the retirement of the revenue bonds.

Approved March 27, 1971

## CHAPTER 210

HOUSE BILL NO. 1554  
(Tweten, J. Peterson, L. Hausauer)

## COLLEGE BUILDING FUND

AN ACT to provide for a conditional transfer of funds to the college building fund and making an appropriation from the college building fund for the construction of college buildings, and repealing chapter 157 of the 1967 Session Laws of the state of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Commencing July 1, 1972, and at the same date each year thereafter until the sum of \$5,643,551.00 shall have been transferred to the college building fund, the director of the department of accounts and purchases shall determine the cash balance in the general fund of the state. In the event the cash balance in the general fund as of the close of business on the previous thirtieth day of June shall exceed \$15,000,000.00, the director of accounts and purchases shall direct the state treasurer to transfer to the college building fund an amount which shall not exceed \$2,000,000.00, or the amount in excess of \$15,000,000.00 in the general fund, whichever is the lesser. Such funds shall be expended by the board of higher education for the construction, reconstruction, and equipping of buildings at state-operated institutions of higher learning in accordance with specific appropriations to be made by the legislative assembly. The amount in the college building fund on July 1, 1971, shall remain in the college building fund and be considered a part of the \$5,643,551.00 authorized hereunder.

SECTION 2. APPROPRIATIONS.) There is hereby appropriated out of any moneys in the college building fund the sum of \$5,643,551.00, or so much thereof as may be available in such fund, and from federal and private sources the sum of \$1,069,695.00 for the construction, reconstruction, and equipping of buildings and facilities at state-operated institutions of higher learning for purposes as follows and within the limitations of the costs hereafter stated:

NAME OF INSTITUTION AND TYPE OF FACILITY	STATE FUNDS	FEDERAL AND PRIVATE FUNDS	TOTAL FUNDS
State college, Valley			
City-science building	\$ 884,063.00	\$ 115,937.00	\$1,000,000.00

NAME OF INSTITUTION AND TYPE OF FACILITY	STATE FUNDS	FEDERAL AND PRIVATE FUNDS	TOTAL FUNDS
Dickinson state college- physical education classroom addition and remodeling	\$ 800,000.00		\$ 800,000.00
University of North Dakota at Grand Forks- engineering building	\$ 439,442.00	\$ 600,000.00	\$1,039,442.00
University of North Dakota, Grand Forks- law building addition and renovation	\$ 998,804.00		\$ 998,804.00
Minot state college- classroom building	\$ 800,000.00		\$ 800,000.00
NDSU Bottineau branch- science building	\$ 276,242.00	\$ 203,758.00	\$ 480,000.00
NDSU, Fargo-addition to maintenance building	\$ 225,000.00		\$ 225,000.00
University of North Dakota, Grand Forks- service and mainte- nance building	\$ 450,000.00		\$ 450,000.00
State school of science, Wahpeton- maintenance and laboratory building	\$ 150,000.00	\$ 150,000.00	\$ 300,000.00
Dickinson state college-library addi- tion and renovation	\$ 600,000.00		\$ 600,000.00
NDSU-Bottineau branch- garage-storage building	\$ 20,000.00		\$ 20,000.00
	\$5,643,551.00	\$1,069,695.00	\$6,713,246.00

The construction of a specific building or facility shall not be commenced until the amount of funds indicated by such building or facility in the column "Federal and Private Funds" has been either actually received or irrevocably promised from such sources for such facilities except that should the funds received or to be received from the federal and private funds be less than the amount indicated in that column, the board of higher education shall determine whether the facility should be constructed, basing its determination on whether the facility can, if constructed at a lower cost, reasonably meet the original purposes of the authorized facility. In no event shall any facility exceed the cost indicated in the column "Total Funds" except to the extent funds from the federal and private sources exceed the amount authorized for the specific building or facility. If federal funds become available for buildings for which no federal funds are listed in this Act, the amount available from state funds shall be reduced accordingly. The order of appearance of the facilities set forth above is not necessarily the order of priority for the construction of such facilities, and the board of higher education, in its discretion, may divert the construction

of such buildings and facilities in a different order of priority than that listed in this section. The state funds herein appropriated shall remain available for expenditure for the purposes specified until the buildings and facilities herein authorized shall be constructed, except that upon the completion of the construction, reconstruction, and equipping of any specific building or facility, any unexpended state funds specifically appropriated and designated herein for such building or facility shall revert to the college building fund.

SECTION 3. REPEAL.) Chapter 157 of the 1967 Session Laws of the state of North Dakota is hereby repealed effective July 2, 1971.

Approved March 30, 1971

## CHAPTER 211

SENATE BILL NO. 2262  
(Longmire, Unruh)

CONSTRUCTION OF  
REHABILITATION HOSPITAL

AN ACT to provide for the issuing of revenue bonds for the construction of a rehabilitation hospital at the university of North Dakota, and appropriating the moneys for such construction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) The state board of higher education is hereby authorized and empowered to construct, reconstruct, and equip a rehabilitation hospital at the university of North Dakota, Grand Forks, in an amount not to exceed four million five hundred thousand dollars. In accordance with the provisions of chapter 15-55 of the North Dakota Century Code, the state board of higher education is hereby authorized and empowered to issue and sell tax-exempt bonds in an amount not to exceed three million dollars for such purpose. The bonds authorized by this section shall be retired solely from revenues from the rehabilitation hospital and shall never become a general obligation of the state of North Dakota. The state board of higher education may use the seven hundred fifty thousand dollars reimbursement for the present rehabilitation treatment center facilities authorized by section 1 of chapter 204 of the 1969 Session Laws to construct such rehabilitation hospital, if the present rehabilitation treatment center facilities are converted to a student health center as therein provided, and the remaining cost of constructing and equipping such hospital shall be met from private and other funds and building reserves of the rehabilitation treatment center.

SECTION 2. APPROPRIATION.) There is hereby appropriated from federal funds, from the proceeds of the revenue bonds herein authorized, from the reimbursement for the conversion of the present rehabilitation treatment center facilities to a student health center, and from the building reserves of the rehabilitation treatment center at the university of North Dakota, Grand Forks, the sum of \$4,500,000.00 for the purpose of construction, reconstruction, and equipment of a rehabilitation hospital at the university of North Dakota, Grand Forks. The construction of the building shall not be commenced until the amount of funds has been either actually received or irrevocably promised from the

various sources. In no event shall the building exceed the cost authorized herein except to the extent funds from federal sources exceed the amount of \$500,000.00. The authorization contained in this Act is in lieu of the rehabilitation treatment center hospital authorization contained in chapter 204 of the 1969 Session Laws.

Approved March 27, 1971

## CHAPTER 212

SENATE BILL NO. 2264  
(Longmire, Unruh)

## WINTER SPORTS BUILDING

AN ACT to amend and reenact sections 2 and 4 of chapter 204 of the 1969 Session Laws of North Dakota, relating to buildings and facilities at the university of North Dakota, Grand Forks, North Dakota, and providing an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 2 of chapter 204 of the 1969 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

Section 2.) In accordance with the provisions of chapter 15-55 of the North Dakota Century Code, the state board of higher education is hereby authorized and empowered to issue and sell tax-exempt bonds for purposes of constructing a revenue producing winter sports building at the university of North Dakota, Grand Forks, North Dakota, in an amount of not to exceed eight hundred thousand dollars, provided that the total cost of such building shall not exceed one million eight hundred thousand dollars, and provided further that private and other moneys in the amount of one million dollars shall make up the balance of the cost. The bonds authorized by this section shall be retired solely from revenues from the winter sports building and student facility fees as provided by this Act, and shall never become a general obligation of the state of North Dakota.

SECTION 2. AMENDMENT.) Section 4 of chapter 204 of the 1969 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

Section 4. APPROPRIATION.) There is hereby appropriated from private and other sources the sum of \$11,052,500.00 for the construction, reconstruction, and equipment of buildings and facilities at the university of North Dakota, Grand Forks, North Dakota, for the purposes as follows and within the limitations of the costs hereafter stated:

Type of Facility	Student Facility Fees	Private Funds	Other Funds	Total Funds
Rehabilitation treatment center hospital	\$	\$	\$4,500,000	\$4,500,000
Student health center	750,000			750,000
Fine arts center			3,500,000	3,500,000
Winter sports building	800,000	500,000	500,000	1,800,000
Planetarium		500,000		500,000
Astronomical observatory		2,500		2,500
	\$1,550,000	\$1,002,500	\$8,500,000	\$11,052,500

The construction of any building shall not be commenced until the amounts of funds indicated for such building in the columns "Private Funds" or "Other Funds" have been either actually received or irrevocably promised from such sources for such buildings except that should the funds received or to be received from the private and other fund sources be less than the amount indicated in the columns "Other Funds" or "Private Funds", the board of higher education shall determine whether the facility should be constructed, basing its determination on whether the building can, if constructed at a lower cost, reasonably meet the original purposes of the authorized building. In no event shall any building exceed the cost indicated in the column "Total Funds" except to the extent funds from the private and other fund sources exceed the amount authorized for the specific building. The order of appearance of the buildings set forth above is not necessarily the order of priority for the construction of such buildings and the board of higher education, in its discretion, may direct the construction of such buildings in a different order or priority than that listed in this section.

Approved March 29, 1971

## CHAPTER 213

SENATE BILL NO. 2346  
(Holand, Litten)

SALE OF LAND TO  
FARGO AIRPORT AUTHORITY

AN ACT authorizing the state board of higher education to sell and transfer certain land and improvements, and appropriating the sale proceeds to the state board of higher education for acquiring other land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) The state board of higher education is hereby authorized to sell and transfer to the Fargo municipal airport authority, for a minimum purchase price of forty thousand four hundred twenty-five dollars, land and improvements thereon owned by the state of North Dakota and held for the benefit and use of the North Dakota state university of agriculture and applied science, which land is located in the northwest quarter of section twenty-six, township one hundred forty, range forty-nine, Cass County, and which is more particularly described as follows:

A triangular portion of the northwest one-quarter of section twenty-six, township one hundred forty, north of range forty-nine west of the fifth prime meridian, lying east of United States highway number eighty-one situated in Cass County, and comprising forty-nine and nine-tenths acres, more or less, excluding existing rights-of-way.

Upon sale of such land, the sale proceeds are hereby appropriated to the state board of higher education for the purpose of acquiring replacement land, as determined by the state board of higher education, in the name of the state of North Dakota, for the use and benefit of the North Dakota state university of agriculture and applied science. Upon the sale of the above-described land, the deed to the purchaser shall be executed by the governor and attested by the secretary of state.

Approved March 27, 1971

## CHAPTER 214

SENATE BILL NO. 2512  
(Committee on Delayed Bills)

SALE OF ELLENDALE BRANCH  
LAND AND BUILDINGS

AN ACT to authorize the state board of higher education to sell and convey certain land presently under the custody and control of the Ellendale branch of the university of North Dakota to the city of Ellendale or to a nonprofit industrial development corporation in such city.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) The state board of higher education is hereby authorized to sell and convey certain land, including the buildings and improvements located thereon, owned by the state of North Dakota and held for the use and benefit of the Ellendale branch of the university of North Dakota to the city of Ellendale, subject to its acceptance, or to a nonprofit industrial development corporation in such city, subject to its acceptance, for a purchase price of not to exceed fifty thousand dollars. Such land may be sold in parts or parcels, and is described, in part, as follows:

Lots seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, and eighteen, block one, DeCoster, Flemington and Wells addition, city of Ellendale, North Dakota; blocks nine and eleven in DeCoster, Flemington and Wells addition, city of Ellendale, North Dakota; Fulls subdivision to block four of DeCoster, Flemington and Wells addition, city of Ellendale, North Dakota; lots seven through eighteen, block one, DeCoster, Flemington and Wells addition to the city of Ellendale, North Dakota; lot five, Boekelheide subdivision to the city of Ellendale, North Dakota; lots one through six, block five, DeCoster, Flemington and Wells addition to the city of Ellendale, North Dakota; lots seven, eight, nine, ten, eleven and east ten feet of lot twelve, except north seventy-five feet, all in block four, DeCoster, Flemington and Wells addition to the city of Ellendale, North Dakota; all of block three, DeCoster, Flemington and Wells addition to the city of Ellendale, North Dakota; that part of the southwest quarter (SW $\frac{1}{4}$ ) of section twelve (12), township one hundred twenty-nine north, range sixty-three west, described as beginning at the quarter corner between sections twelve and thirteen,

thence north twenty-eight and ninety hundredths chains along the quarter line, thence west nine and six tenths chains to a point thirty-three feet east of the east line of DeCoster, Flemington and Wells addition, thence south twenty and forty-five hundredths chains to a point thirty-three feet east of the east line of DeCoster, Flemington and Wells addition if extended south, thence west sixteen and thirty-five hundredths chains to the east line of fourth street extended, thence south eight and forty-five hundredths chains to the section line, thence east twenty-five and forty-one hundredths chains to the point of beginning, containing forty (40) acres, more or less; and such other properties under the jurisdiction and control of the state board of higher education for the use and benefit of the Ellendale branch of the university of North Dakota as the board may determine.

Such sale shall not be consummated until such time as the people of the state of North Dakota approve a revision of the Constitution of the state of North Dakota removing the requirement that an educational or charitable institution be located in the city of Ellendale. Until such time as the properties are sold and conveyed to the city of Ellendale, or to a nonprofit industrial development corporation in such city, the expense of upkeep, maintenance, and repair shall be the obligation of the state of North Dakota, and the state board of higher education is hereby authorized and directed to maintain and keep in repair such buildings until such time as they are sold or conveyed. All documents necessary to carry out the provisions of this Act shall be executed by the governor and attested by the secretary of state. Upon the sale of such land, the proceeds of the sale shall be deposited in the general fund in the state treasury.

Approved March 27, 1971

# ELECTIONS

## CHAPTER 215

SENATE BILL NO. 2067  
(Longmire, Melland, Van Horn)  
(From Legislative Council Study)

### INITIATIVE AND REFERENDUM

AN ACT to create and enact sections 16-01-11.1 and 16-01-11.2 of the North Dakota Century Code; to amend and reenact section 16-01-11 of the North Dakota Century Code, relating to regulations governing initiative, referendum, and recall petitions, and the powers and duties of the secretary of state in regard thereto; providing an appropriation; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 16-01-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

16-01-11.1. SECRETARY OF STATE TO PASS UPON SUFFICIENCY OF PETITIONS - METHOD - TIME LIMIT - ATTORNEY GENERAL TO PROSECUTE FRAUD.) The secretary of state shall have a reasonable period, not to exceed thirty-five days, in which to pass upon the sufficiency of the petitions. The secretary of state shall mail an individual questionnaire to such percentage of the total number of electors who signed copies of a petition circulated pursuant to sections 25 and 202 of the Constitution as he deems feasible, but in no event shall questionnaires be mailed to less than a ten percent random sample of the total number of persons signing all copies of the petition nor to less than ten persons in any county if ten or more persons signing such petitions list post-office addresses in such county. The form and style of the questionnaire shall be determined by the secretary of state, and shall be designed so as to determine whether the addressee signed the petition and whether he was a qualified elector at the time he signed it. The questionnaire may be in the form of a post card. Each questionnaire shall be addressed to the person whose signature appears on a copy of the petition at the postal address indicated thereon and shall contain, or provide for, prepaid return postage to the office of the secretary of state. If a questionnaire is returned to the secretary of state undelivered because the addressee is unknown or the address is nonexistent, a presumption shall arise that the addressee did not sign the petition. The secretary of state may, in his discretion, make personal telephone calls to persons whose signatures are contained in such petitions to obtain the information required in the questionnaire from the

signatory, and shall record the information in the same manner as a returned questionnaire. Such a telephone call shall be considered in lieu of a written questionnaire within the requirements of this section. If the secretary of state, in the course of determining the sufficiency of a petition pursuant to this section and the Constitution, shall discover the probable perpetration of fraud, he shall deliver the evidence thereof to the attorney general who shall prosecute the perpetrators in the manner provided by law; however, the answers to the questionnaires provided for in this section shall not be introduced in any criminal action whatsoever.

SECTION 2.) Section 16-01-11.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

16-01-11.2. QUALIFICATIONS FOR CIRCULATING PETITION AND MAKING AFFIDAVIT.) No petition shall be circulated under the authority of sections 25 or 202 of the Constitution, or of article 33 of the amendments to the Constitution, by a person who is less than eighteen years of age, nor shall the affidavit called for by section 16-01-11 be executed by a person who is less than eighteen years of age at the time of signing. The signatures on a copy of a petition to which is attached an affidavit executed in violation of this section shall be deemed invalid.

SECTION 3. AMENDMENT.) Section 16-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-01-11. REGULATIONS GOVERNING INITIATIVE, REFERENDUM, OR RECALL PETITIONS.) No person shall sign any initiative, referendum, or recall petition circulated pursuant to the provisions of sections 25 and 202 of the Constitution of this state, and article 33 of the amendments to the Constitution, unless he is a qualified elector. No person shall sign any petition more than once, and each signer shall add, after his signature, his post-office address and the date of signing. Every qualified elector signing a petition pursuant to the Constitution and this section shall do so in the presence of the person circulating the petition. Each copy of any petition provided for in this section, before being filed, shall have attached thereto an affidavit executed by the circulator to the effect that each signature to the paper appended is the genuine signature of the person whose name it purports to be, that it was signed in his presence, and that each such person is a qualified elector. Each affidavit prepared pursuant to this section shall be accompanied by a typed or printed list of the names of the persons who signed the copy of the petition to which the affidavit was attached. Any person not an elector who signs an initiative, referendum, or recall petition, any person signing a name other than his own on such a petition, and any person who executes the affidavit required by this section knowing all or part of the affidavit to be false, shall

be guilty of a misdemeanor. All signatures on each copy of a petition to which is attached a false affidavit shall be invalid.

SECTION 4. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,100.00 or so much thereof as may be necessary, to the secretary of state to carry out the provisions of this Act. Should the funds herein appropriated not be needed, the appropriation shall be canceled at the end of the 1969-1971 biennium in the manner provided by law.

SECTION 5. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 19, 1971

## CHAPTER 216

SENATE BILL NO. 2435  
(Melland)

DISTRIBUTION OF  
ELECTION INFORMATION

AN ACT to provide for distribution of election law information prior to elections by the attorney general and county auditors to election officials.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. ATTORNEY GENERAL AND COUNTY AUDITORS TO DISTRIBUTE ELECTION INFORMATION.) Not less than thirty days before any congressional, state, or county election, the attorney general shall prepare such information and instructions as he considers necessary and sufficient to inform election officials of their duties and the election laws affecting their office. The attorney general shall thereafter forward such information to each county auditor in the state. Each auditor shall thereafter make sufficient copies of such information and distribute copies to each election official in the county.

Approved March 18, 1971

## CHAPTER 217

SENATE BILL NO. 2510  
(Committee on Delayed Bills)

## REDUCTION OF CONGRESSIONAL DISTRICTS

AN ACT to amend and reenact sections 16-04-01, 16-04-16, and 16-06-03 of the North Dakota Century Code, and to repeal section 16-01-14 of the North Dakota Century Code, all relating to the reduction of the number of North Dakota members of the United States house of representatives from two to one.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-04-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-01. PRIMARY ELECTION - WHEN HELD - NOMINATION OF CANDIDATES - NOMINATION FOR SPECIAL ELECTIONS.) On the first Tuesday in September of every year in which a general election occurs, there shall be held in the various voting precincts of this state, in lieu of party caucuses and conventions, a primary election for the nomination of candidates for the following offices to be voted for at the ensuing general election: representative in Congress, state officers, county officers, district assessors, and the following officers on the years of their regular election: judges of the supreme court and district court, members of the legislative assembly, county commissioners, and United States senators. In special elections the nominations for the officers enumerated in this section shall be made as provided in this title.

SECTION 2. AMENDMENT.) Section 16-04-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-16. ORDER IN WHICH NAMES OF OFFICES SHALL APPEAR ON BALLOT.) The names of offices for which party nominations shall be made on the primary ballot shall be the following, which shall appear in each party column in this order:

1. Congressional:  
United States senator  
Representative in Congress

2. Legislative:

State senator \_\_\_\_\_ district  
Member of house of representatives \_\_\_\_\_ district

3. State offices:

- Governor
- Lieutenant governor
- Secretary of state
- State auditor
- State treasurer
- Attorney general
- Commissioner of insurance
- Commissioner of agriculture and labor
- Commissioner of public service

SECTION 3. AMENDMENT.) Section 16-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-06-03. OFFICERS TO BE ELECTED AT GENERAL ELECTION.) The various elective state, district, and county officers, and the United States senators, and a representative in the Congress of the United States, shall be elected at the general election next preceding the expiration of the term of each such officer. In a year when a president and a vice president of the United States are to be chosen, a number of electors of president and vice president of the United States equal to the number of senators and representatives to which this state is entitled in the Congress of the United States shall be elected at such general election.

SECTION 4. REPEAL.) Section 16-01-14 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 11, 1971

## CHAPTER 218

HOUSE BILL NO. 1534  
(Dornacker)

## EIGHTEEN-YEAR-OLD VOTING

AN ACT to create and enact sections 16-04-15.2, 16-11-05.1, and 16-18-06.1 of the North Dakota Century Code; and to amend and reenact sections 16-01-03, 16-04-17, 16-10-12.1, 16-11-12, 16-18-11, 16-18-12, and subsection 2 of section 16-21-02 of the North Dakota Century Code, relating to the preparation of ballots for and the operation of voting machines by persons eighteen to twenty-one years of age in voting for elected federal officials, and providing a form for the application for absentee ballots and to provide that precincts shall be arranged on voting machines according to the total votes cast in the previous general election for governor, and to provide for the placement of names on ballots and voting machines in races having more than three candidates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 16-04-15.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

16-04-15.2. PRIMARY ELECTION BALLOTS FOR PERSONS AUTHORIZED TO VOTE FOR FEDERAL OFFICES ONLY - PREPARED SEPARATELY - GENERAL LAWS GOVERN.) In addition to the ballots prepared pursuant to section 16-04-15.1, ballots shall be prepared containing only the names of duly certified candidates for federal offices for use by persons authorized to vote for those offices by federal law. The provisions of this title regarding the preparation, form, arrangement of names, delivering, and stamping of ballots shall govern in regard to the primary election ballot prepared pursuant to this section. The ballots prepared pursuant to this section shall be delivered to electors who qualify only to vote for federal elected officials pursuant to federal law and section 16-01-03.

SECTION 2.) Section 16-11-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

16-11-05.1. GENERAL ELECTION BALLOTS FOR PERSONS AUTHORIZED TO VOTE FOR FEDERAL OFFICES ONLY - PREPARED SEPARATELY - GENERAL LAW GOVERNS.) In addition to the ballots prepared pursuant to section 16-11-05, ballots shall be prepared containing only the names of duly certified candidates for federal

offices for use by persons authorized to vote for those offices by federal law. The provisions of this title regarding the preparation, form, arrangement of names, delivering, and stamping of ballots shall govern in regard to the general election ballot prepared pursuant to this section. The ballots prepared pursuant to this section shall be delivered to electors who qualify only to vote for federal elected officials pursuant to federal law and section 16-01-03.

SECTION 3. AMENDMENT.) Section 16-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-01-03. QUALIFICATIONS OF ELECTORS.) Any person of the age of twenty-one years or upwards, who has resided in this state one year, in the county ninety days, and in the precinct thirty days next preceding any election, except as otherwise provided in regard to residency in chapter 16-16, shall be a qualified elector at such election if he is a citizen of the United States. Any person between the ages of eighteen and twenty-one, who is a citizen of the United States and is otherwise qualified as an elector, shall be entitled to vote for elected federal officials at any election in which a federal official is to be elected.

SECTION 4. AMENDMENT.) Section 16-04-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 16-04-17. ARRANGEMENT OF NAMES ON BALLOTS AND VOTING MACHINES.) Upon sample ballots, the names of candidates for each office shall be arranged alphabetically according to surnames. The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing, in the following manner: the forms shall be set up with the names in the order in which they are submitted for use on the sample ballots by the secretary of state for the state and district offices, and prepared by the county auditor for the state, district, and county offices. In printing each set of official ballots for the various election precincts, the position of the names shall be changed in each office division as many times as there are candidates in the office division or group in which there are most names. The same number of ballots shall be printed after each change. In making the changes of position, the printer shall take the line of type at the head of each office division and place it at the bottom of that division, shoving up the column so that the name that was second before the change shall be first after the change. As used in this section, "sample ballot" shall include the ballots prepared for use by persons between eighteen and twenty-one years of age pursuant to section 16-04-15.2.

In municipalities or political subdivisions employing voting machines, the position of names which require alternating

\*NOTE: Section 16-04-17 was also amended by section 1 of Senate Bill No. 2138, chapter 219.

or rotating as hereinbefore provided shall be rotated on the voting machines by precincts so that the name appearing first in one precinct will be last in the next precinct, and the name that appeared second shall be first in the next precinct and so on until each name has been moved up or over one space accordingly. This process shall be continued from one precinct to another and for as many names as are involved. The responsible election officials shall, pursuant to regulations promulgated by the secretary of state, provide that when a voting machine is used by persons between eighteen and twenty-one years of age it shall only register votes cast for candidates for nomination as candidates for elected federal office. For the purposes of this section, the precincts shall be arranged according to the total votes cast for governor in the last general election in which such office was filled, starting with the precinct having the highest total votes cast and ending with the precinct having the lowest total votes cast in such election. The initial location of the names in the precinct having the highest total votes shall be determined by lot by the city auditor or responsible election official.

If there are more than three candidates for any office, and it is not possible to place all of the names on one line, the names shall be placed in two or more lines having an equal or nearly equal number of names on each line, provided that in no such event shall only one name appear on any line.

SECTION 5. AMENDMENT.) Section 16-10-12.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-12.1. VOTING MACHINES - ADDITIONAL POLL CLERKS.) All election precincts having voting machines as authorized in chapter 16-21 may in addition to all other authorized poll clerks, have at least two additional poll clerks whose duties it shall be to assist any voter in the operation of the voting machine. Such additional poll clerks shall be from each of the two political parties which cast the largest vote at the last general election, and any assistance given to any voter shall be in the presence of a poll clerk from each of the above-mentioned political parties. Such additional poll clerks shall have the same qualifications and shall subscribe to the same oath as the regular clerks and shall receive as compensation for their services such sum as is provided in section 16-10-16, to be paid in the same manner as regular poll clerks are paid. The poll clerks, or other proper election officials, shall, pursuant to regulations promulgated by the secretary of state, provide that when a voting machine is used by persons between eighteen and twenty-one years of age it shall only register votes cast for candidates for elected federal office.

SECTION 6. AMENDMENT.) Section 16-11-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-11-12. INSTRUCTIONS, ADVERTISEMENTS AND BALLOTS POSTED IN POLLING PLACES.) Each county auditor shall cause to be printed on cards, in large type, full instructions to electors as to the manner of obtaining and preparing ballots, a boldface notation that persons between eighteen and twenty-one years of age may only vote for candidates for federal offices, or candidates for nomination as candidates for federal office, and a copy of section 16-01-08 and of sections 12-11-26 and 12-11-28. He shall furnish ten of such cards to the judges of election in each election precinct and the judges of election, at the opening of the polls, shall post at least one of such cards in each booth or compartment provided for the preparation of ballots and at least three of such cards in and about the polling place. One of the official ballots without the official stamp thereon shall be posted in each booth or compartment, and not less than three of such ballots shall be posted in other places in and about the polling place upon the morning of the election. The county auditor, at the time of delivering the ballots to the inspector of elections in each precinct, shall deliver a minimum of five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. Not less than three of such newspaper publications or copies shall be posted in and about the polling place upon the morning of the election in addition to the ballots required to be posted by law.

SECTION 7.) Section 16-18-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

16-18-06.1. APPLICATION FORM FOR ABSENT VOTER'S BALLOT FOR PERSONS AUTHORIZED TO VOTE FOR FEDERAL OFFICES ONLY.) Application for an absent voter's ballot for persons between eighteen and twenty-one years of age who are authorized to vote for federal offices only shall be made on a blank to be furnished by the proper officer of the county, city, or school district of which the applicant is a resident and must be in substantially the following form:

I, \_\_\_\_\_, a resident of the township of \_\_\_\_\_ or of the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward of the city of \_\_\_\_\_ of the county of \_\_\_\_\_ of the state of North Dakota, to my best knowledge and belief, am entitled to vote for federal elected officials in such precinct at the next election, expecting to be absent from the said county on the day for holding such election, or by reason of physical disability being unable to attend and vote at such election, hereby make application for an official absent voter's ballot to be voted by me at such election.

Date \_\_\_\_\_

Signed \_\_\_\_\_

Witness: \_\_\_\_\_

Post Office \_\_\_\_\_

\_\_\_\_\_

SECTION 8. AMENDMENT.) Section 16-18-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-11. ABSENT VOTERS' BALLOTS SENT TO MILITARY PERSONNEL WITHOUT APPLICATION.) It shall be the duty of the officers specified in section 16-18-05, as soon as possible after the printing of the ballots for any primary, special, or general state election or any city or school election to send such absent voter ballot to all military personnel on active duty who are qualified to vote in the county, city, or school district, as the case may be.

SECTION 9. AMENDMENT.) Section 16-18-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-12. COUNTY AUDITOR TO KEEP REGISTER OF NAMES OF PERSONS IN SERVICE AND ALL OTHER QUALIFIED ELECTORS.) In order to facilitate compliance with the provisions of section 16-18-11, the county auditor of each county in this state shall prepare, keep, and maintain a general register of the names of all persons within his county who are engaged in the military or naval service of the United States, and a further register of all such persons who are qualified to vote in his county at a general election. The county auditor shall maintain a record of the ages of all such persons for the purpose of assuring that all such persons between the ages of eighteen and twenty-one receive proper absentee ballots to vote for federally elected officials.

SECTION 10. AMENDMENT.) Subsection 2 of section 16-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Permit each voter to vote for as many persons for any office as he is entitled to vote for, including persons between eighteen and twenty-one years of age who shall be allowed to vote for candidates for federal office or candidates for nomination as candidates for federal office only, and shall allow each voter to vote in primary elections for candidates for nomination by the political party of his choice, but it shall preclude each voter from voting for more persons for any office than he is entitled to vote for, from voting more than once for the same candidate or upon the same measure or question submitted to the voters, or voting the ballot of more than one political party in any primary election;

Approved March 27, 1971

## CHAPTER 219

SENATE BILL NO. 2138  
(Melland)

## ARRANGING NAMES ON BALLOTS

AN ACT to amend and reenact section 16-04-17 of the North Dakota Century Code, to provide that precincts shall be arranged on voting machines according to the total votes cast in the previous general election for governor, and to provide for the placement of names on ballots and voting machines in races having more than three candidates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-04-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*16-04-17. ARRANGEMENT OF NAMES ON BALLOTS AND VOTING MACHINES.) Upon sample ballots, the names of candidates for each office shall be arranged alphabetically according to surnames. The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing, in the following manner: the forms shall be set up with the names in the order in which they are submitted for use on the sample ballots by the secretary of state for the state and district offices, and prepared by the county auditor for the state, district, and county offices. In printing each set of official ballots for the various election precincts, the position of the names shall be changed in each office division as many times as there are candidates in the office division or group in which there are most names. The same number of ballots shall be printed after each change. In making the changes of position, the printer shall take the line of type at the head of each office division and place it at the bottom of that division, shoving up the column so that the name that was second before the change shall be first after the change.

In municipalities or political subdivisions employing voting machines the position of names which require alternating or rotating as hereinbefore provided shall be rotated on the voting machines by precincts so that the name appearing first in one precinct will be last in the next precinct, and the name that appeared second shall be first in the next precinct and so on until each name has been moved up or over one space accordingly. This process shall be continued from

\*NOTE: Section 16-04-17 was also amended by section 4 of House Bill No. 1534, chapter 218.

one precinct to another and for as many names as are involved. For the purposes of this section, the precincts shall be arranged according to the total votes cast for governor in the last general election in which such office was filled, starting with the precinct having the highest total votes cast and ending with the precinct having the lowest total votes cast in such election.

If there are more than three candidates for any office, and it is not possible to place all of the names on one line, the names shall be placed in two or more lines having an equal or nearly equal number of names on each line, provided that in no such event shall only one name appear on any line.

Approved March 12, 1971

## CHAPTER 220

SENATE BILL NO. 2341  
(Melland, Nething, Goldberg, Litten)

## CERTIFICATION OF NOMINATIONS

AN ACT to amend and reenact sections 16-05-01 and 16-05-04 of the North Dakota Century Code, relating to the place of filing of certificates of nomination, and the duties of the county auditor regarding the certification of nominations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows.

16-05-01. CERTIFICATES OF NOMINATION - PLACES OF FILING.) Certificates of nomination for candidates for offices to be filled by the electors of the entire state, or of any district greater than a county, and for legislative offices, shall be filed with the secretary of state and written notice of such filing shall be filed with the county auditor of the respective counties encompassing or included within the district wherein the officers are to be elected. Certificates of nomination for county officers shall be filed with the county auditor of the respective counties wherein the officers are to be elected.

SECTION 2. AMENDMENT.) Section 16-05-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-05-04. SECRETARY OF STATE TO CERTIFY NOMINATIONS FOR STATE AND DISTRICT OFFICE - DUTY OF COUNTY AUDITOR.) Not less than thirty days nor more than thirty-five days before an election to fill any state or district office, the secretary of state shall certify to the county auditor of each county within which any of the electors may by law vote for candidates for such office, the name and post-office address of each person nominated for such office, as specified in the certificates of nomination filed with him. In case of a special election called to fill a vacancy, the secretary of state shall so certify the names of such candidates not less than thirty days before such special election. Immediately upon receipt of the certification provided for in this section, the county auditor receiving it shall compare it with the

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written notice of filing of certificates of nomination filed with him pursuant to section 16-05-01. If the comparison shows discrepancies, the auditor shall immediately notify the secretary of state, who shall take the necessary action to correct any errors, prior to sending the notice called for by section 16-06-04.

Approved March 4, 1971

## CHAPTER 221

SENATE BILL NO. 2434  
(Melland)

## NUMERICAL POLL LIST

AN ACT to amend and reenact section 16-10-14 of the North Dakota Century Code, relating to the duties of a clerk of an election in keeping a poll list.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-10-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-10-14. CLERK OF ELECTION TO KEEP POLL LIST - CONTENTS.) Each clerk of an election shall keep a poll list which shall contain in numerical order the names and addresses of all persons voting at such election.

Approved March 18, 1971

## CHAPTER 222

HOUSE BILL NO. 1172  
(Mertens, Lee)

## COLOR OF ELECTION BALLOTS

AN ACT to amend and reenact section 16-11-04 of the North Dakota Century Code, relating to the color of election ballots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-11-04. FORM AND QUALITY OF BALLOTS GENERALLY.) All official ballots prepared under the provisions of this title for use in precincts in which voting machines are not used:

1. Shall be a specified color, and the secretary of state shall prescribe a different color for each separate type of ballot used.
2. Shall be of uniform quality of paper printed in a color of ink suitable to make the ballot clearly legible.
3. Shall be of sufficient length to contain all the names of the candidates to be voted for at such election.
4. Where more than one person is to be elected to an office, immediately under the designation of the office to be voted for, shall have printed thereon the following words: "Vote for (number) name only".
5. Shall have printed thereon "Mark X after name to be voted for".
6. Under the name of each candidate there shall be left sufficient space to write or paste a name in lieu of the one printed on the ballot.
7. On the same line with the name of each candidate and at the end of his name there shall be a space enclosed

in a square in which the voter may designate by a cross or other mark his choice for each candidate opposite the name of such candidate.

In precincts in which voting machines are used, the list of officers and candidates and the statements of measures and questions to be submitted to the voters shall be arranged in a manner and form approximating as far as possible the requirements of this section.

Approved March 30, 1971

## CHAPTER 223

HOUSE BILL NO. 1209  
(Mushik, Eagles, Giffey, Raymond)

EXPLANATION OF  
EFFECT OF VOTE

AN ACT to amend and reenact section 16-11-07 of the North Dakota Century Code, to provide for placement of an explanatory statement on the ballot for constitutional amendments and initiated and referred measures explaining the effect of both negative and affirmative votes on a particular measure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-11-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-11-07. CONSTITUTIONAL AMENDMENTS AND INITIATED AND REFERRED MEASURES - PLACED ON SEPARATE BALLOT - MANNER OF STATING QUESTION - EXPLANATION OF EFFECT OF VOTE - ORDER OF LISTING.) Constitutional amendments duly certified to the county auditor by the secretary of state, or any question to be voted for aside from the election of public officers, shall be printed on a separate ballot by ballot title only and in the manner specified by the secretary of state and shall be deposited in a box separate from that provided to receive the ballots for public officers. The size of type to be used on such ballots shall be specified by the secretary of state. Immediately preceding the ballot title of the constitutional amendment or initiated or referred measure on the printed ballot, the secretary of state shall cause to be printed a short, concise statement in boldface type, which statement shall fairly represent the substance of the constitutional amendment or the initiated or referred measure. The attorney general shall approve all such statements written by the secretary of state. Immediately subsequent to the foregoing statement, the secretary of state shall cause to be printed another short, concise statement of the effect of an affirmative or negative vote on the constitutional amendment or initiated or referred measure in terms of whether the proposal will or will not enact, amend, or repeal a portion or portions of the Constitution or laws of the state of North Dakota if an affirmative or negative vote should prevail. This explanatory statement shall be drafted by the secretary of state and shall be approved by the attorney general. The words "Yes" and "No" shall be printed on the ballot at the close of the statement

regarding the effect of an affirmative or negative vote, in separate lines with a square formed of black lines after each statement in which the voter may indicate by a cross or other mark how he desires to vote on the question. Where two or more amendments or questions are to be voted on, they shall be printed on the same ballot. In precincts in which voting machines are used, the ballot title, in the case of amendments or measures submitted by the people, or the title of the legislative bill or resolution, which shall serve as the ballot title, in the case of proposed amendments submitted by the legislative assembly, shall be set forth in full. Provided, however, in such cases where the ballot title or the title of the legislative bill or resolution is of such length to make it physically impossible to fit such titles upon voting machines, the attorney general shall reduce such titles to a length which will allow the placing of such titles upon voting machines, but shall fully express the purpose of such amendments or questions, and such reduced version of the titles shall be used on the voting machines.

The measures to be submitted to the electors shall be grouped and classified as constitutional measures, initiated statutes, or referred statutes and shall be numbered within such groups or classifications by the secretary of state in the order received, for the purpose of placing them on the ballot. Measures submitted by the legislative assembly shall be placed first on the ballot within their classification in the order approved by the legislative assembly. Constitutional measures shall be placed first on the ballot, initiated statutes second, and referred statutes third.

Approved March 15, 1971

## CHAPTER 224

HOUSE BILL NO. 1333  
(Dornacker)

PREPARATION AND  
STAMPING OF BALLOT

AN ACT to amend and reenact sections 16-12-05, 16-12-15, and 16-13-01 of the North Dakota Century Code, relating to the conduct of elections and the counting of ballots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-12-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-12-05. PREPARATION OF BALLOT BY ELECTOR - FOLDING - DEPOSITING.) Upon receipt of his ballot, the elector, forthwith and without leaving the polling place, shall retire alone to one of the booths or compartments provided, to prepare his ballot by placing a cross mark (X) or other mark which clearly shows the intention of the voter within the square opposite the name of each person for whom he wishes to vote, or in case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, by placing a cross mark (X) or other mark within the square opposite the word or words expressing his wish. After preparing his ballot, the elector shall fold it so that the face of the ballot will be concealed and so that the endorsement stamped thereon may be seen. He then shall hand it to the judge, who, without opening the same or permitting it to be opened, or examined except to ascertain whether it is a single ballot and whether it has been stamped and initialed, shall deposit it in the ballot box.

SECTION 2. AMENDMENT.) Section 16-12-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-12-15. FAILURE TO STAMP OR INITIAL BALLOT - DEPOSITING UNSTAMPED BALLOT IN BALLOT BOX - PENALTY.) Any inspector or judge of election who fails to stamp or initial any ballot as required by this chapter, or who deposits in a ballot box any ballot upon which the official stamp does not appear, is guilty of a misdemeanor.

SECTION 3. AMENDMENT.) Section 16-13-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-01. BALLOTS VOID AND NOT COUNTED - PART OF BALLOT MAY BE COUNTED.) In the canvass of votes at any election, a ballot shall be void and shall not be counted if:

1. It is not endorsed with the official stamp and initials as provided in this title; or
2. It is impossible to determine the elector's choice from the ballot or parts of a ballot.

If a ballot is sufficiently plain to gather a part of the voter's intention therefrom, the judges of election shall count such part. If a voter votes for more than the number of persons to be elected to any office, his ballot shall be invalidated only insofar as his vote for such office is concerned, and the balance of his ballot, if otherwise proper, shall not be invalidated. However, at primary elections only, the ballot shall be void if the elector splits such ballot or votes for candidates of more than one party.

Approved March 27, 1971

## CHAPTER 225

HOUSE BILL NO. 1137  
(Atkinson)

## DISTRIBUTION OF POLLBOOKS

AN ACT to amend and reenact section 16-13-07 of the North Dakota Century Code, relating to sending pollbooks to the United States district court; providing a pollbook to the clerk of district court by the county auditor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-13-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-07. REPORTS AND POLLBOOKS SENT TO COUNTY AUDITOR - COMPENSATION FOR MAKING RETURNS - COUNTY AUDITOR TO FORWARD POLLBOOK TO CLERK OF UNITED STATES DISTRICT COURT AND TO THE CLERK OF THE NORTH DAKOTA DISTRICT COURT OF SAID COUNTY.) By twelve o'clock noon, of the day following an election except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by him, shall personally deliver the duplicate reports provided for in section 16-13-04 to the county auditor. The reports, carefully sealed under cover, accompanied by both of the pollbooks provided for in section 16-11-13, and with the oaths of the inspector and clerks affixed thereto, shall be directed properly to the county auditor. The person making such return shall receive the sum of five dollars as compensation therefor and shall also be paid mileage of ten cents per mile, provided, however, no compensation and no mileage shall be paid if delivery of the ballots is not made by twelve o'clock noon on the day following the election. The compensation and mileage shall be paid out of the county treasury on a warrant of the county auditor, and shall be full compensation for returning all used or voided ballots and for delivering the ballot boxes to the proper official. Within thirty days after receipt thereof following each presidential election, each county auditor shall forward one of the pollbooks to the clerk of the United States district court for the district encompassing that county for his official use. The county auditor, if his duties so require, may request return of the pollbook thirty days after receipt thereof by the clerk of the United States district court. The county auditor shall provide the clerk of the North Dakota district court of said county with a pollbook to be used by the clerk for jury selection.

Approved February 26, 1971

## CHAPTER 226

SENATE BILL NO. 2376  
(Nething, Holand)

COUNTY CANVASSING  
BOARD COMPENSATION

AN ACT to amend and reenact section 16-13-16 of the North Dakota Century Code, relating to compensation for members of the county canvassing board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-13-16 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-16. COMPENSATION AS MEMBERS OF BOARD.) Each member of the county canvassing board, who is not a paid official of the county, while serving as a member of the county canvassing board, shall receive twelve dollars per day as compensation. In addition, any member of the board who must travel a distance of over five miles from his home to the place of such meeting and return, shall be paid mileage of ten cents per mile. Such compensation and mileage shall be audited, allowed, and paid by the board of county commissioners in each county.

Approved March 11, 1971

## CHAPTER 227

HOUSE BILL NO. 1101  
(Streibel)

## RECOUNT ON DEMAND

AN ACT to provide for the recounting of ballots in congressional, state or legislative elections and to provide procedures for such recounts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. RECOUNTS FOR CONGRESSIONAL AND STATE OFFICES - PROCEDURE - COSTS.) Any person losing a primary, special or general election contest for nomination or election to a congressional, state, or legislative office may demand a recount of the ballots cast in the manner and circumstances hereinafter provided. The demand may be made if the person shall have failed to be nominated in a primary election by less than two percent of the highest vote cast for a candidate of his party for the office sought, or the demand may be made by any person who failed to be elected at a special or general election by less than one-half of one percent of the highest vote cast for a candidate for that office. The demand must be made within ten days after the canvass of the votes of such election. After a demand and upon application to a judge of each appropriate district court, such court or courts shall issue orders directing that all ballots pertaining to such office shall be delivered forthwith to the respective court or courts. The person demanding such recount shall forward a copy of the application to the secretary of state at the time it is filed with the district court. The county canvassing board of each county, or such other persons as the court may select, shall recount the ballots in the presence of the court and, if requested, in the presence of the candidates or their representatives. Any candidate or any representative of any candidate for such office may object to the counting of any ballot. All ballots objected to shall be referred to the district judge for his decision, which shall be rendered at once. The results of such recount shall be certified by the district judge to the secretary of state no later than fifteen days after the application for a recount has been filed. The costs of such recount shall be borne by the counties involved. The members of the county canvassing board or such other persons selected by the district judge to assist in such recount shall receive compensation and mileage as provided in section 16-13-16. The results of any

recount of votes cast in an election of a member of the legislative assembly shall be admissible in either house of the legislative assembly, or before a committee of either house, as evidence to aid in the determination of an election contest pending in that house.

Approved March 27, 1971

## CHAPTER 228

HOUSE BILL NO. 1363  
(Hentges)

CONSOLIDATING PRECINCT  
COMMITTEEMEN'S BALLOT

AN ACT to amend and reenact section 16-17-05.1 of the North Dakota Century Code, relating to the consolidation of precinct committeemen's ballot.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-17-05.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-05.1. CONSOLIDATION OF PRECINCT COMMITTEEMEN'S BALLOT.) The names of candidates seeking election as precinct committeemen shall be printed in their preferred political party column on a separate two or more party precinct committeemen ballot. The names of only those candidates for party precinct committeemen for whom nominating petitions have been filed with the county auditor as provided in section 16-17-03 shall be printed on the two or more party precinct committeemen's ballot. Columns shall be arranged so that any column shall be in an inverted position when the adjacent column or columns are in an upright position. If no nominating petition has been filed for any candidate, the ballot shall contain blank lines and spaces on which names may be written or a sticker pasted. Such ballot shall be in substantially the same form as the consolidated primary election ballot and shall be prepared for each voting precinct in the county by the county auditor and distributed by him with other election supplies in the manner in which the consolidated primary election ballots are distributed, provided, however, in those precincts in which voting machines are used the precinct committeemen's ballot shall be listed as part of the official party ballot thereon.

Approved March 27, 1971

## CHAPTER 229

SENATE BILL NO. 2439  
(Melland)

## CANVASSING ABSENT VOTERS' BALLOTS

AN ACT to amend and reenact section 16-18-14 of the North Dakota Century Code, relating to the canvassing of mailed absent voters' ballots received late.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 16-18-14 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-14. CANVASSING OF MAILED ABSENT VOTERS' BALLOTS RECEIVED LATE.) In the case of congressional, state, or county elections, if any envelope postmarked more than two days prior to the date of the election and containing an absent voters' ballot is received by the proper officer too late to be forwarded to the proper voting precinct in time to be canvassed, the same shall be retained by him and canvassed by the canvassing board of the county of such officer at any time prior to the meeting of the state canvassing board of any adjourned meeting of said board where the same has been received by such officer in time to canvass and transmit the results to the state canvassing board. In the case of city or school district elections, if an envelope postmarked more than two days prior to the date of election and containing an absent voters' ballot is received by the officer too late to be forwarded to the proper voting precinct in time to be tabulated, the same shall be canvassed by the governing body of the city, or the school board of the school district, as the case may be, at such time as the other ballots are canvassed. This section shall not be construed as invalidating any ballot mailed within two days of the date of the election at which it is to be cast, if the ballot is received in time to be forwarded to the proper voting precinct according to the provisions of this chapter. Before forwarding any ballot to a precinct or canvassing board pursuant to this section, the officer forwarding such ballot shall print the date and hour when it was received on the envelope. Upon receipt, the inspector or judges of the polling place, or the canvassing board, as the case may be, shall first determine that such elector is qualified to vote in that precinct and that said elector did not previously vote in that precinct on the date of the election before allowing such ballot to be tallied.

Approved March 27, 1971

# FIRES

## CHAPTER 230

SENATE BILL NO. 2404  
(Christensen)

### DISTRIBUTION OF FIRE INSURANCE PREMIUMS

AN ACT to amend and reenact sections 18-04-02 and 18-04-05, relating to fire department reports and distribution of insurance premiums, and to repeal section 18-04-06 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 18-04-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-02. CITY AUDITOR OR SECRETARY OF RURAL FIRE DEPARTMENT TO FILE CERTIFICATE WITH STATE FIRE MARSHAL AND COMMISSIONER OF INSURANCE.) On or before the thirty-first day of October in each year, the auditor or secretary of any city or rural fire department which has an organized fire department shall make and file with the state fire marshal and with the commissioner of insurance his certificate stating the existence of the fire department, the date of its organization, the number of steam, hand, or other fire engines, hook and ladder trucks, and hose carts in actual use, the number of organized companies in the department, the number of members in each company, and the system of water supply in use by the department, together with such other facts as the state fire marshal or commissioner may require.

SECTION 2. AMENDMENT.) Section 18-04-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-05. AMOUNT DUE CITIES OR RURAL FIRE DEPARTMENTS - CERTIFICATE OF COMMISSIONER OF INSURANCE TO DEPARTMENT OF ACCOUNTS AND PURCHASES.) The commissioner of insurance shall compute the amounts due to the several cities, townships, or fire protection districts entitled to benefits under this chapter, and shall certify such amounts for payment to the department of accounts and purchases on or before June first of each year, in the following manner:

1. To cities not within the boundaries of a fire protection district, a sum equal to two and one-fourth percent of the premiums received by insur-

ance companies on fire and extended coverage insurance policies issued on property in such cities.

2. To each city fire department performing service outside of its incorporated limits, the sum of one hundred dollars.
3. To each rural fire department or district organized within the provisions of this title, the sum of two hundred dollars per year plus two and one-fourth percent of the fire and extended coverage insurance premiums paid in any city, whether incorporated or not, and encompassed in a fire district.

There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated as a standing and continuing appropriation, such sums as may be necessary to make payments as provided in this section.

SECTION 3. REPEAL.) Section 18-04-06 of the North Dakota Century Code is hereby repealed.

Approved March 29, 1971

## CHAPTER 231

SENATE BILL NO. 2146  
(Morgan)

FIRE MARSHAL'S  
RULEMAKING POWER

AN ACT to amend and reenact section 18-09-02 of the North Dakota Century Code, relating to rulemaking power of the state fire marshal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 18-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-09-02. FIRE MARSHAL TO MAKE RULES.) The state fire marshal shall make and promulgate regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storage, handling, transporting by tank-truck, tank-trailer, and utilizing liquefied petroleum gases and specifying the odorization of said gases and the degree thereof. Said regulations shall be such as are reasonably necessary for the protection of the health, welfare, and safety of the public and persons using such materials, and shall be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. Said regulations shall substantially comply with the 1969 standards of the National Fire Protection Association for the design, installation, construction of containers, and pertinent equipment for the handling and storage of liquefied petroleum gases.

Approved February 19, 1971

## CHAPTER 232

HOUSE BILL NO. 1421  
(E. Miller)

CONTRACTING BY RURAL  
FIRE PROTECTION DISTRICTS

AN ACT to amend and reenact section 18-10-06 of the North Dakota Century Code, relating to the powers and duties of directors of rural fire protection districts, and section 18-10-10 of the North Dakota Century Code, relating to contracts of rural fire protection districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 18-10-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-06. POWERS OF BOARD OF DIRECTORS.) The board of directors shall have the following general powers:

1. To determine upon a general fire protection program for the district.
2. To make an annual estimate of the probable expense for carrying out such program.
3. To annually certify such estimate to the proper county auditor in the manner provided by section 18-10-07.
4. To manage and conduct the business affairs of the district.
5. To make and execute contracts in the name of and on behalf of the district.
6. To purchase or lease such firefighting equipment, ambulances, or other emergency vehicles, supplies and other real or personal property as shall be necessary and proper to carry out the general fire protection program of the district.
7. To incur indebtedness on behalf of the district within the limits prescribed by section 18-10-08, and to authorize the issuance of evidences of such indebtedness permitted under section 18-10-08, and to pledge any real or personal property owned or

acquired by the district as security for the same.

8. To organize, establish, equip, maintain, and supervise a fire department or company to serve the district.
9. Generally to perform all acts necessary to fully carry out the purposes of this chapter.

SECTION 2. AMENDMENT.) Section 18-10-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-10. RURAL FIRE DEPARTMENT MAY ENTER INTO CONTRACT.) Any rural fire protection district may elect to enter into a contract with another rural fire protection district to consolidate or cooperate for mutual fire protection and prevention purposes, including ambulance or emergency vehicle services, or may enter into a contract with any federal, state, or local government agency for fire protection service or fire protection cooperation, including ambulance or emergency vehicle services, upon terms suitable to all concerned, and power to make such contracts is hereby conferred upon such state or local government agency in addition to such powers as have been heretofore provided by law.

Approved March 18, 1971

## CHAPTER 233

HOUSE BILL NO. 1487  
(Hentges, Wagner)

## FIREMEN'S PENSIONS

AN ACT to create and enact subsection 3 of section 18-11-15 of the North Dakota Century Code, and to amend and reenact subsection 2 of section 18-11-15 and sections 18-11-18 and 18-11-23 of the North Dakota Century Code, relating to the alternate firemen's relief association plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 18-11-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. All members must serve twenty years before they shall be eligible for a service pension; however, any member who has twenty years of service and who has not attained the age of fifty years, shall have the right to retire from the department without forfeiting his right to a service pension. Such person shall, upon application, be placed on the deferred pension roll of the association, and after he has reached the age of fifty years, the association shall, upon application therefor, pay his service pension from the date he attains eligibility at a rate of forty percent of the monthly salary of a first class fireman as determined on January first of the year in which the pension is paid. A member having thirty years' service can be placed upon the deferred pension roll until he reaches the age of sixty years, at which time he shall be allowed the maximum payment provided for in the schedule in subsection 1 of this section. Any person making such application thereby waives all other rights, claims, or demands against the association for any cause, except those causes that may have arisen from, or that may be attributable to, his service on the fire department.

SECTION 2.) Subsection 3 of section 18-11-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

3. With the consent of the governing body of the municipality involved, and in substitution for the pension

payment schedule set out in subsection 1, a firemen's relief association shall pay a monthly service pension to members of the association with the following qualifications, the following amounts:

<u>Years of Service</u>	<u>Years of Age</u>	<u>Percent of first class firemen's monthly salary on January first during year the pension is paid</u>
20	50	40%
21	51	42%
22	52	44%
23	53	46%
24	54	48%
25	55	50%
26	56	52%
27	57	54%
28	58	56%
29	59	58%
30	60	60%

SECTION 3. AMENDMENT.) Section 18-11-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-18. PROPORTIONAL DECREASE IN BENEFITS IF FUNDS NOT SUFFICIENT.) If the balances of the funds in a city with a population of fifty thousand or more shall decrease to four hundred thousand dollars; in a city with a population of over forty thousand but less than fifty thousand shall decrease to one hundred thousand dollars; in a city with a population of thirty-eight thousand or less shall decrease to fifty thousand dollars, the benefit provided for in sections 18-11-15, 18-11-16, and 18-11-17 shall be proportionately decreased, but in no case shall the benefit be decreased more than twenty percent at any one time. When the balances return to the above figures, then the benefits shall again be paid as prescribed in sections 18-11-15, 18-11-16, and 18-11-17.

SECTION 4. AMENDMENT.) Section 18-11-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-23. FUNERAL BENEFITS.) The bylaws of the association shall provide for funeral benefits for its active or retired members not to exceed for each funeral twice the monthly salary of a first-class fireman on January first of the year in which the member dies.

Approved March 29, 1971

# FOODS AND DRUGS

## CHAPTER 234

HOUSE BILL NO. 1307  
(Olienyk, White)

### MISBRANDING OF FOODS

AN ACT to create and enact subdivision c of subsection 5 of section 19-02.1-10 of the North Dakota Century Code relating to the misbranding of foods.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subdivision c of subsection 5 of section 19-02.1-10 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

- c. In the case of beverages that are manufactured, distributed and sold under a franchise or trademark name indicated thereon, whereby the person, firm or corporation owning the franchise or trademark has control over the distribution, such beverages may be exempt from this subsection, if a certified statement is filed with the state laboratories director, stating the name and address of the manufacturer or distributor, and a statement signed by the manufacturer or distributor that they assume all responsibility and liability for the product named, which is being sold, or offered for sale, under such name within the area of the state designated, which certificate shall be in the following form:

NORTH DAKOTA STATE LABORATORIES DEPARTMENT  
BISMARCK, NORTH DAKOTA

#### BEVERAGE LABELING EXEMPTIONS CERTIFICATE

I \_\_\_\_\_, the undersigned, an agent of and having authority to sign do hereby certify that the following information is correct.

Name and address of company requesting exemption:

\_\_\_\_\_

Name: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 City or Town: \_\_\_\_\_  
 State: \_\_\_\_\_

Name of Product: \_\_\_\_\_  
Brand Name: \_\_\_\_\_

In order to be exempt from subdivisions a and b of subsection 5 of section 19-02.1-10 of the 1969 Supplement to the North Dakota Century Code, relating to misbranding of food, which requires the name and address of the real manufacturer or other persons responsible for placing the product upon the market, I the undersigned, do bind the company listed above by agreeing to assume all responsibility for the product named in this certificate which is being sold, or offered for sale under such name and brand name within the area consisting of \_\_\_\_\_

\_\_\_\_\_ in the State of North Dakota.

Note: The area must be designated by counties or other legal subdivisions of the city, county, or state.

Firm: \_\_\_\_\_  
Signed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_

Note: If signed by a person other than an officer of the company, authorization for signature must accompany this form. This certificate must be acknowledged.

Approved March 22, 1971

## CHAPTER 235

HOUSE BILL NO. 1558  
(Wilkie)

## UNIFORM CONTROLLED SUBSTANCES ACT

AN ACT to establish a coordinated and codified system of drug control, to create a closed regulatory system for the legitimate handlers of controlled drugs, to prohibit certain activities relating to controlled drugs, to provide penalties for violations thereof, to amend and reenact section 19-01-02; subsection 9 of section 19-02.1-05; subsection 4 of section 19-02.1-01; subsection 1 of section 19-02.1-15; and section 19-02.1-20; of the North Dakota Century Code and to repeal chapter 19-03 of the North Dakota Century Code, relating to narcotics, and to repeal subsection 23 of section 19-02.1-01; subsections 15, 16, 17, 18, 19, 20, and 21 of section 19-02.1-02; subsection 4 of section 19-02.1-04; subsections 5 and 6 of section 19-02.1-05; and section 19-02.1-23 of the North Dakota Century Code relating to drugs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) As used in this Act:

1. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
  - a. a practitioner (or, in his presence, by his authorized agent), or
  - b. the patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.
3. "Bureau" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice or its successor agency.

4. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this Act.
5. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
6. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.
7. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.
8. "Dispenser" means a practitioner who dispenses.
9. "Distribute" means to deliver other than by administering or dispensing a controlled substance.
10. "Distributor" means a person who distributes.
11. "Drug" means
  - a. substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
  - b. substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;
  - c. substances (other than food) intended to affect the structure or any function of the body of man or animals; and
  - d. substances intended for use as a component of any article specified in subdivisions a, b, or c of this subsection. It does not include devices or their components, parts or accessories.
12. "Immediate Precursor" means a substance which the state laboratories department has found to be and by rule designates as being the principal compound

commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

13. "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:
  - a. by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or
  - b. by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.
14. "Marihuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
15. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
  - a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
  - b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline

alkaloids of opium.

- c. Opium poppy and poppy straw.
  - d. Coca leaves and any salt, compound, derivative or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.
16. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 2 of this Act, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.
  17. "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.
  18. "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
  19. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
  20. "Practitioner" means:
    - a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.
    - b. A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.
  21. "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.
  22. "State" when applied to a part of the United States, includes any state, district, commonwealth, territory,

insular possession thereof, and any area subject to the legal authority of the United States of America.

23. "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

SECTION 2. AUTHORITY TO CONTROL.)

1. The North Dakota state laboratories department shall administer this Act and may add substances to or delete or reschedule all substances enumerated in the schedules in sections 5, 7, 9, 11 or 13 pursuant to the procedures of chapter 28-32 of the North Dakota Century Code. In making a determination regarding a substance, the state laboratories department shall consider the following:
  - a. the actual or relative potential for abuse;
  - b. the scientific evidence of its pharmacological effect, if known;
  - c. the state of current scientific knowledge regarding the substance;
  - d. the history and current pattern of abuse;
  - e. the scope, duration, and significance of abuse;
  - f. the risk to the public health;
  - g. the potential of the substance to produce psychic or physiological dependence liability; and
  - h. whether the substance is an immediate precursor of a substance already controlled under this Act.
2. After considering the factors enumerated in subsection 1, the state laboratories department shall make findings with respect thereto and issue a rule controlling the substance if it finds the substance has a potential for abuse.
3. If the state laboratories department designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.
4. If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the state health

department, the state laboratories department shall similarly control the substance under this Act after the expiration of thirty days from publication in the federal register of a final order designating a substance as a controlled substance or rescheduling, or deleting a substance, unless within that thirty day period, the state laboratories department objects to inclusion, rescheduling, or deletion. In that case, the state laboratories department shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the state laboratories department shall publish its decision, which shall be final unless altered by statute. Upon publication of objection to inclusion, rescheduling, or deletion under this Act by the state laboratories department, control under this Act is stayed until the state health department publishes its decision.

5. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in title 5 of the North Dakota Century Code.

SECTION 3. NOMENCLATURE.) The controlled substances listed or to be listed in the schedules in sections 5, 7, 9, 11 and 13 are included by whatever official, common, usual, chemical, or trade name designated.

SECTION 4. SCHEDULE I TESTS.) The state laboratories department shall place a substance in schedule I if it finds that the substance:

1. has high potential for abuse; and
2. has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

SECTION 5. SCHEDULE I.)

1. The controlled substances listed in this section are included in schedule I.
2. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:
  - a. Acetylmethadol;
  - b. Allylprodine;
  - c. Alphacetylmethadol;
  - d. Alphameprodine;

- e. Alphamethadol;
  - f. Benzethidine;
  - g. Betacetylmethadol;
  - h. Betameprodine;
  - i. Betamethadol;
  - j. Betaprodine;
  - k. Clonitazene;
  - l. Dextromoramide;
  - m. Dextrorphan;
  - n. Diampromide;
  - o. Diethylthiambutene;
  - p. Dimenoxadol;
  - q. Dimepheptanol;
  - r. Dimethylthiambutene;
  - s. Dioxaphetyl butyrate;
  - t. Dipipanone;
  - u. Ethylmethylthiambutene;
  - v. Etonitazene;
  - w. Etoxeridine;
  - x. Furethidine;
  - y. Hydroxypethidine;
  - z. Ketobemidone;
  - aa. Levomoramide;
  - bb. Levophenacymorphan;
  - cc. Morpheridine;
  - dd. Noracymethadol;
  - ee. Norlevorphanol;
  - ff. Normethadone;
  - gg. Norpipanone;
  - hh. Phenadoxone;
  - ii. Phenampromide;
  - jj. Phenomorphan;
  - kk. Phenoperidine;
  - ll. Piritramide;
  - mm. Proheptazine;
  - nn. Properidine;
  - oo. Racemoramide;
  - pp. Trimeperidine
3. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
- a. Acetorphine;
  - b. Acetyldihydrocodeine;
  - c. Benzylmorphine;
  - d. Codeine methylbromide;
  - e. Codeine-n-oxide;
  - f. Cypremorphine;
  - g. Desomorphine;
  - h. Dihydromorphine;
  - i. Etorphine;

- j. Heroin;
  - k. Hydromorphinol;
  - l. Methyl-desorphine;
  - m. Methyl-dihydromorphine;
  - n. Morphine methylbromide;
  - o. Morphine methylsulfonate;
  - p. Morphine-n-oxide;
  - q. Myrophine;
  - r. Nicocodeine;
  - s. Nicomorphine;
  - t. Normorphine;
  - u. Pholcodine;
  - v. Thebacon;
4. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. 3,4-methylenedioxy amphetamine;
  - b. 5-methoxy-3, 4-methylenedioxy amphetamine;
  - c. 3,4,5-trimethoxy amphetamine;
  - d. Bufotenine;
  - e. Diethyltryptamine;
  - f. Dimethyltryptamine;
  - g. 4-methyl-2, 5-dimethoxylamphetamine;
  - h. Ibogaine;
  - i. Lysergic acid diethylamide;
  - j. Marihuana;
  - k. Mescaline;
  - l. Peyote;
  - m. N-ethyl-3-piperidyl benzilate;
  - n. N-methyl-3-piperidyl benzilate;
  - o. Psilocybin;
  - p. Psilocyn;
  - q. Tetrahydrocannabinols;

SECTION 6. SCHEDULE II TESTS.) The state laboratories department shall place a substance in Schedule II if it finds that:

- 1. The substance has high potential for abuse;
- 2. The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- 3. The abuse of the substance may lead to severe psychic or physical dependence.

SECTION 7. SCHEDULE II.)

1. The controlled substances listed in this section are included in schedule II.
2. Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis.
  - a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
  - b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph a, but not including the isoquinoline alkaloids of opium.
  - c. Opium poppy and poppy straw.
  - d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.
3. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:
  - a. Alphaprodine;
  - b. Anileridine;
  - c. Bezitramide;
  - d. Dihydrocodeine;
  - e. Diphenoxylate;
  - f. Fentanyl;
  - g. Isomethadone;
  - h. Levomethorphan;
  - i. Levorphanol;
  - j. Metazocine;
  - k. Methadone;
  - l. Methadone - intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
  - m. Moramide - intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
  - n. Pethidine;
  - o. Pethidine - intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine;
  - p. Pethidine - intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate;

- q. Pethidine - intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- r. Phenazocine;
- s. Priminodine;
- t. Racemethorphan;
- u. Racemorphan.

SECTION 8. SCHEDULE III TESTS.) The state laboratories department shall place a substance in schedule III if it finds that:

1. the substance has a potential for abuse less than the substances listed in schedules I and II;
2. the substance has currently accepted medical use in treatment in the United States; and
3. abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

SECTION 9. SCHEDULE III.)

1. The controlled substances listed in this section are included in schedule III.
2. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
  - a. Amphetamine, its salts, optical isomers, and salts of its optical isomers;
  - b. Phenmetrazine and its salts;
  - c. Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;
  - d. Methylphenidate.
3. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
  - a. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;
  - b. Chlorhexadol;
  - c. Glutethimide;
  - d. Lysergic acid;

- e. Lysergic acid amide;
  - f. Methyprylon;
  - g. Phenyclidine;
  - h. Sulfondiethylmethane;
  - i. Sulfonethylmethane;
  - j. Sulfonmethane.
4. Nalorphine.
5. Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
- a. Not more than 1.80 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
  - b. Not more than 1.80 grams of codeine, or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - c. Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
  - d. Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - e. Not more than 1.80 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - f. Not more than 300 milligrams of ethylmorphine or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;
  - g. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - h. Not more than 50 milligrams of morphine, or any

of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

6. The state laboratories department may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection 2 and 3 of this section from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

SECTION 10. SCHEDULE IV TESTS.) The state laboratories department shall place a substance in schedule IV if it finds that:

1. the substance has a low potential for abuse relative to substances in schedule III;
2. the substance has currently accepted medical use in treatment in the United States; and
3. abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in schedule III.

SECTION 11. SCHEDULE IV.)

1. The controlled substances listed in this section are included in schedule IV.
2. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
  - a. Barbital;
  - b. Chloral betaine;
  - c. Chloral hydrate;
  - d. Chordiazepoxide and its salts;
  - e. Diazepam;
  - f. Ethchlorvynol;
  - g. Ethinamate;
  - h. Methohexital;
  - i. Meprobamate;
  - j. Methylphenobarbital;
  - k. Paraldehyde;
  - l. Petrichloral;
  - m. Phenobarbital;

3. The state laboratories department may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection 2 of this section from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 12. SCHEDULE V TESTS.) The state laboratories department shall place a substance in schedule V if it finds that:

1. the substance has low potential for abuse relative to the controlled substances listed in schedule IV;
2. the substance has currently accepted medical use in treatment in the United States; and
3. the substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in schedule IV.

SECTION 13. SCHEDULE V.)

1. The controlled substances listed in this section are included in schedule V.
2. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:
  - a. Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;
  - b. Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;
  - c. Not more than 100 milligrams of ethylmorphine or any of its salts, per 100 milliliters or per 100 grams;
  - d. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
  - e. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

SECTION 14. REPUBLISHING OF SCHEDULES.) The state labora-

tories department shall revise and republish the schedules semiannually for two years from the effective date of this Act, and thereafter annually.

SECTION 15. RULES.) The state laboratories department may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

SECTION 16. REGISTRATION REQUIREMENTS.)

1. Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the state laboratories department in accordance with its rules.
2. Persons registered by the state laboratories department under this Act to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this Act.
3. The following persons need not register and may lawfully possess controlled substances under this Act:
  - a. an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;
  - b. a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment.
  - c. an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.
4. The state laboratories department may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.
5. A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

6. The state laboratories department may inspect the establishment of a registrant or applicant for registration in accordance with the state health department rule.

SECTION 17. REGISTRATION.)

1. The state laboratories department shall register an applicant to manufacture or distribute controlled substances included in sections 5, 7, 9, 11, and 13 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the state laboratories department shall consider the following factors:
  - a. maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
  - b. compliance with applicable state and local laws;
  - c. any convictions of the applicant under any federal and state laws relating to any controlled substance;
  - d. past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;
  - e. furnishing by the applicant of false or fraudulent material in any application filed under this Act;
  - f. suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and
  - g. any other factors relevant to and consistent with the public health and safety.
2. Registration under subsection 1 of this section does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.
3. Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the law of this state. The state laboratories department need not require separate registration under this Act for practitioners engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under

this Act in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon furnishing the state health department evidence of that federal registration.

4. Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this Act.

SECTION 18. REVOCATION AND SUSPENSION OF REGISTRATION.)

1. A registration under section 17 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the state laboratories department upon a finding that the registrant:
  - a. has furnished false or fraudulent material information in any application filed under this Act;
  - b. has been convicted of a felony under any state or federal law relating to any controlled substance; or
  - c. has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.
2. The state laboratories department may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.
3. If the state laboratories department suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.
4. The state laboratories department shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

SECTION 19. ORDER TO SHOW CAUSE.)

1. Before denying, suspending or revoking a registration, or refusing a renewal of registration, the state laboratories department shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the state laboratories department at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration. These proceedings shall be conducted in accordance with the Administrative Agencies Practices Act as set out in chapter 28-32 of the North Dakota Century Code without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.
2. The state laboratories department may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 18, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the state laboratories department or dissolved by a court of competent jurisdiction.

SECTION 20. RECORDS OF REGISTRANTS.) Persons registered to manufacture, distribute, or dispense controlled substances under this Act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules the state laboratories department issues.

SECTION 21. ORDER FORMS.) Controlled substances in schedule I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

SECTION 22. PRESCRIPTIONS.)

1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner.
2. In emergency situations, as defined by rule of the

state laboratories department, schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 20. No prescription for a schedule II substance may be refilled.

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under this Act or chapter 19-02.1 of the North Dakota Century Code, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner. Any oral prescription for such drugs shall be promptly reduced to writing by the pharmacist on a new prescription blank and shall be signed within seventy-two hours by the practitioner who issued the same.
4. A controlled substance included in schedule V shall not be distributed or dispensed other than for a medical purpose.

SECTION 23. PROHIBITED ACTS A - PENALTIES.)

1. Except as authorized by this Act, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance. Any person who violates this subsection with respect to:
  - a. a controlled substance classified in schedules I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than twenty years or fined not more than \$10,000, or both;
  - b. any other controlled substance classified in schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, or fined not more than \$5,000, or both;
  - c. a substance classified in schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than five years, or fined not more than \$2,500, or both;
  - d. a substance classified in schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than \$1,000, or both.

2. Except as authorized by this Act, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance. Any person who violates this subsection with respect to:
  - a. a counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than twenty years, fined not more than \$10,000, or both;
  - b. any other counterfeit substance classified in schedules I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, fined not more than \$5,000, or both;
  - c. a counterfeit substance classified in schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than \$2,500, or both;
  - d. a counterfeit substance classified in schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than \$500, or both.
3. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this Act. Any person who violates this subsection is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than \$2,500, or both; except that any person who violates this subsection regarding possession of marihuana, shall be guilty of a crime and upon conviction may be fined not more than \$500 or imprisoned in the county jail or in the state penitentiary for not more than one year or both.

SECTION 24. PROHIBITED ACTS B - PENALTIES.)

1. It is unlawful for any person:
  - a. who is subject to the provisions of sections 15 through 22 of this Act to distribute or dispense a controlled substance in violation of section 22;
  - b. who is a registrant, to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance

not authorized by his registration to another registrant or other authorized person;

- c. to refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this Act;
  - d. to refuse an entry into any premises for any inspection authorized by this Act; or
  - e. knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this Act for the purpose of using these substances, or which is used for keeping or selling them in violation of this Act.
2. Any person who violates this section is guilty of a felony and upon conviction may be imprisoned for not more than one year, fined not more than \$5,000, or both.

SECTION 25. PROHIBITED ACTS C - PENALTIES.)

1. It is unlawful for any person knowingly or intentionally:
  - a. to distribute as a registrant a controlled substance classified in schedules I or II, except pursuant to an order form as required by section 21 of this Act;
  - b. to use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;
  - c. to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;
  - d. to furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this Act, or any record required to be kept by this Act; or
  - e. to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

2. Any person who violates this section is guilty of a felony and upon conviction may be imprisoned for not more than one year, or fined not more than \$500, or both.

SECTION 26. DISPOSING OF NEEDLES AND PARAPHERNALIA.) Any registrant who shall use, administer, dispense or cause to be used, administered or dispensed any drug or controlled substance in a manner requiring the use of any type of syringe, needle, eye dropper or other similar paraphernalia shall destroy and dispose of said syringe, needle, eye dropper, or other similar paraphernalia in a manner that will prevent its reuse by any person other than the registrant. The state laboratories department may promulgate rules and regulations setting out the specific manner in which the provisions of this section shall be carried out. Any registrant who shall violate the provisions of this section shall be guilty of a misdemeanor.

SECTION 27. PENALTIES UNDER OTHER LAWS.) Any penalty imposed for violation of this Act is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

SECTION 28. BAR TO PROSECUTION.) If a violation of this Act is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

SECTION 29. DISTRIBUTION TO PERSONS UNDER AGE 18.) Any person 18 years of age or over who violates subsection 1 of section 23 by distributing a controlled substance listed in schedules I or II which is a narcotic drug to a person under 18 years of age who is at least three years his junior is punishable by the fine authorized by subdivision a of subsection 1 of section 23, by a term of imprisonment of up to twice that authorized by subdivision a of subsection 1 of section 23 or by both. Any person 18 years of age or over who violates subsection 1 of section 23 by distributing any other controlled substance listed in schedules I, II, III, IV and V, to a person under 18 years of age who is at least three years his junior is punishable by the fine authorized by subdivisions b, c, and d of subsection 1 of section 23, by a term of imprisonment up to twice that authorized by subdivisions b, c, and d of subsection 1 of section 23, or both.

SECTION 30. CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST OFFENSE.) Whenever any person who has not previously been convicted of any offense under this Act or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under subsection 3 of section 23, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon

terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under section 31. There may be only one discharge and dismissal under this section with respect to any person.

SECTION 31. SECOND OR SUBSEQUENT OFFENSES.)

1. Any person convicted of a second or subsequent offense under this Act may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.
2. For the purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this Act or under any statute of the United States or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.
3. This section does not apply to offenses under subsection 3 of section 23.

SECTION 32. POWERS OF ENFORCEMENT PERSONNEL - SEARCH WARRANTS.)

1. Any officer or employee of the state bureau of criminal identification and apprehension designated by the attorney general of this state may:
  - a. carry firearms in the performance of his official duties;
  - b. execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state;
  - c. make arrests without warrant for any offense under this Act committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of this Act which may constitute a felony;
  - d. make seizures of property pursuant to this Act; or

- e. perform other law enforcement duties as the attorney general designates.
2. A search warrant relating to offenses involving controlled dangerous substances may be issued and executed at any time of the day or night, if the judge or magistrate issuing the warrant so specifies in the warrant.
3. Any officer authorized to execute a search warrant, without notice of his authority and purpose, may break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or magistrate issuing the warrant has probable cause to believe that if such notice were to be given the property sought in the case may be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result, and has included in the warrant a direction that the officer executing it shall not be required to give such notice. Any officer acting under such warrant, as soon as practicable after entering the premises, shall identify himself and state the purpose of his entering the premises and his authority for doing so.

SECTION 33. ADMINISTRATIVE INSPECTIONS AND WARRANTS.)

1. Issuance and execution of administrative inspection warrants shall be as follows:
  - a. A district judge within his jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this Act or rules hereunder and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this Act or rules thereunder, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant;
  - b. A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be

inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

- (1) state the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;
  - (2) be directed to a person authorized to execute it;
  - (3) command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;
  - (4) identify the item or types of property to be seized, if any;
  - (5) direct that it be served during normal business hours and designate the judge or magistrate to whom it shall be returned;
- c. A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;
- d. The judge or magistrate who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the district court for the county in which the inspection was made.
2. The state laboratories department may make administrative inspections of controlled premises in accordance with the following provisions:

- a. For purposes of this section only, "controlled premises" means:
- (1) places where persons registered or exempted from registration requirements under this Act are required to keep records; and
  - (2) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this Act are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.
- b. When authorized by an administrative inspection warrant issued pursuant to subsection 1 of this section an officer or employee designated by the state laboratories department, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.
- c. When authorized by an administrative inspection warrant, an officer or employee designated by the state laboratories department may:
- (1) inspect and copy records required by this Act to be kept;
  - (2) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subdivision e of subsection 2 of this section, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this Act; and
  - (3) inventory any stock of any controlled substance therein and obtain samples thereof;
- d. This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with section 28-32-09 of the North Dakota Century Code, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:
- (1) if the owner, operator, or agent in charge of the controlled premises consents;

- (2) in situations presenting imminent danger to health or safety;
  - (3) in situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
  - (4) in any other exceptional emergency circumstances where time or opportunity to apply for a warrant is lacking; or
  - (5) in all other situations in which a warrant is not constitutionally required;
- e. An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator or agent in charge of the controlled premises consents in writing.

SECTION 34. INJUNCTIONS.)

1. The district courts of this state shall have jurisdiction to restrain or enjoin violations of this Act.
2. The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this section.

SECTION 35. COOPERATIVE ARRANGEMENTS AND CONFIDENTIALITY.)

1. The state laboratories department shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, it may:
  - a. arrange for exchange of information among governmental officials concerning the use and abuse of controlled substances;
  - b. coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;
  - c. cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state and local law enforcement purposes. It shall not furnish the name or identity of a patient or research subject whose identity

- could not be obtained under subsection 3; and
- d. conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.
2. Results, information, and evidence received from the bureau relating to the regulatory functions of this Act, including results of inspections conducted by it may be relied and acted upon by the state health department in the exercise of its regulatory functions under this Act.
  3. A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the state laboratories department nor may he be compelled in any state or local civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

SECTION 36. FORFEITURES.)

1. The following are subject to forfeiture:
  - a. all controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this Act;
  - b. all raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this Act;
  - c. all property which is used, or intended for use, as a container for property described in subdivision a or b;
  - d. all conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in subdivision a or b, but;
    - (1) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this Act;

- (2) no conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;
  - (3) a conveyance is not subject to forfeiture for a violation of subsection 3 of section 23 of this Act; and
  - (4) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission.
- e. all books, records, and research products and materials, including formulas, micro-film, tapes, and data which are used, or intended for use, in violation of this Act.
2. Property subject to forfeiture under this Act may be seized by the state laboratories department upon process issued by any district court having jurisdiction over the property. Seizure without process may be made if:
    - a. the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;
    - b. the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceedings based upon this Act;
    - c. the state laboratories department has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
    - d. the state laboratories department has probable cause to believe that the property was used or is intended to be used in violation of this Act.
  3. In the event of seizure pursuant to subsection 2 of this section, proceedings under subsection 4 of this section shall be instituted promptly.
  4. Property taken or detained under this section shall not be subject to replevin, but is deemed to be in custody of the state laboratories department subject only to the orders and decrees of the district court having jurisdiction over the forfeiture proceedings as set out in subsection 2 of this section. When property is seized under this Act, the state laboratories

department may:

- a. place the property under seal;
  - b. remove the property to a place designated by it; or
  - c. require the attorney general to take custody of the property and remove it to an appropriate location for disposition in accordance with law.
5. When property is forfeited under this Act the state laboratories department may:
- a. retain it for official use;
  - b. sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;
  - c. require the attorney general to take custody of property and remove it for disposition in accordance with law; or
  - d. forward it to the bureau for disposition.
6. Controlled substances listed in schedule I that are possessed, transferred, sold, or offered for sale in violation of this Act are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.
7. Species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this Act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.
8. The failure, upon demand by the state laboratories department, or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

#### SECTION 37. BURDEN OF PROOF; LIABILITIES.)

1. It is not necessary for the state to negate any exemption

or exception in this Act in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this Act. The burden of proof of any exemption or exception is upon the person claiming it;

2. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this Act, he is presumed not to be the holder of the registration or form. The burden of proof is upon him to rebut the presumption.
3. No liability is imposed by this Act upon any authorized state, county or municipal officer, engaged in the lawful performance of his duties.

SECTION 38. JUDICIAL REVIEW.) All final determinations, findings and conclusions of the state laboratories department under this Act are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the district court. Findings of fact by the state laboratories department, if supported by substantial evidence are conclusive.

SECTION 39. EDUCATION AND RESEARCH.)

1. The state laboratories department shall carry out educational programs designed to prevent and deter misuse of controlled substances. In connection with these programs it may:
  - a. promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;
  - b. assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;
  - c. consult with interested groups and organizations to aid them in solving administrative and organizations problems;
  - d. evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;
  - e. disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and,

- f. assist in the educational and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.
2. The state laboratories department shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this Act, it may:
  - a. establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;
  - b. make studies and undertake programs of research to:
    - (1) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this Act;
    - (2) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and
    - (3) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and,
  - c. enter contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.
3. The state laboratories department may enter into contracts for educational and research activities without performance bonds and without regard to statutory provisions affecting such contracts.
4. The state laboratories department may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.
5. The state laboratories department may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to

the extent of the authorization.

SECTION 40. PENDING PROCEEDINGS.)

1. Prosecution for any violation of law occurring prior to the effective date of this Act is not affected or abated by this Act. If the offense being prosecuted is similar to one set out in sections 23 through 30 of this Act, then the penalties under these sections apply if they are less than those under prior law.
2. Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this Act are not affected by this Act.
3. All administrative proceedings pending under prior laws which are superseded by this Act shall be continued and brought to a final determination in accord with the laws and rules in effect prior to the effective date of the Act. Any substance controlled under prior law which is not listed within schedules I through V, is automatically controlled without further proceedings and shall be listed in the appropriate schedule.
4. The state laboratories department shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to the effective date of the Act and who are registered or licensed by the state.
5. This Act applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following its effective date.

SECTION 41. CONTINUATION OF RULES.) Any orders and rules promulgated under any law affected by this Act in effect on the effective date of this Act and not in conflict with it continue in effect until modified, superseded or repealed.

SECTION 42. UNIFORMITY OF INTERPRETATION.) This Act shall be so applied and construed as to effectuate its general purpose and make uniform the law with respect to the subject of this Act among those states which enact it.

SECTION 43. SHORT TITLE.) This Act may be cited as the Uniform Controlled Substances Act.

SECTION 44. AMENDMENT.) Section 19-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-02. STATE LABORATORIES DEPARTMENT - STATE LABORATORIES COMMISSION - MEMBERS, DUTIES, MEETINGS, QUORUM.) The state laboratories department shall be maintained as one of the departments of the state. The management, control, and supervision of such department shall be placed in the state laboratories commission, which shall be composed of the governor, who shall act as chairman thereof, the state treasurer, and the attorney general. It shall meet whenever necessary, and at least once a month. The commission shall adopt rules and regulations as may be necessary for the full and complete enforcement of the regulatory laws of the state under its jurisdiction, but such rules and regulations shall not be inconsistent with the provisions of the Uniform Controlled Substances Act. The commission shall also establish, and may alter as the need arises, a fee schedule for private samples that are submitted to the department for laboratory analysis. A majority of the members of the commission shall constitute a quorum for the transaction of business.

SECTION 45. AMENDMENT.) Subsection 9 of section 19-02.1-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. Whenever in any proceedings under this section the condemnation of any equipment or conveyance or other thing, other than a drug, is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court that:
  - a. He has not committed or caused to be committed any prohibited act referred to in subsection 5 of this section or the Uniform Controlled Substances Act, and has no interest in any drug or controlled substance referred to therein;
  - b. He has an interest in such equipment, or other thing as owner or lienor or otherwise, acquired by him in good faith; and
  - c. He at no time had any knowledge or reason to believe that such equipment, conveyance, or other things was being or would be used in, or to facilitate, the violation of the laws of this state relating to depressant, stimulant or hallucinogenic drugs or counterfeit drugs.

SECTION 46. AMENDMENT.) Subsection 4 of section 19-02.1-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Drug" means:

- a. Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;
- b. Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- c. Articles, other than food, intended to affect the structure or any function of the body of man or other animals;
- d. Articles intended for use as a component of any article specified in subdivisions a, b, or c, but does not include devices or their components, parts, or accessories. Provided, however, that "drug", for the purpose of this chapter, and as defined by this subsection, shall not include those controlled substances or drugs regulated by or under the authority of the Uniform Controlled Substances Act, with respect to such drugs, the Uniform Controlled Substances Act shall take precedence over and supplant the provisions of this chapter only so far as its authority and control is synonymous with the provisions of this chapter.

SECTION 47. AMENDMENT.) Subsection 1 of section 19-02.1-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-15. DRUGS LIMITED TO DISPENSING ON PRESCRIPTION.)

1. Except as authorized and provided in the Uniform Controlled Substances Act, a depressant, stimulant, or hallucinogenic drug; or a drug intended for use by man which is a habit-forming drug to which subsection 4 of section 19-02.1-14 applies; or a drug that, because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner; or a drug limited by an approved application under section 505 of the Federal Act or section 19-02.1-16 of this Code to use under the professional supervision of a practitioner, shall be dispensed by prescription of a practitioner, and such prescription shall not be refilled more than five times, nor shall it be filled or refilled after six months from the date on which such prescription was issued; except that nothing herein shall be construed as preventing a practitioner from issuing a new prescription for the same drug either in writing or orally. Any oral prescription for such drug shall be promptly reduced to writing by the pharmacist on a new prescription blank, and shall be signed within

seventy-two hours by the practitioner who issued the same.

SECTION 48. AMENDMENT.) Section 19-02.1-20 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-20. REGULATIONS - HEARINGS.) The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the state laboratories department. The department is hereby authorized to make the regulations promulgated under this chapter conform, in so far as practicable, with those promulgated under the federal act. Regulations shall conform and be consistent with the provisions of the Uniform Controlled Substances Act.

Hearings authorized or required by this chapter shall be conducted by the state laboratories director or such officer, agent, or employee as the state laboratories director may designate for the purpose. When promulgating any regulations contemplated by section 19-02.1-08, subsection 10 of section 19-02.1-10, section 19-02.1-11, subsections 4, 7, 8, 9, 14 and 17 of section 19-02.1-14, subsection 3 of section 19-02.1-15 or subsection 2 of section 19-02.1-19, the department shall follow the procedures provided for in chapter 28-32 of the North Dakota Century Code.

SECTION 49. REPEAL.) Chapter 19-03 of the North Dakota Century Code and the 1969 Supplement to the North Dakota Century Code, relating to narcotics, and subsection 23 of section 19-02.1-01; subsections 15, 16, 17, 18, 19, 20, and 21 of section 19-02.1-02; subsection 4 of section 19-02.1-04; subsections 5 and 6 of section 19-02.1-05; and section 19-02.1-23 of the 1969 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 30, 1971

## CHAPTER 236

SENATE BILL NO. 2040  
(Goldberg, L. Larson, Lowe, Melland, Wenstrom, Wilhite)  
(Legislative Council Study)

## OLEOMARGARINE SALES LICENSE

AN ACT to amend and reenact section 19-05-05, subsections 1 and 2 of section 19-05-07, subsection 1 of section 19-05-09, section 19-05-15, and subsection 1 of section 19-05-19 of the North Dakota Century Code, and to repeal section 19-05-06 of the North Dakota Century Code, relating to the discontinuance of the requirement for a license to sell oleomargarine.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 19-05-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-05. TAX COMMISSIONER MAY ISSUE TAX STAMPS TO PERSONS OR FIRMS NOT DOING BUSINESS IN THIS STATE.)

1. For the purposes of this chapter, "doing business in this state" shall mean any manufacturer, wholesaler, distributor, jobber, or any person acting as such having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or by making delivery into this state by his own vehicle or by contract carrier, or by any agent operating within this state under the authority of the manufacturer, wholesaler, distributor, jobber, or any person acting as such or its subsidiary, whether such place of business or agent is located in this state permanently or temporarily or whether or not such a firm is authorized to do business within this state.
2. For the purpose of purchasing oleomargarine revenue stamps, the state tax commissioner, upon application, may authorize the purchase of oleomargarine revenue stamps by any such firm or persons not "doing business in this state", who, to the satisfaction of the state tax commissioner, furnishes adequate security to insure the payment of the tax. Such authority may be canceled at any time, if the state tax commissioner considers the

security inadequate.

SECTION 2. AMENDMENT.) Subsections 1 and 2 of section 19-05-07 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

19-05-07. SURETY BOND.) 1. Each manufacturer, wholesaler, distributor, jobber, or any person acting as such, doing business in this state, shall before purchasing tax stamps, submit to the tax commissioner a surety bond in an amount to be determined by the tax commissioner.

2. For the purposes of this chapter, the amount of the surety bond shall be in an amount not less than one thousand dollars nor more than five thousand dollars for purchasers of tax stamps maintaining a permanent location within this state, and for purchasers of tax stamps not maintaining a location within this state, who request authorization to purchase oleomargarine revenue stamps, an amount to be determined by the state tax commissioner as sufficient to secure the payment of the tax.

SECTION 3. AMENDMENT.) Subsection 1 of section 19-05-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The state tax commissioner shall prepare and purchase suitable stamps denoting the payment of the tax for use on each kind of package described in this chapter. The state tax commissioner shall keep an accurate record of all stamps coming into and leaving his hands. The moneys received from the sale of oleomargarine stamps shall be deposited in the general fund of this state. No manufacturer, wholesaler, distributor, jobber or any person acting as such shall sell or dispose of any stamps received by him under the provisions of this chapter to another manufacturer, wholesaler, distributor, jobber or any person acting as such or to any other person. If a manufacturer, wholesaler, distributor, jobber or any person acting as such owns or operates more than one place of business, stamps may be distributed to the various places of business by the main office.

SECTION 4. AMENDMENT.) Section 19-05-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-05-15. FORGING OR COUNTERFEITING STAMPS - PUNISHMENT.) Any person who, with intent to defraud the state, makes, alters, forges, or counterfeits any stamps provided for in this chapter or assists therein or who has in his possession any forged, counterfeited, spurious, or altered stamp, knowing the same to be forged, counterfeited, spurious, or altered, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the penitentiary for not more than three years, or by both such fine and imprisonment.

SECTION 5. AMENDMENT.) Subsection 1 of section 19-05-19 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The tax commissioner and his authorized agents shall enforce the provisions of this chapter and shall have the powers of peace officers. They may arrest violators of the provisions of this chapter and enter complaint before any court of competent jurisdiction, and may seize without formal warrant, and use as evidence, any forged, counterfeit, spurious, or altered stamp, and untaxed oleomargarine found in the possession of any person in violation of this chapter.

SECTION 6. REPEAL.) Section 19-05-06 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 11, 1971

## CHAPTER 237

HOUSE BILL NO. 1084  
(W. Erickson, Hickie, Hilleboe, Rivinius, Rundle)  
(From Legislative Council Study)

## EGG ADVISORY BOARD

AN ACT to amend and reenact section 19-07-02 of the North Dakota Century Code, relating to the rulemaking power of the state laboratories department; and to repeal section 19-07-03 of the North Dakota Century Code, relating to the egg advisory board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 19-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-07-02. RULEMAKING POWER.) The department shall adopt and publish, only upon approval by a majority vote at a meeting of the poultry improvement board, appropriate regulations to establish standards for candling, grading, and inspecting eggs as to size, quality, purity, strength, holding requirements, and sanitation, and shall be guided in establishing such standards by United States department of agriculture regulations governing the grading and inspecting of eggs.

SECTION 2. REPEAL.) Section 19-07-03 of the North Dakota Century Code is hereby repealed.

Approved February 26, 1971

## CHAPTER 238

SENATE BILL NO. 2107  
(Nasset)

## REGULATING ANTIFREEZE DISTRIBUTION

AN ACT to create and enact chapter 19-16.1 of the North Dakota Century Code relating to the sale and distribution of antifreeze, providing for the regulation thereof by the state laboratories department and providing a penalty; and to repeal chapter 19-16 of the North Dakota Century Code relating to the sale and distribution of antifreeze.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 19-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

19-16.1-01. ADMINISTRATION.) This Act shall be administered by the state laboratories department, hereinafter referred to as the department.

19-16.1-02. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Antifreeze" means any substance or preparation sold, distributed or intended for use as the cooling liquid, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid, to lower its freezing point, or to raise its boiling point.
2. "Person" means any individual, partnership, association, firm or corporation.
3. "Distribute" means to hold with intent to sell to the consumer, offer for sale, to sell, barter or otherwise supply.
4. "Package" means a sealed retail package, drum, or other container in which antifreeze is distributed to the consumer, or a container holding no more than fifty-five gallons from which the antifreeze is directly installed in the cooling system by seller or reseller.

5. "Label" means any display of written, printed or graphic matter on, or attached to, a package, or to the outside individual container or wrapper of the package.

19-16.1-03. REGISTRATION.) Before any antifreeze may be distributed in this state, the manufacturer or person whose name appears on the label shall make application to the department on forms provided by the latter for registration for each antifreeze which he desires to distribute. The application shall be accompanied by specimens or facsimiles of its labeling, an inspection fee of twenty dollars for each product, and by a properly labeled sample of the antifreeze. The department shall inspect, test or analyze the antifreeze and review the label. If the antifreeze and labeling is not adulterated or misbranded the department shall issue a certificate or registration, authorizing the distribution of such antifreeze in this state for one year. If the antifreeze or label is not in conformity with the law, the department shall refuse to register the antifreeze and shall return the application to the applicant, stating the reasons therefor. All inspection fees received by the department shall be remitted to the state treasurer for deposit in the state general fund.

19-16.1-04. ADULTERATION.) Antifreeze shall be deemed to be adulterated:

1. If, in the form in which it is sold and directed to be used, it would be injurious to the cooling system of an internal combustion engine, or if when used in the cooling system of such an engine it would make the operation of the engine dangerous to the user.
2. If its strength, quality or purity falls below the standard of strength, quality or purity under which it is sold or offered for sale.

19-16.1-05. MISBRANDING.) Antifreeze shall be deemed to be misbranded:

1. If it does not bear a label which specifically identifies the product; states the name and place of business of the registrant, the net quantity of contents in terms of liquid measure, separately and accurately in a uniform location under the principal display panel, and contains a statement warning of any hazard of substantial injury to human beings which may result from the intended use or reasonably foreseeable misuse of the antifreeze;
2. If the product is to be diluted with another substance for use and its labeling does not contain a statement or chart showing appropriate amounts of

each substance to be used to provide protection from freezing at various degrees of temperature;

3. If the labeling contains a corrosion protection claim and does not include a statement of the amount to be used to provide such protection;
4. If its labeling contains any claim that it has been approved or recommended by the department; or
5. If its labeling is false, deceptive, misleading, or is illegal under any law of the state or under any applicable federal law.

19-16.1-06. RULES AND REGULATIONS.) The department is hereby empowered to promulgate and adopt such reasonable rules, regulations and standards as may be necessary in order to secure the efficient administration of this law.

19-16.1-07. INSPECTION, SAMPLING AND ANALYSIS.) The department is hereby authorized at reasonable hours to enter, inspect and examine all places and property where antifreeze is stored or distributed for the purpose of taking reasonable samples of antifreeze for analysis together with specimens of labeling. It shall be the duty of the department to examine promptly all samples received in connection with the administration and enforcement of this law, and to report the results to the owner and the registrant of the antifreeze.

19-16.1-08. PROHIBITED ACTS.) It shall be unlawful to:

1. Distribute any antifreeze which has not been registered in accordance with this chapter or whose label is different from that accepted for registration.
2. Distribute any antifreeze which is adulterated or misbranded.
3. Refuse to permit entry or inspection or to permit the acquisition of a sample of any antifreeze as authorized by this chapter.
4. Dispose of any antifreeze under "withdrawal from distribution" order in accordance with this chapter except as provided in this chapter.
5. Distribute any antifreeze unless it is in the registrant's or manufacturer's package, except that a distributor may obtain written authorization from the department annually to distribute antifreeze in bulk using a container supplied by the customer, provided the distributor attaches to the container

a label bearing all of the information required by this chapter.

6. Use the term "ethylene glycol" on the label of a product which contains other glycols unless it is qualified by the word "base", "type" or wording of similar import, and unless the product contains a minimum ethylene glycol content of seventy-five percent by regulation weight and a minimum total glycol content of ninety-three percent by weight. It must also have a corrected specific gravity to give reliable freezing point readings on a commercial ethylene glycol type hydrometer and a freezing point, when mixed with an equal volume of water, of thirty-two degrees Fahrenheit below zero or lower.

19-16.1-09. ENFORCEMENT.) When the department finds any antifreeze being distributed in violation of this chapter or of any of the laws or any of the rules and prescribed regulations duly promulgated and adopted under this chapter, it may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of any of the lot of antifreeze in any manner until written permission is given by the department or a court of competent jurisdiction. Copies of such orders shall also be sent by registered or certified mail to the registrant or to the person whose name and address appears on the label of the antifreeze. The department shall release for distribution the lot of antifreeze so withdrawn upon compliance with applicable rules and regulations, or for return to the registrant or the person whose name and address appears on the label for reprocessing or relabeling as may be required. If compliance is not obtained within thirty days, the department may begin proceedings for condemnation. Any lot of antifreeze not in compliance with the law shall be subject to seizure upon complaint of the department in the district court of the county in which it is located or in the district court of Burleigh County.

19-16.1-10. SUBMISSION OF FORMULA.) The department may, for the purpose of registration, require the applicant to furnish a statement of the formula of such antifreeze, unless the applicant can furnish other satisfactory evidence that such antifreeze is not adulterated or misbranded. Such statement need not include inhibitor or other ingredients which total less than five percent by weight of the antifreeze. All statements of formula and other trade secrets furnished under this section shall be privileged and confidential and shall not be made public or open to the inspection of any persons, firms, associations, or corporations other than the commissioner. No such statement shall be subject to subpoena nor shall the same be exhibited or disclosed before any administrative or judicial tribunal by virtue of any order or subpoena of such tribunal without the consent of the applicant furnishing such statement to the department. The disclosure of any such information,

except as provided in this section, shall be a misdemeanor.

19-16.1-11. PENALTY.) Any person who shall violate or fail to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

19-16.1-12. PROSECUTIONS - STATE'S ATTORNEY.) It shall be the duty of each state's attorney to whom the department reports any violation of this chapter to cause appropriate proceedings to be instituted in the proper courts without delay in the manner required by law. However, nothing in this chapter shall be construed as requiring the state laboratories department to report minor violations for the institution of proceedings under this chapter whenever it believes that the public interest will be adequately served by suitable written notice or warning.

19-16.1-13. INJUNCTION PROCEEDINGS.) In addition to other remedies herein provided, the department is authorized to apply to the district court of Burleigh County for a temporary or permanent injunction restraining any person from violating any provision of this chapter irrespective of whether or not there exists an adequate remedy at law; appropriate costs shall be taxed by the court for any and all expenses to the department for the injunctive proceedings.

19-16.1-14. REPORTS BY DEPARTMENT.) Except as otherwise provided herein, state laboratories department may publish reports of any analyses, inspections, or research done under this chapter for the information of the public.

SECTION 2. REPEAL.) Chapter 19-16 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 239

SENATE BILL NO. 2126  
(Morgan)

## REGULATING ECONOMIC POISONS

AN ACT to create and enact seven additional subsections to section 19-18-02, paragraph 8 of subdivision b of subsection 20 of section 19-18-02, and section 19-18-06.1 of the North Dakota Century Code, and to amend and reenact subsections 1, 2, and 11 of section 19-18-02, sections 19-18-03 and 19-18-04, subsection 2 of section 19-18-05, and section 19-18-11 of the North Dakota Century Code, relating to the regulation of the distribution, sale, and labeling of economic poisons, and cooperation with the federal government.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Seven additional subsections of section 19-18-02 of the North Dakota Century Code are hereby created and enacted to read as follows:

"Nematocide" means any substance intended to prevent, destroy, repel, or mitigate nematodes. "Plant regulator" means any substance intended through physiological action to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or the produce thereof, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

"Defoliant" means any substance intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

"Desiccant" means any substance intended to artificially accelerate the drying of plant tissues.

"Snails or slugs" include all harmful agricultural mollusks.

"Nematode" means any of the nonsegmented roundworms harmful to agricultural plants.

"Restricted use pesticides" means any pesticide which the department has found and determined under the provisions of this chapter to be injurious to persons, pollinating insects, animals, crops, or lands in addition to the pests it is intended to repel, destroy, control, or mitigate.

SECTION 2.) Paragraph 8 of subdivision b of sub-section 20 of section 19-18-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

- (8) If a plant regulator, defoliant, or desiccant when used as directed shall be injurious to man or other vertebrate animals, or the vegetation to which it is applied, provided, that physical or physiological effect on plants or parts thereof shall not be deemed injurious when this is the purpose for which the plant regulator, defoliant, or desiccant is applied in accordance with label claims and recommendations.

SECTION 3.) Section 19-18-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

19-18-06.1. "STOP-SALE" ORDERS.) The department may issue and enforce a stop-sale order to the owner or custodian of any economic poison when the department finds that the product is being offered for sale in violation of the provisions of this chapter, and the order shall direct that the product be held at a designated place until released in writing by the department. The owner or custodian of such product shall have the right to petition a court of competent jurisdiction in the county where the product is found for an order releasing the product for sale in accordance with the findings of the court.

SECTION 4.) Subsections 1, 2, and 11 of section 19-18-02 are hereby amended and reenacted to read as follows:

1. "Economic poison" shall mean any substance intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, snails, slugs, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner shall declare to be a pest; and any substance intended for use as a plant regulator, defoliant, or desiccant;
2. "Device" shall mean any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, nematodes, or weeds, or such other pests as may be designated by the commissioner, but not including equipment used for the application of economic poisons when sold separately therefrom or rodent traps;
11. "Active ingredient" shall mean:

- a. In the case of an economic poison other than a plant regulator, defoliant, or desiccant, any ingredient which will prevent, destroy, repel, or mitigate insects, fungi, rodents, weeds, or other pests;
- b. In the case of a plant regulator, any ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;
- c. In the case of a defoliant, any ingredient which will cause the leaves or foliage to drop from a plant;
- d. In the case of a desiccant, any ingredient which will artificially accelerate the drying of plant tissue;

SECTION 5. AMENDMENT.) Section 19-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-18-03. PROHIBITED ACTS.) No person shall distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

1. Any economic poison which has not been registered pursuant to the provisions of section 19-18-04, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration; provided, that in the discretion of the commissioner, a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product;
2. Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing:
  - a. The name and address of the manufacturer, registrant, or person for whom manufactured;

- b. The name, brand, or trade-mark under which said article is sold; and
  - c. The net weight or measure of the content subject, however, to such reasonable variations as the commissioner may permit;
3. Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 19-18-05, unless the label shall bear, in addition to any other matter required by this chapter:
    - a. The skull and cross bones;
    - b. The word "poison" prominently, in red, on a background of distinctly contrasting color; and
    - c. A statement of an antidote for the economic poison;
  4. The economic poison commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this chapter, or any other white powder economic poison which the commissioner, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, by regulation, shall require to be distinctly colored or discolored; unless it has been so colored or discolored. The commissioner may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health;
  5. Any economic poison which is adulterated or misbranded, or any device which is misbranded.

No person shall detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this chapter or regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this chapter. No person shall use for his own advantage or reveal other than in response to a proper subpoena, except to a physician or other qualified person for use in the preparation of an antidote, any information relative to the formula of any product acquired by authority of subsection 4 of this section.

SECTION 6. AMENDMENT.) Section 19-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-18-04. REGISTRATION, FEES.) Any person before selling or offering for sale any economic poison for use within this state, shall file annually with the commissioner, an application for registration of such economic poison, which application shall:

1. Give the name and address of each manufacturer or distributor;
2. Give the name and brand, if any, of each product registered, together with an ingredient statement of each product registered in accordance with the provisions of subsection 10 of section 19-18-02, and accompanying each registration application there shall be filed with the commissioner a label of each product so registered. If the commissioner finds that the application conforms to law, he shall issue to the applicant a certificate of registration of the product. If the application, after public hearing before the state laboratory commission and the commissioner is denied the product shall not be offered for sale;
3. Be accompanied by an inspection fee of five dollars for each product. But in cases where the registration fees have been paid by the manufacturer, jobber, or any person, as required by this section, then in that event nothing in this section shall be construed as applying to retail dealers selling economic poisons. At the close of each calendar month, the department shall transmit to the state treasurer all moneys received for such licenses. The state treasurer shall credit such moneys to the general fund of the state.

Each registration shall expire on the thirty-first of December following its issue and no certificate of registration shall be issued for a term longer than one year, and shall not be transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location. A penalty of fifty percent of the license or registration fee shall be imposed if the license or certificate of registration is not applied for on or before January first of each year, within the same month such economic poisons are first manufactured or sold within this state.

SECTION 7. AMENDMENT.) Subsection 2 of section 19-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To determine whether economic poisons are highly toxic to man and whether the use thereof should be restricted; and

SECTION 8. AMENDMENT.) Section 19-18-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-18-11. COOPERATION.) The commissioner is authorized and empowered to cooperate with, and enter into agreements with, any other agency of this state or of the federal government or any other state or agency thereof for the purpose of carrying out the provisions of this chapter and securing uniformity of regulations.

Approved March 29, 1971

## CHAPTER 240

SENATE BILL NO. 2071  
(Doherty, Longmire, Pyle, Unruh)  
(Legislative Council Study)

## REGULATING HAZARDOUS SUBSTANCES

AN ACT to create and enact section 19-21-04.1 of the North Dakota Century Code, and to amend and reenact sections 19-21-01, 19-21-02, and 19-21-05 of the North Dakota Century Code, relating to the labeling and regulation of misbranded and banned hazardous substances, setting forth the powers and duties of the state laboratories department, and providing penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 19-21-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-21-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the state laboratories department.
2. "Person" includes an individual, partnership, corporation, and association.
3. "Hazardous substance" means any substance, except drugs and medicines, or mixture of substances, except drugs and medicines, which is toxic, corrosive, an irritant, a strong sensitizer, flammable, or which generates pressure through decomposition, heat, or other means, if such hazardous substance or mixture of hazardous substances may cause substantial personal injury or illness during or as a proximate result of any customary or reasonably anticipated handling or use; provided that the term "hazardous substance" shall not include:
  - a. Substances stored in containers and intended for use as fuel in a heating, cooking, or refrigeration system.
  - b. Economic poisons subject to the federal or the North Dakota Insecticide, Fungicide, and Rodenticide Act.

- c. Any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the atomic energy commission.

The term "hazardous substance" shall apply to any article which is not an economic poison within the meaning of the federal or North Dakota Insecticide, Fungicide, or Rodenticide Act, and which is a hazardous substance within the meaning of this subsection by reason of bearing or containing an economic poison.

4. "Toxic" shall apply to any substance, other than a radioactive substance, which has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface.
5. "Highly toxic" means any substance which falls within any of the following categories: produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered; or produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of 200 parts per million by volume or less of gas, vapor, mist, or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; or produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four hours or less. If the department finds that available data on human experience with any substance indicate results different from those obtained on animals in the above-named dosages or concentrations, the human data shall take precedence.
6. "Corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces.
7. "Irritant" means any substance, not corrosive, which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

8. "Strong sensitizer" means any substance which will cause, on normal living tissue through an allergic or photodynamic process, a hypersensitivity which becomes evident on reapplication of the same hazardous substance and which is designated as such by the department. Before designating any substance as a strong sensitizer, the department shall, after public hearing, following due notice, find that the frequency of occurrence and severity of the reaction indicate a significant potential for causing hypersensitivity.
9. "Extremely flammable" shall apply to any substance which has a flash point at or below 20 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester, and the term "flammable" shall apply to any substance which has a flash point of above 20 degrees to and including 80 degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester; except that the flammability of solids and of the contents of self-pressurized containers shall be determined by methods generally applicable to such materials or containers, respectively, and established by regulations issued by the department, which regulations shall also define the terms "flammable" and "extremely flammable" in accord with such methods.
10. "Label" means a display of written, printed, or graphic matter upon or attached to the immediate package or container of any hazardous substance or, in the case of an article which is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of this matter directly on the article involved, or on a tag or other suitable material affixed thereto; and a requirement made by or under authority of this chapter that any word, statement, or other information appearing on the label shall not be considered to be in compliance with this chapter unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper, and unless it appears on all accompanying literature where there are directions for use, written, or otherwise.
11. "Immediate container" does not include package liners.
12. "Misbranded hazardous substance" means a hazardous substance, including a toy or other article intended for use by children which is a hazardous substance, or which bears or contains a hazardous substance in a manner so as to be susceptible of access by a child to whom the toy or other article is entrusted, which is intended, or packaged in a form suitable for household use, or use by children, which, unless exempted by regulation, fails to bear a label:

- a. Which states conspicuously the name and place of business of the manufacturer, packer, or distributor; the common usual name, or the chemical name, or the recognized generic name, not trade name only, of the hazardous substance or of each component which contributes substantially to its hazard; the signal word "DANGER" on substances which are extremely flammable, corrosive, or highly toxic; the signal word "WARNING" or "CAUTION" on all other hazardous substances; an affirmative statement of the principal hazard or hazards, such as "FLAMMABLE", "VAPOR HARMFUL", "CAUSES BURNS", "ABSORBED THROUGH SKIN", or similar wording descriptive of the hazard; precautionary measures describing the action to be followed or avoided; instructions, when necessary, for the first-aid treatment in case of contact or exposure, if the substance is hazardous through contact or exposure; the word "POISON" for any hazardous substance which is defined as "HIGHLY TOXIC" by this section; instructions for handling and storage of packages which require special care in handling or storage; and the statement "KEEP OUT OF REACH OF CHILDREN", or its practical equivalent or, if the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard.
  
- b. On which any statements required under this subsection are located prominently and are in the English language in legible type in contrast by typography, layout, or color with other printed matter on the label; provided, that the department shall, by regulations, provide for minimum information which shall appear on the labels for small packages, which labels need not include all of the information required by this subsection; provided further, that the department may permit less than the foregoing statement of the hazard or precautionary measures for labels of hazardous substances presenting only minor hazards; and the term "misbranded hazardous substance" shall not apply to packages of economic poisons so labeled that if introduced in interstate commerce, it would be in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act, nor to packages of foods, drugs, and cosmetics so labeled that if introduced in interstate commerce, it would be in compliance with the Federal Food, Drug, and Cosmetic Act, nor to any package of a hazardous substance so labeled that if introduced into interstate

commerce, it would be in compliance with the Federal Hazardous Substances Labeling Act and rules and regulations promulgated by the secretary of health, education and welfare pursuant to that Act.

13. "Radioactive substance" means a substance which emits ionizing radiation.
14. "Banned hazardous substance" means:
  - a. Any toy, or other article, intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in a manner so as to be susceptible of access by a child to whom the toy, or other article, is entrusted; or
  - b. Any hazardous substance intended, or packaged in a form suitable, for use in the household, which the department, by regulation, classifies as a "banned hazardous substance", on the basis of a finding that, notwithstanding cautionary labeling as required under this chapter, the degree or nature of the hazard involved in the presence or use of the substance in households is such that the protection of the public health and safety can only be adequately served by keeping the substance out of the channels of commerce.

Provided, the department, by regulation, shall exempt from subdivision a of this subsection those articles, such as chemical sets, which by reason of functional purpose require the inclusion of the hazardous substance involved, and which bear labeling giving adequate directions and warnings for safe use, and are intended for use by children who have attained sufficient maturity and may reasonably be expected to read and heed these directions and warnings.

SECTION 2. AMENDMENT.) Section 19-21-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-21-02. PROHIBITED ACTS.) The following acts and the causing thereof are hereby prohibited:

1. The sale or delivery for sale of any misbranded hazardous substance or banned hazardous substance.
2. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of, or the doing of any other act with respect

to a hazardous substance, if such act is done while the substance is held for sale and which results in the hazardous substance being a misbranded or banned hazardous substance.

3. The refusal to permit entry, inspection, or copying of records as authorized by this chapter.
4. A re-use of food, drug, or cosmetic or any beverage containers still bearing original labels or identifiable as such by characteristic shape, impression, or closures as containers for hazardous substances.
5. The use by any person to his own advantage, or revealing, other than to the department, or to the courts when relevant in any judicial proceeding under this chapter, of any information acquired under authority of section 19-21-06 concerning any method of process which, as a trade secret, is entitled to protection.

SECTION 3.) Section 19-21-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

19-21-04.1. INJUNCTION PROCEEDINGS.) In addition to any other remedy provided in this chapter, the department is hereby authorized to apply to the district court of Burleigh County, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of section 19-21-02, irrespective of whether or not there exists an adequate remedy at law.

SECTION 4. AMENDMENT.) Section 19-21-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-21-05. REGULATIONS AND HEARINGS.) The department is authorized, after public hearing following due notice, to promulgate regulations for the efficient enforcement of this chapter. If the department finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this chapter is impracticable or is not necessary for the adequate protection of the public health and safety, it shall promulgate regulations exempting the substance from these requirements, to an extent consistent with adequate protection of the public health and safety.

If the department finds that an article subject to this chapter cannot be labeled adequately to protect the public health and safety, or the article presents an imminent danger to the public health and safety, it may declare the article

to be a banned hazardous substance and require its removal from commerce.

The department shall cause the regulations promulgated under this chapter to conform with the regulations established pursuant to the Federal Hazardous Substances Act.

Approved February 19, 1971

# GAME AND FISH

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## CHAPTER 241

HOUSE BILL NO. 1151  
(Weber)

### HUNTING OR HARASSING GAME FROM AIRCRAFT

AN ACT to amend and reenact section 20-01-07 of the North Dakota Century Code, relating to prohibiting the operators of aircraft or motor vehicles from killing, chasing or harassing any wild game, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 20-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-01-07. HUNTING AND HARASSING GAME FROM AIRCRAFT AND MOTOR VEHICLES PROHIBITED.) Except as otherwise provided pursuant to section 20-07-02, or when necessary for the protection of life or property, no person operating or controlling the operation of any aircraft or any motor vehicle in this state shall intentionally kill, chase, or harass any wild animal or wild bird, protected or unprotected. Any person found guilty of violating this section shall be punished by a fine of not to exceed one hundred dollars, or by imprisonment for not to exceed thirty days, or by both such fine and imprisonment.

Approved February 20, 1971

## CHAPTER 242

HOUSE BILL NO. 1359  
(Glaspey, Dick, Moore)

## ISSUANCE OF LOCKING SEAL

AN ACT to amend and reenact subsection 6 of section 20-03-11 of the North Dakota Century Code, to provide for the issuance of a locking seal as part of a big game hunting license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 6 of section 20-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Have issued as an integral part thereof a locking seal, bearing a number corresponding to the number of the big game hunting license or stamp as the case may be; and

Approved March 8, 1971

## CHAPTER 243

HOUSE BILL NO. 1518  
(Walsh, Brekke)

HUNTING AND TRAPPING  
LICENSE FEES

AN ACT to amend and reenact section 20-03-12 of the North Dakota Century Code, relating to the schedule of fees for hunting, fishing and trapping licenses, and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 20-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-12. SCHEDULE OF FEES FOR ALL HUNTING, TRAPPING, OR FISHING LICENSES.) The various hunting, trapping, or fishing license fees shall be as follows:

1. For a resident small game hunting license, the sum of three dollars;
2. For a nonresident small game hunting license, the sum of thirty-five dollars;
3. For a resident big game hunting license, the sum of seven dollars;
4. For a nonresident big game hunting license, the sum of fifty dollars and for a nonresident bow license, the sum of twenty-five dollars;
5. For a resident trapping license, the sum of three dollars;
6. For a nonresident trapping license, the sum of one hundred dollars;

SECTION 2. EFFECTIVE DATE.) This Act shall become effective on January 1, 1972.

Approved March 27, 1971

## CHAPTER 244

HOUSE BILL NO. 1508  
(Miedema)

## FISHING LICENSE FEES

AN ACT to amend and reenact subsections 7, 8, 9, and 10 of section 20-03-12 of the North Dakota Century Code, relating to the schedule of fees for fishing licenses; and to provide for an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 7, 8, 9, and 10 of section 20-03-12 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

7. For a resident fishing license, the sum of four dollars; except that for a resident sixty-five years of age or over, the license fee shall be one dollar;
8. For a nonresident fishing license, the sum of six dollars;
9. For a nonresident short term fishing license, the sum of two dollars;
10. For a resident family fishing license, the sum of five dollars;

SECTION 2. EFFECTIVE DATE.) This Act shall become effective on January 1, 1972.

Approved March 18, 1971

## CHAPTER 245

HOUSE BILL NO. 1376  
(Mushik, Walsh)

SUSPENDING HUNTING  
OR FISHING LICENSES

AN ACT to amend and reenact section 20-03-37 of the North Dakota Century Code, relating to suspension of hunting and fishing licenses, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 20-03-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-03-37. SUSPENSION OF HUNTING OR FISHING PRIVILEGES - SURRENDER AND RETURN OF LICENSE - PENALTY FOR PURCHASE OF LICENSE OR VIOLATION OF SUSPENSION.) Upon conviction of a violation of any of the provisions of this title, in addition to the fine and imprisonment provided, the court may order the suspension of the defendant's hunting or fishing privileges for a period of not to exceed two years.

Upon imposition of such suspension, the court shall require the defendant to surrender any hunting or fishing license or permit then held by him and shall forward the same together with a certified copy of the order of suspension to the game and fish commissioner. Upon expiration of the period of suspension, the game and fish commissioner shall return the defendant's license or permit if it is still valid.

Any person purchasing or attempting to purchase a hunting or fishing license or permit during any period of suspension and any person in any way violating any terms of suspension of his hunting or fishing privileges may be punished by imprisonment in the county jail for not more than thirty days, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

Approved February 26, 1971

## CHAPTER 246

HOUSE BILL NO. 1258  
(Walsh, Dick, Shablow, Henry)

## HUNTING WITH HORSES OR MULES

AN ACT to amend and reenact section 20-05-03 of the North Dakota Century Code, allowing horses and mules to be used in hunting big game.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 20-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-05-03. USING DOGS, HORSES, ARTIFICIAL PLATFORMS, BLINDS, AND ARTIFICIAL LIGHTS IN TAKING BIG GAME UNLAWFUL - EXCEPTION.) No person, for the purpose of hunting, pursuing, killing, taking, or attempting to take, or as an aid in the hunting or taking of, any big game animal, at any time, shall:

1. Use, in any manner, any dog, horse, mule, or other animal, except as provided in this section;
2. Shoot from any artificial platform, scaffold, blind, or other artificial device;
3. Use, in any manner, any artificial light, including spotlights and automobile and motorcycle headlights; or
4. Engage in the practice commonly known as shining for deer, and any person or persons, who shall shine any area, plot, or territory commonly frequented by big game animals with, or by reason of, any artificial light, between the hours of sunset and sunrise, shall be deemed to have violated the provisions of this section, except that any person using a flashlight of not over two cells in the aggregate of three volts as an aid in the taking of raccoon shall not be deemed to have violated this section.

Horses and mules may be used in hunting big game if the horses and mules are not used to flush or drive any big game from any cover or place of rest as an aid to other persons hunting.

Approved March 15, 1971

## CHAPTER 247

HOUSE BILL NO. 1527  
(K. Johnson, Murphy)

CLOSING SEASON  
DUE TO FIRE HAZARD

AN ACT to create and enact subsection 4 of section 20-08-01 of the North Dakota Century Code, relating to emergency closing of hunting seasons; and to amend and reenact section 20-08-04 of the North Dakota Century Code, relating to an exception in the publication of governor's orders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 4 of section 20-08-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

4. That due to climatic conditions a hunting season may create a fire hazard, he, by order, may close or postpone, and re-open, any hunting season in areas where such conditions exist, upon reasonable notice through news media. The emergency closing or postponement and re-opening can be accomplished without complying with section 20-08-04.

SECTION 2. AMENDMENT.) Section 20-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-08-04. PROCLAMATION TO BE PUBLISHED - EXCEPTION - PERIOD PROCLAMATION IS IN EFFECT.) Except as provided in subsection 4 of section 20-08-01, each order or proclamation issued by the governor pursuant to the provisions of this chapter shall be published once in the official newspaper of each county affected thereby. No such order or proclamation shall take effect until after such publication nor shall the same be valid after the closing of the regular session of the legislative assembly next succeeding the date of its issuance.

Approved March 15, 1971

## CHAPTER 248

HOUSE BILL NO. 1195  
(Hensrud)

RELEASING GAME BIRDS  
ON SHOOTING PRESERVES

AN ACT to amend and reenact section 20-17-04 of the North Dakota Century Code, relating to the number of game birds that a shooting preserve may release.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 20-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20-17-04. TYPES OF GAME THAT MAY BE HUNTED ON SHOOTING PRESERVE - IDENTIFICATION OF GAME.) Game birds that may be stocked on a shooting preserve and hunted under this chapter shall be artificially propagated pheasants, quail, partridges, turkeys, prairie chickens, and such other game birds or species thereof as may be allowed by the commissioner. The commissioner shall determine the minimum stock of each species to be hunted and released on the permit area during the shooting preserve season.

All game birds released on a shooting preserve shall be marked prior to release as prescribed by the commissioner by rule or regulation. All mallard ducks released on a shooting preserve shall have the right hind toenails clipped before the birds attain the age of four weeks.

Approved February 26, 1971

# GOVERNMENTAL FINANCE

## CHAPTER 249

SENATE BILL NO. 2063  
(Goldberg, G. Larson, Hernet, Redlin, Van Horn)  
(From Legislative Council Study)

### INTEREST RATES ON GOVERNMENTAL OBLIGATIONS

AN ACT to amend and reenact sections 2-06-10, 15-55-02, 21-01-06, 21-02-02, 21-02-11, 21-03-08, 21-03-09, 21-03-25, subsection 4 of section 23-11-19, sections 23-11-22, 23-24-10, 24-08-07, 40-24-02, 40-24-19, 40-29-15, 40-31-09, 40-33-18, 40-34-03, subsection 1 of section 40-35-08, sections 40-35-09, 40-54-10, subsections 3 and 4 of section 40-58-10, subsection 2 of section 40-61-08, sections 55-08-08, 61-02-47, 61-02-48, 61-02-53, 61-08-07, 61-08-12, 61-08-20, 61-12-38, 61-16-13, 61-16-28, 61-16-32, 61-21-29, 61-21-50, and 61-21-53 of the North Dakota Century Code, to increase the interest rate ceilings on certain bonds, warrants, and certificates of indebtedness of state agencies and political subdivisions to eight percent on issues sold at private sale, to provide that such bond issues and certificates of indebtedness totaling more than one hundred thousand dollars must be sold at public sale, to authorize interest on special assessments equal to that on bonds or warrants for which they are pledged, to provide that there shall not be any interest rate ceiling on issues sold at public sale, and to provide that the interest rate on bond issues shall be computed on the basis of average annual net interest cost.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 2-06-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-06-10. BONDS AND OTHER OBLIGATIONS.) An authority shall have the power to borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at not less than ninety-eight percent of par plus the interest accrued on the bonds to the date of the delivery thereof. Such bonds shall be sold at public sale, except when such obligations do not exceed the total sum of one hundred thousand dollars, and shall bear interest at a rate or rates and be sold at a price resulting in an average annual net interest cost not exceeding

eight per centum per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Any bonds issued pursuant to this chapter by an authority, or by a governing body exercising the powers thereof, shall be payable, as to principal and interest, solely from revenues of an airport or air navigation facility or facilities, and shall so state on their face, but if any such issue of bonds constitutes an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, each bond of the issue shall be an equally valid and binding special obligation of the authority or municipality, as the case may be, in accordance with its terms, in an amount proportionate to the total amount of the issue which is within such limitation or restriction. Neither the commissioners of an authority nor the governing body of a municipality nor any person executing such bonds shall be liable personally thereon by reason of the issuance thereof, except to the extent that the bonds, if constituting an indebtedness, exceed any applicable limitation or restriction.

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

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

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

For the security of any such bonds the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture authorized to be made as security for revenue bonds issued under chapter 40-35. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be made payable from any and all revenues referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities. Whenever bonds are issued under this chapter and made payable from revenues of an airport involving municipalities with over

ten thousand population, the governing body of the municipality shall be required, in the event that at any time all revenues, including taxes, appropriated and theretofore collected for such bonds are insufficient to pay principal or interest then due, to levy a general tax upon all of the taxable property in the municipality for the payment of such deficiency and at any time a deficiency is likely to occur within one year for the payment of principal and interest due on such bonds, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency, and such taxes shall not be subject to any limitation of rate or amount applicable to other municipal taxes, provided that the initial resolution authorizing bonds for airport financing shall be published in the official paper, and any owner of taxable property within the city may within sixty days after such publication file with the city auditor a protest against the adoption of the resolution. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to twenty percent or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under such initial resolution shall be barred.

SECTION 2. AMENDMENT.) Section 15-55-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-55-02. BOARD MAY BORROW MONEY AND ISSUE BONDS - CONDITIONS - BONDS TAX FREE.) For the purpose of paying all or part of the cost of construction, equipment, and furnishing of any such buildings or any addition to existing buildings, or other campus improvements, or in order to refund any outstanding bonds issued for such purpose, the state board of higher education may borrow money on the credit of the income and revenue to be derived from the operation of the said building or buildings or other campus improvements, and, in anticipation of such collections of such income and revenues, may issue negotiable bonds in such an amount as, in the opinion of said board, may be necessary for such purposes, all within the limits of the authority granted by the legislative assembly in each instance, and may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. Such bonds shall be payable serially, and may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding fifty years from their date, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest as may be provided by resolution or resolutions to be adopted by the state board of higher education. Such bonds may be sold in such manner and at such price or prices not less than ninety-eight percent of par plus accrued interest to date

of delivery, as may be considered by the board to be advisable. Such bonds shall be sold at public sale, except when such obligations do not exceed the total sum of one hundred thousand dollars, but the average annual net interest cost to maturity for any bonds issued hereunder shall not exceed eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Any grants agreed to be made by the United States of America or any agency or instrumentality thereof to reduce the interest cost of bonds, whether or not pledged to the payment of the bonds or interest thereon as part of the income and revenue to be derived from the operation of the buildings or improvements pledged to the payment of the issue, shall be considered as a reduction in the interest costs of the bonds with respect to which the grant is made, for purposes of the rate limitations on interest costs provided herein. Such bonds shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota, or by any county, municipality, or political subdivision therein. The board, in its discretion, may authorize one issue of bonds hereunder for the construction, furnishing, and equipment of more than one building or other campus improvement and may make the bonds payable from the combined revenues of all buildings or other campus improvements acquired in whole or in part with the proceeds thereof, and where bonds are so issued the words "the building", as herein used, shall be construed to refer to all the buildings or other campus improvements so acquired.

SECTION 3. AMENDMENT.) Section 21-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-01-06. REGISTRATION OF WARRANTS - RATE OF INTEREST.) Whenever the law authorizes the officers of any taxing district to issue warrants in excess of the amount of cash available in any fund upon which warrants are drawn for payment, the treasurer of such taxing district, when any such warrant is presented to him for payment, if not paid for want of funds, shall endorse the same "Presented for payment this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and not paid for want of funds", and thereupon shall enter such warrant in his warrant register in the order of presentation for registration. The governing body of any such taxing district authorizing the issuance of warrants in excess of cash on hand shall determine the rate of interest which such warrants shall bear, but in the case of counties and cities such rate shall not exceed eight percent per annum from the date of registration until the expiration of the time specified for presentment for payment.

SECTION 4. AMENDMENT.) Section 21-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-02. CERTIFICATES OF INDEBTEDNESS - BY WHOM ISSUED - TERM - INTEREST - TAX WHEN DEEMED LEVIED.) Counties, cities,

townships, school districts, park districts, irrigation districts, water conservation and flood control districts, Garrison diversion conservancy district, county park districts, or joint park districts shall have power to borrow in anticipation of revenues to be derived from taxes already levied. The aggregate amount of such borrowings at any time shall not exceed the amount of uncollected taxes which have been levied during the year in which the borrowing is made, plus uncollected taxes remaining upon the tax lists of the four preceding years, exclusive of levies for the purpose of retiring bond issues and the interest thereon. For the purpose of borrowing, all such taxing districts may issue certificates of indebtedness. A certificate of indebtedness shall consist of an agreement on the part of the taxing district to pay a stated sum on a specified date, or on or before a specified date not more than twenty-four months in the future, together with interest thereon at a rate or rates resulting in an average annual net interest cost not exceeding eight percent per annum if they are sold privately, which may be made payable semiannually. Such certificate shall be signed on behalf of the district by its president or chairman and also by its auditor or secretary, and shall be payable out of funds derived from uncollected taxes levied for the current tax year and four previous years which have not been set aside for the payment of other certificates of indebtedness pursuant to sections 21-02-07, 21-02-08, and 21-02-09. However, a certificate of indebtedness shall be the general obligation of the issuing taxing district.

SECTION 5. AMENDMENT.) Section 21-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-11. ADVERTISING FOR BIDS - WHEN REQUIRED - PROCEDURE SIMILAR TO BOND SALES.) If the governing board of any taxing district determines to borrow upon certificates of indebtedness, it shall follow the procedure and shall be subject to the penalties prescribed in the provisions relating to the sale of bonds. Certificates of indebtedness need not be advertised for bids:

1. If they are sold to the state board of university and school lands, or in case other trust funds administered by public officials are invested in them; or
2. If they do not exceed the total sum of one hundred thousand dollars.

SECTION 6. AMENDMENT.) Section 21-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-08. MAXIMUM INTEREST RATE, MATURITY, AND DENOMINATIONS.) No bonds issued under the provisions of this chapter shall bear interest at a rate or rates and be sold privately at a price resulting in an average annual net interest cost higher

than eight percent per annum. There shall be no interest rate ceiling on those issues sold at public sale. No bonds issued under the provisions of this chapter shall run for a longer period than twenty years from their date. Bonds issued under the provisions of this chapter shall be in denominations of one hundred dollars each, or some multiple thereof. Such bonds shall not bear date earlier than the date of the election authorizing their issuance, if such election is required, nor earlier than the date of the adoption of the resolution of the governing body determining to issue bonds for which no election is required.

SECTION 7. AMENDMENT.) Section 21-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 21-03-09. INITIAL RESOLUTION - FORM.) Proceedings for the issuance of bonds under the authority of this chapter shall be instituted by the adoption of an initial resolution therefor. Such initial resolution shall state:

1. The maximum amount of bonds proposed to be issued.
2. The purpose for which they are proposed to be issued.
3. The assessed valuation of all taxable property in the municipality as defined in section 21-03-01.
4. The total amount of bonded indebtedness of the municipality.
5. The amount of outstanding bonds of the municipality issued for a similar purpose.
6. Any other statement of fact deemed advisable by the governing body of voters proposing the same.

SECTION 8. AMENDMENT.) Section 21-03-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-25. BONDS - ADVERTISED FOR BIDS - EXCEPTION.) No municipality shall sell or enter into any contract for the sale of any issue of its bonds authorized by this chapter in an amount exceeding one hundred thousand dollars, for whatever purpose issued, without first advertising for bids in the manner prescribed by section 21-03-26, except as provided in section 21-03-30, and except that bonds issued under the authorization of section 21-03-06, subsection 2, subdivision g, with the consent of the warrant holders, may be exchanged for matured warrants or matured interest coupons of warrants of the special improvement fund having the deficiency on account of which such bonds are being issued, without such advertising. The par value and accrued interest of the bonds so delivered shall not exceed the par value and accrued interest of the warrants and interest

\*NOTE: Section 21-03-09 was also amended by section 3 of Senate Bill No. 2306, chapter 251.

coupons, and accrued interest thereon, for which they are exchanged.

SECTION 9. AMENDMENT.) Subsection 4 of section 23-11-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The interest rate or rates resulting in an average annual net interest cost, not exceeding eight percent per annum, on those issues which are sold at private sale, which the bonds shall bear;

SECTION 10. AMENDMENT.) Section 23-11-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-22. SALE OF BONDS.) Except as hereinafter provided, bonds issued by an authority shall be sold at a public sale held after a notice has been published at least five days prior to the sale in a newspaper having a general circulation in the city or county, as the case may be, and in a financial newspaper published in the city of New York or in the city of Chicago. There shall be no interest rate ceiling on issues sold at public sale. Such bonds may be sold to the federal government, however, at private sale without public advertisement. Such bonds may also be sold at a private sale when such obligations do not exceed the total sum of one hundred thousand dollars. The bonds shall not be sold for less than ninety-eight percent of par.

SECTION 11. AMENDMENT.) Section 23-24-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-24-10. DISTRICT MAY ISSUE WARRANTS IN ANTICIPATION OF TAXES LEVIED TO PAY CURRENT EXPENSES.) After a vector control district has been established and a board of commissioners has been appointed and organized the board of commissioners may, in order to pay current district expenses including per diem compensation and expenses of commissioners and wages and salaries of officers or employees, by resolution authorize and issue district warrants in anticipation of impending collection and receipt of taxes levied. Such warrants shall bear such rate of interest as the board may determine not exceeding, however, eight percent per annum. The district treasurer shall keep a register in which to enter each warrant issued showing the date and amount of each warrant, the date of payment, and the amount paid in redemption thereof. All warrants shall be paid in order of their presentation for payment to the district treasurer. Such warrants shall be drawn to the claimant or bearer in the same manner as a county warrant and shall be signed by the chairman of the board of commissioners and countersigned by the treasurer of the district. The total amount of such warrants issued in any year to pay current district expenses shall not exceed eighty percent of the district's tax levy for such year.

SECTION 12. AMENDMENT.) Section 24-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-08-07. ISSUANCE OF BONDS TO MEET EXPENSES OF CONSTRUCTION OF BRIDGE.) When one-half, or such other proportion as may be provided, of the cost of a bridge to be constructed as provided in section 24-08-05 shall be provided by any municipality within this state, it may issue bonds for this purpose in accordance with chapter 21-03. In case the limit of indebtedness of such municipality would be exceeded thereby, then it shall be lawful for such municipality to make a sufficient tax levy for general purposes to meet the necessary expenditure in the construction of such bridge, and when the same shall be completed and accepted, the share of the cost thereof to be borne by such municipality shall be paid out of the general fund by orders drawn in the usual form and manner.

SECTION 13 AMENDMENT.) Section 40-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-02. SPECIAL ASSESSMENTS WHEN DUE AND PAYABLE - INTEREST.) All special assessments levied under the provisions of this title may be paid without interest within ten days after they have been approved by the governing body and thereafter shall bear interest at a rate of not exceeding eight percent per annum or not exceeding the average net annual interest rate on any warrants or bonds for the payment of which they are pledged, whichever is higher, on the total amount thereof remaining from time to time unpaid.

SECTION 14. AMENDMENT.) Section 40-24-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-24-19. WARRANTS - ISSUANCE - WHEN PAYABLE - AMOUNTS - TEMPORARY WARRANTS - INTEREST - INTEREST COUPONS - NEGOTIABILITY - ELIGIBILITY AS INVESTMENTS.) The municipality, at any time after making a contract or otherwise providing in accordance with section 40-22-27 for the construction of any improvement to be financed in whole or in part by assessments, under authority of any chapter of this title, or prior thereto but after the period for filing protests against the making of such improvement has expired and the protests filed, if any, have been heard and determined to be insufficient, and in anticipation of the levy and collection of such assessments and of any taxes or revenues derived from service charges pledged to pay for such improvement, may issue warrants on the fund created for such improvement. The municipality shall be responsible to the holders of such warrants for the proper advertisement and award of a contract or contracts or provision by other means for the completion of the improvement, for the acquisition of all land, easements, licenses, and permits required for such completion, and for the

valid and final levy of special assessments upon all properties within the improvement district to be benefited by the improvement, in an aggregate principal amount equal to the total cost of the improvement as finally ascertained, less the portions thereof, if any, determined to be paid from taxes, service charges, and any other source; and the issuance of such warrants shall import a representation and covenant binding upon the municipality, that the aggregate benefits to be derived from the making of the improvement by the properties to be assessed therefor, are not less than the aggregate amount of the special assessments so required to be levied. The warrants shall be issued and shall mature in such amounts as in the judgment of the governing body will be provided for, at or before the maturity dates specified, by the taxes and assessments to be levied and spread and the revenues pledged therefor; except that in lieu of issuing definitive warrants on any such fund, the governing body may by resolution authorize the issuance and sale of temporary warrants maturing in not to exceed three years from the date of issue of the first such warrant, to be repaid with interest from the proceeds of definitive warrants maturing as hereinabove required, which the governing body shall issue and sell at or before the maturing date of said temporary warrants, in the amount required, with moneys theretofore received in such fund, to pay the total cost of the improvement and all temporary warrants theretofore issued on the fund, with interest then accrued thereon. Such warrants shall bear interest at a rate or rates and shall be sold at a price, not less than ninety-eight percent of par, resulting in an average annual net interest cost not to exceed eight percent per annum payable annually or semiannually, except that there shall be no interest rate ceiling on an issue sold at public sale. The definitive warrants may bear interest at a rate or rates higher or lower than those borne by the temporary warrants, as determined by the governing body in effecting the sale thereof. In the sale of temporary warrants, the municipality may by resolution of the governing body agree to issue to the holder or holders thereof definitive warrants upon specified terms as to interest, maturity, redemption provisions, and all other pertinent details, in the event that the municipality is unable to sell definitive warrants to others upon more favorable terms. Coupons representing the interest for each year or lesser period may be attached to the warrants, whether definitive or temporary. All such warrants shall be negotiable within the meaning of and for all the purposes specified in title 41, and, to the same extent as general obligation bonds of the issuing municipality, shall be valid investments of the funds of any guardian, trustee, and other fiduciary of any kind or nature, any insurance company, bank, or other financial institution, any charitable, educational, or eleemosynary institution, and any public corporation or official, municipality, school district, or other political subdivision, including bond sinking funds, special improvement funds, municipal utility funds, and funds of the state of North Dakota and its instrumentalities and agencies.

SECTION 15. AMENDMENT.) Section 40-29-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-15. WARRANTS - PAYABLE - INTEREST - INTEREST COUPONS - CONTENTS - SIGNED - DENOMINATIONS - USES.) All sidewalk assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than eight percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used in making payment on contracts for making the improvements or may be sold for cash at not less than the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

SECTION 16. AMENDMENT.) Section 40-31-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-31-09. WARRANTS - PAYABLE - INTEREST COUPONS - CONTENTS - DENOMINATIONS - USES.) All curbing assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than eight percent per annum, payable annually, and may have coupons attached representing each year's interest. The warrants shall state upon their face the purpose for which they were issued and the fund from which they are payable and shall be signed by the executive officer of the city, and countersigned by the city auditor under the seal of the city, and be in denominations of not more than one thousand dollars each. Such warrants may be used in making payments on contracts for making the improvements or may be sold for cash at not less than the par value thereof and the proceeds credited to the special fund and used to pay for such improvements.

SECTION 17. AMENDMENT.) Section 40-33-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33-18. RESOLUTION AUTHORIZING CONTRACT - PAYMENT SOLELY THROUGH NET REVENUE - ISSUANCE OF REVENUE BONDS OR OF CERTIFICATES EVIDENCING INDEBTEDNESS UNDER CONTRACT.) Any such contract shall be authorized by resolution or resolutions duly adopted by the governing body of the city. Such resolutions and contract shall provide that the cost of the plant shall be paid solely out of the net revenue thereof, to be derived from

special rates and charges imposed and collected for the service thereof to users of the municipal waterworks system, after payment of the reasonable and current expenses of operation and maintenance of such plant. The governing body may provide for the payment of such cost by the issuance of revenue bonds in accordance with the provisions of chapter 40-35, which bonds may be sold as provided in said chapter or may be delivered to the contractor in payment of the contract price, or it may be provided in said resolutions and contract that such price shall be payable in stated installments over a period not exceeding ten years, with interest at a rate not exceeding eight percent per annum, payable annually or semiannually. Said payments may be evidenced by certificates executed by the executive and recording officers and sealed with the corporate seal of the city, and such certificates may have interest coupons attached.

SECTION 18. AMENDMENT.) Section 40-34-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-34-03. MORTGAGES AND MORTGAGE BONDS - ISSUANCE OVER DEBT LIMIT - NOT GENERAL OBLIGATIONS - VOTE REQUIRED TO ISSUE - CONDITIONS.) Municipalities may issue mortgage bonds beyond the general limits of the bonded indebtedness prescribed by law for the purpose of defraying the cost, or a part thereof, of a sewage disposal plant and system or of a garbage disposal plant in accordance with the provisions of section 40-34-02. Such bonds shall not impose any general liability upon the issuing municipality but shall be paid only out of the revenues received from the service charges as provided in this chapter or from the sale of the property under foreclosure of the mortgage or deed of trust. Such bonds shall be sold at public sale, except when such obligations do not exceed the total sum of one hundred thousand dollars. Such bonds shall be sold for not less than ninety-eight percent of par and shall bear interest at a rate or rates resulting in an average annual net interest cost of not more than eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. No such bonds shall be issued, however, except upon the affirmative vote of three-fifths or more of the members of the governing body of the issuing municipality, and the form, recitals, maturities, rate of interest, and whether the bonds shall be payable annually or semiannually, shall be determined by the same vote. A municipality is authorized to execute and deliver any mortgage or deed of trust contemplated under the provisions of this chapter.

SECTION 19. AMENDMENT.) Subsection 1 of section 40-35-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The rate or rates of interest, payable semiannually, resulting in an average annual net interest cost not exceeding eight percent per annum on those issues

which are sold at private sale, which such bonds shall bear;

SECTION 20. AMENDMENT.) Section 40-35-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*40-35-09. SALE OF REVENUE BONDS - WHEN PRIVATE SALE AUTHORIZED - PUBLIC SALE AND NOTICE THEREOF.) Revenue bonds shall be sold at not less than ninety-eight percent of par. Such bonds may be sold at private sale to the United States of America or any agency, instrumentality, or corporation thereof, or to the state of North Dakota or any agency or instrumentality thereof. Unless the bonds are sold to the United States, to an agency, instrumentality, or corporation thereof, to the state of North Dakota, or to an agency or instrumentality thereof, or unless such obligations do not exceed the total sum of one hundred thousand dollars, such bonds shall be sold at public sale after notice of such sale has been published once at least five days prior to such sale in a newspaper circulating in the municipality, and in a financial newspaper published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Francisco, California. There shall be no interest rate ceiling on issues sold at public sale.

SECTION 21. AMENDMENT.) Section 40-54-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-54-10. GRAVEL ASSESSMENT WARRANTS - HOW PAID - INTEREST - CONTENTS.) All gravel assessment warrants shall be payable as specified and in such amounts as in the judgment of the governing body will be provided by such special assessments. Such shall bear interest at a rate of not more than eight percent per annum, and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued, and from what fund they are payable, and shall be signed by the executive officer and countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. Such warrants shall be used in making payment on the contract for the furnishing of gravel, or may be sold for cash at not less than par value thereof, and the proceeds credited to the special fund and used to pay for such gravel project.

SECTION 22. AMENDMENT.) Subsections 3 and 4 of section 40-58-10 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or

\*NOTE: Section 40-35-09 was also amended by section 2 of Senate Bill No. 2354, chapter 409.

- mature at such time or times, bear interest at such rate or rates, resulting in an average annual net interest cost not exceeding eight percentum per annum on those issues which are sold at private sale. Such bonds shall be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without premium, be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.
4. Such bonds may be sold at not less than par at public sales held after notice published prior to such sale in a newspaper having a general circulation in the area of operation and in such other medium of publication as the municipality may determine or may be exchanged for other bonds on the basis of par, provided that such bonds may be sold to the federal government at private sale at not less than par, and, in the event less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at private sale at not less than par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government. Such bonds may also be sold at private sale if such obligations do not exceed the total sum of one hundred thousand dollars. There shall be no interest rate ceiling on issues sold at public sale.

SECTION 23. AMENDMENT.) Subsection 2 of section 40-61-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The bonds shall be authorized by resolution of the board and shall bear such date or dates, mature at such time or times, not exceeding thirty years from their respective dates, bear interest at such rate or rates, resulting in an average annual net interest cost not exceeding eight percent per annum payable annually or semiannually on those issues which are sold at private sale, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price

or prices as the authority shall determine. There shall be no interest rate ceiling on those issues sold at public sale.

SECTION 24. AMENDMENT.) Section 55-08-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-08-08. STATE PARK REVENUE BONDS.) For the purpose of paying all or part of the cost of acquisition, construction, reconstruction, improvement, betterment, or extension of park properties for state parks, state campgrounds, state recreation areas and reserves, as described in section 55-08-07, subsection 2, which may, from time to time, be authorized by the legislative assembly of the state of North Dakota, the money may be borrowed on the credit of the revenues to be received in the state park fund. Such borrowing shall be authorized by a board consisting of the governor, the treasurer, and the director of state parks, by resolution or resolutions duly adopted by the vote of a majority of all members of such board. In anticipation of the collections of such revenues, negotiable bonds may be issued in such amount as, in the opinion of the board, may be necessary for such purpose, within the limits of the authority granted by the legislative assembly in each instance, and the board may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. The bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their date, may be in such denomination or denominations, may be in such form, either coupon or fully registered or registered as to ownership or principal, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest, resulting in an average annual net interest cost not exceeding eight percent per annum on those issues which are sold at private sale, as may be provided by resolution or resolutions to be adopted by the board, subject to the further provisions of this section. Such bonds may be sold in such manner and at such price or prices, not less than ninety-eight percent of par plus accrued interest to date of delivery, as may be considered by the board to be advisable. There shall be no interest rate ceiling on those issues sold at public sale. Such bonds shall have all of the qualities and incidents of negotiable paper, and such bonds and the income therefrom shall be exempt from any taxes, except inheritance, estate, and transfer taxes. The board may in its discretion authorize one series of bonds hereunder for more than one project, at more than one state park, state campground, state recreation area or reserve. It may also issue series of bonds hereunder for the refunding of outstanding bonds issued hereunder when such action is desirable in its judgment and is consistent with the terms of the resolution or resolutions authorizing the outstanding bonds.

SECTION 25. AMENDMENT.) Section 61-02-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-47. WHEN BONDS TO MATURE - CALLABLE BEFORE MATURITY.) The bonds which may be issued by the commission shall mature at such time or times, either serially or at one time, in not more than thirty years from their date, or dates, as may be fixed by the resolution of the commission, but may be made callable before maturity, if so stated in the resolution and on the face of each bond, upon thirty days' notice, which shall be published once in a newspaper of general circulation published in Burleigh County.

SECTION 26. AMENDMENT.) Section 61-02-48 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-48. COMMISSION TO DETERMINE INTEREST RATE, FORM, DENOMINATION AND EXECUTION OF BONDS.) The commission shall determine the rate of interest bonds issued under the provisions of this chapter shall bear, the time or times of payment of such interest, the form of the bonds and the interest coupons to be attached thereto, and the manner of executing the bonds and coupons, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereon, which may be at any bank or trust company within or without this state. Such bonds shall be sold at public sale, except when such obligations do not exceed the total sum of one hundred thousand dollars, and shall be sold at a price resulting in an average annual net interest cost not exceeding eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale.

SECTION 27. AMENDMENT.) Section 61-02-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-53. ISSUANCE AND SALE OF BONDS - PROCEEDS FROM SALE - US3.) The bonds authorized under the provisions of this chapter may be issued and sold from time to time, and in such amounts as may be determined by the commission. The commission may, subject to the provisions of section 61-02-48, sell the bonds in such manner and for such price as it may determine to be for the best interests of the state, but no such sale shall be made for less than the par value of each bond. The proceeds of such bonds shall be used solely for the payment of the cost of the works or the cost of acquiring lands and preparing or developing such lands for irrigation, as the case may be, and shall be paid out in such manner and under such restrictions as the commission may provide.

SECTION 28. AMENDMENT.) Section 61-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-07. BONDS PAYABLE TO WHOM - INTEREST COUPONS - RATE OF INTEREST - NUMBERING.) Every bond provided for in this chapter shall be a negotiable instrument payable to "bearer" or to the "bearer or registered owner", with interest coupons attached, payable annually or semiannually, at a rate or rates resulting in an average annual net interest cost which shall not exceed eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Each bond shall specify the time and place of payment of the principal and shall be numbered consecutively with the other bonds of the same issue, which shall begin with number one, or with any other number, as the board may direct, and shall continue upward.

SECTION 29. AMENDMENT.) Section 61-08-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-12. ADVERTISING REQUIRED BEFORE DISTRICT SELLS ISSUE OF BONDS - CONTENTS OF NOTICE - WHO TO RECEIVE NOTICE.) No irrigation district shall enter into any contract for the sale of any issue of its bonds which exceeds the total sum of one hundred thousand dollars without first advertising for bids in the manner prescribed in this section. A notice calling for bids shall be published at least once in the official paper of one of the counties in which the district is situated not less than fifteen days nor more than thirty days before the date specified therein for receiving such bids. Such notice may be in any form but shall specify the amount of bonds offered for sale and the date or dates of the maturity thereof, and such notice shall specify that the bids shall be sealed and in writing, and shall state the time when and place where such bids will be received and will be opened. A copy of such notice shall be mailed to the tax commissioner at Bismarck not less than ten days before the date specified for the opening of bids. Failure to publish such notice or to send a copy thereof to the tax commissioner shall not impair the validity of such bonds but shall render unenforceable any executory contract entered into for the sale thereof.

SECTION 30. AMENDMENT.) Section 61-08-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-20. INTEREST ON WARRANTS - SIGNATURES - CONTENTS.) District improvement warrants shall bear interest at such rate as the board may determine, not to exceed eight percent per annum, and may have coupons attached representing each year's interest or each half-year's interest. Such warrants shall be signed by the chairman and countersigned by the secretary, shall bear the seal of the district, shall be in denominations of not more than one thousand dollars each, and shall be numbered consecutively with the other warrants issued for the same purpose. Each warrant, on the face thereof, shall state the purpose for

which issued. Such warrants shall be payable in lawful money of the United States.

SECTION 31. AMENDMENT.) Section 61-12-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-12-38. INTEREST RATE OF BONDS.) Flood irrigation bonds issued as provided in this chapter shall bear interest at a rate or rates resulting in an average annual net interest cost not exceeding eight percent on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Interest and principal may be payable under the amortization plan over a period of not to exceed twenty years, or the principal may be divided into such amounts and made payable at such periods, not exceeding twenty years, as the board of county commissioners may determine.

SECTION 32. AMENDMENT.) Section 61-16-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-13. DISTRICT MAY ISSUE WARRANTS IN ANTICIPATION OF TAXES LEVIED TO PAY CURRENT EXPENSES.) After a water conservation and flood control district has been established and a board of commissioners has been appointed and organized, the board of commissioners may, in order to pay current district expenses including per diem, compensation, and expenses of commissioners and wages or salaries of officers and employees, by resolution authorize and issue district warrants in anticipation of and pending collection and receipt of taxes levied. Such warrants shall bear such rate of interest as the board may determine, not exceeding, however, eight percent per annum. The district treasurer shall keep a register in which to enter each warrant issued, showing the date and amount of each warrant, the date of payment, and the amount paid in redemption thereof. All warrants shall be paid in order of their presentation for payment to the district treasurer. Such warrants shall be drawn to the claimant or bearer in the same manner as a county warrant, and shall be signed by the chairman of the board of commissioners and countersigned by the treasurer of the district. The total amount of such warrants issued in any year to pay current district expenses shall not exceed eighty percent of the district's tax levy for such year.

SECTION 33. AMENDMENT.) Section 61-16-28 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*61-16-28. CERTIFICATION OF ASSESSMENTS TO COUNTY AUDITOR.) When a district board of commissioners has by resolution levied, or caused to be levied, special assessments to cover the cost of constructing a water conservation or flood control project, the board shall determine the rate of interest unpaid special assessments shall bear, which rate shall not exceed eight percent

\*NOTE: Section 61-16-28 was also amended by section 7 of House Bill No. 1271, chapter 589.

per annum and shall not be less than the warrant rate. Interest on unpaid special assessments shall commence on the date the assessments are finally confirmed by the board. Special assessments may be certified and made payable in equal annual installments, the last of which shall be due and payable not more than thirty years after date of the warrants to be paid. The secretary of the district shall certify to the county auditor of the county in which the district is situated, or if the district embraces lands situated in more than one county, to the county auditor of each county in which district lands subject to such special assessments are situated, the total amount levied against such lands in his county and the proportion or percentage of such amount assessed against each piece, parcel, lot, or tract of land. The secretary of the district shall also file with the county auditor of each county in which district lands lie a statement showing the cost of the project, the part thereof, if any, which will be paid out of general taxes, and the part to be financed by special assessments. Funds needed to pay the cost of maintaining a water conservation or flood control project may be raised in the same manner as funds were raised to meet construction costs. If the project was financed in whole or in part through the use of special assessments the board of commissioners shall prorate the costs of maintaining projects in the same proportion as were the original costs of construction or, in the event a reassessment of benefits has been adopted, the costs shall be prorated in accordance with the reassessment of benefits as authorized by section 61-16-26.1.

SECTION 34. AMENDMENT.) Section 61-16-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 61-16-32. WARRANTS - ISSUANCE - WHEN PAYABLE - AMOUNTS - INTEREST - INTEREST COUPONS.) A water conservation and flood control district may, at any time after entering into a contract for a water conservation or flood control project to be financed in whole or in part by special assessments, and in anticipation of the levy of such assessments and taxes, if any, issue warrants on the project fund, created for that purpose, payable at specified times, except that the first maturity date of any such warrant shall not be less than two years from the date of issuance. The warrants shall be issued in such amounts as in the judgment of the district's board of commissioners will be necessary after the taxes and assessments have been levied and spread for such project. Such warrants shall bear interest at a rate of not to exceed eight percent per annum, payable annually or semiannually. Coupons evidencing the interest for each year or half-year, as the case may be, may be attached to the warrants payable in whole or in part out of special assessments, shall state upon the face thereof the purpose for which issued and the project fund from which they are payable, and shall be signed by the chairman of the board of commissioners and countersigned by the secretary of the district. Such warrants shall be in denominations of not more than one thousand dollars each. Such

\*NOTE: Section 61-16-32 was also amended by section 8 of House Bill No. 1271, chapter 589.

warrants shall be payable serially in such amounts as the board shall determine, extending over a period of not more than thirty years.

SECTION 35. AMENDMENT.) Section 61-21-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-29. PAYMENT OF COSTS AND EXPENSES OF LOCATING, CONSTRUCTING, MAINTAINING, AND IMPROVING DRAIN - WARRANTS ISSUED.) Payment of all expenses and costs of locating and constructing any drain shall be made upon order of the board and warrants therefor shall be signed by the chairman and one other member of the board. All warrants drawn by the board in payment of items of expense of a drain shall be payable from the proper drain fund and shall be accepted by the treasurer in payment of taxes levied in regard to such drain. All such warrants, after presentation to the county treasurer for payment, if not paid for want of funds, shall be registered by him and thereafter bear interest at a rate not to exceed eight percent per annum. The county commissioners, by proper resolution, are authorized to purchase drainage warrants from general county funds in instances where such warrants will be funded by a bond issue within six months from the date of purchase.

SECTION 36. AMENDMENT.) Section 61-21-50 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-50. DRAIN WARRANTS - TERMS AND AMOUNTS.) Drain costs shall be paid upon order of the board by warrants signed by the chairman and one other member of the board. Such warrants shall be payable from the proper drain fund and, upon maturity, shall be receivable by the treasurer for drain assessments supporting such fund. Such warrants may be issued at any time after the order establishing the drain has become final and after incurring liability to pay for any drain work to be financed by drain assessments and in anticipation of levy and collection of such assessments. Every such warrant not made payable on demand shall specify the date when it shall become payable. Demand warrants not paid for want of funds shall be registered by the county treasurer and shall thereafter bear interest at a rate determined by the board, not exceeding eight percent per annum. Warrants of specified maturities shall bear interest according to their provisions at a rate not exceeding eight percent per annum, payable annually or semiannually, and may be made and issued with interest coupons attached. All drain warrants shall state upon their face the purpose for which they are issued and the drain fund from which they are payable, and shall be in denominations of not more than five thousand dollars each. Such warrants may be used to pay drain obligations, or may be sold at not less than par value, provided that the proceeds of warrants sold shall be placed in the proper drain fund and used exclusively for drain expenses. Any unpaid warrants issued for the

acquisition of right-of-way or the construction of any drain, including all incidental costs in connection therewith, shall be funded by a bond issue within one hundred eighty days from and after the filing of the assessment of all such costs with the county auditor as provided in section 61-21-27, but such requirement shall not be construed as prohibiting the funding of warrants or the issuance of bonds after such one hundred eighty-day period.

SECTION 37. AMENDMENT.) Section 61-21-53 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-53. DRAIN BONDS.) The board may issue bonds to finance acquiring drain right-of-way, locating and constructing drains, and funding unpaid drain warrants heretofore issued, or issued hereafter under the provisions of this chapter. Drain bonds issued in whole or in part to finance expenditures for which warrants have not been issued shall not be authorized until after firm contracts for projected drain work have been made and proper undertakings therefor have been executed and filed, or until after the drain work has been completed. Proceedings for the issuance of such bonds shall be initiated by the adoption of a preliminary resolution of the board which shall include information and findings as follows:

1. The maximum amount of drain bonds proposed to be issued.
2. The maximum interest rate such bonds shall bear.
3. Designation of the calendar years in which such bonds shall mature.
4. The complete name of the drain for which such bonds are to be issued.
5. The purpose or purposes for which the proceeds of the bonds will be used including the total amount of drain warrants to be bought with such proceeds.

When such preliminary resolution has been duly adopted by the board, the board shall proceed to have the text thereof published in a legal newspaper of general circulation in the locality in which the particular drain is situated, and there shall be published with and as a part of such text a statement that from and after the expiration of thirty days next following the date of the first printing of such text, no action may be commenced or maintained, and no defense or counterclaim may be recognized in the courts of this state to question or impair the drain warrants resolved to be funded, or the drain assessments supporting such warrants. There shall also be included in such publication the further statement that a complete list identifying the drain warrants proposed to be funded has been filed in

the office of the county auditor of the county or counties in which the affected lands are located. Such publication shall be made once each week for three successive weeks and proper proof thereof shall be filed with the board. The validity and enforceability of any drain warrant or of any assessment supporting the same shall not be vulnerable to attack in the courts of this state unless an appropriate action or proceeding is commenced or a defense or counterclaim is served within thirty days next following the date of first printing of such publication. It shall be the duty of the board to cause to be prepared and filed with the auditor of the proper county or counties a complete list identifying the drain warrants proposed to be funded by such bonds, and such list, or true copies thereof, shall be so filed prior to the date of first printing of said preliminary resolution. Within a reasonable time, and more than thirty days after the first printing of such preliminary resolution, the board may proceed to authorize the preparation and sale of drain bonds in accordance with such resolution. Such bonds shall bear interest at a rate or rates resulting in an average annual net interest cost not to exceed eight percent per annum on those issues which are sold at private sale. There shall be no interest rate ceiling on those issues sold at public sale. Such bonds shall contain a provision that interest thereon shall cease at maturity unless the holder shall present the same for payment and payment is refused, shall designate the fund from which they are payable, and shall be offered for sale and sold as provided in chapter 21-03, for the offering and sale of general obligation bonds of governmental subdivisions of this state. Wherever drain bonds are issued for drain warrants, such bonds in the appropriate amount may be exchanged for such warrants, but the basis of exchange shall be such that the average annual net rate of interest on the bonds will not exceed the rate on the warrants refunded. Drain warrants purchased with the proceeds of bonds shall not be canceled but shall be retained by the board as assets of the drain fund from which such warrants are payable. Such fund shall be continued and payments therefrom shall be made on the warrants drawn thereon without reference to the bond issue, but all such payments shall be placed in the fund from which the bonds are payable and shall be applied to service such bonds and to pay the interest thereon. Bonds issued by drainage districts shall be eligible for purchase by the various trust funds of the state of North Dakota and its instrumentalities.

Approved March 29, 1971

## CHAPTER 250

HOUSE BILL NO. 1549  
(Dornacker)

ANTICIPATORY CERTIFICATES  
OF INDEBTEDNESS

AN ACT to create and enact a new section to chapter 21-02 of the North Dakota Century Code, relating to the issuance of certificates of indebtedness by a political subdivision in anticipation of the revenue it will receive as personal property tax replacement revenue pursuant to section 57-58-01 of the North Dakota Century Code, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. CERTIFICATES OF INDEBTEDNESS IN ANTICIPATION OF REVENUE TO BE RECEIVED FROM THE STATE.) Any political subdivision which will receive a distribution of revenue pursuant to section 57-58-01 during any calendar year shall, in anticipation of such revenue, have power to borrow not more than the amount it will receive from that source during that year. For the purpose of borrowing, all such political subdivisions may issue certificates of indebtedness.

A certificate of indebtedness shall provide for payment by the political subdivision of a stated sum on a specified date, or on or before a specified date not more than six months in the future, together with interest thereon at a specified rate not exceeding seven percent per annum. Such certificate shall be payable out of the revenue received pursuant to section 57-58-01 but shall, however, be a general obligation of the issuing political subdivision.

For the purpose of administering the provisions of this section, all of the provisions of this chapter, to the extent consistent herewith, that relate to signing and issuance of certificates of indebtedness, the certificate of the county auditor on the certificates of indebtedness, the registration of certificates of indebtedness, certifying the amount to be received from the state by a political subdivision for the year, setting aside the amount to be received for payment of the certificates, order of payment of such certificates, except for municipalities over four thousand in population, and advertising for bids shall govern the administration of the provisions of this section.

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

Approved March 27, 1971

## CHAPTER 251

SENATE BILL NO. 2306  
(Sanstead)

## MUNICIPAL BONDS

AN ACT to amend and reenact subsection 7 of section 21-03-06 and sections 21-03-07, 21-03-09, 21-03-15, 21-03-18, 21-03-19, and 21-03-28 of the North Dakota Century Code, relating to municipal bonds, and modifying procedures with respect thereto.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 7 of section 21-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. By any municipality as herein defined:
  - a. For the purpose of paying any final judgment obtained against the municipality within the state of North Dakota in case the governing body does not deem it advisable to pay such judgment out of current revenues. In case the bonds authorized by this subsection cannot be sold in accordance with this chapter, they may be issued to the judgment creditor in payment of such judgment;
  - b. To provide necessary funds for the payment of the principal and interest of bonds of such municipality, due or about to become due, for the payment of which the municipality has not sufficient funds, but only to the extent of such deficit; or to refund outstanding bonds of the municipality which are called for redemption and prepayment in accordance with their terms, or by the consent of the holders thereof, within six months from the date of the refunding bonds, when in the judgment of the governing body the best interests of the municipality will be served thereby, through the reduction of interest cost or the extension of maturities.
  - c. To refund outstanding bonds not yet due or to become due or subject to redemption and prepayment within six months, when in the judgment of the governing body the best interests of the municipality

will be served thereby, through the reduction of interest costs or the extension or adjustment of maturities in relation to the resources available for their payment. The proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or, if it is prepayable, to the earliest prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such bond at maturity or, if prepayable, at its earliest redemption date; and any premium required for redemption on such date; and the governing body's resolution authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all investments thereof, which shall be held in safekeeping by the escrow agent, and all income therefrom, and shall provide for the call for redemption of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: Banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds. Moneys on hand in the sinking fund maintained for the payment of the outstanding bonds, and not immediately needed for the payment of interest or principal due, may likewise be deposited in the escrow fund and invested in the same manner as the proceeds of the new bonds, to the extent consistent with the provisions of resolutions authorizing the outstanding bonds.

SECTION 2. AMENDMENT.) Section 21-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-07. ELECTION REQUIRED - EXCEPTIONS.) No municipality, and no governing board thereof, except school districts, shall issue bonds without being first authorized to do so by a vote equal to sixty-six and two-thirds percent, in the case of municipalities having a population of less than five thousand, or

a vote of sixty percent in the case of municipalities having a population of five thousand or more, of all the qualified voters of such municipality voting upon the question of such issue except:

1. As otherwise provided in section 21-03-04.
2. The governing body may issue bonds of the municipality for the purpose and within the limitations specified by section 21-03-06, subsection 2, subdivision g, and section 21-03-06, subsection 7, without an election.
3. Any municipality, as defined and listed in section 21-03-06, may issue its bonds for the replacement of municipally owned public buildings within such municipality upon the authorization of sixty percent of the electors voting upon the question of such issue in the following cases:
  - a. When such building has been destroyed by fire, wind, explosion, or other cause.
  - b. When, after a public hearing, the governing body of such municipality shall adopt a resolution declaring it necessary to replace a municipally owned public building for the reason that such building has become unsafe or inadequate for use and occupancy as a public building, or for keeping the public records or property of such municipality housed therein. The governing body of such municipality shall give notice of such public hearing by a statement published once each week for two successive weeks in any legal newspaper published within such municipality, or in the official county newspaper, if the municipality is the county, or if no newspaper is published within such municipality then by publication in the official newspaper of the county, and by posting a statement in five separate public places within the municipality. Such statement shall set forth the time and place of the hearing and the reasons therefor.
4. The governing body of any municipality having a population of five thousand or more may issue bonds of the municipality for the purpose of providing funds to meet its share of the cost of any federal aid highway project undertaken under an agreement entered into by authority of such governing body with the United States government, the commissioner of the state highway department, the board of county commissioners, or any of them, including, but without limitation, the cost of any construction, improvement, financing, planning, and acquisition of right-of-way of a federal aid highway routed through the municipality and of any

bridges and controlled access facilities thereon and any necessary additional width or capacity of the roadway thereof greater than that required for federal or state highway purposes, and of any necessary relaying of utility mains and conduits, curbs and gutters, and the installation of utility service connections and street lights; provided that the portion of the total cost of such project to be paid by the municipality under such agreement, including all items of cost incurred directly by the municipality and all amounts to be paid by it for work done or contracted for by other parties to the agreement, shall not exceed a sum equal to twenty-five percent of the total cost, including engineering and other incidental costs, of all construction and reconstruction work to be done plus fifty percent of the total cost of all right-of-way to be acquired in connection therewith. Nothing herein shall be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments or utility revenues any work incidental to any such project, in the manner and to the extent otherwise permitted by law, and the cost of any work so financed shall not be included in computing the portion of the project cost payable by the municipality, within the meaning of this subsection, unless such work is actually called for by the agreement between the municipality and the other governmental agencies involved.

5. The governing body of any city may also by resolution adopted by a two-thirds vote authorize and issue general obligation bonds of the city for the purpose of providing funds to pay the cost of any improvement of the types stated below, to the extent that the governing body determines that such cost should be paid by the city and should not be assessed upon property specially benefited thereby; provided that the initial resolution authorizing such bonds shall be published in the official paper, and any owner of taxable property within the city may within sixty days after such publication file with the city auditor a protest against the adoption of the resolution. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under such initial resolution shall be barred. This procedure is authorized for the financing of the following types of improvements:
  - a. Any street improvement, as defined in subsection 2 of section 40-22-01, to be made in or upon any federal or state highway or any other street

designated by ordinance as an arterial street.

- b. The construction of a bridge, culvert, overpass, or underpass at the intersection of any street with a stream, watercourse, drain, or railway, and the acquisition of any land or easement required for that purpose.
- c. Any improvement incidental to the carrying out of an urban renewal project, the issuance of bonds for which is authorized by subsection 4 of section 40-58-13.

Nothing herein shall be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments or utility revenues any work incidental to any such improvement, in the manner and to the extent otherwise permitted by law.

6. The school board of any school district may issue bonds of the municipality for the purposes and within the limitations specified by section 21-03-06, subsection 4, upon the authorization of sixty percent of the electors voting upon the question of such issue.

All questions of population shall be governed by the last state or federal census.

SECTION 3. AMENDMENT.) Section 21-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*21-03-09. INITIAL RESOLUTION - FORM.) Proceedings for the issuance of bonds under the authority of this chapter shall be instituted by the adoption of an initial resolution therefor. Such initial resolution shall state:

1. The maximum amount of bonds proposed to be issued.
2. The purpose for which they are proposed to be issued.
3. The assessed valuation of all taxable property in the municipality as defined in section 23-03-01.
4. The total amount of bonded indebtedness of the municipality.
5. The amount of outstanding bonds of the municipality issued for a similar purpose.
6. Any other statement of fact deemed advisable by the governing body of voters proposing the same.

\*NOTE: Section 21-03-09 was also amended by section 7 of Senate Bill No. 2063, chapter 249.

SECTION 4. AMENDMENT.) Section 21-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-15. DIRECT, ANNUAL, IRREPEALABLE TAX.) The governing body of every municipality issuing bonds under the authority of this chapter, before the delivery thereof, shall levy by recorded resolution or ordinance a direct, annual tax which, together with any other moneys provided by, or sources of revenue authorized by, the legislative assembly, shall be sufficient in amount to pay, and for the express purpose of paying, the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The municipality shall be and continue without power to repeal such levy or levies or to obstruct the collection of any such tax until such payments have been made or provided for, except that if the governing body in any year makes an irrevocable appropriation to the sinking fund of moneys actually on hand, or if there is on hand in the sinking fund an excess amount, the governing body may cause its recording officer to certify the fact and amount to the county auditor with the direction that the county auditor should reduce by the amount so certified the amount otherwise to be included in the tax rolls next thereafter prepared. A copy of such resolution or ordinance shall be certified to and filed with the county auditor, and after the issuance of such bonds, any such tax on property from year to year shall be carried into the tax roll of the municipality and collected as other property taxes are collected. No further annual levy for that purpose shall be necessary. The governing body may, in its discretion and in anticipation of the sale of bonds, at any time after the issuance of bonds has been authorized by the electors or by resolution of the governing body where no election is required, levy and certify to the county auditor for collection a portion of the tax herein required, which shall be credited against the amount otherwise required to be levied after the bonds have been sold. Any other tax or source of revenue authorized by the legislative assembly for such purposes and imposed or pledged by the municipality for those purposes shall likewise be irrepealable and subject to the same conditions and limitations as any taxes levied on property for the same purposes. Any annual or periodic amounts provided for the municipality issuing such bonds by the legislative assembly out of state funds for paying the interest and principal of such bonds shall constitute an irrepealable and continuing appropriation until the liability for all interest and principal payments of the bonds have been satisfied. When insufficient funds are available to pay the matured bonds, the county auditor shall notify the governing body of such municipality of such deficiency and the governing body thereupon may levy a direct tax on the taxable property to pay said deficiency and interest thereon. If the governing body of the issuing municipality no longer exists, the county auditor shall levy a direct tax against the taxable property in the original issuing municipality to pay said deficiency and the interest thereon. The manner of levy, certification, and collection of said tax

shall be the same as provided by this section for the levy, certification, and collection of taxes by this section. When such bonds are further sustained by revenue of a revenue producing utility, industry, or enterprise, said resolution or ordinance may provide that the tax to be levied and assessed may be reduced by such amount and under such conditions as shall be determined in said resolution or ordinance so long as adequate provision is always made for the payment of such bonds and interest thereon.

SECTION 5. AMENDMENT.) Section 21-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-18. FORM AND CONTENTS OF BONDS.) Every municipal bond shall be a negotiable instrument payable to bearer, or to bearer or the registered owner, with interest coupons attached payable annually or semiannually at the rate or rates specified in the accepted bid for the purchase of said bonds. Each bond shall specify the time and place for payment of the principal and interest, and shall be numbered consecutively with the other bonds of the same issue, which shall begin with number one and continue upward, or if so directed by the governing body, shall begin with any other number and continue upward. Each bond shall bear upon its face a name indicative of the purpose of the issue specified in said initial resolution and shall contain a certificate or recital of any direct, annual, irrevocable tax which has been levied by the municipality upon all the taxable property therein, together with any other tax or source of revenue which the municipality may be authorized to impose or pledge and any annual or periodic payments or distributions appropriated or allocated by the legislative assembly, sufficient to pay the interest when it falls due, and also to pay and discharge the principal of such bond at maturity, and may contain any other statement of fact not in conflict with said initial resolution. The entire issue may be composed of bonds of a single denomination or of two or more denominations.

SECTION 6. AMENDMENT.) Section 21-03-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-19. BONDS - SERIAL MATURITIES.) Bonds issued under the authority of this chapter shall be of serial maturities. The first installment of principal shall fall due not more than three years and the last installment not more than twenty years from the date of the bonds. No installment of principal shall be less than one-third of the amount of the largest installment payable in any subsequent year, except that the amount of such installments of principal may be such that the increase thereof from year to year approximately shall equal the decrease from year to year in the interest on the bonds remaining unpaid. The requirements of this section shall apply to each new issue of bonds, or if so determined by the governing body, to the bonds of a new issue combined with all of the outstanding bonds of

one or more designated issues of bonds previously issued and similarly payable from taxes or other source of revenues, or both, as the case may be.

SECTION 7. AMENDMENT.) Section 21-03-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-28. BIDS - ACCOMPANIED BY DRAFT - SALE TO BEST BIDDER - REJECTION OF ALL BIDS.) All bids shall be accompanied by a certified check, cashier's check, or bank draft, in the amount of not less than two percent of the bid. After all bids have been received, they shall be delivered forthwith to the governing body of the municipality, which shall award the sale of such bonds to the bidder who agrees to purchase them upon the terms most favorable to the municipality, unless the governing body determines to reject all bids. The governing body shall have the right to reject any and all bids. If no bids are received or if all bids received are rejected, the governing body may, without readvertising the bonds for sale, negotiate the sale of all of the bonds to any person upon terms complying with those specified in the notice of sale theretofore published, and if bids were rejected, more favorable to the municipality than those specified in a rejected bid. No sale shall be for less than ninety-eight percent of the par value of such bonds plus the interest accrued on the bonds to the date of the delivery thereof.

Approved March 29, 1971

## CHAPTER 252

HOUSE BILL NO. 1112  
(Giffey, Hilleboe, Opedahl)  
(Legislative Audit and Fiscal Review Committee Study)

ATTORNEY GENERAL'S OPINION  
ON CERTAIN BOND ISSUES

AN ACT relating to an attorney general's determination of the legal sufficiency of certain investments authorized to be made by the state investment board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. ATTORNEY GENERAL TO GIVE OPINION ON LEGAL SUFFICIENCY OF INVESTMENTS.) The attorney general shall render an opinion on the legal sufficiency of bond issues of political subdivisions of the state if the total of such issue is in excess of one hundred thousand dollars. Such opinion shall be necessary for such bonds to qualify as legal investments under the provisions of chapter 21-10 of the North Dakota Century Code.

Approved February 20, 1971

## CHAPTER 253

HOUSE BILL NO. 1245  
(Welder, Miedema)

ISSUING DUPLICATE  
BONDS OR WARRANTS

AN ACT to amend and reenact section 21-06-03 of the North Dakota Century Code, relating to a defaced or lost obligation and granting the state or political subdivision the right to elect to accept either a surety bond or a written agreement as indemnification before a duplicate obligation is issued.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 21-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-03. DUPLICATION OR PAYMENT - BY WHOM ORDERED - PROOF AND BOND OR SIGNED WRITTEN AGREEMENT REQUIRED.) The duplication or payment of any mutilated, defaced, lost, or destroyed obligation shall be made upon resolution duly adopted;

1. In case of a bond or interest coupon of the state, by the industrial commission;
2. In case of any other obligation of the state, by the board, officer, or agency which authorized the issuance of the original; and
3. In case of an obligation of a political subdivision, by the governing board thereof.

Before a duplicate shall be issued or payment made in connection with a lost or destroyed obligation, the owner thereof shall furnish proof of such loss or destruction whereupon the state or political subdivision, as the case may be, may require either a surety bond in the amount of the lost obligation, a signed written agreement by the owner, or similar assurance conditioned to save the obligor harmless in the premises. If the Bank of North Dakota shall be the owner of any such obligation, it shall not be required to furnish a bond but it shall furnish proof of the loss or destruction of the obligation and shall reimburse the state or political subdivision for any loss or damage suffered by reason of the issuance of such duplicate or the payment of such obligation.

Approved March 3, 1971

## CHAPTER 254

HOUSE BILL NO. 1218  
(Brekke, Metzger)

## 1971 BOND VALIDATING ACT

AN ACT to amend and reenact sections 21-09-01 and 21-09-05 of the North Dakota Century Code, changing the title of "The 1969 Bond Validating Act" to "The 1971 Bond Validating Act", and relating to the application of chapter 21-09 of the North Dakota Century Code to bonds issued and proceedings taken prior to July 1, 1971.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 21-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-09-01. CITATION.) This chapter may be cited as "The 1971 Bond Validating Act".

SECTION 2. AMENDMENT.) Section 21-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-09-05. APPLICATION OF CHAPTER.) The provisions of chapter 21-09 relating to validation shall be applicable to all bonds issued and proceedings taken by any public body prior to July 1, 1971.

Approved March 22, 1971

# HEALTH AND SAFETY

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## CHAPTER 255

HOUSE BILL NO. 1436  
(Walsh, Dick, Henry, Livingston)

### NOISE POLLUTION CONTROL

AN ACT to create and enact section 23-01-17 of the North Dakota Century Code, relating to authority for the state health council to make rules and regulations concerning noise that is hazardous to health and safety, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 23-01-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-01-17. NOISE HARMFUL TO HEALTH AND SAFETY - POWER TO REGULATE - HEARINGS - APPEAL - PENALTY - INJUNCTION.)

1. The state health council shall establish reasonable standards, rules, and regulations necessary to prevent and minimize hazards to health and safety caused by the excessive noise or other similar disturbances of farm machinery, tools, construction equipment, motor-powered vehicles, musical instruments or groups, and other devices, operations, objects, or activities producing noise levels determined by the health council as hazardous to health and safety. Before establishing any standards, rules, or regulations as herein provided, the council shall hold public hearings thereon with appropriate notice to interested parties. An appeal from any established standard, rule, or regulation may be taken to the courts by any affected person pursuant to chapter 28-32. Any person, firm, corporation, partnership, association, or other legal entity willfully violating these established standards, rules, or regulations shall be guilty of a misdemeanor and punishable by a fine of not more than one thousand dollars. The state health council shall have the power to apply to the state's courts to enjoin repeated violations of the standards, rules, and regulations established hereby.
2. This section shall not apply to the actual operation of all types of aircraft, including, but not limited to, landing, taking off, taxiing, and in-flight

operations. Other aeronautically related activities, including activities associated or connected with airports or the flying industry, shall be covered by this section. This section shall not apply to the control and abatement of aircraft noise and sonic booms as covered by the Federal Aviation Act of 1958, as amended, and regulations issued pursuant thereto.

3. The state health council shall report progress in the promulgation of standards, rules, and regulations pursuant to this Act to the governor of the state of North Dakota prior to the Legislative Session of 1973.

Approved March 27, 1971

## CHAPTER 256

SENATE BILL NO. 2087  
(Lips, Morgan, Sanstead)  
(Legislative Council Study)

## RABIES CONTROL

AN ACT to provide that the state department of health shall be responsible for rabies control; and to repeal chapter 23-22 of the North Dakota Century Code, relating to the rabies control committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. STATE DEPARTMENT OF HEALTH RESPONSIBLE FOR CONTROL OF RABIES.) The state department of health shall be responsible for the prevention and control of rabies. The department shall place its primary emphasis on human exposure cases but shall also be authorized to provide rabies vaccine for dogs and cats and may employ a veterinarian to administer such vaccine. The department shall also provide rabies vaccine for humans if requested to do so by the attending physician of the person to receive such vaccine. In addition, the department shall have the authority to quarantine, vaccinate, or exterminate any animal suspected of rabies. If requested to do so by local authorities, the department shall assist them in the prevention and control of rabies where an emergency exists.

SECTION 2. EXTERMINATION OF RABIES.) The state department of health shall obtain the cooperation and assistance of the game and fish department, the state veterinarian, and the predatory animal and rodent control division of the department of agriculture in carrying out the provisions of this Act. It shall be the duty of the game and fish department and the department of agriculture, upon request of the state department of health, to exterminate or quarantine those animals suspected of having rabies and to carry out such other preventative measures as the department may from time to time request.

SECTION 3. REPEAL.) Chapter 23-22 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 257

HOUSE BILL NO. 1347  
(Brekke, Walsh, Hildebrand)

BIRTH AND DEATH  
CERTIFICATE FEES

AN ACT to amend and reenact section 23-02-05 of the North Dakota Century Code, relating to the fees collected by the state registrar for birth and death certificates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-02-05. FEES OF STATE REGISTRAR.) The state registrar shall prescribe and collect fees which shall not exceed:

1. For a certified copy of a birth or death certificate, two dollars.
2. For a registrar's certificate of record of birth, two dollars.
3. For filing a delayed registration of birth for any person twelve years of age and over, two dollars. This fee shall be collected in addition to the prescribed fee for registrar's certificate or certified copy.

The registrar may also prescribe a fee, not to exceed two dollars, for a search of the files and records when no copy is made. Such fees shall be paid by the applicant to the state registrar, who shall keep a correct account thereof and turn the same over to the state treasurer.

Approved February 26, 1971

## CHAPTER 258

HOUSE BILL NO. 1374  
(Wagner)

## DEATH WITHOUT MEDICAL ATTENDANCE

AN ACT to amend and reenact section 23-02-35 of the North Dakota Century Code, relating to death without medical attendance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-02-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-02-35. DEATH WITHOUT MEDICAL ATTENDANCE - DUTY OF UNDERTAKER AND LOCAL CORONER.) If any death occurs without medical attendance, the undertaker shall notify the local coroner of such death for immediate investigation and certification, and shall inform the local health officer. If the circumstances of the case render it probable that death was caused by unlawful or suspicious means, the coroner shall fully investigate the case in the manner prescribed by law.

Approved March 27, 1971

## CHAPTER 259

SENATE BILL NO. 2362  
(Just)

DISSOLUTION OF  
HOUSING AUTHORITY

AN ACT to provide for the dissolution of city housing authorities and to amend and reenact subsection 2 of section 23-11-01 and section 23-11-30 of the North Dakota Century Code relating to the definition of a city and the reports of housing authorities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. DISSOLUTION OF CITY HOUSING AUTHORITIES AUTHORIZED - PROCEDURE - EFFECT.) The governing body of any city may, by resolution, dissolve the housing authority of such city for the purpose of electing to participate in a county housing authority pursuant to section 54-40-08. Upon the adoption of such a resolution the city authority shall cease to exist, except for the purpose of winding up its affairs and executing a deed to the county housing authority pursuant to the agreement executed between the city and the county under the provisions of section 54-40-08. All the rights, contracts, obligations and property, real and personal, of the city authority shall be transferred to and become vested in the county authority, provided that all bonded indebtedness issued by the city authority shall remain a lien against the income and revenues of the housing project pledged to the payment of such bonds. All rights and remedies of any person against the city authority may be asserted and enforced against the county authority to the same extent as they might have been against the city authority.

SECTION 2. AMENDMENT.) Subsection 2 of section 23-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "City" shall mean any city having a population of more than five thousand inhabitants according to the last federal census and "the city" shall mean the particular city for which a particular housing authority is created, except that it shall not mean a city which has agreed to or will so elect to participate in a county housing authority pursuant to section 54-40-08, provided that any city with less than five thousand population which has an activated city housing authority prior to July 1, 1971, shall be included within this definition;

SECTION 3. AMENDMENT.) Section 23-11-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-30. REPORTS.) At least once every year, an authority shall file with the city auditor or county auditor, as the case may be, and with the state planning division, a report of its activities for the preceding year and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this chapter.

Approved March 29, 1971

## CHAPTER 260

SENATE BILL NO. 2506  
(Delayed Bills Committee)

TAX EXEMPTION FOR  
INDIAN HOUSING AUTHORITY

AN ACT to amend and reenact section 23-11-28 and 23-11-29 of the North Dakota Century Code, relating to exemption of real property of a housing authority created under Indian laws recognized by the federal government from execution sales, taxes and special assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-11-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-28. EXEMPTION OF REAL PROPERTY FROM EXECUTION SALE.) All real property of an authority including an authority created under Indian laws recognized by the federal government shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against any authority be a charge or lien upon its real property. The provisions of this section, however, shall not apply to nor limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of an obligee to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, or revenues.

SECTION 2. AMENDMENT.) Section 23-11-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-29. TAX EXEMPTIONS AND PAYMENTS IN LIEU OF TAXES.) The property of an authority including an authority created under Indian laws recognized by the federal government is declared to be public property used for essential public and governmental purposes and shall be exempt from all taxes and special assessments of the city, the county, the state or any political subdivision thereof. In lieu of such taxes or special assessments, an authority may agree to make payments to the city, county, state, or any such political subdivision for improvements, services, and facilities furnished thereby for the benefits of a housing project, but in no event shall such payments exceed the estimated cost to such city, county, or political subdivision of the improvements, services, or facilities to be so furnished.

Approved March 2, 1971

## CHAPTER 261

HOUSE BILL NO. 1090  
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)  
(From Legislative Council Study)

## SAFETY COMMITTEE

AN ACT to repeal sections 23-13-09 and 23-13-10 of the North Dakota Century Code, relating to the safety committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 23-13-09 of the 1969 Supplement to the North Dakota Century Code and section 23-13-10 of the North Dakota Century Code are hereby repealed.

Approved February 20, 1971

## CHAPTER 262

SENATE BILL NO. 2173  
(Lips)

## LICENSING OF ADDICTION HOSPITALS

AN ACT to amend and reenact sections 23-17.1-01, 23-17.1-02, 23-17.1-03, 23-17.1-04, 23-17.1-05, 23-17.1-06, and 23-17.1-07 of the North Dakota Century Code, relating to the licensing of addiction hospitals; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-17.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.1-01. LICENSE REQUIRED.) No person, partnership, association, or corporation, shall establish, conduct, or maintain in the state of North Dakota, a hospital, sanitarium, or related institution for the care of persons addicted to alcohol or other drugs without first obtaining a license in the manner provided in this chapter, unless a license has already been issued for such care under the provisions of this title.

SECTION 2. AMENDMENT.) Section 23-17.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.1-02. APPLICATION - CONTENTS.) Any person, partnership, association, or corporation desiring a license hereunder shall file with the North Dakota state department of health a verified application containing the name of the applicant; the type of institution to be operated; the location thereof; the name of the person or persons in charge thereof; and such other information as the North Dakota state department of health may require.

SECTION 3. AMENDMENT.) Section 23-17.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.1-03. INSPECTION OF LICENSED PREMISES.) Every building, institution, or establishment for which a license has been issued under this chapter shall be periodically inspected by a sanitary engineer and firemen who shall report as to the

safety of the institution to the North Dakota state department of health which department shall also inspect the institution under the rules and regulations to be established by said department. No institution of any kind licensed pursuant to the provisions of this chapter shall be required to be licensed or inspected under the laws of this state relating to hotels, restaurants, or lodginghouses.

SECTION 4. AMENDMENT.) Section 23-17.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.1-04. SUSPENSION OR REVOCATION OF LICENSE.) The North Dakota state department of health is hereby authorized to issue licenses to operate addiction hospitals or other related institutions as herein defined, for a period of one year, which, after inspection, are to comply with the provisions of this chapter, and any regulations adopted by the department. The department is hereby authorized to suspend or revoke a license issued hereunder on any of the following grounds:

1. Violation of any of the provisions of this chapter or the rules and regulations issued pursuant thereto;
2. Permitting, aiding or abetting the department of any illegal act in such institution;
3. Conduct or practices detrimental to the welfare or health of any patient of such institution.

Before any license issued hereunder is suspended or revoked, thirty days' written notice shall be given the holder thereof of the date set for the hearing of the complaint. The holder of such license shall be furnished with a copy of the complaint and be entitled to be represented by legal counsel at such hearing. Such notice shall be given by the department by registered or certified mail. If a license is revoked as herein provided, a new application for license may be considered by the department when, and after, the conditions upon which revocation was based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made on all provisions of this chapter and the rules and regulations hereunder have been complied with.

SECTION 5. AMENDMENT.) Section 23-17.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.1-05. RULES AND REGULATIONS.) The North Dakota state department of health shall have the power to establish standards under this chapter which it finds necessary and in the public interest, and it may rescind, amend, or modify such regulations and standards from time to time as may be in the public interest, insofar as such action is not in conflict with

any of the provisions of this chapter. The provisions of chapter 28-32 shall apply to regulations and administrative proceedings under this chapter.

SECTION 6. AMENDMENT.) Section 23-17.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.1-06. INFORMATION CONFIDENTIAL.) Information received by the North Dakota state department of health through inspections of institutions under this chapter shall be confidential and shall not be disclosed except in a proceeding involving the question of licensure.

SECTION 7. AMENDMENT.) Section 23-17.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.1-07. INJUNCTION.) The department of health, in accordance with the laws of the state governing injunctions and other process, may maintain an action in the name of the state against any person, partnership, association, or corporation, for establishing, conducting, managing or operating any addiction hospital within the meaning of the chapter without first having a license therefor or herein provided or without first obtaining from the state department of health written approval of plans and specifications for major alterations of, additions to, or construction of addiction facilities.

SECTION 8. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1971

## CHAPTER 263

SENATE BILL NO. 2307

(Longmire, Melland, Kautzmann, Lips, Litten)

## EXPANSION OF HOSPITAL FACILITIES

AN ACT requiring a certificate of need for construction or expansion of hospitals and related medical facilities including services, defining the procedure for certification of need and the requirements thereof, providing for a public hearing, prohibiting licensing, and authorizing injunctions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. REVIEW AND EVALUATION OF PROPOSED CONSTRUCTION AND PROPOSED ADDITIONAL MEDICAL OR RESIDENT CARE SERVICES OF HOSPITALS AND RELATED MEDICAL FACILITIES - PUBLIC INTEREST.) It is declared to be the public policy of this state:

1. That the construction and expansion of medical care facilities and the institution of additional medical services shall be accomplished in a manner which is orderly, economical, and consistent with the effective development of necessary and adequate means of providing for the health care of the people of North Dakota, and to avoid a wasting of health care dollars.
2. That the general welfare and the protection of the lives, health, and property of the people of this state require that the type, level, and kind of care needed in proposed construction or expansion of services in hospitals and related medical facilities within this state be subject to review and evaluation before commencing construction in order that proper facilities are made available for such care, that proposed new or expanded medical facilities provide, within the economic means of this state, the type, level, and kind of care necessary for the continued well-being and comfort of the patients of such hospitals and related medical facilities and to ensure that medical facilities are not constructed or services expanded which exceed the needs of patients or of persons in the area to be served.

SECTION 2. DEFINITIONS.) As used in this Act, unless otherwise indicated by the context:

1. "Appearance" shall mean a notice in writing filed by any interested persons notifying the state health council of his interest in any application pending under this chapter.
2. "Community clinic" means a facility which has a small (usually interpreted as two to fourteen) number of beds for the purpose of care and treatment as is required in the practice of a general practitioner.
3. "Construction" means the proposed construction of any new facility or proposed program which would expand the scope of service, or any increase of bed count. However, construction shall not include the temporary increase of bed count by reason of an emergency not to exceed sixty days, or by changes required by state or federal health and safety regulatory bodies.
4. "Designated areawide comprehensive health planning council" means a voluntary, nonprofit organization independent of any governmental agency, formed for the purpose of comprehensive health planning in a definite geographical area, and which is recognized by the state health council for review and comment of applications for certificates of need as provided by this Act.
5. "Health council" means the state health council of the North Dakota state department of health.
6. "Hospitals and related facilities" means all the facilities requiring licenses as provided for in chapters 23-16, 23-17.1 and 25-16 of the North Dakota Century Code.
7. "Medical care service" means a health service provided by a medical care facility for the diagnosis, treatment or care of its patients, as the same may be further defined and limited for the purposes of this Act by rules and regulations of the state health council.
8. "Patient" means a person who is suffering from mental illness, acute or chronic illness or injury, or convalescent and who is in need of medical and nursing care on a continuing basis, or who is in need of obstetrical or other medical or nursing care.
9. "Person" means any individual, corporation, partner-

ship, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency as stated herein.

10. "Public body" means state of North Dakota, and any county or municipal corporation.
11. "Public funds" shall include all funds derived from taxation, fees, penalties, sale of bonds, or from any other source which belong to and are the property of a public corporation or of the state, and all sinking funds of such public corporations and for whatever purpose to be expended of which a public corporation or the state shall have legal custody. They shall include the funds of which any board, bureau, commission, or individual, created or authorized by public and state law, is authorized to have control as the legal custodian for any purpose whatsoever, whether such funds were derived from general or special taxation or the assessment of persons or corporations for a specific purpose.
12. "Public institution" means any hospital or related medical facility under the establishment and control of any public body.
13. "State comprehensive health planning advisory council" means the existing state comprehensive health planning advisory council of the North Dakota state department of health.

SECTION 3. FACILITIES INCLUDED.) The following types of public (excluding federal) and private institutions are designated and are deemed to come within the provisions of this Act: hospitals, community clinics, nursing homes, extended care facilities, chronic disease hospitals or units of hospitals, infirmaries and addiction hospitals.

SECTION 4. CERTIFICATE OF NEED.) No hospital or related medical facility shall be constructed or expanded and no new medical care service shall be instituted after the effective date of this Act except upon application for and receipt of a certificate of need as provided by this Act. This Act shall not apply to any facility that has submitted to the state health department preliminary architectural plans for expansion or remodeling during the calendar year 1970 and which plans are followed up by the awarding of a contract for construction by December 31, 1971.

SECTION 5. DEPARTMENT TO PROMULGATE RULES AND REGULATIONS  
- FACILITIES SUBMIT PLAN - CRITERIA FOR CERTIFICATION - CONTENT

OF PLAN.) The state health council is hereby empowered to promulgate rules and regulations to promote and execute the purposes contemplated by this Act. Criteria for certification of need shall be set out by such rules and regulations, and medical facilities wishing to be certified must submit a plan to the state health council, and such plan shall comply with the criteria of the rules and regulations as set forth therein, including but not limited to the following:

1. Present patient population and projected future patient population of the existing or proposed hospital and related medical facility, by category of patient care and treatment level.
2. The needs of the patients for whom care is furnished or intended to be furnished by such facility.
3. The program, services, and facilities proposed or offered or available to patients the adequacy of each, and the extent of utilization or intended utilization.
4. The economies, efficiencies, and advantages that may accrue to the state and its citizens through location or expansion of a facility at a particular locality.
5. The necessity for the new or expanded medical facility within the area proposed to be served, the utility of such proposed facility for future as well as for present patient needs, and the immediate cost and funding of such facility or services and the effect of such new facility or services on future cost of patient care and treatment.
6. The actual or estimated cost of care and treatment and whether public funds are available or contemplated to be available for reimbursement under programs supervised or administered by the state or public agency for capital expenditures and services at the proposed levels to patients intended to receive services.
7. The number and availability of present and future employees and their occupational classification, length of service, levels of education attained, and academic degrees earned.
8. The type, level, and kind of patient care offered or proposed.
9. The maximum number of patients who can be properly cared for at the existing and proposed medical

facility and the number, if any, presently receiving care in each classification of level of care.

10. Any other information reasonably requested by the state health council which will aid the state health council in making a determination of certification of need of the proposal.

The state health council shall consider the plan and determine from its findings whether such plan qualifies the medical facility for certification of need under criteria as set forth in section 6 of this Act. The determination shall be made after receipt of recommendations from the state comprehensive health planning advisory council and areawide comprehensive health planning councils and the determination shall be communicated to the facility or its owners or operators, the state comprehensive health planning advisory council, and all persons filing an appearance immediately after being made.

SECTION 6. ROLE OF NORTH DAKOTA STATE HEALTH COUNCIL - POWERS AND DUTIES OF THE NORTH DAKOTA STATE HEALTH COUNCIL.)  
The state health council shall:

1. Establish minimum guidelines for use by the area-wide health planning councils to be used for their review and comment of proposals.
2. Refer to the state comprehensive health planning advisory council all applications for certificates of need and notify all designated areawide health planning councils in the state of North Dakota of such application.
3. Assist the areawide comprehensive health planning councils in their review of proposals by supplying information and data, coordinating decisions where area boundaries are adjacent to one another, and commenting on those proposals which have statewide implications.
4. Assist the North Dakota state comprehensive health planning advisory council in their review and comment of proposals which come from those areas not served by areawide comprehensive health planning councils.
5. Perform all functions necessary to carry out the intent of this Act.
6. Give notice of all hearings provided for in this chapter to all persons who have filed an appearance in the particular application.
7. From time to time, review progress on any project covered by an issued certificate of need, and may

require a showing by the holder of such certificate of substantial and timely progress to implement the project, and, if, in the opinion of the council, such progress is lacking may revoke the certificate of need.

SECTION 7. ROLE OF STATE COMPREHENSIVE HEALTH PLANNING ADVISORY COUNCIL.) Upon receipt of an application referred to it by the state health council, the comprehensive health planning advisory council shall immediately refer such application to the areawide comprehensive health planning council within which the proposed facility is located and shall give such assistance to the areawide comprehensive health planning council as requested, in processing the application for recommendation. Upon receipt of the areawide comprehensive health planning council recommendation regarding any application, the comprehensive health planning advisory council shall review such application and make its recommendation to the state health council within thirty days of its receipt from the areawide comprehensive health planning council.

SECTION 8. ROLE OF AREAWIDE COMPREHENSIVE HEALTH PLANNING COUNCILS.) The areawide comprehensive health planning councils, so designated by the state health council, shall review proposals initially and render recommendations to the state comprehensive health planning advisory council of any proposed plan requiring certification of need within sixty days of receipt of notice of application from the state comprehensive health planning advisory council. The areawide comprehensive health planning advisory councils shall consider the information provided by the state comprehensive health planning advisory council of the North Dakota state health council, and may, when appropriate, consult with any other boards, councils, or commissions established by law. Where there is no designated areawide comprehensive health planning council, the state comprehensive health planning advisory council of the North Dakota state health council shall perform these functions.

SECTION 9. APPLICATION FOR CERTIFICATE OF NEED.) Applicants for certificate of need shall file applications under oath with the state health council upon forms prescribed by the health council. Applications shall be signed by the owner, or in the case of a corporation by two of its officers, or in the case of a public institution by the head of such governmental unit or agency having jurisdiction over it. Applications shall set forth the full name and address of the owner of the institution for which certificate of need is sought, the names of the persons in control thereof, and such additional information as the state health council may require including affirmative evidence of ability to comply with licensing requirements when constructed.

SECTION 10. TIME LIMITS FOR APPROVAL.) The state

health council must render its decision within one hundred twenty days from date of receipt of recommendations from the state comprehensive health planning advisory council and areawide health planning councils on a completed application. The time limit may be extended by mutual agreement of the state health council and the applicant because of procedural delays requested by the applicant or by the failure of the applicant to comply with the published procedures of the state health council. Failure of the state health council to render a decision within the one hundred twenty day time limit, unless extended as herein provided, shall constitute approval of the application.

SECTION 11. AUTHORITY TO ISSUE OR DENY CERTIFICATE OF NEED.) The state health council:

1. Shall issue certificates of need for the construction or expansion of institutions subject to this chapter which are found to comply with the provisions of this chapter and such regulations as are lawfully promulgated by the health council. Notice of determination by the state health council granting, denying, or revoking the certification of need, or deferring the application for further information, shall be communicated to the applicant, the state comprehensive health planning advisory council, all areawide comprehensive health planning councils, and other persons who have filed an appearance.
2. May deny the issuance of a certificate of need hereunder on any of the following grounds:
  - a. Violation of any of the provisions of this chapter or the rules and regulations promulgated pursuant thereto.
  - b. Conduct or practices detrimental to the health or safety of patients and employees of said existing institutions or proposed institutions.
  - c. The issuance of a certification of need is not warranted.

Within thirty days from date of mailing the determination, the applicant, any recognized areawide health planning council, or any person who has filed an appearance may petition the state health council for a public hearing, in the case of either a certification approval, denial, or revocation. The public hearing shall be held before the health council in accordance with the provisions of chapter 28-32 pursuant to written notice to persons who have filed an appearance, served by registered or certified mail, which shall concisely state the grounds for such approval, denial, or revocation and shall fix the time and place of hearing which shall not be less

than thirty days after the date of the mailing of such notice. After such hearing, the council shall make an order denying or granting the application for certification, or revoking the certification previously granted. The council shall send a copy of its order to all persons who have filed an appearance by registered or certified mail, which shall contain its findings and conclusions, and such order shall become final thirty days after the date of mailing unless an appeal is taken therefrom in the manner provided by section 13.

SECTION 12. NOT APPLICABLE TO CERTAIN LAWS.) This chapter shall not be construed in any way to restrict or modify any law pertaining to the placement and adoption of children or the care of unmarried mothers.

SECTION 13. APPEAL.) An appeal may be taken to the district court from any order of the state health council denying or approving an application for certificate of need or the revocation of a certificate of need previously granted. Any such appeal shall be taken in the manner provided in chapter 28-32.

SECTION 14. LICENSING PROHIBITED.) Any person, partnership, association, or corporation establishing, conducting, managing, or operating any institution within the meaning of this chapter without first obtaining a certificate of need therefor as herein provided, or who shall violate any of the provisions of this chapter shall not be eligible for licensure and all licensing agencies are prohibited from issuing a license to operate in violation hereof.

SECTION 15. INJUNCTION.) The department of health, in accordance with the laws of the state governing injunctions and other process, may maintain an action in the name of the state against any person, partnership, association, or corporation, for establishing, conducting, managing, or operating any hospital or related medical facility without first having a certificate of need therefor as herein provided.

Approved March 27, 1971

## CHAPTER 264

HOUSE BILL NO. 1413

(Wilkie, McGauvran, McGeehan, Olienyk, Raymond)

MEMBERSHIP OF AIR AND WATER  
POLLUTION CONTROL AUTHORITIES

AN ACT to amend and reenact subsections 2 and 3 of section 23-25-02 and section 61-28-03 of the North Dakota Century Code, relating to the membership of the state air pollution control advisory council and the state water pollution control board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 2 and 3 of section 23-25-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. There is hereby established an air pollution control advisory council, hereinafter referred to as "the advisory council", of nine members to include the state health officer, the state geologist, and the state highway commissioner, and six other members to be appointed by the governor, one of whom shall be a representative of county or municipal government, one a representative of the solid fuels industry, one a representative of the fluid and gas fuels industry, and three appointed at large;
3. The term of office for the appointed members of the advisory council shall be six years, but of those four first appointed, two shall serve for two years and two for four years, and the lengths of their terms shall be designated by the governor at the time of appointment;

SECTION 2. AMENDMENT.) Section 61-28-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-28-03. STATE WATER POLLUTION PREVENTION AGENCY - BOARD.) There is hereby created and established a state water pollution control board. The board shall consist of ten persons. It shall include the heads of the departments of health, water conservation, game and fish, and state geologist, and six citizen members appointed by the governor. Municipal,

industrial, agricultural, and wildlife interests shall each be represented by a citizen member. Two citizen members shall represent at large interests. The executive secretary of the board shall be the chief sanitary engineer of the department.

Of the six members appointed by the governor, each shall serve six-year terms, except that of those four first appointed, two shall be appointed for three years, and two shall be for six years. The governor may fill any vacancy in the appointed membership of the board, and may remove any appointed member for cause.

The heads of departments on the board may, by official order filed with the executive secretary of the board, designate a representative of his department to perform the duties of the member making the designation. Such person, if any, designated pursuant to this section, shall have the powers and be subject to the duties and responsibilities of the appointing office.

All members of the board shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. Reimbursement shall be paid out of funds allocated to the department for water pollution control.

The department shall provide the board with copies of maps, plans, documents, studies, surveys, and all other necessary information in order that the board may be fully cognizant of the current status of water pollution and its control in the state and to enable the board to advise and direct the department in development of programs for the prevention and control of pollution of the waters in the state and to direct actions to abate any existing pollution problems that may be brought to its attention.

Approved March 18, 1971

## CHAPTER 265

HOUSE BILL NO. 1382  
(Henning, Lundene, H. Johnson)

CERTIFICATION OF  
WASTEWATER SYSTEM OPERATORS

AN ACT to require certification of water and wastewater system operators, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. STATEMENT OF POLICY.) It is hereby declared to be the policy of the state of North Dakota to act to protect the public health and welfare of the people of the state and to protect the state's water resources by classifying all public water supply and wastewater treatment plants in the state and by requiring the examination of operators and the certification of their competency to supervise the operations of such facilities.

SECTION 2. DEFINITIONS.) For the purpose of this Act, the following words and phrases shall have the meanings ascribed to them in this section.

1. "Department" shall mean the North Dakota state department of health.
2. "Board" shall mean the board of certification.
3. "Certificate" shall mean a certificate of competency issued by the state health officer stating that the operator holding the certificate has met the requirements for the specified operator classification in the certification program.
4. "Water supply system" shall mean the system of pipes, structures, and facilities through which a public water supply is obtained, treated and sold or distributed for human consumption or household use. Such system shall serve at least ten or more families or shall serve an industry employing ten or more persons.
5. "Water treatment plant" shall mean that portion of the water supply system which in some way alters the physical, chemical or bacteriological quality of the water.
6. "Water distribution system" shall mean that portion

of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer.

7. "Wastewater treatment plant" shall mean the facility or group of units used for the treatment of wastewater from public sewer systems and for the reduction in handling of solids removed from such wastes and which serves ten or more families or an industry employing ten or more persons.
8. "Operator" shall mean the person in direct responsible charge of the operation of a water treatment plant, a water distribution system, or a wastewater treatment plant. Operators of plants or systems serving less than ten families are excluded from this Act.

SECTION 3. CLASSIFICATION OF PLANTS AND SYSTEMS.) The state department of health shall classify all water treatment plants, water distribution systems, and wastewater treatment plants with due regard to the size, type, character of water and wastewater to be treated and other physical conditions affecting such treatment plants and distribution systems, and according to the skill, knowledge, and experience that an operator in responsible charge must have to successfully supervise the operation of such water treatment plants, water distribution systems, and wastewater treatment plants so as to protect the public health and prevent pollution of the waters of the state.

SECTION 4. ADVISORY BOARD CERTIFICATION.) The department shall appoint an advisory board of certification to advise and assist the department in the administration of the program of certification. The members of the advisory board shall be the chief, environmental health and engineering services, state department of health, or his duly authorized representative, and four members who shall be appointed by the department as follows: one member who is a waterworks operator holding a valid certificate of the highest qualification issued by the department; one member who is a wastewater works operator holding a valid certificate issued by the department; one member who is a university or college faculty member whose major field is related to water supply or wastewater collection and/or treatment; and one member who is an employee of a municipality required to employ a certified operator and who holds the position of either city manager, city engineer, director of public works, or an equivalent position.

1. Members appointed. Each member of the board, with the exception of the member from the state department of health, shall be appointed for a three year term, except in the case of the initial appointments the municipal representative shall be appointed for one year, one operator and the faculty member for two

years, and the remaining operator for three years. Vacancies shall be filled by appointment by the department for unexpired terms.

2. Officers. Members of the original board, at the call of the department, shall organize and elect from their number a chairman. Thereafter, a chairman shall be elected at each annual board meeting. The state health department representative on the board shall serve as secretary of the board and be responsible for maintaining records.
3. Meetings of the board. The board shall meet as often as necessary to perform its duties. Three members shall constitute a quorum and shall have the authority to act on any matter falling within the scope of the board.
4. Expenses of the members. The members of the board shall serve without compensation except for the actual and necessary expenses incurred while discharging their official duties. Such expenses shall be figured at the same rate as allowed state employees.

SECTION 5. CERTIFICATION.) When the department is satisfied that an applicant is qualified by examination or otherwise to supervise the operation of such treatment plants and water distribution systems and upon recommendation of the advisory board, the department will issue a certificate attesting to the competency of the applicant as an operator. The certificate will indicate the classification of works which the operator is qualified to supervise. Such certificates shall continue in effect for one year from the date of issuance, unless sooner revoked by the department.

1. Revocation. The department may revoke or suspend the certificate of an operator issued hereunder if it is found that the operator has practiced fraud or deception in obtaining the certificate or in the performance of his duty as an operator; or when it is found that reasonable care, judgment, or the application of his knowledge or ability was not used in the performance of his duties; or when it is found that the operator is incompetent and unable properly to perform his duties as an operator. No certificate shall be revoked or suspended except after a hearing before the chief, environmental health and engineering services, state department of health, or his designated representative. If a certificate is suspended or revoked as herein provided, a new application for certification may be considered by the department if when and after the conditions upon which suspension or revocation was based have been corrected and

evidence of this fact has been satisfactorily submitted to the department. A new certificate may then be granted by the department.

2. Prior certificates honored. Certificates in appropriate classification will be issued to operators, who, on the effective date of this Act, hold certificates of competency attained under the voluntary certification program in this state at such time they submit a proper application.
3. Certification without examination. Certificates of proper classification shall be issued without examination to operators of treatment works, collection systems or distribution systems, including the person who is in direct responsible charge, on the effective date of this Act. The governing body or owner must certify such persons in writing to the department. The certificates so issued will be valid only for that particular treatment plant or system, and shall be marked "restricted".

SECTION 6. FEES.) The department is authorized to charge a fee for certificates issued under this Act, but such fees shall not exceed ten dollars for the initial certificate, nor more than five dollars for the annual renewal certificate. All receipts from such fees shall be deposited in the state treasury to be credited to a special fund to be known as the "Operators' Certification Fund" to be used by the state department of health to administer and enforce the provisions of this Act; to pay the expenses of the advisory board; and financially assist the department in conducting operator training programs. Any surplus at the end of the fiscal year shall be retained by the department for future expenditures.

SECTION 7. DUTIES OF THE DEPARTMENT.) It shall be the duty of the state department of health to:

1. Hold at least one examination each year at the designated time and place for the purpose of examining candidates for certification.
2. Advise and promote the program of certification of wastewater operators.
3. Distribute applications and notices and to receive and evaluate applications.
4. Collect fees for both initial certification and annual renewal in an amount not to exceed that permitted by this Act.
5. Prepare, conduct and grade examinations.

6. Maintain records of operator qualifications and certification and to maintain a register of certified operators.
7. Promote and schedule regular training schools and programs.
8. Promulgate, with the advice of the advisory board, such rules and regulations as are necessary to carry out the provisions of this Act.

SECTION 8. UNLAWFUL OPERATION.) On and after one year following the effective date of this Act, it shall be unlawful for any person, firm, corporation, municipality, or any other governmental subdivision or agency, operating a water treatment plant, water distribution system, or wastewater treatment plant serving a demand equal to one thousand five hundred or more persons to operate same unless the competency of the operator to operate such a plant or system is duly certified to by the department in a grade corresponding to the classification of that portion of the system to be supervised. Provided, however, that plants and systems serving a demand equal to five hundred or more persons shall comply with the provisions of this Act not later than July 1, 1976.

SECTION 9. VIOLATIONS - PENALTY.) Any person, including any firm, corporation, municipality or other governmental subdivision or agency, violating any provisions of this Act or the rules and regulations adopted thereunder after written notice thereof by the department, is guilty of a misdemeanor. Each day of operation in such violation of this Act or any rules and regulations adopted thereunder shall constitute a separate offense.

Approved March 27, 1971

# HIGHWAYS, BRIDGES, AND FERRIES

## CHAPTER 266

SENATE BILL NO. 2082  
(Lips, Morgan, Sanstead)  
(From Legislative Council Study)

### HIGHWAY ACTION IN NATIONAL DEFENSE EMERGENCY

AN ACT to create and enact sections 24-02-03.1, 24-02-03.2, and 54-07-01.1 of the North Dakota Century Code, relating to the authority of the highway commissioner in matters of national defense and damages to public roads, and emergency powers of the governor; and to repeal chapter 24-13 of the North Dakota Century Code, relating to the highway traffic advisory committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 24-02-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

24-02-03.1. COOPERATION OF HIGHWAY COMMISSIONER IN MATTERS OF NATIONAL DEFENSE.) In order to facilitate national defense, the state highway commissioner is hereby authorized to cooperate with the appropriate federal agency, when requested by it, in:

1. Making of surveys, plans, specifications, and estimates for, and in the construction and maintenance of, flight strips and of roads and bridges necessary to provide access to military and naval reservations, defense industries, defense-industry sites, and sources of raw materials.
2. Acquiring of land necessary for the construction of such flight strips and roads and bridges by purchase or condemnation in the manner provided by law for the purchase or condemnation of land required for state highway construction.
3. Replacing existing highways and highway connections shut off from general public use at military and naval reservations and defense-industry sites.
4. Entering into contracts in any manner approved by the appropriate federal agency for the construction of any such flight strips or roads.
5. Performing such construction and maintenance work by force account, whether paid for in whole by federal

funds or in part by federal funds and in part by funds provided by the state or any of its subdivisions.

Provided, that no cooperative venture shall be entered into when any funds appropriated by the legislative assembly for highway purposes are to be expended thereby, unless such expended funds are to be reimbursed from federal sources.

SECTION 2.) Section 24-02-03.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

24-02-03.2. COMMISSIONER MAY PROTECT ROADS FROM DAMAGE AND NEGOTIATE SETTLEMENT FOR DAMAGES.) Whenever federally financed construction or maintenance activities are likely to affect any public road within this state, the commissioner is hereby authorized to take such action as may be necessary to protect such public road from any damages that may be caused, and to negotiate with any contractor or any officer or agency of the federal government for the repair of damage or extraordinary maintenance that may be required on such public road. If the public road affected is under the jurisdiction of any county, city, or township, the commissioner shall obtain the concurrence of the appropriate governing board of such county, city, or township before any agreement is entered into or any other action is taken with respect to such public road.

SECTION 3.) Section 54-07-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-07-01.1. EMERGENCY POWERS OF THE GOVERNOR.) In emergencies in support of national defense, the governor may cooperate with any officer or agency of the United States in the transportation of persons or property and the conservation and utilization of vital transportation equipment, materials, and supplies, and when requested by such officer or agency, may issue executive orders related thereto which will:

1. Suspend or modify the enforcement of any statute, ordinance, or regulation relating to the operation of motor vehicles upon the highways and streets of the state where it appears that the enforcement of such statute, ordinance, or regulation would impede or interfere with the national defense.
2. Prescribe maximum rates of speed at which any motor vehicle may be operated on any highway or street in the state.
3. Prescribe the sizes and load weights of motor vehicles which may be operated on any highway or street in the state.
4. Suspend the enforcement of any statute, ordinance,

or regulation that requires any motor vehicle, bus, or housetrailer to which a valid and unexpired permit or license has been issued by another state, to obtain a permit or license from this state.

5. Prescribe reasonable regulations for the conservation and utilization of the highways and streets, and of vital transportation equipment, and materials and supplies used in connection therewith.
6. Amend, revoke, or suspend any such executive order or regulation.

The governor shall report to the legislative assembly at its next session any proceedings taken by him pursuant to this section. Such report shall include copies of all executive orders or regulations promulgated by him.

SECTION 4. REPEAL.) Chapter 24-13 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 267

HOUSE BILL NO. 1264  
(Boustead, Mushik)

HIGHWAY DEPARTMENT BUILDING  
COST LIMITATION

AN ACT to amend and reenact section 24-02-39 of the North Dakota Century Code, relating to a limitation on building cost incurred by the state highway department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 24-02-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-39. HIGHWAY DEPARTMENT - BUILDING LIMITATION.)  
The state highway department shall not construct or cause to be constructed any building costing in excess of twenty thousand dollars unless the department has received a specific appropriation from the legislative assembly for such purpose.

Approved February 26, 1971

## CHAPTER 268

SENATE BILL NO. 2229  
(Holand)

## HIGHWAY DEPARTMENT SCHOLARSHIPS

AN ACT to amend and reenact section 24-02-42 of the North Dakota Century Code, relating to scholarships awarded by the state highway department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 24-02-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-42. ENGINEERING AND TECHNICIAN SCHOLARSHIPS AUTHORIZED.) The state highway commissioner is hereby authorized to establish not over sixteen continuing scholarships for study in civil engineering, and other technological fields in which normal recruiting practices fail to supply adequate numbers of qualified persons at institutions of higher learning in this state. Expenditure of not over ten thousand dollars annually from highway operating funds is hereby authorized. No individual shall receive scholarship payments in any year exceeding eight hundred dollars nor a total exceeding twenty-four hundred dollars and an executed contract of employment shall be a prerequisite. Before any student shall receive the benefits authorized by this section he shall enter into a contract with the North Dakota state highway department, which shall provide that such student shall upon completion of such study accept employment with the North Dakota state highway department for a period of time at least equal to the time he received scholarship benefits. In the event such student shall be inducted into the armed forces before completion of such study, such education may then be completed upon his return to civil life, and in the event such induction into the armed services is made after completion of such study the employment contract shall not take effect until after such period of service in the armed forces has been completed. Leave of absence without pay will be granted to one whose induction occurs during the period of the life of such contract and the employment will be resumed for the balance of the contract period after such employee has been discharged from the service.

If such student fails to complete such study and fails to accept employment with the North Dakota state highway department as above provided, such student shall repay the North Dakota state highway department, with interest at the rate of three

percent per annum, all sums received by him in scholarship benefits under the contract herein provided, such repayment to be made within a period equal to the time he received such benefits. For the purpose of this section defenses of minority or statute of limitations are hereby removed as to any applicant granted a loan by the commissioner and such contracts shall in all respects be legal and binding. Salary increases to employees having received scholarships by virtue of this section shall be based on the same considerations as other employees of the state highway department.

The commissioner, with the cooperation and concurrence of the board of higher education, shall prescribe rules for determining the selection of recipients, qualifications, and courses of study. Such rules may cover any areas as may be necessary to assure a source of qualified technically trained employees for the department.

Approved March 19, 1971

## CHAPTER 269

HOUSE BILL NO. 1293  
(Dornacker)

RENTING OR PURCHASING  
COUNTY ROAD MACHINERY

AN ACT to amend and reenact section 24-05-04 of the North Dakota Century Code, relating to the advertisement of bids by counties for the purchase and rental of heavy equipment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 24-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-05-04. CONTRACTS TO BE ADVERTISED - REQUIREMENTS FOR RENTAL CONTRACTS.) All purchases of county road machinery and all rental contracts or agreements for the use of road machinery and other articles or contracts for the improvement of the highways, except necessary repairs for such road machinery, which shall exceed the sum of two thousand five hundred dollars, shall be advertised in the manner provided by law for the purchase of county supplies. The board of county commissioners shall not enter into a rental contract or agreement for the use of road machinery and other articles for a longer period than twelve months from the date of such rental contract or agree to pay rental for the use of road machinery and other articles which would result in the lessor receiving rental at a rate in excess of twenty per centum per annum of the cash sale price thereof, which cash sale price of such road machinery and other articles shall be clearly set forth in all such rental contracts, and failure to include such data in any rental contract for the use of road machinery and other articles shall render any such rental contract null and void, and any payments made thereunder shall be recoverable from the county commissioners making such contract jointly and severally.

Approved March 24, 1971

## CHAPTER 270

HOUSE BILL NO. 1132  
(Gackle, Stoltenow)

## COUNTY BRIDGES

AN ACT to amend and reenact sections 24-08-01 and 24-08-03 of the North Dakota Century Code, relating to the building, repair, and rebuilding of county bridges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 24-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-08-01. CONSTRUCTION OF BRIDGES BY BOARD OF COUNTY COMMISSIONERS - PETITION - BIDS - REJECTION.) Whenever a majority of the freeholders of a civil township, or a majority of the freeholders living within a radius of three miles of the proposed location, shall petition the board of county commissioners for a bridge at a specified location within such township, or within any incorporated city, if the cost of such bridge shall exceed the sum of one hundred dollars, the board of county commissioners shall view and investigate the necessity of such proposed bridge. If the board approves the petition, it shall proceed to advertise in the official paper of the county, for a period of thirty days, the plans and specifications of the proposed bridge, asking for sealed bids for the building of such bridge, to be submitted to it at the next regular or special meeting, at which the board shall proceed to examine all proposals or bids for the building of such bridge. The board shall award the contract to the lowest responsible bidder, requiring such bidder to give a bond in a sum not less than the amount stipulated in the bid or contract, conditioned for the faithful compliance with the terms of such bid, or contract, such bond to be approved by the board and filed in the office of the county auditor but the board may reject all bids. If all bids are rejected, the board shall readvertise as provided herein. Provided, however, that in any case where the amount of the lowest responsible bid is less than fifteen thousand dollars, the board shall have the authority to refuse all bids received, and to proceed to construct such bridge under its own supervision, and in the manner deemed by it most expedient, and to enter into contracts for the labor or material to be used in the construction of the same.

SECTION 2. AMENDMENT.) Section 24-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-08-03. SUPERVISION AND REPAIRS OF BRIDGE - LIMIT OF COUNTY LIABILITY FOR NEGLIGENCE.) Any bridge built under the provisions of section 24-08-01 shall be under the supervision of the board of county commissioners, and the cost of rebuilding or repairing the same shall be paid by the county. Where the cost of rebuilding or repairing a bridge would exceed the sum of fifteen thousand dollars on estimate of the county engineer and upon the approval of the estimate by the North Dakota highway department, the county commissioners shall advertise for bids and award the contract in the manner provided by section 24-08-01. When a bridge is destroyed by flood, fire, or other casualty and the public interest would suffer by delay the county commissioners may proceed to contract for the rebuilding or repair of such bridge without advertising for bids, regardless of the cost. The board of county commissioners at least every two years, and so far as time and conditions may permit, shall cause an inspection to be made of all bridges on the county road system in the county. In case any bridge on the county road system shall be deemed unsafe for public use by the said board of commissioners, it forthwith shall take steps to close the same and prevent the use thereof by the public. In case any bridge on the county road system shall be deemed unsafe for loads in excess of a certain weight, the board of commissioners forthwith shall post notices on both ends of such bridge stating that such bridge is unsafe for loads beyond that weight. The county shall not be immune from claims or suits for damages arising out of negligent failure to perform the inspection and repair duties set out above, but the maximum recovery from the county on such suit or suits shall not exceed the sum of fifteen thousand dollars for each accident or occurrence caused by any negligent failure to inspect and repair.

Approved March 29, 1971

# MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND, AND DEAF

## CHAPTER 271

HOUSE BILL NO. 1522  
(Solberg)

### SAN HAVEN STATE HOSPITAL

AN ACT to amend and reenact subsection 6 of section 25-01-01, sections 25-05-01, 25-05-02, 25-05-03, 25-05-06, 25-05-07, 25-05-10.1, 25-05-11, 25-05-16, subsection 3 of section 25-05-19, sections 25-05-33, 25-05-34, 25-09-01, subsection 1 of section 25-09-10, and section 54-23-01 of the North Dakota Century Code, relating to changing the name of the North Dakota state tuberculosis sanatorium to the San Haven state hospital, and providing the state director of institutions with authority to accept federal funds and programs on behalf of the hospital.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 6 of section 25-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "State sanatorium" shall mean the San Haven state hospital;

SECTION 2. AMENDMENT.) Section 25-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-01. SAN HAVEN STATE HOSPITAL - MAINTAINED - LOCATION.) There shall be maintained at Dunseith, in the county of Rolette, a sanatorium known as the San Haven state hospital for the prevention and treatment of tuberculosis of every kind or nature. The San Haven state hospital and the North Dakota state medical center at the university of North Dakota shall cooperate in the joint use of facilities in the furtherance of the purposes for which each institution is organized, but the director of institutions shall be in charge of the administration of the San Haven state hospital in the manner provided by law.

SECTION 3. AMENDMENT.) Section 25-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-02. QUALIFICATIONS OF SUPERINTENDENT - RECORDS OF PATIENTS - SALARIES.) The superintendent of the San Haven state hospital must be either:

1. A duly licensed physician skilled in caring for and in treating persons who are afflicted with tuberculosis; or
2. A competent executive with at least five years' experience in hospital administration.

In the event a physician shall be appointed superintendent, he shall have power to appoint an assistant superintendent, necessary physicians, and all other employees and define their qualifications and duties; but he may name a personnel director to employ and discharge all employees except physicians. In the event an executive shall be named, he shall designate a duly licensed physician having at least five years' experience in the care of persons suffering from tuberculosis as chief of medical staff and such chief of staff shall have full power to employ additional physicians, nurses, and professional assistants and shall have full power to define their qualifications and duties, but all other employees shall be appointed and removed by the superintendent or a personnel director to be named by him. He shall cause complete case histories and records to be kept of all persons admitted as patients at the San Haven state hospital, including a record of the period of treatment of each patient. The salaries of all employees shall be fixed by the director within the limits of the legislative appropriations made for such purpose.

SECTION 4. AMENDMENT.) Section 25-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-03. ADMISSION TO SAN HAVEN STATE HOSPITAL - APPLICATION - EXAMINATION OF APPLICANTS REQUIRED.) All persons afflicted with tuberculosis of any kind or nature may be admitted to the San Haven state hospital. Applicants for admission shall be examined at such place in the state as may be designated by the director, and all examinations shall be made by a regularly authorized medical examiner of the San Haven state hospital. Each such examiner shall be a citizen of this state, and the director shall appoint such examiners as may be required. The fee of the examining physician shall not exceed four dollars in any one case, and such fee shall be paid by the applicant unless it shall appear to the board of county commissioners of the county in which the applicant resides that the applicant is unable to pay the same, in which case the fee shall be a charge against the county.

SECTION 5. AMENDMENT.) Section 25-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-06. SEGREGATION OF PATIENTS IN SAN HAVEN STATE HOSPITAL.) Incurable patients in the San Haven state hospital shall be kept separate and apart from the curable patients therein under such rules and regulations as may be prescribed by the

superintendent and the director of institutions.

SECTION 6. AMENDMENT.) Section 25-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-07. BIENNIAL REPORT OF SUPERINTENDENT TO DIRECTOR - CONTENTS - EXTRA COPIES OF REPORT MADE - COST.) The superintendent of the San Haven state hospital shall submit a biennial report to the director giving in detail the methods of treatment of patients, the results accomplished, and a general account of the conditions existing at the institution. Such report shall be included in and made a part of the biennial report of the director. The director may authorize the printing of copies of the separate report of such institution not exceeding one thousand in number. The charges for the printing of such separate copies shall be paid in the same manner as payment is made for printing reports of the various departments of the state.

SECTION 7. AMENDMENT.) Section 25-05-10.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-10.1. CARE AND TREATMENT OF TUBERCULOSIS PATIENTS OR SUSPECTS PROVIDED WITHOUT CHARGE BY STATE.) Care and treatment provided by the state of North Dakota for persons suffering from tuberculosis, including diagnosis, tests, studies and analyses for the discovery of tuberculosis at the San Haven state hospital shall be available without cost or charge to anyone who is suffering from tuberculosis or is suspected of having tuberculosis. Any such person who volunteers to assume and pay for the cost of such care and treatment or for the cost of such diagnosis, tests, studies or analyses shall be permitted to do so; but no state, county or other public official shall request or require such payment or make or cause to be made any inquiry or investigation for the purpose of determining the ability of such person or of his legally responsible relatives to pay therefor. This section shall in no way bar freedom of the individual to seek treatment from a physician or in an institution of his choice at his own expense.

SECTION 8. AMENDMENT.) Section 25-05-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-11. ADMISSION OF PATIENTS SUBJECT TO APPROVAL OF SUPERINTENDENT AND DIRECTOR.) The admission of every patient to the San Haven state hospital shall be subject to the final approval of the superintendent of the hospital and of the director.

SECTION 9. AMENDMENT.) Section 25-05-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-16. REPORT, CUSTODY, OF PERSONS.) Upon report to, or receipt of information by, a local board of health that any person is afflicted with tuberculosis and, as a source of infection endangers other persons, such board shall investigate and, if convinced that an active case of infectious tuberculosis endangering other persons exists, shall request such person voluntarily to seek admission to the San Haven state hospital or to another appropriate facility for treatment, and if such person refuses to accept such admission and treatment, shall petition the tuberculosis board of the county where such person is found or resides for an order of admission to the San Haven state hospital or to another appropriate facility or institution under the control of the director of institutions, and that such person be placed in the custody of the director of institutions for necessary and appropriate care and treatment.

SECTION 10. AMENDMENT.) Subsection 3 of section 25-05-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Authorize the director of institutions to receive and keep such person in its custody for necessary and appropriate care, treatment, quarantine, and isolation at the San Haven state hospital or another appropriate facility or institution under the control of the director of institutions.

SECTION 11. AMENDMENT.) Section 25-05-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-33. CARE OF TUBERCULAR PATIENTS - ACCEPTANCE OF FEDERAL FUNDS - EMERGENCY.) The director of institutions is hereby authorized to contract with public or private agencies for the care of tubercular patients if at any time the facilities of the state of North Dakota become insufficient to care for them. The director of institutions, after receiving approval from the legislative council committee on budget to receive federal funds for specific programs or projects, is hereby authorized to accept any federal funds or to enter into any federal programs on behalf of the San Haven state hospital.

SECTION 12. AMENDMENT.) Section 25-05-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-05-34. TRANSFER OF TUBERCULAR PERSONS TO THE SAN HAVEN STATE HOSPITAL.) When required for the protection of the public health, the control of tuberculosis, or the protection or treatment of the individual patient, any person committed to or confined in a state or county institution who has active, infectious tuberculosis may be removed from such institution to the San Haven state hospital or to another appropriate institution

under the control of the director of institutions. Such transfer may be made in the discretion of the director of institutions, if from an institution controlled by such board, or, in the case of transfer from an institution not so controlled, by agreement of the director of institutions and the agency responsible for the control of such other institution. If any person, so transferred, is maintained at the expense of a federal governmental unit or agency, the cost of maintenance in the institution to which he is transferred shall be charged to and collected from such governmental unit or agency.

SECTION 13. AMENDMENT.) Section 25-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-01. OPERATIONAL AND ADMINISTRATIVE EXPENSE OF INSTITUTIONAL CARE AND TREATMENT.) All of the operational and administrative expense of the state hospital, state school, and San Haven state hospital shall be appropriated from the state treasury.

SECTION 14. AMENDMENT.) Subsection 1 of section 25-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. If a person who has no legal residence in this state or whose residence is unknown is found to be a fit subject for care and treatment in the state hospital or the San Haven state hospital, such person shall be sent to such institution in the same manner, and accompanied by the same documents as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of such person, and if found to be in another state or country the supervising department may arrange for transportation of such person to the place where he belongs. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally ill or tubercular persons who are within the confines of one state but have legal residence or legal settlement in another state. Such agreements shall contain no provision conflicting with any laws of this state.

SECTION 15. AMENDMENT.) Section 54-23-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-01. INSTITUTIONS UNDER CONTROL OF DIRECTOR OF INSTITUTIONS.) The director of institutions shall have full power to manage, control, and govern, subject only to the limitations contained in this chapter and in title 25, the penitentiary, the school for the blind, the school for the deaf, the Grafton state school, the North Dakota industrial school, and the San Haven state hospital. The director shall not have the power to manage, control, and govern the soldiers' home.

Approved March 22, 1971

## CHAPTER 272

SENATE BILL NO. 2279  
(Kautzmann, Nething, Chesrown, Unruh, Barth)

INVOLUNTARY HOSPITALIZATION  
FOR MENTAL HEALTH CARE

AN ACT to amend and reenact subsection 7 of section 25-03-11 of the North Dakota Century Code, relating to judicial procedures in hospitals upon order of mental health board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 7 of section 25-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. If upon completion of the hearing and consideration of the record the mental health board finds that the proposed patient:
  - a. Is mentally ill, an alcoholic or a drug addict and because of his illness is likely to injure others or himself if allowed to remain at liberty; or
  - b. Is in need of custody, care or treatment in a mental hospital and, because of his illness, lacks sufficient insight or capacity to make responsible decisions with respect to his hospitalization,

it shall order his hospitalization at the state hospital or other suitable place, or it may order that he be hospitalized at a hospital duly licensed under the provisions of chapter 23-17.1 provided such hospital shall consent to provide such care and treatment and the cost thereof shall be paid by the patient, or if the board finds otherwise it shall dismiss the proceedings. No person who is being treated by prayer in the practice of the religion of any well recognized church, sect, denomination, or organization, shall be ordered detained or committed under the provisions of this chapter unless the county mental health board shall determine that he is or would likely become dangerous to himself or to the person or property of others, or unless, being an adult, he shall

consent to such detention or commitment, or, being a minor, his parent or guardian having custody of his person shall consent thereto.

Approved March 27, 1971

## CHAPTER 273

SENATE BILL NO. 2221  
(Lowe)

REPORT TO SCHOOLS  
FOR DEAF OR BLIND

AN ACT to require certain persons to report the names of blind persons to the school for the blind and the names of deaf persons to the school for the deaf.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. BLIND PERSONS - DUTY TO REPORT.) It shall be the duty of every public school superintendent, physician, ophthalmologist, oculist, optometrist, nurse, clinic, hospital, and social and welfare agency in this state to report in writing to the superintendent of the North Dakota school for the blind the name, age, and residence of persons under the age of twenty-one years who are blind within the definition of blindness as set forth in this section, and in such cases to furnish such additional pertinent information as the superintendent of the North Dakota school for the blind may request. All reports shall be forwarded to the superintendent of the school for the blind within thirty days after diagnosis, examination, or discovery. For the purposes of this Act, a blind person shall be defined as one who is totally blind or whose central visual acuity does not exceed twenty/two hundred in the better eye with corrective lenses, or the widest diameter of the visual field is no greater than twenty degrees.

SECTION 2. DEAF PERSONS - DUTY TO REPORT.) It shall be the duty of every public school superintendent, physician, otologist, audiologist, nurse, clinic, hospital, and social and welfare agency in this state to report in writing to the superintendent of the North Dakota school for the deaf the name, age, and residence of persons under the age of twenty-one years who are deaf or hard of hearing, and in such cases to furnish such additional pertinent information as the superintendent of the North Dakota school for the deaf may request. All reports shall be forwarded to said superintendent of the school for the deaf within thirty days after diagnosis, examination, or discovery.

Approved March 11, 1971

## CHAPTER 274

SENATE BILL NO. 2245  
(Jones, Page)

INSTRUCTION AT  
SCHOOL FOR THE DEAF

AN ACT to amend and reenact sections 25-07-02 and 25-07-06 of the North Dakota Century Code, relating to the instruction at the school for the deaf; and to repeal section 25-07-03 of the North Dakota Century Code, relating to the duties of the matron at the school for the deaf.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 25-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-07-02. SUPERINTENDENT TO POSSESS CERTAIN QUALIFICATIONS - SPECIAL DUTIES.) The superintendent of the school for the deaf shall be a capable person skilled in the sign language and in all the methods in use in educating the deaf and shall have knowledge of the wants and requirements of the deaf in their proper training and instruction. He shall reside at the institution.

SECTION 2. AMENDMENT.) Section 25-07-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-07-06. INSTRUCTION AT SCHOOL FOR DEAF.) The superintendent of the school for the deaf shall provide an educational program that is designed to give deaf children a usable and understandable language by which they are able to give and to receive ideas, to converse with other deaf persons, to understand the printed page, and to express themselves understandably by correspondence. Every effort to teach speech and speech reading shall be made. Every boy and girl shall also be provided with instruction in prevocational or vocational subjects.

SECTION 3. REPEAL.) Section 25-07-03 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1971

## CHAPTER 275

SENATE BILL NO. 2122  
(Christensen, Litten)

(From Legislative Audit and Fiscal Review Committee Study)

CHARGES FOR CARE AT STATE HOSPITAL  
AND GRAFTON STATE SCHOOL

AN ACT to create and enact sections 25-09-02.1, 25-09-02.2, 25-09-03.1, 25-09-04.1, and 25-09-11.1 of the North Dakota Century Code; to amend and reenact sections 25-09-02, 25-09-03, 25-09-04, 25-09-05, 25-09-06, subsection 2 of section 25-09-07, and section 25-09-08 of the North Dakota Century Code; and to repeal section 25-09-11 of the North Dakota Century Code, all relating to the expenses of care and treatment of patients at the Grafton state school and the state hospital.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 25-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-02. EXPENSES CHARGEABLE AGAINST PATIENT OR HIS ESTATE - FILING CLAIMS.) Except as provided in section 25-09-11.1, expenses for care and treatment of each patient at the state hospital and the Grafton state school shall be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health. The supervising department shall recover monthly from the patient, if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans' administration, such expenses shall be a current claim against such patient and may be recovered monthly by the supervising department except that the amount of seven dollars and fifty cents shall be credited to the patient's personal account from any social security money received.

SECTION 2.) Section 25-09-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-09-02.1. REDUCTION AND WRITEOFF OF ACCOUNTS - REPORTS REQUIRED.) The supervising department may authorize the reduction or writing off of a patient's past due account from the financial records of the institution upon making a

determination that the account is not collectible. The supervising department, thirty days after the close of each fiscal year, shall present a detailed report to the legislative audit and fiscal review committee on the status of accounts receivable for that fiscal year, which report shall include the following information:

1. An aging by patient classification of accounts remaining unpaid.
2. The amounts by patient classification by which accounts were reduced or written off for reasons other than payment during that fiscal year.

SECTION 3.) Section 25-09-02.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-09-02.2. FILING OF CLAIMS - NOTICE TO DEPARTMENT.)

Claims for expenses incurred by the state for care and treatment of a patient at the state hospital or state school may be filed against the guardianship or the estate of such patient after his death or against the estate of a responsible relative after his death, at any time prior to final distribution thereof, by the supervising department with the same priority as claims of general creditors which are filed against estates of decedents. Any claim denied or rejected by an administrator, executor, or guardian, shall clearly state the reason or cause for such denial or rejection, written notice of which shall be served upon the supervising department. Every administrator or executor upon the granting of letters of administration or testamentary shall, at the same time that publication of notice to creditors is required, forward to the supervising department a copy of the petition or application commencing probate, heirship proceedings, or joint tenancy tax clearance proceedings in the respective county court, together with a copy or list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of such estate. If no notice to creditors is required by the proceedings, such administrator, executor, or other petitioning party shall forward to the supervising department a copy of the petition or application commencing such proceedings, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of such estate.

SECTION 4. AMENDMENT.) Section 25-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-03. EXPENSES CHARGEABLE AGAINST GUARDIANSHIP ESTATE OF PATIENT - RESTRICTIONS.) The expenses incurred by the state for the care and treatment of any patient at the state hospital or state school shall be charged against the guardianship estate of such patient, if he has such an estate, subject to the following restrictions:

1. No part of such estate shall be taken for such purpose if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of such estate would result in undue hardship to such dependents.
2. No real property belonging to such estate shall be sold during the lifetime of the patient except for the maintenance and support of his or her dependents, unless it is shown that the sale of such property will not result in undue hardship to such dependents, and in either such event, it shall be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the supervising department.
3. No personal property belonging to such estate shall be sold within five years from the date upon which the patient was sent to the institution unless such property is ordered sold by the county court having jurisdiction of the estate for the reason that such property is likely to deteriorate in value during the time herein specified.
4. No claim shall be made to recover from the estate of a former resident of the state school who has left the state school and married, and leaves a spouse or issue dependent upon such estate.

If any real or personal property is sold pursuant to the provisions of this section, the county court shall order the proceeds of the sale to be invested safely for the benefit of the patient or to be used for the support and maintenance of his dependents, or used to pay the costs of care and treatment of the patient.

SECTION 5.) Section 25-09-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-09-03.1. CLAIMS AGAINST ESTATES OF RESIDENT RESPONSIBLE RELATIVES.) Claims against the estates of resident responsible relatives for the care and treatment of patients at the state school shall not exceed an amount equal to that portion of the value of the estate which would pass to the patient under the intestacy laws of this state as if the responsible relative died intestate during the life of the patient, but this limitation shall not bar additional or subsequent claims against any patient or any patient's estate regardless of the source of the property constituting such estate. Claims against the resident responsible relatives, or their estates, shall be retroactive to the time of admission of the patient to the state school and may be filed at any time prior to final distribution thereof by the supervising department.

SECTION 6. AMENDMENT.) Section 25-09-04 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-04. RESPONSIBLE RELATIVES SHALL PAY FOR CARE AND TREATMENT - DEFINITION.) In the event of a patient's inability to pay for the costs of care and treatment, responsible relatives of such patient at the state hospital or state school shall pay to the supervising department monthly, the actual cost of care and treatment incurred by the state at each institution, or such lesser amount as may be determined by law. For purposes of this chapter and title 25 of this Code, "responsible relatives" shall mean the patient's spouse, father, or mother. In no event, however, shall responsible relatives be required to pay such costs for children upon reaching their twenty-first birthday.

SECTION 7.) Section 25-09-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-09-04.1. NONRESIDENT PATIENTS.) Nonresident patients at the Grafton state school and nonresident responsible relatives of such patients shall be liable for the full costs of care and treatment at the state school according to the provisions of sections 25-09-02 through 25-09-06.

SECTION 8. AMENDMENT.) Section 25-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-05. INABILITY TO PAY ALL OR PART OF EXPENSES.) The patient, former patient, his responsible relatives, or the executor, administrator, or guardian may make application to the supervising department to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state hospital or state school. Such application shall be accompanied by proof of the patient's or his estate's or responsible relatives or their estates' inability to pay. Upon receipt of such application, the supervising department shall direct the county welfare board of the county from which the patient was admitted in the case of a patient at the state hospital or the state school, to determine whether the patient, former patient, or his responsible relatives or their estates are able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The supervising department shall approve, reject, or amend the determination made by the county welfare board. The determination made by the supervising department may be appealed to the district court of Burleigh County or the district court of the county of residence of the patient or his responsible relatives. Any patient, former patient, responsible relative, guardian, executor, or administrator who seeks relief for the payment of the cost of care and treatment by filing an application for relief of payment, shall do so with the understanding that the supervising department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment

by a request for information from financial institutions, including commercial banks. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.

SECTION 9. AMENDMENT.) Section 25-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-06. APPLICATION FOR REVIEW OF ABILITY TO PAY.) Any patient or former patient at the state hospital or state school or any responsible relative or their executors, administrators, or guardians, may make application to the supervising department not more often than once each calendar year for a review of the determination made by the supervising department in regard to the ability of such persons or their estates to pay costs of care and treatment. Such application and review shall be treated in the same manner as an original application by such persons for a determination of their inability to pay costs of care and treatment. Upon such review, the supervising department may reaffirm or alter the previous determination and shall have authority to make such redetermination retroactive. In addition, the supervising department on its own motion may review the ability of the patient, former patient, or his responsible relatives, or their estates, to pay for costs of care and treatment, which determination may be made retroactive.

SECTION 10. AMENDMENT.) Subsection 2 of section 25-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The state hospital and state school are permitted to contract with North Dakota nonprofit hospital collection associations or collection agencies located in the state for the collection of amounts due the state for expenses incurred by the state of North Dakota for the care and treatment of patients at the state hospital or state school.

SECTION 11. AMENDMENT.) Section 25-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-08. DISPOSITION OF FUNDS COLLECTED.) The amount collected from patients, former patients, their estates, or responsible relatives or their estates, by the supervising department under the provisions of this chapter shall be deposited with the state treasurer and credited to the operating fund of each institution.

SECTION 12.) Section 25-09-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-09-11.1. REDUCTIONS IN CLAIMS AGAINST RESIDENT PATIENTS OF THE GRAFTON STATE SCHOOL AND THEIR RESPONSIBLE RELATIVES.) Upon filing a statement with the director of institutions certifying that making payments for the full cost of care and treatment would cause economic hardship, responsible relatives shall not be liable for more than a sum equal to six hundred dollars per annum, payable in equal monthly installments.

SECTION 13. REPEAL.) Section 25-09-11 of the North Dakota Century Code is hereby repealed.

Approved March 29, 1971

## CHAPTER 276

SENATE BILL NO. 2084  
(Lips, Morgan, Sanstead)  
(Legislative Council Study)

## MENTAL HEALTH COORDINATING COMMITTEE

AN ACT to repeal section 25-10-03 of the North Dakota Century Code, relating to the mental health coordinating committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 25-10-03 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 277

SENATE BILL NO. 2502  
(Melland)

SOUTH CENTRAL MENTAL HEALTH  
AND RETARDATION CENTER

AN ACT to amend and reenact section 25-12-03 of the North Dakota Century Code, relating to the control of the south central mental health and retardation center.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 25-12-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-12-03. BOARD OF DIRECTORS - APPOINTMENT - TERM.) Each mental health and retardation service unit, whether established by a political subdivision or a body corporate, except the south central mental health and retardation center, shall be governed by and under the general supervision of a board of directors. The board of directors shall be appointed by the governing body of the political subdivision which comprises such unit, and if more than one political subdivision comprises such unit then appointed by the governing bodies of each such political subdivision meeting jointly. The board of directors shall not exceed thirteen members, but may be less in the discretion of such governing bodies. The term of office of the board members shall be three years, staggered so that the term of office of an equal number of the board members, if possible, expires each year. Vacancies occurring on the board for other than the expiration of a term shall be filled in the same manner as original appointments, except that appointments shall be made only for the unexpired term. No compensation shall be allowed the board members, but they shall be allowed the same mileage and expenses as is allowed state officials. The board shall elect a chairman from their membership and such other officers as the board deems necessary. All members of each board of directors shall be residents of the area served by the mental health and retardation service unit and such membership shall represent as nearly as possible local health departments, medical societies, county welfare boards, hospital boards, and other lay and professional organizations and people. The south central mental health and retardation center shall be operated in conjunction with and under the general supervision

of the state hospital. The board of directors of the south central mental health and retardation center shall serve in an advisory capacity to the state hospital in matters related to such center. The state hospital shall have the authority to exercise such powers in matters related to the south central mental health and retardation center as are provided in this chapter for the boards of directors of mental health and retardation units.

Approved March 27, 1971

# INSURANCE

## CHAPTER 278

HOUSE BILL NO. 1070  
(Jenkins, Metzger, Olienyk, Sandness)  
(From Legislative Council Study)

### AUTOMOBILE INSURANCE CANCELLATION

AN ACT to create and enact sections 26-02-37, 26-02-38, 26-02-39, 26-02-40, and 26-02-41 of the North Dakota Century Code, and to amend and reenact sections 26-02-32, 26-02-33, 26-02-34, 26-02-35, and 26-02-36 of the North Dakota Century Code, relating to the cancellation and nonrenewal of automobile liability insurance policies, and the furnishing of reasons for cancellation and nonrenewal, providing a penalty, and providing an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-02-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-02-32. AUTOMOBILE LIABILITY INSURANCE POLICY DEFINED - LIMITATIONS.) As used in sections 26-02-33 through 26-02-41:

1. "Policy" means any automobile policy which includes automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage, or automobile physical damage coverage, delivered or issued for delivery in this state, insuring as the named insured a natural person or persons residing in the state of North Dakota, and under which the insured vehicles therein designated are of the following types only:
  - a. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance, nor rented to others; or
  - b. Any other four-wheel motor vehicle with a load capacity of one thousand five hundred pounds or less which is not used in the occupation, profession, or business of the insured, nor used as a public or livery conveyance, nor rented to others;

provided, however, that sections 26-02-33 through

26-02-41 shall not apply: to any policy which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy; or to any policy issued under the North Dakota assigned risk plan; or to any policy insuring more than six motor vehicles; or to any policy covering the operation of a garage, automobile sales agency, repair shop, service station, or public parking place; or to any policy providing insurance only on an excess basis; or to any other contract providing insurance to such named insured even though such contract may incidentally provide insurance with respect to such motor vehicles.

2. "Renewal" or "to renew" means:
  - a. The issuance and delivery by an insurer of a policy replacing, at the end of the previous policy period, a policy previously issued and delivered by the same insurer;
  - b. The issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; or
  - c. The extension of the term of a policy beyond its policy period or term pursuant to a provision for extending the policy by payment of a continuation premium;

provided, however, that any policy with a policy period or term of less than six months shall be considered as if written for a policy period or term of six months except in case of termination under any of the circumstances specified in subsection 2 of section 26-02-36. Provided, further, that for purposes of this Act any policy written for a term longer than one year or any policy with no fixed expiration date shall be considered as if written for successive policy periods or terms of one year and any termination by an insurer effective on an anniversary date of such policy shall be deemed a failure to renew.

3. "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premium on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

SECTION 2. AMENDMENT.) Section 26-02-33 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

26-02-33. CANCELLATION OF POLICY - EXCLUSIVE REASONS THEREFOR.)

1. No insurer shall cancel a policy except for the following reasons:
  - a. Nonpayment of premium.
  - b. Because the driver's license or motor vehicle registration of either the named insured or of any other operator who resides in the same household as the named insured or who customarily operates a motor vehicle insured under the policy has been suspended, rescinded, canceled, or revoked during the policy period, or, if the policy is a renewal, during its policy period or for one hundred eighty days immediately preceding its effective date. This subdivision shall not apply and the insurer shall not cancel a policy where the operator whose driver's license is suspended or revoked is excluded from coverage under the policy. The insurer shall notify the named insured of the possibility of excluding an operator whose license has been suspended or revoked prior to cancellation of the policy.
2. During the policy period no modification of automobile physical damage coverage, except coverage for loss caused by collision, whereby provision is made for the application of a deductible amount not exceeding one hundred dollars shall be deemed a cancellation of the coverage or of the policy.
3. Renewal of a policy shall not constitute a waiver of estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.
4. This section shall not apply to the failure to renew a policy.

SECTION 3. AMENDMENT.) Section 26-02-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-02-34. NOTICE OF CANCELLATION - STATEMENT OF REASONS THEREFOR.) No insurer shall exercise its right to cancel a policy unless a written notice of cancellation is mailed by certified mail, return receipt requested, or delivered to the named insured, at the address shown in the policy, at least

twenty days prior to the effective date of cancellation, provided that if the mailing receipt has not been returned to the insurer within twenty days, and the insurer, through its local agent or otherwise, has made every reasonable effort during that period to notify the insured of the forthcoming cancellation, then the insurer may cancel the policy. When cancellation is for nonpayment of premium such notice shall be mailed by certified mail or delivered to the named insured at the address shown in the policy at least ten days prior to the effective date of cancellation and shall include or be accompanied by a statement of the reason therefor. This section shall not apply to the failure to renew a policy.

SECTION 4. AMENDMENT.) Section 26-02-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-02-35. STATEMENT OF REASONS TO ACCOMPANY NOTICE OF CANCELLATION OR TO BE MAILED UPON REQUEST OF INSURED.) The notice of cancellation shall state or be accompanied by either a statement of the reason or reasons therefor, or a statement that upon written request of the named insured, mailed or delivered to the insurer at least ten days prior to the effective date of cancellation, the insurer will specify in writing the reason or reasons for such cancellation. If the reason or reasons for cancellation do not accompany or are not included in the notice of cancellation, the insurer shall upon such written request of the named insured specify in writing the reason or reasons for cancellation. The insurer shall mail or deliver such reason or reasons to the named insured within ten days after receipt of such written request. Failure to comply with the notice of cancellation provisions of section 26-02-34, or failure to furnish reasons for cancellation upon written request of the insured shall be sufficient cause for the commissioner of insurance to cancel, revoke, or refuse to renew that company's certificate of authority to do business in North Dakota. This section shall not apply to failure to renew a policy.

SECTION 5. AMENDMENT.) Section 26-02-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-02-36. NONRENEWAL - NOTICE - STATEMENT OF REASONS - NONRENEWAL NOT TO BE BASED ON CERTAIN FACTS - RESPONSIBILITY OF COMMISSIONER.)

1. No insurer shall fail to renew a policy unless a written notice of nonrenewal is mailed or delivered to the named insured, at the address shown in the policy, at least twenty days prior to the expiration date of the policy or anniversary date of a policy written for a term longer than one year or with no fixed expiration date. The insurer shall include

a statement of the reasons for nonrenewal with the notice, or shall furnish it upon the written request of the insured mailed or delivered to the insurer at least ten days prior to the expiration date of the policy. The insurer shall comply with such a request within ten days after receipt thereof.

2. Subsection 1 shall not apply:
  - a. If the insurer has manifested in any way its willingness to renew;
  - b. In case of nonpayment of premium for the expiring policy; nor
  - c. If the insured fails to pay the premium as required by the insurer for renewal.
3. No insurer authorized to do business in this state shall refuse to renew an automobile liability insurance policy solely because of the age, residence, race, color, creed, sex, national origin, ancestry, or occupation of anyone who is an insured.
4. An insurer found guilty of willfully violating the provisions of subsection 3 of this section shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed one hundred dollars. Failure on the part of an insurer to comply with the provisions of subsections 1 and 3 of this section shall be sufficient cause for the insurance commissioner to cancel, revoke, or refuse to renew that insurer's certificate of authority to do business in North Dakota.

SECTION 6.) Section 26-02-37 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-02-37. NOTIFICATION OF POSSIBLE ELIGIBILITY FOR ASSIGNED RISK POLICY.) When a policy of automobile liability insurance is canceled, other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which subsection 1 of section 26-02-36 applies, the insurer shall notify the named insured of his possible eligibility for automobile insurance through the automobile assigned risk plan, or automobile insurance plan. Such notification shall accompany or be included in the notice of cancellation or nonrenewal required by sections 26-02-34 and 26-02-36.

SECTION 7.) Section 26-02-38 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-02-38. PROOF OF NOTICE OF CANCELLATION OR NONRENEWAL.)

Proof of mailing of notice of cancellation for nonpayment of premium, or of nonrenewal or of reasons for cancellation, to the named insured at the address shown in the policy, shall be sufficient proof of notice. Proof of mailing of notice of cancellation for reasons other than nonpayment of premium shall be evidenced by the return receipt provided for in section 26-02-34, or by affidavit of mailing.

SECTION 8.) Section 26-02-39 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-02-39. TERMINATION OF COVERAGE WHEN ANOTHER POLICY IN FORCE.) Notwithstanding the failure of an insurer to comply with sections 26-02-32 through 26-02-41, termination of any coverage under the policy either by cancellation or nonrenewal shall be effective on the effective date of any other policy providing similar coverage on the same motor vehicle or any replacement thereof.

SECTION 9.) Section 26-02-40 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-02-40. NONLIABILITY OF PARTIES.) The specific reason for cancellation or nonrenewal which is furnished to the insured, shall not constitute grounds for any cause of action against the insurer or his authorized representative, or its agents or employees, or any firm, person or corporation who in good faith furnishes to the insurer the information upon which the reasons for cancellation or nonrenewal are based.

SECTION 10.) Section 26-02-41 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-02-41. EFFECTIVE DATE - APPLICATION.) Sections 26-02-32 through 26-02-40 shall take effect July 1, 1971, and shall apply only to policies written or renewed thereafter.

Approved March 29, 1971

## CHAPTER 279

HOUSE BILL NO. 1201  
(Boustead)

MANDATORY UNINSURED  
MOTORIST COVERAGE

AN ACT to provide that all motor vehicle liability policies written in this state must contain uninsured motorist coverage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. UNINSURED MOTORIST COVERAGE - COMPULSORY.) No motor vehicle liability policy of insurance against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto in amounts not less than that set forth in section 39-16.1-11 for bodily injury or death, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles and hit-and-run motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom.

SECTION 2. UNINSURED MOTOR VEHICLE - DEFINED - INSOLVENT INSURER.) For the purposes of this Act, the term "uninsured motor vehicle" shall be any motor vehicle which does not carry at least the bodily injury and death limits as set forth in section 39-16.1-11 and shall include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency.

SECTION 3. RIGHTS OF INSURER MAKING PAYMENTS UNDER UNINSURED MOTORIST COVERAGE.) In the event of payment by an insurer to any person under the uninsured motorist coverage, the insurer making such payments shall, to the extent thereof, be entitled to the proceeds of any settlement of judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible

for the damage for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer provided, however, this section shall not allow any insurer a cause of action against or recovery from the North Dakota state unsatisfied judgment fund.

Approved March 19, 1971

## CHAPTER 280

SENATE BILL NO. 2155  
(Lips, Wilhite)

TRANSFER OF LIFE  
AND HEALTH POLICIES

AN ACT to amend and reenact section 26-03-12 of the North Dakota Century Code, relating to the transfer of policies of life and health insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-03-12. POLICY OF LIFE OR HEALTH INSURANCE TRANSFER-  
ABLE.) A policy of insurance upon life or health may pass by transfer, will, or succession to any person, whether he has an insurable interest or not, and such person may recover upon such policy in accordance with the terms thereof. No provision of this Act or of any other law shall be construed as prohibiting an insured under a group insurance policy, pursuant to agreement among the insured, the group policyholder and the insurer, from making an assignment of all or any part of the incidents of ownership held by the insured under such policy, including specifically but not by way of limitation, any right to designate a beneficiary thereunder and any right to have an individual policy issued in case of termination of employment. All such assignments, whether made prior to or subsequent to the effective date hereof, shall be valid for the purpose of vesting in the assignee thereof all the incidents of ownership so assigned, and shall entitle the insurer to deal with the assignee as the owner thereof in accordance with the provisions of said policy, but without prejudice to the insurer on account of any payment made or individual policy issued prior to receipt by the insurer of such notice as may be required by the provisions of the policy.

Approved March 27, 1971

## CHAPTER 281

SENATE BILL NO. 2157  
(Lips, Wilhite)

PROHIBITED PROVISIONS IN  
LIFE INSURANCE POLICY

AN ACT to amend and reenact subsection 3 of section 26-03-36 of the North Dakota Century Code relating to provisions prohibited in a life insurance policy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 26-03-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A provision by which the policy shall purport to be issued or take effect more than six months before the original application for the insurance was made. This section shall not be construed to prohibit the exchange, alteration or conversion of any policy of life insurance.

Approved March 27, 1971

## CHAPTER 282

HOUSE BILL NO. 1515  
(Gackle, Stone)

## COORDINATED BENEFIT PROVISIONS

AN ACT to create and enact sections 26-03-48, 26-26-15, 26-27-15, and 26-27.1-20 of the North Dakota Century Code, permitting the use of coordinated benefit provisions in certain group health insurance policies and group non-profit service contracts, and authorizing the commissioner of insurance to promulgate rules and regulations for their form and content.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 26-03-48 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-03-48. COORDINATION OF BENEFIT PROVISIONS.) Group health insurance policies may contain coordination of benefit provisions for the control of overinsurance. Such provisions shall be in accordance with appropriate guidelines set forth in regulations issued by the commissioner of insurance.

SECTION 2.) Section 26-26-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-26-15. COORDINATION OF BENEFIT PROVISIONS.) Group nonprofit hospital service contracts may contain coordination of benefit provisions for the control of overinsurance. Such provisions shall be in accordance with appropriate guidelines set forth in regulations issued by the commissioner of insurance.

SECTION 3.) Section 26-27-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27-15. COORDINATION OF BENEFIT PROVISIONS.) Group nonprofit medical service contracts may contain coordination of benefit provisions for the control of overinsurance. Such provisions shall be in accordance with appropriate guidelines set forth in regulations issued by the commissioner of insurance.

SECTION 4.) Section 26-27.1-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-27.1-20. COORDINATION OF BENEFIT PROVISIONS.) Group nonprofit dental service contracts may contain coordination of

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benefit provisions for the control of overinsurance. Such provisions shall be in accordance with appropriate guidelines set forth in regulations issued by the commissioner of insurance.

Approved March 16, 1971

## CHAPTER 283

HOUSE BILL NO. 1528  
(Gackle)

## OVERINSURANCE PROVISION

AN ACT to create and enact subdivisions l and m of subsection 2 of section 26-03A-03 of the North Dakota Century Code; to amend and reenact subdivision c of subsection 2 of section 26-03A-03 and subsection 7 of section 26-03A-03 of the North Dakota Century Code; and to repeal subdivisions d, e, and f of subsection 2 of section 26-03A-03 of the North Dakota Century Code, pertaining to overinsurance under individual accident and sickness insurance policies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subdivision c of subsection 2 of section 26-03A-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

c. A provision as follows:

OVERINSURANCE: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for \_\_\_\_\_ (insert type of coverage or coverages) in excess of \$\_\_\_\_\_ (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate.

Or, in lieu thereof:

Insurance effective at any one time on the insured under this policy and a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

SECTION 2.) Subdivisions l and m of subsection 2 of section 26-03A-03 of the North Dakota Century Code are hereby created and enacted to read as follows:

1. A provision as follows:

OVERINSURANCE: If, with respect to a person covered under this policy, benefits for allowable expense incurred during a claim determination period under this policy together with benefits for allowable expense during such period under all other valid coverage (without giving effect to this provision or to any "overinsurance provision" applying to such other valid coverage), exceed the total of such person's allowable expense during such period, this insurer shall be liable only for such proportionate amount of the benefits for allowable expense under this policy during such period as (1) the total allowable expense during such period bears to (2) the total amount of benefits payable during such period for such expense under this policy and all other valid coverage (without giving effect to this provision or to any "overinsurance provision" applying to such other valid coverage) less in both (1) and (2) any amount of benefits for allowable expense payable under other valid coverage which does not contain an "overinsurance provision". In no event shall this provision operate to increase the amount of benefits for allowable expense payable under this policy with respect to a person covered under this policy above the amount which would have been paid in the absence of this provision. This insurer may pay benefits to any insurer providing other valid coverage in the event of overpayment by such insurer. Any such payment shall discharge the liability of this insurer as fully as if the payment had been made directly to the insured, his assignee, or his beneficiary. In the event that this insurer pays benefits to the insured, his assignee, or his beneficiary, in excess of the amount which would have been payable if the existence of other valid coverage had been disclosed, this insurer shall have a right of action against the insured, his assignee, or his beneficiary, to recover the amount which would not have been paid had there been a disclosure of the existence of the other valid coverage. The amount of other valid coverage which is on a provision of service basis shall be computed as the amount the services rendered would have cost in the absence of such coverage. For the purposes of this provision:

- (1) "Allowable expense" means one hundred ten percent of any necessary, reasonable, and customary item of expense which is covered, in whole or in part, as a hospital, surgical, medical, or major medical expense under this policy or under any other valid coverage.

- (2) "Claim determination period" with respect to any covered person means the initial period of \_\_\_\_\_ (insert period of not less than thirty days) and each successive period of a like number of days, during which allowable expense covered under this policy is incurred on account of such person. The first such period begins on the date when the first such expense is incurred, and successive periods shall begin when such expense is incurred after expiration of a prior period.

Or, in lieu thereof:

"Claim determination period" with respect to any covered person means each \_\_\_\_\_ (insert calendar or policy period of not less than a month) during which allowable expense covered under this policy is incurred on account of such person.

- (3) "Overinsurance provision" means this provision and any other provision which may reduce an insurer's liability because of the existence of benefits under other valid coverage.

The foregoing policy provision may be inserted in all policies providing hospital, surgical, medical, or major medical benefits. The insurer may make this provision applicable to either or both: other valid coverage with other insurers; and, except for individual policies individually underwritten, other valid coverage with the same insurer. The insurer shall include in this provision a definition of "other valid coverage" approved as to form by the commissioner. Such definition may include hospital, surgical, medical, or major medical benefits provided by group, blanket, or franchise coverage, individual and family-type coverage, blue cross-blue shield coverage, and other prepayment plans, group practice, and individual practice plans, uninsured benefits provided by labor-management trustee plans, or union welfare plans, or by employer or employee benefit organizations, benefits provided under governmental programs, workmen's compensation insurance, or any coverage required or provided by any other statute, and medical payments under automobile liability and personal liability policies. Other valid coverage shall not include payments made under third party liability coverage as a result of a determination of negligence. The insurer may require, as part of the proof of claim, the information necessary to administer this provision.

m. A provision as follows:

OVERINSURANCE: After the loss-of-time benefit of this policy has been payable for ninety days, such benefit will be adjusted, as provided below, if the total amount of unadjusted loss-of-time benefits provided in all valid loss-of-time coverage upon the insured should exceed \_\_\_\_\_ percent of the insured's earned income; provided, however, that if the information contained in the application discloses that the total amount of loss-of-time benefits under this policy and under all other valid loss-of-time coverage expected to be effective upon the insured in accordance with the application for this policy exceeded \_\_\_\_\_ percent of the insured's earned income at the time of such application, such higher percentage will be used in place of \_\_\_\_\_ percent. Such adjusted loss-of-time benefit under this policy for any month shall be only such proportion of the loss-of-time benefit otherwise payable under this policy as (1) the product of the insured's earned income and \_\_\_\_\_ percent (or, if higher, the alternative percentage described at the end of the first sentence of this provision) bears to (2) the total amount of loss-of-time benefits payable for such month under this policy and all other valid loss-of-time coverage on the insured (without giving effect to the "overinsurance provision" in this or any other coverage) less in both (1) and (2) any amount of loss-of-time benefits payable under other valid loss-of-time coverage which does not contain an "overinsurance provision". In making such computation, all benefits and earnings shall be converted to a consistent (insert "weekly" if the loss-of-time benefit of this policy is payable weekly, "monthly" if such benefit is payable monthly, etc.) basis. If the numerator of the foregoing ratio is zero or is negative, no benefit shall be payable under this policy. In no event shall this provision operate to reduce the total combined amount of loss-of-time benefits for such month payable under this policy and all other valid loss-of-time coverage below the lesser of three hundred dollars and the total combined amount of loss-of-time benefits determined without giving effect to any "overinsurance provision", nor operate to increase the amount of benefits payable under this policy above the amount which would have been paid in the absence of this provision, nor take into account or operate to reduce any benefit other than the loss-of-time benefit. For purposes of this provision:

- (1) "Earned income", except where otherwise specified, means the greater of the monthly earnings of the

insured at the time disability commences and his average monthly earnings for a period of two years immediately preceding the commencement of such disability, and shall not include any investment income or any other income not derived from the insured's vocational activities.

- (2) "Overinsurance provision" shall include this provision and any other provision with respect to any loss-of-time coverage which may have the effect of reducing an insurer's liability if the total amount of loss-of-time benefits under all coverage exceeds a stated relationship to the insured's earnings.

The foregoing provision may be included only in a policy which provides a loss-of-time benefit which may be payable for at least fifty-two weeks, which is issued on the basis of selective underwriting of each individual application, and for which the application includes a question designed to elicit information necessary either to determine the ratio of the total loss-of-time benefits of the insured to the insured's earned income or to determine that such ratio does not exceed the percentage of earnings, not less than sixty percent, selected by the insurer and inserted in lieu of the blank factor above. The insurer may require, as part of the proof of claim, the information necessary to administer this provision. If the application indicates that other loss-of-time coverage is to be discontinued, the amount of such other coverage shall be excluded in computing the alternative percentage in the first sentence of the overinsurance provision. The policy shall include a definition of "valid loss-of-time coverage", approved as to form by the commissioner, which definition may include coverage provided by governmental agencies and by organizations subject to regulation by insurance law and by insurance authorities of this or any other state of the United States or of any other country or subdivision thereof, coverage provided for such insured pursuant to any disability benefits statute or any workmen's compensation or employer's liability statute, benefits provided by labor-management trusteed plans or union welfare plans or by employer or employee benefit organizations, or by salary continuance or pension programs, and any other coverage the inclusion of which may be approved by the commissioner.

SECTION 3. AMENDMENT.) Subsection 7 of section 26-03A-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Filing procedure. The commissioner may make such

reasonable rules and regulations as are necessary, proper, or advisable to the administration of this chapter. This provision shall not abridge any other authority granted the commissioner by law.

SECTION 4. REPEAL.) Subdivisions d, e, and f of subsection 2 of section 26-03A-03 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1971

## CHAPTER 284

SENATE BILL NO. 2151  
(Lips, Wilhite)

AUTHORIZED INVESTMENTS  
OF INSURANCE COMPANIES

AN ACT to amend and reenact subsection 13 of section 26-08-11 of the North Dakota Century Code, relating to authorized investment of funds of insurance companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 13 of section 26-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. Real estate for the production of income or for improvement or development for the production of income subject to the following provisions and limitations:
  - a. Real estate used primarily for farming or agriculture may not be acquired under the provisions of this subsection;
  - b. Investments made by any company under the provisions of this subsection shall not at any time exceed ten percent of the admitted assets of the company;
  - c. An investment in any single parcel of real estate acquired under the provisions of this subsection shall not exceed two percent of the admitted assets of the company;
  - d. Such real estate, including the cost of improvements shall be valued at cost and the improvements shall be depreciated annually at an average rate of not less than two percent of the original cost.

Approved March 27, 1971

## CHAPTER 285

HOUSE BILL NO. 1253  
(Atkinson)

PAYING LIFE INSURANCE  
PROCEEDS TO TRUSTEES

AN ACT relating to the payment of life insurance proceeds to trustees whether inter vivos or testamentary.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. NOT AFFECTED BY WILLS LAW.) A designation in accordance with the terms of any insurance, annuity, or endowment contract where the designation in any agreement is or entered into by the insurance company in connection therewith, supplemental thereto, or in settlement thereof, or the designation under a thrift, pension, retirement, death benefit stock bonus or profit-sharing contract, plan, system, or trust created by an employer for the exclusive benefit of some or of his employees, or their beneficiary, a person to be a beneficiary, payee, or owner of any right, title, or interest thereunder upon the death of another, shall not be subject to or defeated or impaired by any statute or law relating to the signing and attestation of wills, even though such designation is revocable with the rights of such beneficiary, payee, or owner, or otherwise subject to defeasance.

SECTION 2. PRIOR EXISTENCE OF WILL NOT REQUIRED.) Under the provisions of section 1 of this Act, it shall be permissible to designate as beneficiary, payee, or owner a trustee named any inter vivos or testamentary trust whether or not such will (or codicil) is in existence at the date of such designation. It shall not be necessary to the validity of any such trust that there be in existence a trust corpus other than the right to receive the benefits or to exercise the rights resulting from such a designation.

SECTION 3. PAYMENT TO TRUSTEE.) Under the provision of section 1 of this Act, it shall also be permissible to designate as a beneficiary, payee, or owner, a trustee named to be named in, or ascertainable under, the will of the designator. Benefits or rights resulting from such a designation shall be payable or transferable to the trustee upon admission of the will (or codicil) to probate. Upon the payment thereof to the trustee (or trustees) such death benefits shall be administered, and disposed of in accordance with the terms of the testamentary trust or trusts created by the will (or codicil).

SECTION 4. PAYMENTS WHERE NO TRUSTEE MAKES CLAIM.) If a trustee is designated pursuant to section 2 or 3 of this Act, and no qualified trustee makes claim to the benefits or rights resulting from such a designation within one year of the death of the designator, or if it is satisfactory to the person obligated to make the payment or transfer as furnished within such one-year period that there is or will be no trustee to receive the proceeds, payment or transfer shall be made to the person or representative of the designator, unless otherwise provided by such designation or other controlling agreement made during the lifetime of the designator.

SECTION 5. DISCHARGE FOR PAYMENT BY OBLIGOR.) The payment of the benefits due or a transfer of the rights given under a designation pursuant to section 2, 3, or 4 of this Act and the receipt of such payment or transfer executed by the trustee or other authorized payee thereof shall constitute a full discharge and acquittance of the person or institution obligated to make payment or transfer.

SECTION 6. EXEMPTION FROM CREDITOR'S CLAIMS.) Payment of the benefits due where the transfer of the rights given in accordance with a designation of the provisions of section 3 of this Act shall not cause such benefits or rights to be included in the property administered as part of the designator's estate under this chapter as subject to the claims of creditors.

SECTION 7. COMMINGLING OF ASSETS.) Such death benefits so held in trust may be commingled with any other assets which may properly come into such trust. Enactment of this section shall not invalidate previous life insurance policy beneficiary designations naming trustees of trusts established by will.

Approved March 12, 1971

## CHAPTER 286

SENATE BILL NO. 2153  
(Lips, Wilhite)

OWNING SPECIAL PURPOSE  
CORPORATIONS

AN ACT to authorize domestic life insurance companies to invest in subsidiaries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. SPECIAL PURPOSE CORPORATIONS.) A domestic life insurance company may organize and hold, or acquire and hold, more than 50 percent of the capital stock of any corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, or if approved by the commissioner, elsewhere, which is:

1. A corporation providing investment, advisory, management or sales services to an investment company or to an insurance company; or
2. A data processing or computer service corporation; or
3. A real property holding, developing, managing or leasing corporation; or
4. A mortgage loan corporation engaged in the business of making, originating, purchasing, or otherwise acquiring or investing in, and servicing or selling or otherwise disposing of loans secured by mortgages on real property; or
5. A corporation whose business is owning and managing or leasing personal property; or
6. A banking or insurance corporation whose business has been approved by the commissioner as complementary or supplementary to the business of a domestic life insurance company. This subsection is not intended to take away any powers which may reside now or in the future in any other state department.

Provided, however, that such percentage of stock may, with the approval of the commissioner, be fifty percent or less. The limits contained in section 26-08-11 of the North Dakota Century Code shall not apply to such holdings, pro-

vided that the aggregate of the investments under this subdivision shall not exceed ten percent of the domestic life insurance company's admitted assets.

SECTION 2. REGULATIONS.) The commissioner may issue such reasonable rules and regulations as may be appropriate to carry out the purposes of this Act.

Approved March 27, 1971

## CHAPTER 287

HOUSE BILL NO. 1397  
(Atkinson, Boustead)

## VARIABLE CONTRACT INSURANCE

AN ACT creating a variable contract insurance law for North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA.

SECTION 1. SEPARATE ACCOUNTS - AUTHORIZED.) Any domestic life insurance company, including any domestic fraternal benefit society which operates on a legal reserve basis, may establish one or more separate accounts and may allocate thereto amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities, and benefits incidental thereto, payable in fixed or variable amounts or both, subject to the following:

1. The income, gains, and losses, realized or unrealized from assets allocated to a separate account, shall be credited to or charged against the account, without regard to other income, gains, or losses of the company.
2. Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in subsection 3 of this section:
  - a. Amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by laws of this state governing the investments of life insurance companies.
  - b. Investments in a separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.
3. Except with the approval of the commissioner of insurance and under such conditions as to investments and other matters as he may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves for benefits guaranteed as to dollar amount and duration and funds guaranteed as to principal amount or

stated rate of interest shall not be maintained in a separate account.

4. Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account. Unless otherwise approved by the commissioner, the portion of the assets of such separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in subsection 3 of this section shall be valued in accordance with the rules otherwise applicable to the company's assets.
5. Amounts allocated to a separate account in the exercise of the power granted by this Act shall be owned by the company, and the company shall not be, nor hold itself out to be, a trustee with respect to such amounts. If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.
6. No sale, exchange, or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made by a transfer of cash or by a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the commissioner. The commissioner may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable.
7. To the extent such company deems it necessary to comply with any applicable federal or state laws, such company, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and

procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such company, to manage the business of such account.

SECTION 2. CONTENT OF CONTRACTS.) Any contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that the dollar amount will so vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

SECTION 3. LICENSE REQUIRED.) No company shall deliver or issue for delivery within this state variable contracts unless it is licensed or organized to do a life insurance or annuity business in this state, and the commissioner of insurance is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner shall consider, among other things, the history and financial condition of the company; the character, responsibility, and fitness of the officers and directors of the company; and the laws and regulations under which the company is authorized in the state of domicile to issue variable contracts. If the company is a subsidiary of an admitted life insurance company, or affiliated with such company through common management or ownership, it may be deemed by the commissioner to have met the provisions of this section if it or the parent or the affiliated company meets these requirements.

SECTION 4. RULES AND REGULATIONS.) The commissioner of insurance shall have authority to issue such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of this Act.

SECTION 5. EXCEPTIONS.) Except for the provisions entitled "loans", "options on surrender or lapse", "continuance of insurance on lapse", "reinstatement", "options at maturity", and the "grace" paragraph of the provision entitled "payment of premiums" of sections 26-03-26 through 26-03-31, and except for subsections 2, 7, 8, 9, 10, and 12 of section 26-03-35, and except as otherwise provided in this Act, all pertinent provisions of title 26 shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this state, shall contain grace, reinstatement, and nonforfeiture provisions appropriate to such a contract. The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Approved March 22, 1971

## CHAPTER 288

SENATE BILL NO. 2156  
(Lips, Wilhite)

## REGULATING TAKEOVER BIDS

AN ACT to protect shareholders of North Dakota corporations by requiring public announcement and fair, full and effective disclosure to shareholders in regard to take-over bids and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

## SECTION 1. DEFINITIONS.)

1. "Take-over bid" means the acquisition of, or offer to acquire, pursuant to a tender offer or request or invitation for tenders, any equity security of a North Dakota domestic insurance company, if after acquisition thereof the offeror would, directly or indirectly, be a record or beneficial owner of more than five percent of any class of the issued and outstanding equity securities of such corporation. "Take-over bid" does not include:
  - a. Bids made by a dealer for his own account in the ordinary course of his business of buying and selling such security;
  - b. Any other offer to acquire an equity security or the acquisition of such equity security pursuant to such offer, for the sole account of the offeror, from not more than twenty persons, in good faith and not for the purpose of avoiding this Act;
  - c. Any tender offer or request or invitation for tenders to which the target company consents, by action of its board of directors, if such board of directors has recommended acceptance thereof to shareholders and the terms thereof including any inducements to officers or directors which are not made available to all shareholders have been furnished to shareholders.
2. "Offeror" means a person who makes, or in any way participates or aids in making a take-over bid, and includes persons acting jointly or in concert, or who

- intend to exercise jointly or in concert any voting rights attached to the securities for which such take-over bid is made.
3. "Offeree" means the beneficial or record owner of securities which an offeror acquires or offers to acquire in connection with a take-over bid.
  4. "Target company" means a corporation whose securities are or are to be the subject of a take-over bid.
  5. "Equity security" means any shares or similar securities, or voting trust certificates, or any securities convertible into such securities.
  6. "Vertical combination" means a chain of ownership in which one corporation has a majority of its equity securities owned by another corporation and which chain of corporate ownership may or may not continue through other corporations in which a majority of the equity securities of one corporation are owned by another.
  7. "Horizontal combination" means two or more corporations each of which has a majority of its equity securities owned by the same other corporation.

SECTION 2. TAKE-OVER BID - RESTRICTIONS.)

1. No offeror shall make a take-over bid unless at least twenty days prior thereto he files with the insurance commissioner and the target company copies of all information required by subsection 2 herein and either within ten days following such filing no hearing is ordered by the commissioner or requested by the target company, or a hearing is requested by the target company within such time but the commissioner finds that no cause for hearing exists, or a hearing is ordered within such time and upon such hearing the commissioner adjudicates that the proposed take-over bid and the materials being or to be distributed are not a violation of the insurance laws of the state, including North Dakota Century Code 26-20 and 26-30, and that the offeror proposed to make fair, full and effective disclosure to offerees of all information material to a decision to accept or reject the offer. No offeror shall make a take-over bid if he owns five percent or more of the issued and outstanding equity securities of any class of the target company, any of which were purchased within one year before the proposed take-over bid, and the offeror, before making any such purchase, or before the thirtieth day following the effective date of this section, whichever is later, failed to publicly announce his

intention to gain control of the target company, and failed to make fair, full, and effective disclosure of such intention to the persons from whom he acquired such securities.

2. The information to be filed with the commissioner and the target company pursuant to section 1 shall include:
  - a. Copies of all prospectuses, brochures, advertisements, circulars, letters, or other matter by means of which the offeror proposes to disclose to offerees all information material to a decision to accept or reject the offer;
  - b. The identity and background of all persons on whose behalf the acquisition of any equity security of the target company has been or is to be effected.
  - c. The names of all insurance companies doing business in North Dakota in which the offeror has ownership or debt interests (setting forth such ownership or debt interests) or management functions (setting forth the management functions).
  - d. The source and amount of funds or other consideration used or to be used in acquiring any equity security, including a statement describing any securities, other than the existing capital stock or long term debt of the offeror, which are being offered in exchange for the equity securities of the target company;
  - e. If the offeror has ownership or debt interests, or management functions in other insurance companies doing business in the state of North Dakota, what plans exist for consolidation of any functions whatsoever of the target company with the offeror's other companies, including but not limited to, rate making, investment policies, or consolidation of sales functions.
  - f. A statement of any plans or proposals which the offeror, upon gaining control, may have to liquidate the target company, sell its assets, effect a merger or formal consolidation of it, or make any other major change in its business, corporate structure, management personnel, or policies of employment; or to assume any portion of the risks of the target company or to have the target company assume any portion of the risks, or to reinsure any of the risks of the offeror.
  - g. The number of shares of any equity security of the

- target company of which each offeror is beneficial or record owner or has a right to acquire, directly or indirectly, together with the name and address of each person defined in this section as an offeror;
- h. Particulars as to any contracts, arrangements, or understandings to which an offeror is party with respect to any equity security of the target company, including without limitation transfers of any equity security, joint ventures, loan or option arrangements, puts and calls, guarantees of loan, guarantees against loss, guarantees of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts arrangements, or understandings have been entered into;
  - i. Complete information on the organization and operations of offeror, including without limitation the year of organization, form of organization, the jurisdiction in which it is organized, a description of each class of the offeror's capital stock and of its long term debt, financial statements for the current period and for the three most recent annual accounting periods, a brief description of the location and general character of the principal assets of the offeror and its subsidiaries, a description of pending legal proceedings other than routine litigation to which the offeror or any of its subsidiaries is a party or of which any of their property is the subject, a brief description of the business done and projected by the offeror and its subsidiaries and the general development of such business over the past five years, the names of all directors and executive officers together with biographical summaries of each for the preceding five years to date, and the approximate amount of any material interest, direct or indirect, of any of the directors or officers in any material transaction during the past three years, or in any proposed material transactions, to which the offeror or any of its subsidiaries was or is to be a party;
  - j. If the offeror is a member of a horizontal combination or a vertical combination, as defined in these regulations, then the same information shall be furnished and filed for each member corporation of the horizontal combination or vertical combination

SECTION 3. HEARING.) Any hearing pursuant to this Act shall be held within forty days of the date a filing is made pursuant to section 2 of this Act. Adjudications made pursuant to this Act

shall be made within sixty days after such filing. Upon filing an application with the commissioner of insurance for a hearing under this section, the target company shall deposit with the commissioner such sum as the commissioner may require to defray the costs of such hearing and any investigation which the commissioner may make in connection therewith. If upon hearing the commissioner finds that the take-over bid is in violation of North Dakota Century Code 26-20 and North Dakota Century Code 26-30 or that effective provision is not made for fair and full disclosure to offerees of all information material to a decision to accept or reject the offer, he shall so adjudicate. If he finds that the take-over bid would comply with this section if amended in certain respects, he shall so adjudicate. If he finds that the take-over bid is not in violation of North Dakota Century Code 26-20 and North Dakota Century Code 26-30 and that effective provision is made for fair and full disclosure to offerees of all information material to a decision to accept or reject the offer, he shall so adjudicate.

SECTION 4. TAKE-OVER - TO WHOM OFFER MADE; TERMS OF.) No offeror shall make a take-over bid which is not made to all holders residing in this state of the equity security that is the subject of such take-over bid, or which is not made to such holders on the same terms as such take-over bid is made to holders of such equity security not residing in this state. If an offeror makes a tender offer or request or invitation for tenders for less than all the outstanding equity securities of a class, and if a greater number of securities is deposited pursuant thereto within ten days after copies of the offer or request or invitation for tenders are first published or sent or given to security holders than such offeror is bound or willing to take up and pay for, the securities taken up shall be taken up as nearly as may be prorata, disregarding fractions, according to the number of securities deposited by each offeree; the provisions of the foregoing sentence shall also apply to securities deposited within ten days after notice of an increase in the consideration offered to security holders, as described in the next sentence, is first published or sent or given to security holders. If the terms of a take-over bid are changed before its expiration by increasing the consideration offered to offerees, the offeror shall pay the increased consideration for all equity securities taken up, whether or not the same are deposited or taken up before or after the change in the terms of the take-over bid.

SECTION 5. DECEPTIVE PRACTICES.) It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or to engage in any fraudulent, deceptive, or manipulative acts or practices, in connection with any take-over bid, or any solicitation of offerees in opposition to or in favor of any such take-over bid.

SECTION 6. CRIMES.) Any person who shall knowingly make or cause to be made any false statement with respect to any matter subject to the provisions of this Act or exhibit any false paper to the commissioner or who shall commit any act declared unlawful by this Act and any offeror who shall make a take-over bid which does not comply with the provisions of sections 2, 4, 5 and 6 shall be guilty of a misdemeanor, and on conviction, be punished by a fine of not less than one hundred nor more than five thousand dollars, or by confinement in a county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment. Prosecutions under this section shall be instituted within two years from the date of the offense.

SECTION 7. OFFENSES PUNISHABLE BY THE COMMISSIONER.) The commissioner may, by judgment entered after a hearing on notice duly served on the defendant not less than thirty days before the date of the hearing, if it be proved that the defendant has knowingly made any misrepresentation of a material fact for the purpose of inducing the commissioner to take any action or to refrain from taking action, or has violated any provision of this Act, or any order of the commissioner issued pursuant to this Act, impose a penalty not exceeding five thousand dollars.

SECTION 8. SEPARATE OFFENSES.) Each take-over bid made in violation of the provisions of this Act shall constitute a separate offense. The commissioner may request the offeror to rescind any such bid and to make restitution to the offeree, and if the offeror complies with the request no penalty shall be imposed on him on account of that illegal take-over bid.

SECTION 9. CIVIL LIABILITIES.) Any offeror who:

1. Makes a take-over bid which does not comply with the provisions of this Act, or
2. Makes a take-over bid by means of an untrue statement of a material fact or any omission to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading (the offeree not knowing of such untruth or omission), and who shall not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of such untruth or omission, shall be liable to any offeree whose shares are taken up pursuant to the take-over bid who may sue either at law or in equity,
  - a. To recover such shares, together with all dividends received thereon, costs and reasonable attorneys' fees, upon the tender of the consideration received from the offeror, or
  - b. For the substantial equivalent in damages if the

offeror no longer owns such shares.

3. Every person who materially participates or aids in a take-over bid made by an offeror liable under subsections 1 and 2, or who directly or indirectly controls any offeror so liable, shall also be liable jointly and severally with and to the same extent as the offeror so liable, unless the person who so participates, aids or controls, sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There shall be contribution as in cases of contract among the several persons so liable.
4. Any tender specified in this section may be made at any time before entry of judgment.
5. No suit shall be maintained to enforce any liability created under this section unless brought within two years after the transaction upon which it is based; provided, that if any person liable by reason of subsections 1, 2 and 3 makes a written offer, before suit is brought, to return the shares taken up pursuant to the take-over bid, together with all dividends received thereon, upon the tender of the consideration received from the offeror, or to pay damages if the offeror no longer owns such shares, no offeree shall maintain a suit under this section who shall have refused or failed to accept such offer within thirty days of its receipt.
6. Any condition, stipulation or provision binding any offeree to waive compliance with any provision of this chapter or of any rule or order thereunder shall be void.
7. The rights and remedies provided by this chapter shall be in addition to any and all other rights and remedies that may exist at law or in equity.

SECTION 10. CONSENT TO SERVICE OF PROCESS.) Every non-resident offeror who makes a take-over bid shall be deemed to have appointed the state insurance commissioner as his agent upon whom may be served, in any matter arising under this chapter, any process, notice, order or demand except one issued by the commissioner. Service may be made by any of his staff designated for such service at his office, he shall forthwith cause it to be sent by registered or certified mail addressed to such offeror at his latest address on file and keep a record thereof. Any process, notice, order or demand issued by the commissioner shall be served by being mailed by the commissioner or any of his staff by registered or certified mail addressed to such offeror at his latest address on file. A foreign corporation that has a duly

appointed agent for service of process need not comply with this section.

SECTION 11. REGULATIONS.) The commissioner of insurance may prescribe reasonable rules and regulations:

1. Defining fraudulent, evasive, deceptive, or grossly unfair practices in connection with take-over bids and the terms used in this Act.
2. Exempting from this Act take-over bids not made for the purpose of, and not having the effect of, changing or influencing the control of a target company.
3. Covering such other matters as are necessary to give effect to this Act.

SECTION 12. ENFORCEMENT - ENJOINING VIOLATIONS.) If upon any hearing before the commissioner, the commissioner determines that the offeror has violated any of the provisions of this Act, or of the commissioner's rules and regulations administering this Act, the commissioner shall make his findings of fact and may issue and cause to be served on such offeror an order requiring such person to cease and desist from such violation and may issue and cause to be served on such offeror an order preventing the offeror from making any further tender offers, and to take such affirmative action as will effectuate the policies of this Act.

The commissioner shall have power to petition any district court of this state for the enforcement of the commissioner's order and for appropriate temporary relief or restraining order and shall file in the court the record of the proceedings. Upon the filing of such petition, the court shall cause notice thereof to be served upon such offeror and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter a decree enforcing, modifying and enforcing as so modified, or for setting aside in whole or in part the order of the commissioner. The court shall enforce the order of the commissioner unless it shall find that such order was not in accordance with law, or that it was in violation of the constitutional rights of the offeror, or that the rules or procedure of the commissioner did not afford the offeror a fair hearing, or that the findings of fact made by the commissioner were not supported by the evidence or that the order of the commissioner was not supported by its findings of facts.

Any person aggrieved by a final order of the commissioner may obtain a review of such order pursuant to North Dakota Century Code, chapter 28-32.

SECTION 13. SECURITIES LAWS.) This Act shall not be

construed to limit or modify in any way any responsibility, authority, power or jurisdiction of the commissioner of securities or of the securities laws of North Dakota.

SECTION 14. SAVINGS CLAUSE.) If any section, subsection, subdivision, sentence, or clause of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

SECTION 15. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 27, 1971

## CHAPTER 289

SENATE BILL NO. 2195  
(Goldberg)

TYPE OF BONDS ISSUED BY  
STATE BONDING FUND

AN ACT to amend and reenact section 26-23-09 of the North Dakota Century Code, relating to limiting the state bonding fund to only surety or fidelity bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-23-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-09. CONDITION OF BOND CREATED BY CHAPTER - LIMITATION.) The condition of the bond arising under the provisions of this chapter shall be limited to that of a surety or fidelity bond and shall provide that the public employee, as principal, faithfully and impartially shall discharge and perform the duties of his office or employment, including such duties as are or may be imposed upon him by law, and shall render a true account of all moneys and property of every kind that shall come into his hands as such public employee, and shall pay over and deliver the same according to law. The bond shall not include coverage for claims resulting from the death or injury of any person or for property damage.

Approved February 20, 1971

## CHAPTER 290

HOUSE BILL NO. 1082  
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)  
(Legislative Council Study)

## BONDING FUND BOARD ELIMINATED

AN ACT to amend and reenact sections 26-23-12, 26-23-13, and 26-23-16 of the North Dakota Century Code, relating to the bonding fund board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-23-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-12. AUDIT OF CLAIMS AGAINST STATE BONDING FUND - REGISTER OF CLAIMS.) All liability claims against the fund shall be audited by the commissioner, and such audit shall be approved by the attorney general. The commissioner shall have the authority to prescribe the forms upon which claims shall be presented, and may administer oaths and examine witnesses in connection with claims presented to him. If the commissioner, with the approval of the attorney general, shall find a claim or any part thereof to be a valid, just, and proper charge against the fund, he shall make and file an order to that effect and state therein the amount allowed upon the claim. A brief description of every claim filed against the fund shall be entered by the commissioner in a register provided for that purpose showing the name of the claimant, the amount and character of the claim, the action taken upon the claim, and the date when such action was taken.

SECTION 2. AMENDMENT.) Section 26-23-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-13. FILING CLAIM IS CONDITION PRECEDENT TO BRINGING ACTION - FAILURE TO ACT IS REFUSAL.) No action shall be maintained against the fund upon any claim whatever until the claim first has been presented for allowance as provided in this chapter and the allowance of such claim has been refused. Any claim which has not been acted upon and allowed or disallowed within sixty days after its presentation for allowance shall be deemed to be refused. The filing and disallowance of the claim must be alleged in the complaint in any action brought thereon against the fund.

SECTION 3. AMENDMENT.) Section 26-23-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-16. ALLOWED LIABILITY CLAIMS PAYABLE FROM FUND - ADMINISTRATIVE EXPENSES - METHODS OF PAYMENT.) All liability claims which are allowed against the fund shall be paid upon warrants drawn upon the state treasurer against the fund. Such warrants shall be prepared by the department of accounts and purchases pursuant to the directions of the commissioner. Payments for administrative expenses of the state bonding fund shall be made within the limitations of legislative appropriations upon warrant-checks prepared by the department of accounts and purchases after the approval of vouchers by the commissioner.

Approved February 20, 1971

## CHAPTER 291

SENATE BILL NO. 2196  
(Goldberg)

INVESTIGATION AND ANNUAL  
STATEMENT OF INSURANCE COMPANIES

AN ACT to amend and reenact sections 26-27-06, 26-27-07, 26-27.1-07, and 26-27.1-08 of the North Dakota Century Code, relating to the filing of annual statements by corporations and the costs of investigating the affairs of corporations, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-27-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-06. ANNUAL STATEMENT.) Every corporation organized under the provisions of this chapter shall annually on or before the first day of April, file in the office of the commissioner of insurance, a verified statement signed by two or more of its principal officers, showing the condition of its affairs on the thirty-first day of December last past, which statement shall be in such form and shall contain such information as the commissioner of insurance shall prescribe.

SECTION 2. AMENDMENT.) Section 26-27-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-07. INVESTIGATION AND EXAMINATION.) The commissioner of insurance, or any deputy or examiner designated by him, shall have the right, at all reasonable times, to free access to all books and records of such corporation, and may summon and examine, under oath, the officers and employees of such corporation in all matters pertaining to its financial condition. The expense of any such examination of its books and financial condition shall be borne by such corporation.

SECTION 3. AMENDMENT.) Section 26-27.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27.1-07. ANNUAL STATEMENT.) Every corporation organized under the provisions of this chapter shall annually on or before the first day of April, file in the office of the commissioner of insurance, a verified statement signed by two or more

of its principal officers, showing the condition of its affairs on the thirty-first day of December last past, which statement shall be in such form and shall contain such information as the commissioner of insurance shall prescribe.

SECTION 4. AMENDMENT.) Section 26-27.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27.1-08. INVESTIGATION AND EXAMINATION.) The commissioner of insurance, or any deputy or examiner designated by him, shall have the right, at all reasonable times, to free access to all books and records of such corporation, and may summon and examine, under oath, the officers and employees of such corporation in all matters pertaining to its financial condition. The expense of any such examination of its books and financial condition shall be borne by such corporation.

SECTION 5. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1971

## CHAPTER 292

HOUSE BILL NO. 1056  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(Legislative Council Study)

NONPROFIT MEDICAL SERVICE  
CORPORATIONS NOT TAX EXEMPT

AN ACT to amend and reenact section 26-27-13 of the North Dakota Century Code, to remove the tax exemption on property owned by nonprofit medical service corporations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-27-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-13. FUNDS OF MEDICAL CARE CORPORATIONS TAX EXEMPT - LAW GOVERNING CHARITABLE ORGANIZATIONS APPLICABLE.) Every corporation subject to the provisions of this chapter is hereby declared to be a charitable and benevolent organization and its funds shall be exempt from taxation by the state or any political subdivision thereof. Except as otherwise provided in this chapter, the laws of this state relating to and affecting nonprofit charitable and benevolent corporations shall be applicable to all corporations created under the provisions of this chapter, with the exception that the real property of such corporations shall be subject to taxation.

Approved February 19, 1971

## CHAPTER 293

HOUSE BILL NO. 1247  
(Bunker)

## NONPROFIT VISION SERVICE CORPORATIONS

AN ACT relating to the creation and authorization of nonprofit vision service corporations whereby visual services may be provided by licensed practitioners to members of the public who become subscribers to said corporations under contracts which entitle such subscribers to certain specified vision services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. PURPOSES.) It is the purpose and intent of the legislative assembly to make possible and facilitate a wider and more available vision care, and to provide for corporations to implement a plan for the payment of optometric services to its subscribers, and thereby advancing the public health and the art and science of optometry in this state.

SECTION 2. NONPROFIT VISION SERVICE CORPORATIONS AUTHORIZED.) Corporations may be organized under the laws of this state on a strictly nonprofit basis for the purpose of establishing and putting into effect nonprofit optometric service plans whereby optometric services may be provided by a group of participating licensed practitioners, with whom such corporation has contracted for such purpose, to such members of the public as become subscribers to certain specified optometric care. Such corporation shall be subject to, and governed by the provisions of this chapter and shall not be subject to the laws of the state relating to insurance and insurance companies, except as hereinafter specifically provided.

SECTION 3. OPTOMETRIC SERVICES OF PRACTITIONERS OTHER THAN THOSE PARTICIPATING UNDER OPTOMETRIC SERVICE PLAN AUTHORIZED.) The optometric service plan put into effect by any corporation organized under the provisions of this chapter shall also provide for optometric services to such subscribers by practitioners authorized under North Dakota law to perform such visual services other than those participating under the plan, subject to the approval of the governing body of such optometric service corporation. The word practitioner, as used in this chapter, shall include optometrist and physician duly licensed to practice their profession under North Dakota law.

SECTION 4. ARTICLES OF INCORPORATION TO BE FILED WITH SECRETARY OF STATE - COPY OF ARTICLES TO BE FILED WITH INSURANCE COMMISSIONER.) Articles of incorporation of all nonprofit optometric service corporations organized under the provisions of this chapter, and all amendments thereto, shall be filed with the secretary of state, and a certified copy thereof shall be filed with the commissioner of insurance. Any optometric service corporation that has heretofore incorporated under the laws of the state of North Dakota, and which is now operating such nonprofit optometric service plan in this state, may file a copy of its articles of incorporation, with amendments thereto, with the commissioner of insurance and thereupon be subject to the provisions of this chapter.

SECTION 5. BOARD OF DIRECTORS.) The board of directors of such optometric service corporation shall consist of not less than nine members, two of whom shall be licensed physicians, elected by the participating licensed optometrists; a majority of such board of directors shall be licensed optometrists who have contracted with such corporation to provide optometric services to its subscribers.

SECTION 6. AUTHORITY OF VISUAL SERVICE CORPORATIONS.) A visual service corporation organized under this chapter shall have the following authority to accomplish its purposes:

1. It may hire agents and employees for the purposes of conducting its corporate business.
2. It may enter into contracts with subscribers whereby the corporation promises that its participating practitioners will provide specified vision services at specified rates to the subscriber or subscriber members, officers or employees.
3. It may enter into contracts with like or similar corporations within or without of the state for the interchange of services to those included in subscription or other like contracts, and may provide subscription contracts for the substitution of such services in lieu of those therein recited.
4. It may enter into contracts with optical laboratories to provide material pursuant to contracts with subscribers or subscriber members, officers or employees.

SECTION 7. ANNUAL STATEMENT.) Every corporation organized under the provisions of this chapter shall annually on or before the first day of April file in the office of the commissioner of insurance a verified statement signed by two or more of its principal officers showing the condition of its

affairs on the thirty-first day of December last past, which statement shall be in such form and shall contain such information as the commissioner of insurance shall prescribe.

SECTION 8. INVESTIGATION AND EXAMINATION.) The commissioner of insurance or any deputy examiner, or other person designated by him for such purpose, shall have the authority to inspect and examine into the affairs of such corporation and shall have the authority and power to examine all books, papers, records, letters, and documents of any kind that relate to the business of such corporation, the expenses for such examination to be paid by such corporation, and may subpoena and qualify witnesses under oath to examine its officers, agents, employees or any other persons having knowledge of the affairs, transactions and conditions of such corporation. In the event that any person shall fail or refuse to appear at the time and place designated in such subpoena, the insurance commissioner shall have the authority to apply to a judge of the district court in and for the county in which such corporation has its principal place of business for an order citing said witness to appear before such court at such time and place as the court may direct, and said district court is hereby given the authority and jurisdiction to cause such witness to be examined as the said court now has in the examination of witnesses in any manner pending before the said court.

SECTION 9. CONTRACTS WITH PRACTITIONERS - CONTRACT LIMITATION - BENEFITS MAY BE LIMITED.) Every practitioner duly licensed and registered in the state of North Dakota shall have the right to contract with any corporation organized and doing business under the provisions of this chapter for furnishing general or special optometric care as the case may be. The private relationship of practitioner and patient shall be maintained at all times and the subscriber shall have the right of free choice in selecting any practitioner with whom the corporation has a contract.

No optometric service contract by or on behalf of any such nonprofit optometric service corporation shall provide the payment of any cash indemnification by the corporation to the subscriber or his estate on account of death, illness or other injury.

Such optometric service corporation may, in its discretion, by its articles of incorporation or its bylaws, and in its contract with its subscribers, limit the benefits that such corporation will furnish, and may provide for a division of such benefits as it shall agree to furnish into classes or kinds. In the absence of any such limitations or division of services, a nonprofit optometric service corporation shall be authorized to provide both general and special optometric care benefits, including such service as may necessarily be incident to such optometric care. An optometric service

corporation organized and doing business under the provisions of this chapter may, in its discretion, limit the issuance of contracts as specified in its bylaws.

SECTION 10. DISSOLUTION OR MERGER.) The dissolution, liquidation or merger of any optometric service corporation organized and doing business under the provisions of this chapter shall be conducted under the supervision of the commissioner of insurance, who shall have all the authority and power with respect thereto which is granted to him under the insurance laws of this state.

SECTION 11. EFFECTS OF CONTRACTS.) The issuance of a contract by any corporation organized and doing business under the provisions of this chapter to a subscriber shall not be deemed to create the relationship of practitioner and patient between the corporation and such subscriber. The subscriber shall at all times have the right to select any participating practitioner, subject to the terms and conditions of such contract. No employee, agent, officer or member of the board of directors of any such corporation shall influence or attempt to influence any subscriber in the choosing and selecting of the practitioner who is to treat him. No action at law or in equity arising out of the relationship of practitioner and patient shall be maintained against any nonprofit optometric service corporation governed by this chapter. A participating practitioner shall have the right to engage in other practice.

SECTION 12. LIMITATIONS ON CONTRACT.) Every subscriber under such nonprofit optometric service plan shall receive a copy of the contract, and such contract shall clearly state the optometric care, materials and supplies to be provided under such contract and the rate charged such subscriber. Every subscriber shall have, at all times, free choice of the practitioner who is to treat him, and such right shall be prominently printed in such contract. All contracts shall provide that a subscriber shall have the freedom of choice to have the materials and supplies furnished by any practitioner or optician, the cost for which shall be covered in accordance with the terms of the contract. No nonprofit optometric service corporation shall enter into any contract, agreement or understanding, directly or indirectly, with any practitioner whereby such practitioner shall render any services to any subscriber, but all such matters shall be a matter of agreement directly between the patient and the practitioner selected by the patient to treat him.

SECTION 13. FILING OF CONTRACTS - APPROVAL OF CONTRACTS BY INSURANCE COMMISSIONER.) No corporation subject to the provisions of this law shall issue contracts to subscribers until the insurance commissioner has, by formal certificate or license, authorized it to do so. Application for such certificate of authority or license shall be made on forms to be supplied by the insurance commissioner containing the

following information:

1. A copy of the certificate of incorporation of the corporation together with all amendments thereto.
2. A copy of the bylaws and all amendments thereto.
3. Three copies of each type of proposed contract between the corporation and the participating practitioner who agreed to furnish the subscribers visual services.
4. Three copies of proposed contracts to be issued to subscribers to the plan showing the benefits to which they are entitled, together with a table of the rate charged, to subscribers.
5. A financial statement of the corporation which shall include the amounts of each contribution paid or agreed to be paid to the corporation having working capital, the name or names of each contributor and the terms of each contribution.

SECTION 14. SERVICE IN ACCORDANCE WITH PREVAILING PRACTICE - EMERGENCY SERVICE.) All optometric care rendered to a subscriber under his contract shall be in accordance with the accepted standards of optometric practice prevailing in the community in which such service is rendered.

All such optometric service shall be rendered by practitioners duly licensed and registered in the state of North Dakota, except in the case of emergency, the benefits to which a subscriber is entitled under his contracts may be rendered in another state, provided such services are rendered by a duly licensed practitioner in such other state.

SECTION 15. CORPORATION NOT AUTHORIZED TO PRACTICE.) Nothing in this chapter shall allow or authorize a corporation to engage in the practice of optometry.

SECTION 16. INVESTMENT OF FUNDS.) The funds of any corporation subject to the provisions of this chapter shall be invested only in such securities as are provided by law for the investment of funds of domestic insurance companies of this state.

SECTION 17. OPTOMETRIC AID FOR NEEDY PERSONS - PAYMENTS.) Every nonprofit optometric service corporation organized and doing business under the provisions of this chapter may, in its discretion, receive and accept from various governmental agencies payments covering all or any part of the costs of subscriptions to provide optometric care for needy persons.

Every such corporation may, in its discretion, receive from private agencies, corporations, associations, groups or individuals payments covering all or any part of the cost of subscriptions to provide optometric care for needy and other persons.

SECTION 18. LICENSING OF SALES REPRESENTATIVES.)

The sales representatives of any corporation subject to the provisions of this chapter shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17 of the North Dakota Century Code. The license or certificate for such sales representatives shall be issued on a form as prescribed by the commissioner of insurance, and the fee therefor shall be three dollars.

SECTION 19. APPLICABILITY.) Except as otherwise specifically provided in this chapter, the provisions of chapters 10-24, 10-25, 10-26 and 10-28 of the North Dakota Century Code shall apply to the incorporation, operation and control of any nonprofit optometric service corporation organized under the provisions of this chapter, including penalties for violations of this chapter or violations of said chapters 10-24, 10-25, 10-26, and 10-28 of the North Dakota Century Code.

Approved March 29, 1971

## CHAPTER 294

HOUSE BILL NO. 1289  
(Boustead, Bunker)

## INSURANCE GUARANTY ASSOCIATION

AN ACT to create a North Dakota insurance guaranty association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TITLE.) This Act shall be known and may be cited as the North Dakota Insurance Guaranty Association Act.

SECTION 2. PURPOSE.) The purpose of this Act is to provide a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers.

SECTION 3. SCOPE.) This Act shall apply to all kinds of direct insurance except life, title, surety, disability, credit, mortgage guaranty, and ocean marine insurance.

SECTION 4. CONSTRUCTION.) This Act shall be liberally construed to effect the purpose under section 2 which shall constitute an aid and guide to interpretation.

SECTION 5. DEFINITIONS.) As used in this Act:

1. "Association" means the North Dakota insurance guaranty association created under section 6.
2. "Commissioner" means the commissioner of insurance of this state.
3. "Covered claim" means an unpaid claim, including one for unearned premiums, within the coverage of an insurance policy to which this Act applies issued by an insurer if such insurer becomes insolvent after the effective date of this Act. The claimant or insured must be a resident of this state at the time of the insured event or the insured property must be permanently located in this state. Covered claim shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting association,

as subrogation recoveries or otherwise.

4. "Insolvent insurer" means an insurer authorized to transact insurance in this state either at the time the policy was issued or when the insured event occurred, and determined to be insolvent by a court of competent jurisdiction.
5. "Member insurer" means any person, except county mutuals, who writes any kind of insurance to which this Act applies under section 3, including the exchange of reciprocal or interinsurance contracts, and is licensed to transact insurance in this state.
6. "Net direct written premiums" means direct gross premiums written in this state on insurance policies to which this Act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. Net direct written premiums does not include premiums on contracts between insurers or reinsurers.
7. "Person" means any individual, corporation, partnership, association, or voluntary organization.

SECTION 6. CREATION OF THE ASSOCIATION.) There is hereby created a nonprofit unincorporated legal entity to be known as the North Dakota insurance guaranty association. All insurers defined as member insurers in subsection 5 of section 5 shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under a plan of operation established and approved under section 9 and shall exercise its powers through a board of directors established under section 7.

SECTION 7. BOARD OF DIRECTORS.)

1. The board of directors of the association shall consist of not less than five nor more than nine persons serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments. If no members are selected within sixty days after the effective date of this Act, the commissioner may appoint the initial members of the board of directors.
2. In approving selections to the board, the commissioner shall consider among other things whether all member insurers are fairly represented.
3. Members of the board may be reimbursed from the assets

of the association for expenses incurred by them as board members.

SECTION 8. POWERS AND DUTIES OF THE ASSOCIATION.)

1. The association shall:

- a. Be obligated to the extent of the covered claims existing (1) prior to the determination of insolvency and arising within thirty days after the determination of insolvency, or (2) before the policy expiration date if less than thirty days after the determination, or (3) before the insured replaces the policy or causes its cancellation, if he does so within thirty days of the determination. The obligation shall include only that amount of each covered claim in excess of one hundred dollars and less than three hundred thousand dollars. The association shall not be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer.
- b. Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent.
- c. Assess insurer's amounts necessary to pay the obligations of the association under subdivision a subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under section 13, and other expenses authorized by this Act. Each member insurer assessment shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bears to the net direct written premiums of all member insurers for the preceding calendar year. Each member insurer shall be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial

statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer.

- d. Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation. It shall deny all other claims and may review settlements, releases, and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases, and judgments may be properly contested.
  - e. Notify such persons as the commissioner directs under subdivision a of subsection 2 of section 10.
  - f. Handle claims through its employees, through one or more insurers, or through other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner and may be declined by a member insurer.
  - g. Reimburse each servicing facility for association obligations it pays and for the expenses it incurs handling association claims. The association shall also pay the other expenses of the association authorized by this Act.
2. The association may:
- a. Employ or retain personnel to handle claims and perform its other duties.
  - b. Borrow funds necessary to effect the purposes of this Act in accord with the plan of operation.
  - c. Sue or be sued.
  - d. Negotiate and become a party to contracts necessary to carry out the purpose of this Act.
  - e. Perform other acts as are necessary or proper to effectuate the purposes of this Act.
  - f. Refund to the member insurers in proportion to their contribution to the association that amount

by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the association's assets exceed the board's estimate of its liabilities for the coming year.

SECTION 9. PLAN OF OPERATION.)

1. a. The association shall submit to the commissioner a plan of operation and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments shall become effective upon approval in writing by the commissioner.
- b. If the association fails to submit a suitable plan of operation within ninety days following the effective date of this Act or at any time thereafter fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate reasonable rules necessary or advisable to effectuate the provisions of this Act. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.
2. All member insurers shall comply with the plan of operation.
3. The plan of operation shall:
  - a. Establish the procedures whereby all the powers and duties of the association under section 8 will be performed.
  - b. Establish procedures for handling assets of the association.
  - c. Establish the amount and method of reimbursing members of the board of directors under section 7.
  - d. Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the association or its agent. A list of these claims shall be periodically submitted to the association or similar organization in another state by the receiver or liquidator.
  - e. Establish regular places and times for meetings

- of the board of directors.
- f. Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors.
  - g. Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the commissioner within thirty days after the action or decision.
  - h. Establish the procedures whereby selections for the board of directors will be submitted to the commissioner.
  - i. Contain additional provisions necessary or proper for the execution of the powers and duties of the association.
4. The plan of operation may provide that any or all powers and duties of the association, except those under subdivision c of subsection 1 and subdivision b of subsection 2 of section 8, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other association functions. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this Act.

SECTION 10. DUTIES AND POWERS OF THE COMMISSIONER.)

1. The commissioner shall:
- a. Notify the association of the existence of an insolvent insurer not later than three days after he receives notice of the determination of the insolvency.
  - b. Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.
2. The commissioner may:
- a. Require the association to notify insureds of the insolvent insurer and other interested parties

of the determination of insolvency and of their rights under this Act. Such notification shall be by mail at their last known address, where available. If sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

- b. Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer that fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer that fails to pay an assessment when due. Such fine shall not exceed five percent of the unpaid assessment per month, except that no fine shall be less than one hundred dollars per month.
  - c. Revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.
3. Any final action or order of the commissioner under this Act shall be subject to judicial review in a court of competent jurisdiction.

#### SECTION 11. EFFECT OF PAID CLAIMS.)

1. Any person recovering under this Act shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this Act shall cooperate with the association as if it were the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of insured's to the receiver, liquidator, or statutory successor for unpaid assessments.
2. The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or a similar organization in another state. A court having jurisdiction shall grant such claims priority equal to that to which the claimant would have been entitled, in the absence of this Act, against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be

accorded the same priority as the liquidator's expenses.

3. The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

SECTION 12. NONDUPLICATION OF RECOVERY.)

1. Any person having a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer which is also a covered claim, shall be required to exhaust first his right under such policy. Any amount payable on a covered claim under this Act shall be reduced by the amount of any recovery under such insurance policy.
2. Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured. However, if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the association of the location of the property. Any recovery under this Act shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

SECTION 13. PREVENTION OF INSOLVENCIES.) To aid in the detection and prevention of insurer insolvencies:

1. The board of directors, upon majority vote, shall notify the commissioner of any information indicating any member insurer may be insolvent or in a financial condition hazardous to the policyholders or the public.
2. The board of directors may, upon majority vote, request the commissioner to order an examination of any member insurer the board in good faith believes may be in a financial condition hazardous to the policyholders or the public. Within thirty days of the receipt of the request, the commissioner shall begin the examination. The examination may be conducted as a national association of insurance commissioners examination or by persons the commissioner designates. The cost of the examination shall be paid by the association and the examination report shall be treated as other examination reports. The examination report shall not be released to the

board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subsection 3 of this section. The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.

3. The commissioner shall report to the board of directors when he has reasonable cause to believe that any member insurer examined or being examined at the request of the board of directors may be insolvent or in a financial condition hazardous to the policyholders or the public.
4. The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer. Such reports and recommendations shall not be public documents.
5. The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.
6. The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information available to the association, and submit it to the commissioner.

SECTION 14. EXAMINATION OF THE ASSOCIATION.) The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit, not later than April thirtieth of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

SECTION 15. TAX EXEMPTION.) The association shall be exempt from payment of all fees and taxes levied by this state or any of its subdivisions except taxes levied on real or personal property.

SECTION 16. RECOGNITION OF ASSESSMENTS IN RATES.) The rates and premiums charged for insurance policies to which this Act applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer less any amounts returned to the member insurer by the association. These rates shall not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer.

SECTION 17. IMMUNITY.) There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the association or its agents and employees, the board of directors, or the commissioner or his representatives for any action taken by them in the performance of their powers and duties under this Act.

SECTION 18. STAY OF PROCEEDINGS - REOPENING OF DEFAULT JUDGMENTS.) All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this state shall be stayed for sixty days from the date insolvency is determined to permit proper defense by the association of all pending causes of action. As to any covered claims arising from a judgment under any decision, verdict, or finding based on the default of the insolvent insurer or its failure to defend an insured, the association, either on its own behalf or on behalf of the insured, may apply to have such judgment, order, decision, verdict, or finding set aside by the same court or administrator that made the judgment, order, decision, verdict, or finding, and shall be permitted to defend against the claim on the merits.

Approved March 22, 1971

# JUDICIAL BRANCH OF GOVERNMENT

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## CHAPTER 295

HOUSE BILL NO. 1238  
(Bunker, Haugland, Strinden, Weber)

### JUDGES' SALARIES

AN ACT to amend and reenact section 27-02-02.1 of the North Dakota Century Code relating to salaries of supreme and district court judges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-02-02.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-02.1. ADDITIONAL COMPENSATION - SUPREME AND DISTRICT COURT JUDGES.) In addition to the judicial salaries provided by sections 27-02-02 and 27-05-03 of this code, each judge of the supreme court shall receive as additional salary the sum of four thousand dollars annually, and each district court judge shall receive as additional salary the sum of four thousand dollars annually, payable in equal monthly payments.

Approved March 18, 1971

## CHAPTER 296

SENATE BILL NO. 2331  
(Anderson, Longmire, Ringsak)

ADMINISTRATIVE SUPERVISION  
BY SUPREME COURT

AN ACT to provide for administrative supervision by the supreme court over all courts and to implement the superintending control of the supreme court provided under section 86 of the Constitution of the state of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. ADMINISTRATION BY SUPREME COURT.) The supreme court shall have and exercise administrative supervision over all courts of this state and the judges, justices or magistrates of such courts under such rules, procedures and regulations as it shall from time to time prescribe. The supreme court shall provide to the extent it deems necessary or desirable, rules and regulations for:

- (1) Administrative supervision by the supreme court of all courts.
- (2) The assignment of judges, including consenting retired justices and judges, to temporary duty in any of the courts.
- (3) Administrative practice and procedure in all courts, including the required filing by all courts of all reports deemed necessary by the supreme court. All judges, clerks of court and other officers or employees of the courts and of offices related to and serving the courts shall comply with all administrative practice and procedure regulations promulgated by the supreme court.
- (4) The transfer of any matter to any proper court when the jurisdiction of any court has been improvidently invoked.
- (5) Withdrawal of any case or other matter pending before any judge and to reassign said proceeding or case to another judge, when, in the opinion of the supreme court, such withdrawal and reassignment should be made in order to expedite and promote justice.

- (6) The times and places for holding court when, in the opinion of the supreme court, it is necessary to do so to expedite disposition of pending matters.

SECTION 2. DECLARATION OF LEGISLATIVE INTENT.) It is the purpose of this Act to assist the judiciary in its superintending functions, to aid the judiciary in expediting judicial processes, to improve the handling of functions of all of the courts of this state, to provide for supervision by the highest court of this state over all courts and the judges, justices or magistrates of the judicial system, to implement the superintending control of the supreme court prescribed under Section 86 of the North Dakota Constitution, and to promote the general welfare of the people of the state, this statute is enacted.

Approved March 17, 1971

## CHAPTER 297

HOUSE BILL NO. 1140  
(Rundle)

## DISPOSITION OF COURT FILING FEES

AN ACT to amend and reenact subsection 1 of section 11-17-04 and sections 11-17-05, 27-03-05, 27-03-06, 27-07-40, and 27-07-41 of the North Dakota Century Code, relating to court filing fees and the disposition of the proceeds thereof; and to repeal section 27-12-08 of the North Dakota Century Code, relating to the use of bar association funds; and providing an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 11-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the filing of an action, including an action transferred from another county, and for all things in connection therewith which are not hereinafter provided for, seven dollars and fifty cents;

SECTION 2. AMENDMENT.) Section 11-17-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-17-05. CLERK TO KEEP FEE BOOK - MONTHLY REPORT TO COUNTY AUDITOR - PENALTY.) The clerk of the district court shall keep as a public record in his office a book to be provided by the county in which he shall enter all money received by him as fees for services rendered as such clerk. Within three days after the close of each calendar month and also at the close of his term of office, such clerk shall file with the county auditor a statement under oath showing the amount of fees which he has received as such officer since the date of his last report, and within three days thereafter he shall deposit with the county treasurer the total sum of such fees, except such fees as he is authorized expressly to retain. A clerk of court who shall neglect or omit to charge or collect the appropriate fees provided for in this chapter, or who shall fail or neglect to keep a record of the same, or to make a correct statement thereof to the county auditor, with intent to evade any provision of this chapter, shall be guilty of a misdemeanor.

SECTION 3. AMENDMENT.) Section 27-03-05 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

27-03-05. FEES TO BE CHARGED AND COLLECTED BY CLERK OF SUPREME COURT.) The clerk of the supreme court shall charge and collect in advance a fee of fifteen dollars upon the filing in the supreme court of the record in any cause upon appeal, or upon the filing in such court of a petition in any cause seeking the exercise of the original jurisdiction thereof.

SECTION 4. AMENDMENT.) Section 27-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-03-06. FEES TO BE DEPOSITED MONTHLY WITH STATE TREASURER.) The clerk of the supreme court shall keep an accurate account of all fees received by him and shall deposit such fees monthly with the state treasurer.

SECTION 5. AMENDMENT.) Section 27-07-40 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07-40. FILING FEES FOR ESTATES AND GUARDIANSHIPS - AMOUNT - WHEN AND WHERE TO BE PAID.) Before a petition for letters testamentary, of administration, of guardianship, of proceedings in heirship, or an application in joint tenancy to determine estate tax, is filed in a county court of this state, the petitioner, or someone on his behalf, shall pay a filing fee to said county court for deposit by that office into the county treasury of the county in which the court is located which shall be in the sum of seven dollars and fifty cents, except that the filing fee for applications in joint tenancy to determine estate tax shall be in the sum of three dollars and such filing fee for applications in joint tenancy to determine estate tax shall not be subject to the provisions of section 27-07-41.

SECTION 6. AMENDMENT.) Section 27-07-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07-41. RECEIPTS FOR FILING FEES FOR ESTATES AND GUARDIANSHIPS - EXECUTION - FILING.) When a filing fee for an estate or for a guardianship is paid to the treasurer of the proper county, he shall execute therefor duplicate receipts, one of which shall be filed with the county auditor and one with the judge of the county court.

SECTION 7. REPEAL.) Section 27-12-08 of the North Dakota Century Code is hereby repealed.

SECTION 8. EFFECTIVE DATE.) The provisions of this Act shall take effect on July 1, 1972.

Approved March 27, 1971

## CHAPTER 298

HOUSE BILL NO. 1462  
(Atkinson)

## HEARINGS IN FAMILY COURT

AN ACT to amend and reenact section 27-05.1-09 of the North Dakota Century Code, relating to time and place of hearing on petition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-05.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05.1-09. TIME AND PLACE OF HEARING ON PETITION.) The court may fix a time and place for hearing on the petition and issue its order setting forth notice of the filing of the petition and the time and place of the hearing and requiring the parties to appear at the time and place stated in the order. The court may at any time issue such order concerning the custody and care of the children of the marriage and restraining orders and orders for the support of a spouse and the children as it may deem necessary under the provisions of chapters 14-05 and 14-06 of the North Dakota Century Code.

Approved March 15, 1971

## CHAPTER 299

SENATE BILL NO. 2096  
(Freed)

PRORATING COURT  
REPORTERS' SALARIES

AN ACT to amend and reenact section 27-06-02 of the North Dakota Century Code, relating to the prorating of salaries of court reporters among the counties of the judicial districts on the basis of population.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-06-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-02. SALARY AND EXPENSES OF COURT REPORTER.)

Each court reporter shall receive a salary not to exceed ten thousand five hundred dollars per annum, payable in equal monthly installments by the counties constituting the judicial district in which such reporter is employed. Such salary shall be set by each district court judge involved and shall be prorated among the respective counties of each judicial district on the basis of the ratio of the population of each county to the total population of the judicial district according to the last federal decennial census. The presiding judge of each judicial district, on the first day of January of each year, or as soon thereafter as may be, shall apportion the amount of such salary to be paid by each county in his district on the basis aforesaid, and the county auditors of the respective counties in such judicial district shall issue to the order of such court reporter a warrant to the amount shown to be due by such apportionment. As reimbursement for expenses incurred in the performance of official duties outside of the county where the district court chambers are situated, the court reporter shall receive expense allowances in accordance with the provisions of section 44-08-04. Such sums shall be paid monthly by the county wherein such court reporter is attending to such official duties, when approved by the board of county commissioners. Claims for transportation expenses shall not exceed amounts provided by section 54-06-09 and shall be in itemized form showing the mileage traveled, the days when and how traveled, and the purposes thereof, and verified by affidavit. No claim for living expenses or transportation expenses shall be approved for payment to a court reporter by the board of county commissioners unless such claim shall have been first approved by the district judge.

Approved February 19, 1971

## CHAPTER 300

HOUSE BILL NO. 1348  
(Hoffner, Strinden, Atkinson)

## BAILIFFS' SALARIES

AN ACT to amend and reenact sections 27-06-09 and 27-08-19 of the North Dakota Century Code, relating to the salaries of bailiffs of the district courts and county courts of increased jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-06-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-09. BAILIFFS OF DISTRICT COURTS - APPOINTMENT, SALARY.) The district court at each term thereof shall appoint a sufficient number of competent bailiffs to wait on the jury and the court during the term. Such bailiffs shall be allowed for their services fourteen dollars per day to be paid by the county.

SECTION 2. AMENDMENT.) Section 27-08-19 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-19. BAILIFFS OF COUNTY COURTS HAVING INCREASED JURISDICTION - APPOINTMENT, TERMS, POWERS, COMPENSATION.) The judge of a county court having increased jurisdiction may appoint one or more competent persons as bailiffs of the court. Such bailiffs shall hold office at the pleasure of the judge, shall have the same powers as a constable, and shall receive for their services fourteen dollars per day.

Approved March 12, 1971

## CHAPTER 301

HOUSE BILL NO. 1321  
(Mushik, Laughlin, Rocheleau)

RETENTION AND DESTRUCTION  
OF CERTAIN COURT RECORDS

AN ACT to create and enact subsections 11, 12, and 13 of section 27-08-24 of the North Dakota Century Code; to amend and reenact sections 27-07-28, 27-07-36, and 27-08-10 of the North Dakota Century Code; and to repeal section 27-07-32 of the North Dakota Century Code, all relating to keeping and destroying various records of county courts and county courts having increased jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subsections 11, 12, and 13 of section 27-08-24 of the 1969 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

11. In civil cases, a county court having increased jurisdiction shall keep an index conforming to the requirements of subsections 8 and 9 of section 11-17-01, a judgment docket as required by subsection 5 of section 11-17-01, a register of civil actions as required by subsection 7 of section 11-17-01, and the judgment roll as required by section 28-20-12. The civil judgment shall be entered by the clerk of court signing it and filing it with the judgment roll. No other records, books, or papers need be kept. After a judgment is satisfied or becomes ten years old, the court may destroy all the papers filed in the case except the judgment. When these papers are destroyed, the clerk of court shall note their destruction in the margin or elsewhere in the register of civil actions, identifying the destroyed papers and the destruction date.
12. In criminal cases, a county court having increased jurisdiction shall keep a register of criminal actions as required by subsection 11 of section 11-17-01 and the action record provided for in section 29-26-23. No other records, books, or papers need be kept. After a judgment, order of dismissal, judgment of acquittal, or order of bond forfeiture becomes six years old, the court may

destroy all the papers filed in the case except the judgment of conviction. When these papers are destroyed, the clerk of court shall note their destruction in the margin or elsewhere in the register of criminal actions, identifying the destroyed papers and the destruction date.

13. Nothing in this section shall be construed to conflict with the clerk of court's duties described in section 11-17-08.

SECTION 2. AMENDMENT.) Section 27-07-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07-28. RECORDS OF COUNTY COURTS - PAPERS AND BOOKS CONSTITUTING.) The records of each county court consist of the original papers in the cases adjudicated or pending therein and the books prescribed in sections 27-07-29, 27-07-30, and 27-07-31.

SECTION 3. AMENDMENT.) Section 27-07-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-07-36. RECORDS OF COURT TO BE KEPT BY JUDGE - RECORDS OPEN TO PUBLIC INSPECTION.) The judge of each county court shall safely keep the records of such court and all documents and other papers lawfully entrusted to him by virtue of his office or in the course of any proceeding before him. At proper times, he shall deliver the same to the person entitled thereto or to his successor in office. The records of the court shall be open to inspection during office hours by persons having business therewith. The county judge may destroy the following records:

1. All papers contained in marriage files, except the original marriage license, if the license is at least five years old.
2. All mental health or insanity files more than twenty years old as determined by the date of the last paper filed. However, no patient's file shall be destroyed unless he has been dead six years. The judge's investigation shall determine if the patient is alive or his date of death. The clerk of court shall record the destruction and destruction date in the file's index.
3. All receipts, canceled checks, or vouchers filed in support of any report and account rendered by any executor, administrator, or guardian if the filing date of the report and account is at least six years old. When these are destroyed, the clerk of court

shall make a record of the destruction and the destruction date in the margin or elsewhere on the report and account affected.

SECTION 4. AMENDMENT.) Section 27-08-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-10. CUSTODY OF RECORDS OF COUNTY COURTS HAVING INCREASED JURISDICTION.) The judge of a county court having increased jurisdiction shall have the care and custody of all the records of the court which relate to actions or proceedings within its civil and criminal jurisdiction. The judge may destroy the following records:

1. All papers contained in marriage files, except the original marriage license, if the license is at least five years old.
2. All mental health or insanity files more than twenty years old as determined by the date of the last paper filed. However, no patient's file shall be destroyed unless he has been dead six years. The judge's investigation shall determine if the patient is alive or his date of death. The clerk of court shall record the destruction and destruction date in the file's index.
3. All receipts, canceled checks, or vouchers filed in support of any report and account rendered by any executor, administrator, or guardian if the filing date of the report and account is at least six years old. When these are destroyed, the clerk of court shall make a record of the destruction and the destruction date in the margin or elsewhere on the report and account affected.

SECTION 5. REPEAL.) Section 27-07-32 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1971

## CHAPTER 302

SENATE BILL NO. 2199  
(Holand, Lips, Longmire, Sanstead)

SALARY OF JUDGE OF COUNTY COURT  
OF INCREASED JURISDICTION

AN ACT to amend and reenact section 27-08-08 of the North Dakota Century Code, relating to the salaries of judges of county courts of increased jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-08-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-08. SALARIES OF JUDGES OF COUNTY COURTS OF INCREASED JURISDICTION - AMOUNT, PAYMENT.) A county judge of a county court of this state having increased jurisdiction shall receive the following salary: twelve thousand five hundred dollars in counties having a population not exceeding fifteen thousand inhabitants; fifteen thousand five hundred dollars in counties having a population exceeding fifteen thousand inhabitants but not exceeding twenty-two thousand inhabitants; and seventeen thousand dollars in counties having a population exceeding twenty-two thousand inhabitants. Such salary shall be payable by the county in equal monthly installments and shall be full remuneration for all official duties including all fees collected for official acts as judge of the county court except fees charged for performing marriage ceremonies. All fees collected for official acts as judge of the county court except fees charged for performing marriage ceremonies shall be deposited by the court into the county treasury of the county in which the court is located.

Approved March 19, 1971

## CHAPTER 303

HOUSE BILL NO. 1401  
(Mushik, Atkinson, Fleming, Boustead, Gerl)

## SMALL CLAIMS COURT

AN ACT to create a small claims court and to set forth its jurisdiction and procedures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. SMALL CLAIMS COURT - JURISDICTIONAL LIMITS - EFFECTIVE DATE.) All judges of the county courts with increased jurisdiction or the county justices shall exercise the jurisdiction conferred by this Act, and while sitting in the exercise of said jurisdiction shall be known and referred to as the "small claims court". The jurisdiction of such court shall be confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, where the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed two hundred dollars. The proceedings in this court shall be commenced in the county of the defendant's residence, if the defendant is a natural person. If the defendant is a corporation or a partnership, the proceedings shall be commenced in any county in which the defendant has a place of business or in any county in which the subject matter of the claim arose. No claim shall be filed by an assignee of that claim. No garnishment or attachment shall issue from this court. Actions commenceable in the small claims court shall only be those in which the cause of action has accrued on or after January 1, 1971.

SECTION 2. COMMENCEMENT OF ACTION - CLAIM AFFIDAVIT.) Actions in the small claims court shall be commenced whenever any person executes and files with the court a claim affidavit, and serves same on the defendant or mails to him by certified mail along with an order for appearance setting a hearing. Such hearing shall be not less than five days and not more than thirty days after the service or receipt of the order. The mailing, or personal service, may be made anywhere within the state.

SECTION 3. INFORMAL HEARING - ANSWER AND COUNTER-CLAIM - FILING AND SERVICE FEES.) No formal pleadings other than the claim affidavit and order for appearance shall be required, and the hearing and disposition of all actions shall be informal. No court reporter shall be required to be present to take the

testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed two hundred dollars, which shall be delivered to the plaintiff in person, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule shall not apply to counterclaims in excess of two hundred dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. A trial by jury shall be deemed to be waived if neither party, before the commencement of the trial, demands a jury; or if either party fails to appear at the time fixed for the trial. Either party may demand a trial by jury. A jury shall be composed of six residents of the county having the qualifications of jurors, or of any number less than six if the parties so agree. A fee of two dollars shall be charged for filing the claim affidavit, or counterclaim affidavit, plus one dollar for each defendant served. The North Dakota state bar association shall prepare standard printed forms to be used under this Act, and shall furnish the same upon request, at a charge not to exceed one dollar per set of forms.

SECTION 4. ELECTION TO PROCEED IN SMALL CLAIMS COURT IRREVOCABLE.) Election by the plaintiff to use the procedures provided for in this Act shall be irrevocable. In the event the plaintiff elects to discontinue the proceedings, the court shall enter its order accordingly, and unless otherwise provided in the order such dismissal shall be deemed to be with prejudice.

SECTION 5. JUDGMENT - APPEAL BY PARTIES.)

1. The court will enter a written judgment indicating its decision on all cases filed with the court on the basis of the evidence presented. A judgment shall be entered even if either party fails to appear at the hearing. If any party is aggrieved by the decision, he may, within ten days from the mailing to him of a notice of entry of judgment against him, appeal from the small claims court to the district court for the county, where the matter shall be heard anew.
2. The appeal in the small claims court is taken by serving the notice of appeal and a copy of the undertaking within five days after filing of the same, on the adverse party or his attorney and by filing the notice of appeal together with the undertaking required by law with the clerk of the district court of the county in which the appeal is taken. All proceedings in the district

court shall be conducted in accordance with the North Dakota rules of civil procedure and the rules of the district courts applicable to civil action. Undertakings under this section shall be in the manner as provided for undertakings in appeals from justice courts.

SECTION 6. JUDGMENT UNSATISFIED - DOCKETING - NO FURTHER APPEAL.) If no appeal has been taken by the defendant, as provided herein, and the defendant fails to pay the judgment rendered by the court within twenty days after notice of entry has been filed, the judge of the court, upon application of the prevailing party, shall certify an abstract of the judgment to the district court, along with an affidavit of identity signed by the judgment creditor. The abstract may be filed with the clerk of the district court of the county in which the judgment was rendered, and the clerk, thereupon, must enter the judgment in the judgment book and upon the judgment docket. From the time of such docketing, it becomes a judgment of such district court for the purpose of execution and a lien upon real property owned by the debtor in the same manner as an original judgment of the district court. A certified transcript of the docket of the judgment may be filed and the judgment docketed accordingly in any other county with the same effect in every respect as if the judgment had been rendered in the district court where such judgment is filed. There shall be no appeal available to either party from the decision of the district court upon appeal from the small claims court or from entry of judgment in the district court pursuant to this section.

SECTION 7. RECORDS AND DESTRUCTION OF RECORDS.) Records of the small claims court shall consist of all documents filed in each action and an index for plaintiffs and defendants. No other books, records, or papers need be kept. After the judgment is satisfied, or becomes ten years old, the court may destroy all papers filed in the case, except the judgment. At the time of destroying such papers, the clerk of court shall make a record upon the margin or elsewhere on the judgment identifying the papers destroyed and the date thereof.

SECTION 8. REFEREES, APPOINTMENT - TERM - METHOD OF QUALIFYING - POWERS AND DUTIES - COMPENSATION.) The board of county commissioners may authorize a judge of a county court of increased jurisdiction to appoint a referee of the small claims court who shall hold office at the pleasure of said judge. Such referee shall qualify in the same manner as other civil officers and his duties and powers in the conduct of trials in the small claims court shall be governed by the provisions of Rule 53 (c) North Dakota Rules of Civil Procedure insofar as such provisions are not in conflict with the provisions of this Act. The referee appointed shall be a person versed in the law. The board of county commissioners shall determine the salary or fee of said referee.

Approved March 27, 1971

## CHAPTER 304

SENATE BILL NO. 2320  
(Ringsak, Page)

UNIFORM JURY SELECTION  
AND SERVICE ACT

AN ACT to provide a method of random selection of jurors, prescribing the qualifications, duties and compensation of jurors, and constituting the Uniform Jury Selection and Service Act; and to repeal chapter 27-09 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE INTENT.) The legislature of the state of North Dakota hereby declares that it is the policy of this state that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all qualified citizens have the opportunity in accordance with this Act to be considered for jury service in this state and an obligation to serve as jurors when summoned for that purpose.

SECTION 2. DISCRIMINATION PROHIBITED.) A citizen shall not be excluded from jury service in this state on account of race, color, religion, sex, national origin, or economic status.

SECTION 3. DEFINITIONS.) As used in this Act, unless the context otherwise requires:

1. "Court" means the district court of this state, and includes, when the context requires, any judge of the court;
2. "Clerk" and "clerk of court" include any deputy clerk;
3. "Master list" means the list of actual voters for the county which shall be supplemented with names from other sources prescribed pursuant to this Act (section 5) in order to foster the policy and protect the rights secured by this Act (sections 1 and 2).
4. "Lists of actual voters" means the official records of persons actually voting in the most recent general election;

5. "Jury wheel" means any physical device or electronic system for the storage of the names or identifying numbers of prospective jurors;
6. "Master jury wheel" means the jury wheel in which are placed names or identifying numbers of prospective jurors taken from the master list (section 6);
7. "Qualified jury wheel" means the jury wheel in which are placed the names or identifying numbers of prospective jurors whose names are drawn at random from the master jury wheel (section 7) and who are not disqualified (section 8).

SECTION 4. JURY COMMISSION.) A jury commission shall be established in each county to manage the jury selection process under the supervision and control of the court. The jury commission shall be composed of the clerk of court and a jury commissioner appointed for a term of four years by the court. The jury commissioner must be a citizen of the United States and a resident of the county in which he serves. The jury commissioner shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties and shall receive compensation at a per diem rate fixed by the supreme court of this state or as provided by law.

SECTION 5. MASTER LIST.)

1. The jury commission for each county shall compile and maintain a master list consisting of all lists of actual voters for the county supplemented with names from other lists of persons resident therein, such as lists of utility customers, property taxpayers, motor vehicle registrations, and drivers licenses, which the supreme court of this state from time to time designates. The supreme court shall initially designate the other lists within ninety days following the effective date of this Act and exercise the authority to designate from time to time in order to foster the policy of and protect the rights secured by this Act (section 1 and 2). In compiling the master list the jury commission shall avoid duplication of names.
2. Whoever has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection 1 by the supreme court as supplementary sources of names, shall make the list available to the jury commission for inspection, reproduction, and copying at all reasonable times.
3. The master list shall be open to the public for examination.

## SECTION 6. MASTER JURY WHEEL.)

1. The jury commission for each county shall maintain a master jury wheel, into which the commission shall place the names or identifying numbers of prospective jurors taken from the master list. If the total number of prospective jurors on the master list is one thousand or less, the names or identifying numbers of all of them shall be placed in the master jury wheel. In all other cases, the number of prospective jurors to be placed in the master jury wheel shall be one thousand plus not less than one percent of the total number of names on the master list. From time to time a larger or additional number may be determined by the jury commission or ordered by the court to be placed in the master jury wheel. In December of each even-numbered year the wheel shall be emptied and refilled as prescribed in this Act.
2. Unless all the names on the master list are to be placed in the master jury wheel pursuant to subsection 1, the names or identifying numbers of prospective jurors to be placed in the master jury wheel shall be selected by the jury commission at random from the master list in the following manner: The total number of names on the master list shall be divided by the number of names to be placed in the master jury wheel; the whole number nearest the quotient shall be the "key number", except that the key number shall never be less than two. A "starting number" for making the selection shall then be determined by a random method from the numbers from one to the key number, both inclusive. The required number of names shall then be selected from the master list by taking in order the first name on the master list corresponding to the starting number and then successively the names appearing in the master list at intervals equal to the key number recommencing if necessary at the start of the list until the required number of names has been selected. Upon recommencing at the start of the list, or if additional names are subsequently to be selected for the master jury wheel, names previously selected from the master list shall be disregarded in selecting the additional names. The jury commission may use an electronic or mechanical system or device in carrying out its duties.

## SECTION 7. DRAWINGS FROM MASTER JURY WHEEL--JUROR QUALIFICATION FORM.)

1. From time to time and in a manner prescribed by the court, the jury commission publicly shall draw at random from the master jury wheel the names or

identifying numbers of as many prospective jurors as the court by order requires. The clerk shall prepare an alphabetical list of the names drawn. Neither the names drawn nor the list shall be disclosed to any person other than pursuant to this Act or specific order of the court. The clerk shall mail to every prospective juror whose name is drawn from the master jury wheel a juror qualification form accompanied by instructions to fill out and return the form by mail to the clerk within ten days after its receipt. The juror qualification form shall be subject to approval by the court as to matters of form and shall elicit the name, address of residence, and age of the prospective juror and whether he:

- a. is a citizen of the United States and a resident of the county;
- b. is able to read, speak and understand the English language;
- c. has any physical or mental disability impairing his capacity to render satisfactory jury service; and
- d. has lost the right to vote because of imprisonment in the penitentiary or a criminal conviction (section 8).

The juror qualification form shall contain the prospective juror's declaration that his responses are true to the best of his knowledge and his acknowledgment that a willful misrepresentation of a material fact may be punished by a fine of not more than five hundred dollars or imprisonment in the county jail for not more than thirty days, or both. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor. If it appears there is an omission, ambiguity, or error in a returned form, the clerk shall again send the form with instructions to the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commission within ten days after its second receipt.

2. Any prospective juror who fails to return a completed juror qualification form as instructed shall be directed by the jury commission to appear forthwith before the clerk to fill out the juror qualification form. At the time of his appearance for jury service, or at the time of any interview before the court or

clerk, any prospective juror may be required to fill out another juror qualification form in the presence of the court or clerk, at which time the prospective juror may be questioned, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.

3. A prospective juror who fails to appear as directed by the commission pursuant to subsection 1 shall be ordered by the court to appear and show cause for his failure to appear as directed. If the prospective juror fails to appear pursuant to the court's order or fails to show good cause for his failure to appear as directed by the jury commission, he is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars or imprisoned in the county jail for not more than three days, or both.
4. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a misdemeanor and upon conviction may be fined not more than five hundred dollars or imprisoned in the county jail for not more than thirty days, or both.

#### SECTION 8. DISQUALIFICATION FROM JURY SERVICE.)

1. The court, upon request of the jury commission or a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror is disqualified for jury service. The clerk shall enter this determination in the space provided on the juror qualification form and on the alphabetical list of names drawn from the master jury wheel.
2. A prospective juror is disqualified to serve on a jury if he:
  - a. is not a citizen of the United States, twenty-one years old, and a resident of the state and county;
  - b. is unable to read, speak, and understand the English language;
  - c. is incapable, by reason of his physical or mental disability, of rendering satisfactory jury service; but a person claiming this disqualification may be required to submit a physician's certificate

as to the disability, and the certifying physician is subject to inquiry by the court at its discretion; or

- d. has lost the right to vote because of imprisonment in the penitentiary (section 12-06-27) or conviction of a criminal offense which by special provision of law disqualifies him for such service.

SECTION 9. QUALIFIED JURY WHEEL--SELECTION AND SUMMONING OF JURY PANELS.)

1. The jury commission shall maintain a qualified jury wheel and shall place therein the names or identifying numbers of all prospective jurors drawn from the master jury wheel who are not disqualified (section 8).
2. A judge of any court or any other state or county official having authority to conduct a trial or hearing with a jury within the county may direct the jury commission to draw and assign to that court or official the number of qualified jurors he deems necessary for one or more jury panels or as required by law for a grand jury. Upon receipt of the direction and in a manner prescribed by the court, the jury commission shall publicly draw at random from the qualified jury wheel the number of qualified jurors specified. The qualified jurors drawn for jury service shall be assigned at random by the clerk to each jury panel in a manner prescribed by the court.
3. If a grand, petit, or other jury is ordered to be drawn, the clerk thereafter shall cause each person drawn for jury service to be served with a summons, either personally or by registered or certified mail, return receipt requested, addressed to him at his usual residence, business, or post office address, requiring him to report for jury service at a specified time and place.
4. If there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the court may require the sheriff to summon a sufficient number of petit jurors selected at random by the clerk from the qualified jury wheel in a manner prescribed by the court.
5. The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors shall be made available to the public unless the court determines in any instance that this information in the interest of justice should be kept confidential or its use

limited in whole or in part.

SECTION 10. NO EXEMPTIONS.) No qualified prospective juror is exempt from jury service.

SECTION 11. EXCUSES FROM JURY SERVICE.)

1. The court, upon request of a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror should be excused from jury service. The clerk shall enter this determination in the space provided on the juror qualification form.
2. A person who is not disqualified for jury service may be excused from jury service by the court upon a showing of undue hardship, extreme inconvenience, or public necessity, for a period the court deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the court's direction.

SECTION 12. CHALLENGING COMPLIANCE WITH SELECTION PROCEDURES.)

1. Within seven days after the moving party discovered or by the exercise of diligence could have discovered the grounds therefor, and in any event before the petit jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case to quash the indictment or information, or for other appropriate relief, on the ground of a substantial failure to comply with this Act in selecting the grand or petit jury.
2. Upon motion filed under subsection 1 containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this Act, the moving party is entitled to present in support of the motion the testimony of the jury commissioner or the clerk, any relevant records and papers not public or otherwise available used by the jury commissioner or the clerk, and any other relevant evidence. If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this Act, the court shall stay the proceedings pending the selection of the jury in conformity with this Act, quash an indictment or information, or grant other appropriate relief.
3. The procedures prescribed by this section are the exclusive means by which a person accused of a crime,

the state, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this Act.

4. The contents of any records or papers used by the jury commissioner or the clerk in connection with the selection process and not made public under this Act shall not be disclosed, except in connection with the preparation or presentation of a motion under subsection 1, until after the master jury wheel has been emptied and refilled and all persons selected to serve as jurors before the master jury wheel was emptied have been discharged. The parties in a case may inspect, reproduce, and copy the records or papers at all reasonable times during the preparation and pendency of a motion under subsection 1.

SECTION 13. PRESERVATION OF RECORDS.) All records and papers compiled and maintained by the jury commissioner or the clerk in connection with selection and service of jurors shall be preserved by the clerk for four years after the master jury wheel used in their selection is emptied and refilled (section 6) and for any longer period ordered by the court.

SECTION 14. MILEAGE AND COMPENSATION OF JURORS.) A juror shall be paid mileage at the rate of ten cents per mile for his travel expenses, payable by the county, for each mile actually and necessarily traveled each way. A juror shall be compensated at the rate of twenty dollars for each day of required attendance at sessions of the district or county court, eight dollars for each day of required attendance at sessions of justice court, and eight dollars for each day of required attendance at sessions of a coroner's inquest, all payable by the county.

SECTION 15. LENGTH OF SERVICE BY JURORS.) In any two year period a person shall not be required:

1. To serve or attend court for prospective service as a petit juror more than ten court days, except if necessary to complete service in a particular case;
2. To serve on more than one grand jury; or
3. To serve as both a grand and petit juror.

SECTION 16. PENALTIES FOR FAILURE TO PERFORM JURY SERVICE.) A person summoned for jury service who fails to appear or to complete jury service as directed shall be ordered by the court to appear forthwith and show cause for his failure to comply with the summons. If he fails to show good cause for noncompliance with the summons, he is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars or imprisoned in the county jail for not more than three days, or both.

## SECTION 17. PROTECTION OF JURORS' EMPLOYMENT.)

1. An employer shall not deprive an employee of his employment, or threaten or otherwise coerce him with respect thereto, because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.
2. Any employer who violates subsection 1 is guilty of criminal contempt and upon conviction may be fined not more than five hundred dollars or imprisoned in the county jail for not more than six months, or both.
3. If an employer discharges an employee in violation of subsection 1 the employee within ninety days may bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall not exceed lost wages for six weeks. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

SECTION 18. COURT RULES.) The supreme court of this state may make and amend rules, not inconsistent with this Act, regulating the selection and service of jurors.

SECTION 19. SAVINGS CLAUSE.) If any section, subsection, subdivision, sentence, or clause of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

SECTION 20. SHORT TITLE.) This Act may be cited as the Uniform Jury Selection and Service Act.

SECTION 21. DISTRICT COURTS AND COUNTY COURTS HAVING INCREASED JURISDICTION MAY USE EACH OTHER'S JURY PANELS.) A judge of the district court or the judge of a county court having increased jurisdiction may, by order, use an undischarged jury panel ordered, drawn, and summoned by the other, at any general, special, or adjourned term of the court for a county mutually served by such courts and for which no jury panel has been ordered.

SECTION 22. WHEN JURY PANEL TO ATTEND SUBSEQUENT TERM.) A judge of the district court may, by order, require an undischarged jury panel summoned to attend a term of the court to attend any subsequent general, special, or adjourned term of the court not exceeding in all one calendar year.

SECTION 23. REPEAL.) Chapter 27-09 of the North Dakota Century Code and the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 17, 1971

## CHAPTER 305

SENATE BILL NO. 2249  
(Chesrown, Freed, Holand)

JUDICIAL MEMBERSHIP IN  
STATE BAR ASSOCIATION

AN ACT to amend and reenact sections 27-11-22 and 27-12-02 of the 1969 Supplement to the North Dakota Century Code, relating to annual licenses to practice law and membership of the state bar association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-11-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-22. ANNUAL LICENSES TO PRACTICE LAW - REQUIREMENT - ISSUANCE - FEES.) Every person who has an unrevoked certificate of admission to the bar of this state and who desires to engage in the practice of law, on or before the first day of January of each calendar year, shall secure an annual license from the state bar board. Such license shall be issued by the secretary-treasurer of such board upon payment of a fee established by the state bar association at its last annual meeting, by a majority vote of its members in attendance at the meeting, not to exceed one hundred dollars and shall be good for one year from and after the first day of January of the year for which it is issued.

SECTION 2. AMENDMENT.) Section 27-12-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-02. MEMBERSHIP OF BAR ASSOCIATION.) The membership of the state bar association of North Dakota shall consist of all attorneys who have paid their annual license fees to and have received their licenses from the secretary-treasurer of the state bar board, as provided by law and all attorneys holding an unrevoked certificate of admission to the bar of this state who are prohibited from practicing law in this state by virtue of holding judicial office and have paid an annual membership fee to the state bar association in an amount equal to the state bar association's share of the annual license fee to practice law.

Approved March 17, 1971

## CHAPTER 306

HOUSE BILL NO. 1399  
(Atkinson)

DUTIES AND COMPENSATION  
OF JUVENILE SUPERVISORS

AN ACT to amend and reenact subsections 1, 4, and 10 of section 27-20-02 of the North Dakota Century Code, relating to the definition of terms used in the Uniform Juvenile Court Act; to amend and reenact subsection 2 of section 27-20-05 of the North Dakota Century Code, relating to the compensation of juvenile supervisors; to amend and reenact subsection 1 of section 27-20-06 of the North Dakota Century Code, relating to the powers and duties of juvenile supervisors; to amend and reenact subsections 1, 2, and 4 of section 27-20-16 of the North Dakota Century Code, relating to the place of detention of a child; and to amend and reenact subsection 2 of section 27-20-17 of the North Dakota Century Code, relating to the release of a child from detention.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 1, 4, and 10 of section 27-20-02 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Child" means an individual who is:
  - a. Under the age of eighteen years, and not married or not a member of the armed services;
  - b. Under the age of twenty-one years who committed an act of delinquency while a child.
- \* 4. "Unruly child" means a child who:
  - a. Is habitually and without justification truant from school;
  - b. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; or who is willfully in a situation dangerous or injurious to the health, safety, or morals of himself or others; or

\*NOTE: Subsection 4 of section 27-20-02 was also amended by section 1 of House Bill No. 1260, chapter 307.

- c. Has committed an offense applicable only to a child; and
  - d. In any of the foregoing is in need of treatment or rehabilitation.
10. "Minor traffic offense" means a violation of a law or local ordinance or resolution governing the operation of a vehicle upon the highways of this state, or the waterways within or adjoining this state, other than negligent homicide, manslaughter, driving or being in control of a vehicle upon a highway while under the influence of intoxicating liquor, a narcotic or a drug, driving with an open receptacle containing an intoxicating beverage in the motor vehicle, and aggravated reckless driving.

SECTION 2. AMENDMENT.) Subsection 2 of section 27-20-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Each juvenile supervisor shall receive as full compensation for his services such amount as may be fixed from time to time by the judge who appointed him, or by his successor, either upon a per diem basis not exceeding ten dollars per day for the time actually and necessarily employed in the discharge of his duties, or upon a salary basis not exceeding thirteen thousand dollars per annum. In addition, the juvenile supervisor shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to county officials.

SECTION 3. AMENDMENT.) Subsection 1 of section 27-20-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a juvenile supervisor shall:
  - a. Make investigations, reports, and recommendations to the juvenile court.
  - b. Receive and examine complaints and charges of delinquency, unruly conduct, or deprivation of a child for the purpose of considering the commencement of proceedings under this chapter.
  - c. Supervise and assist a child placed on probation or in his protection, supervision, or care by

order of the court or other authority of law.

- d. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.
- e. Take into custody and detain a child who is under his supervision or care as a delinquent, unruly, or deprived child if he has reasonable cause to believe that the child's health or safety is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this chapter. Except as provided by this chapter, a juvenile supervisor does not have the powers of a law enforcement officer. He may not conduct accusatory proceedings under this chapter against a child who is or may be under his care or supervision.
- f. Administer oaths.
- g. Take acknowledgments of instruments for the purpose of this chapter.
- h. Make such temporary order not to exceed thirty days for the custody and control of a deprived child as he may deem appropriate.
- i. Perform all other functions designated by this chapter or by order of the court pursuant thereto, including, if qualified, those of a referee. Juvenile supervisors who are serving as juvenile commissioners on the effective date of this chapter may perform the functions of a referee under this chapter without being members of the bar.

SECTION 4. AMENDMENT.) Subsections 1, 2, and 4 of section 27-20-16 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. A child alleged to be delinquent or unruly may be detained only in:
  - a. A licensed foster home or a home approved by the court;
  - b. A facility operated by a licensed child welfare agency;
  - c. A detention home or center for delinquent or unruly children which is under the direction

- or supervision of the court or other public authority or of a private agency approved by the court; or
- d. Any other suitable place or facility, designated or operated by the court. The child may be detained in a jail or other facility for the detention of adults only if the facility in subdivision c is not available, the detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court or the juvenile supervisor that public safety and protection reasonably require detention, and it is so ordered.
2. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be a child is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.
  4. A child alleged to be deprived may be placed in shelter care only in the facilities stated in subdivisions a, b, and d of subsection 1 and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent or unruly.

SECTION 5. AMENDMENT.) Subsection 2 of section 27-20-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If he is not so released, a petition under section 27-20-21 shall be promptly made and presented to the court. An informal detention hearing shall be held promptly and not later than ninety-six hours after he is placed in detention to determine whether his detention or shelter care is required under section 27-20-14. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the detention hearing shall be given to the child and if they can be found, to his parents, guardian, or other custodian. Prior to the commencement of the hearing, the court shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the child's right to remain silent with respect to any allegations of delinquency or unruly conduct.

Approved March 27, 1971

## CHAPTER 307

HOUSE BILL NO. 1260  
(Eagles, A. Hausauer)

## DEFINITION OF "UNRULY CHILD"

AN ACT to amend and reenact subsection 4 of section 27-20-02 of the North Dakota Century Code, relating to the definition of an unruly child.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 27-20-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* 4. "Unruly child" means a child who:
- a. Is habitually and without justification truant from school;
  - b. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; or
  - c. Has committed an offense applicable only to a child; and
  - d. In any of the foregoing is in need of treatment or rehabilitation.

\*NOTE: Subsection 4 of section 27-20-02 was also amended by section 1 of House Bill No. 1399, chapter 306.

Approved March 27, 1971

# JUDICIAL PROCEDURE, CIVIL

## RULES OF COURT

### CHAPTER 308

SENATE BILL NO. 2448  
(Longmire, Chesrown)

#### CONFERRING JURISDICTION BY AGREEMENT OF THE PARTIES

AN ACT to state the circumstances in which a court should exercise jurisdiction which has been granted it by the defendant's consent, or should refrain from exercising existing jurisdiction because of an agreement by the parties that suit should be brought in another state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) As used in this Act, "state" means any foreign nation, and any state, district, commonwealth, territory or insular possession of the United States.

#### SECTION 2. ACTION IN THIS STATE BY AGREEMENT.)

1. If the parties have agreed in writing that an action on a controversy may be brought in this state and the agreement provides the only basis for the exercise of jurisdiction, a court of this state will entertain the action if
  - a. The court has power under the law of this state to entertain the action;
  - b. This state is a reasonably convenient place for the trial of the action;
  - c. The agreement as to the place of the action was not obtained by misrepresentation, duress, the abuse of economic power, or other unconscionable means; and
  - d. The defendant, if within the state, was served as required by law of this state in the case of persons within the state or, if without the state, was served either personally or by registered or certified mail directed to his last known address.
2. This section does not apply to cognovit clauses, to arbitration clauses, or to the appointment of an agent for the service of process pursuant to statute, rule, or court order.

SECTION 3. ACTION IN ANOTHER PLACE BY AGREEMENT.) If the parties have agreed in writing that an action on a controversy shall be brought only in another state and it is brought in a court of this state, the court will dismiss or stay the action, as appropriate, unless

1. The court is required by statute to entertain the action;
2. The plaintiff cannot secure effective relief in the other state, for reasons other than delay in bringing the action;
3. The other state would be a substantially less convenient place for the trial of the action than this state;
4. The agreement as to the place of the action was obtained by misrepresentation, duress, the abuse of economic power, or other unconscionable means; or
5. It would for some other reason be unfair or unreasonable to enforce the agreement.

Approved March 27, 1971

## CHAPTER 309

SENATE BILL NO. 2219  
(Stroup, Freed)

## CANCELLATION OF LIS PENDENS

AN ACT to amend and reenact section 28-05-08 of the North Dakota Century Code, relating to the cancellation of lis pendens by the entry of a final judgment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 28-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-05-08. CANCELLATION OF LIS PENDENS.) The court in which the action was commenced, at any time, on application of any person aggrieved and on good cause shown and on such notice as shall be directed or approved by the court, may order the notice authorized by section 28-05-07 to be canceled of record in whole or in part by the register of deeds of any county in whose office the same may have been filed for record, and such cancellation shall be made by an endorsement to that effect on the margin of the record which shall refer to the order. Such cancellation, in like manner, may be made by the register of deeds upon a written request, directing such cancellation, signed by the party or the attorney of the party who caused such notice to be filed. Such notice shall also be canceled by the entry of a final judgment in the action if no appeal has been taken from such judgment within the time provided by law.

Approved March 17, 1971

## CHAPTER 310

HOUSE BILL NO. 1073  
(Jenkins, Metzger, Olienyk, Sandness)  
(From Legislative Council Study)

SERVICE OF PROCESS  
ON UNITED STATES

AN ACT to create and enact chapter 28-06.2 of the North Dakota Century Code, relating to the method of service of civil process upon the United States, an officer, employee, or agency thereof, when civil suit is brought in a state court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 28-06.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

28-06.2-01. PROCESS SERVED UPON THE UNITED STATES - PERSONS DESIGNATED TO RECEIVE SUMMONS AND COMPLAINT.) Service shall be made upon the United States by any person authorized to make service under state law or the rules of civil procedure by delivering a copy of the summons and of the complaint to the United States attorney for the federal judicial district in which the action is brought, or to an assistant United States attorney in that district, or to a clerical employee designated by the United States attorney, and by sending a copy of the summons and of the complaint by certified mail to the attorney general of the United States, at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by certified mail to such officer or agency.

28-06.2-02. SERVICE UPON OFFICER, EMPLOYEE, AGENCY, OR GOVERNMENT CORPORATION OF THE UNITED STATES.) Service upon an officer, employee, or agency of the United States shall be made by serving the United States, and by delivering a copy of the summons and of the complaint to such officer, employee, or agency. If the agency being sued is a government corporation, a copy of the summons and of the complaint shall be served in the manner service is authorized by state law or the rules of civil procedure for service on a domestic corporation.

28-06.2-03. ANSWER BY UNITED STATES - TIME LIMITATION.) The United States, or an officer, employee, or agency thereof, shall serve an answer to the complaint or to a cross-claim, or a reply to a counterclaim, within sixty days after service upon the United States attorney of the pleading in which the claim is asserted.

28-06.2-04. SERVICE UPON OFFICER OR EMPLOYEE ACTING UNDER COLOR OF FEDERAL EMPLOYMENT.) The provisions of sections 28-06.2-02 and 28-06.2-03 shall apply to any action seeking relief against an officer or employee of the United States for any act done under the color of his office or employment.

28-06.2-05. PROCEDURES GOVERNING OTHER MATTERS REMAIN THE SAME.) Except as otherwise provided in this chapter, or by express provision of other law, procedures governing suits against the United States, or any of its agencies, officers, or employees acting in their official capacities, shall be those governing similar suits to which the United States, or an agency, officer, or employee, is not a party.

Approved February 20, 1971

## CHAPTER 311

SENATE BILL NO. 2252  
(Chesrown, Freed, Holand)

## NEWMAN ACT REPEAL

AN ACT to amend and reenact section 28-18-09 of the North Dakota Century Code, and to repeal section 28-27-32 of the North Dakota Century Code, relating to appeals to the North Dakota supreme court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 28-18-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-18-09. SPECIFICATIONS OF ERRORS AND INSUFFICIENCY OF THE EVIDENCE.) A party desiring to make a motion for a new trial or to appeal from a judgment or other determination of a district court or county court with increased jurisdiction shall serve with the notice of motion, or notice of appeal, a concise statement of the errors of law he complains of, and if he claims the evidence is insufficient to support the verdict or that the evidence is of such character that the verdict should be set aside as a matter of discretion, he shall so specify. A specification of insufficiency of the evidence to sustain the verdict or decision of the court shall point out wherein the evidence is insufficient and it shall be proper to include in such specification, specifications of facts conclusively established, together with the facts claimed not to be established, in such manner as to show intelligibly wherein, on the whole case, the verdict or decision is not supported by the evidence.

SECTION 2. REPEAL.) Section 28-27-32 of the North Dakota Century Code is hereby repealed.

Approved March 18, 1971

## CHAPTER 312

HOUSE BILL NO. 1357  
(Atkinson)

UNDERTAKING NOT REQUIRED  
OF CERTAIN APPELLANTS

AN ACT relating to appeals by the state, or any state officer, or state board, or any public corporation, or any municipal corporation, and providing that no undertaking need be given, unless ordered by the supreme court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. FROM WHOM UNDERTAKING NOT REQUIRED UNLESS ORDERED BY COURT.) When the state, or any state officer, or state board, in a purely official capacity, or any public corporation, or any municipal corporation within the state, shall take an appeal, service of the notice of appeal shall perfect the appeal and stay the execution or performance of the judgment or order appealed from and no undertaking need be given, but the supreme court on motion may require sureties to be given in such form and manner as it shall prescribe as a condition of the further prosecution of the appeal.

Approved March 12, 1971

## CHAPTER 313

SENATE BILL NO. 2355  
(Nething, Freed)

ADMINISTRATIVE PROCEDURES -  
SPECIFICATION OF ISSUES

AN ACT to amend and reenact section 28-32-08 of the North Dakota Century Code, relating to specifications of any issues to be furnished by agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 28-32-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-32-08. SPECIFICATIONS OF ANY ISSUES TO BE FURNISHED BY AGENCY.) Whenever an administrative agency, pursuant to authority conferred upon it by law, shall institute an investigation upon its own motion or without the filing of a specified complaint, or shall hold any hearing or make any independent investigation upon the claim or request of any person, no decision shall be made by the agency until all parties in interest shall have been furnished with a written specification of the issues which are to be considered and determined, nor until an opportunity shall have been afforded to such parties to present evidence and to be heard upon the precise issues so specified. Provided, however, that the commissioners of the workmen's compensation bureau may make determinations without the giving of the notice herein provided for. This provision shall not be construed to relieve the commissioners of the workmen's compensation bureau of the requirements of section 28-32-13 of this chapter.

Approved March 17, 1971

# JUDICIAL PROCEDURE, CRIMINAL

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## CHAPTER 314

SENATE BILL NO. 2370  
(Nething, Freed)

### TIME FOR ARRESTS

AN ACT to amend and reenact section 29-06-08 and to repeal section 29-06-16 of the North Dakota Century Code relating to arrests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 29-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-06-08. WHEN ARREST MADE FOR FELONY - MISDEMEANOR.) An arrest for a felony or misdemeanor may be made on any day and at any time of the day or night.

SECTION 2. REPEAL.) Section 29-06-16 of the North Dakota Century Code is hereby repealed.

Approved March 29, 1971

## CHAPTER 315

SENATE BILL NO. 2230  
(Freed, Nething, Ringsak, Sanstead)

## GRAND JURY

AN ACT to create and enact chapter 29-10.1 of the North Dakota Century Code relating to the grand jury, its termination, powers, duties, functions, and activities; providing for criminal contempt of court; and to repeal chapter 29-10, sections 29-09-08, 29-09-09, 29-09-10, 29-09-11, subdivisions c, d, and g of subsection 2 of section 29-14-04 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 29-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

29-10.1-01. "GRAND JURY" DEFINED - FORMATION - FUNCTIONS.) A grand jury shall consist of not less than eight nor more than eleven persons of the county possessing the qualifications of jurors prescribed by law, and impaneled and sworn to inquire into all crimes or public offenses against laws of this state triable within the county and, if the evidence warrants, present them to the district court by written indictment.

29-10.1-02. WHEN GRAND JURY MAY BE CALLED.) No grand jury may be drawn, summoned, or convened in any county within this state unless the district judge thereof shall so direct by a written order filed with the clerk of the court in the county wherein the said grand jury is required to attend. Any judge of the district court for any county must direct, in the manner herein provided, that a grand jury be drawn and summoned to attend whenever:

1. He deems the attendance of a grand jury necessary for the due enforcement of the laws of the state;
2. The board of county commissioners of the county wherein the court is to be held, in writing, requests him so to do; or
3. A petition in writing requesting the same is presented to the judge, signed by qualified electors of the county equal in number to at least ten percent of the total vote cast in the county for the office of governor of the state at the last general election.

29-10.1-03. JUDGE TO SUMMON GRAND JURY.) Upon presentment of the request of petition, the judge shall promptly summon and convene the grand jury.

29-10.1-04. PETITION FOR GRAND JURY - PETITIONERS - NUMBER - SESSION.) The petition for a grand jury prescribed by section 29-10.1-02 shall be verified on information and belief by at least three of the petitioners. The formation of a grand jury under this chapter shall not be invalidated should it appear or be proven after the grand jury has been summoned that any of the petitioners were not qualified electors or that the petition was not signed by the required number of qualified electors. No grand jury may remain in session in excess of ten calendar days, unless the judge by written order filed with the clerk of the court extends the session as may be necessary. Unless extended the grand jury shall be discharged at the close of the tenth day of its session. Saturdays, legal holidays and days in recess shall be excluded in computing the duration of the initial or extended session.

29-10.1-05. CHALLENGES BY STATE, WHEN AND CAUSES.)

1. The state may challenge the panel of a grand jury or an individual grand juror at any time before the grand jury is impaneled and sworn.
2. A challenge to the panel may be asserted by the state upon the ground only that the grand jurors were not selected according to law.
3. A challenge to an individual grand juror may be asserted by the state upon the ground only that he is not a qualified juror.

29-10.1-06. CHALLENGE MAY BE ORAL OR WRITTEN.) A challenge to the panel or to an individual grand juror may be oral or in writing and must be tried to the court.

29-10.1-07. CHALLENGE ALLOWED OR DISALLOWED - ENTRY BY CLERK.) The court must allow or disallow a challenge to the panel of a grand jury or to an individual grand juror, and the clerk must enter its decision upon the minutes.

29-10.1-08. CHALLENGE ALLOWED - PROCEDURE.) Whenever a challenge to the panel or to an individual grand juror is allowed, the court shall make an order to the jury commission to summon without delay a sufficient number of persons to complete or to form a grand jury.

29-10.1-09. JURY DISCHARGED IF CHALLENGE TO PANEL ALLOWED.) If a challenge to the panel is allowed, the grand jury must be discharged in which event the judge may order another grand jury to be summoned and convened.

29-10.1-10. CHALLENGE TO PANEL AFTER INDICTMENT PRESENTED.)

At any time prior to pleading to the indictment, the person against whom an indictment has been found and presented may move the court to quash the indictment upon the ground that the jurors were not selected or impaneled according to law.

29-10.1-11. COURT TO APPOINT FOREMAN AND VICE FOREMAN.) When the grand jury is completed, the court must appoint one of the jurors to be foreman, and another to act as foreman in case of the absence of the foreman.

29-10.1-12. OATH OF GRAND JURORS.) The following oath must be administered to the members of the grand jury:

"You, as members of this grand jury, shall diligently inquire into, and true presentment make, of all public offenses against this state, committed or triable within this county, which will be brought to your attention or come to your knowledge. You will keep your own counsel, and that of your fellows, and of the state, and, except when required in the due course of judicial proceedings, must not disclose the testimony of any witness examined before you, nor disclose anything which you or any other grand juror may have said, nor the manner in which you or any other grand juror may have voted on any matter before you. You shall indict no person through malice, hatred, or ill will, nor leave any unindicted through fear, favor, or affection, nor for any reward or the promise or hope thereof, but in all your indictments, you shall present the truth, the whole truth and nothing but the truth, according to the best of your skill and understanding. So help you God."

29-10.1-13. COURT MUST CHARGE GRAND JURY - DUTY OF COURT TO ADVISE.) After the grand jury is impaneled and sworn, the court must charge the jurors concerning the offenses that may be considered by them or that are likely to come before them, and concerning their duties as prescribed by law. The court, upon request of the grand jurors and at all reasonable times, shall advise them regarding their duties.

29-10.1-14. RETIREMENT OF GRAND JURORS.) After the charge by the court, the grand jurors must retire to a private room which shall be provided for by the county commissioners and perform their duties as prescribed by law.

29-10.1-15. CLERK, APPOINTMENT BY GRAND JURORS - DUTY.) The grand jury, unless a competent reporter is appointed, shall appoint a member of the jury as clerk, who must preserve minutes of all the proceedings of the jurors, and exhibits presented, except of the votes of the individual members, and of the evidence given before them. Upon the conclusion of the grand jury session, all exhibits shall be placed in the custody of the state's attorney unless otherwise directed by the court.

## 29-10.1-16. REPORTER - TRANSCRIPT.)

1. Unless otherwise directed by the court, the grand jury shall appoint a competent reporter who shall be sworn and who shall record in shorthand or stenotype notes, the testimony given in matters before the grand jury. Whenever an indictment is returned, and if so directed by the court, the reporter shall cause the testimony to be transcribed.
2. Whenever the court directs the testimony to be transcribed, the reporter shall certify and file with the clerk of court the original and sufficient copies of the transcript so as to provide a copy for each person indicted and one for the state's attorney or prosecutor. The reporter shall complete the certification of the transcript within thirty days after the date of the order unless a different period of time is specified by the court.
3. All exhibits presented to the grand jury shall be placed in the custody of the state's attorney or prosecutor unless otherwise directed by the court.

29-10.1-17. SELECTION OF JURORS.) Before accepting a person drawn as a grand juror, the court shall be satisfied that such person is duly qualified to act as such. A person drawn as a juror may be excused for good cause by the court before he is sworn.

29-10.1-18. EXPENSES.) All necessary expenses of the grand jury incurred in its official capacity shall be paid by the county out of the general fund.

29-10.1-19. SUBPOENAS.) The grand jury may issue subpoenas or subpoenas duces tecum to any witness within the state. Subpoenas may also be issued by the state's attorney or prosecutor in the manner provided in the statutes or rules of criminal procedure.

29-10.1-20. FILLING VACANCIES.) Whenever the membership of a grand jury is reduced in number for any reason, after the grand jury has been impaneled, the judge may direct that the vacancy be filled, and must so direct if necessary to maintain the minimum number required, in the same manner as the original members were selected. No person selected as a grand juror to fill a vacancy shall vote on any matter upon which evidence has been taken prior to the time of his selection.

29-10.1-21. GENERAL DUTIES OF GRAND JURY.) The grand jury shall inquire into the cause of detention of every person imprisoned in the jail of the county against whom neither a criminal complaint nor information has been filed, or who has not had or waived a preliminary examination, and into all public offenses

committed or triable in the county, and if the evidence so warrants, shall present them to the court by written indictment. As to any offense committed while the grand jury is in session, the state's attorney or prosecutor may proceed with a preliminary examination or the filing of an information, as provided for by law, and prosecute the charge, and, under such conditions, the grand jury shall not be required to inquire into such offense. The presentment of an indictment against a person does not preclude the prosecution of such person for the same offense upon a criminal complaint or information previously filed with the court.

29-10.1-22. SUBJECTS OF GRAND JURY INQUIRY.) Whenever directed by the district court, the grand jury must inquire into:

1. The condition and management of the public prisons in the county; and
2. Willful and corrupt misconduct in office of public officials of every description in the county.

29-10.1-23. GRAND JURORS ENTITLED TO ACCESS TO PRISONS AND PUBLIC RECORDS.) Grand jurors are entitled to free access, at all reasonable times, to public prisons, and to the examination, without charge, of all public records in the county.

29-10.1-24. MEMBER MUST REPORT OFFENSE KNOWN TO HIM AND MUST GIVE EVIDENCE.) If a member of a grand jury knows or has reason to believe that a public offense which is triable in the county has been committed, he must declare such fact to his fellow jurors, who must investigate the same. In such investigation, the grand juror may be sworn as a witness.

29-10.1-25. OATH TO WITNESS.) The foreman or the prosecuting officer may administer an oath to any witness appearing before the grand jury. If the witness refuses to answer questions or produce evidence of any other kind on the ground that he may be incriminated thereby, proceedings may be had under section 31-01-09.

29-10.1-26. RECEPTION OF EVIDENCE.)

1. Subject to subsection 2 of this section, the grand jury shall receive only evidence which is:
  - a. Given by witnesses produced and sworn before the grand jury;
  - b. Furnished by writings, material objects, or other things perceivable through the senses; or
  - c. Contained in a deposition or transcript that is admissible under the rules of criminal procedure.
2. The grand jury shall receive only evidence that would

be admissible over objection at the trial of a criminal action, but the fact the evidence inadmissible at the trial was received by the grand jury does not render the indictment void if sufficient competent evidence to support the indictment was received by the grand jury.

29-10.1-27. EXCULPATORY EVIDENCE.) The grand jury shall weigh all the evidence submitted to it, and when it has reason to believe that there is exculpatory evidence within its reach, it shall order the evidence to be produced, and for that purpose may require the state's attorney or prosecutor to issue process for the production of such evidence.

29-10.1-28. WHO MAY BE PRESENT DURING SESSIONS OF GRAND JURY.) No person may be present at a session of the grand jury, other than the witnesses under examination, the judge while giving advice requested by the grand jury, the state's attorney or prosecutor, the attorney general, and the reporter, or interpreter, if any. No person other than the grand jurors may be present while the grand jurors are deliberating or voting, nor may the grand jurors deliberate or vote while any other persons are present. Whenever the grand jury is investigating the state's attorney or any person connected with his office, neither the state's attorney nor any of his assistants or staff may be present before such grand jury during the time of such investigation, except as a witness and, after such appearance as a witness, must leave the place where the grand jury is in session.

29-10.1-29. DUTY OF STATE'S ATTORNEY.) The state's attorney or prosecutor, upon the request of the grand jurors, shall advise them regarding their duties. He, at all reasonable times, may appear before them on his own motion for the purpose of giving the grand jurors information or advice regarding any matter cognizable by them and may interrogate witnesses before them whenever he believes it necessary.

29-10.1-30. SECRECY OF THINGS SAID, AND VOTES.) Every member of a grand jury must keep secret whatever he himself or any other grand juror may have said, or in what manner he or any other grand juror may have voted on a matter before the jurors.

29-10.1-31. WHEN JUROR MAY DISCLOSE TESTIMONY UPON ORDER OF THE COURT.) A member of a grand jury, its reporter, or interpreter, may be required by any court to disclose the testimony of a witness examined before the grand jury for the purpose of impeachment of the witness before the court, or to disclose the testimony given before them by any person, upon a charge against him for perjury in giving his testimony, or upon his trial in a criminal prosecution.

29-10.1-32. GRAND JUROR CANNOT BE QUESTIONED.) A grand juror cannot be questioned for anything he may say, or any vote

he may give, in a session of the grand jury, relative to a matter legally pending before the jurors, except upon a charge against him for perjury in giving his testimony to his fellow jurors.

29-10.1-33. WHEN INDICTMENT OUGHT TO BE FOUND.) The grand jurors shall find an indictment charging a person with the commission of an offense when all the evidence before them, taken together, is such as in their judgment would warrant a conviction by the trial jury.

29-10.1-34. FINDING INDICTMENT - NUMBER OF JURORS REQUIRED.) An indictment cannot be found without the concurrence of at least six grand jurors. Whenever so found, it must be endorsed "a true bill" and the endorsement must be signed by the foreman of the grand jury. The names of the witnesses known to the grand jury shall be endorsed thereon before the indictment is presented to the court.

29-10.1-35. PRESENTMENT OF INDICTMENT TO COURT BY FOREMAN.) An indictment found by the grand jurors must be presented by the foreman, in their presence, to the court, and must be filed with the clerk.

29-10.1-36. PERSONS INDICTED, HOW ARRESTED.) Whenever an indictment is found and presented against a person, the proceedings prescribed in chapter 29-12 shall govern when necessary to secure his appearance before the court.

29-10.1-37. JURORS TO BE DISCHARGED UPON COMPLETION OF BUSINESS.) Upon the completion of the business before them, or whenever the court shall be of opinion that the public interests will not be served by further continuation of their sessions, the grand jurors must be discharged by the court.

29-10.1-38. TRANSCRIPT DEMAND - WAIVER OF TRANSCRIPT AND PRELIMINARY EXAMINATION, WHEN.) Within five days after his first appearance before a magistrate, a person against whom an indictment has been found and presented may make a written demand to the district judge for a copy of the transcript of the testimony given before the grand jury as it relates to him and the charges against him. Upon receipt of such written demand, the judge shall issue an appropriate order. If the judge for any reason determines that a copy of a transcript of the testimony cannot be obtained, the person indicted shall be entitled, but not otherwise, to a preliminary examination, as provided by the statutes or rules of criminal procedure for persons otherwise charged with a crime. Under such conditions the preliminary examination shall be had before a judge of a county court, if it has increased jurisdiction, or a district judge, of the county in which the crime was committed or is triable. Failure to make such demand within the time prescribed constitutes a waiver of the right to the transcript or to a preliminary examination.

29-10.1-39. VIOLATION CONSTITUTES CONTEMPT.) Any person

who willfully violates any provision of this chapter is guilty of criminal contempt of court.

SECTION 2. REPEAL.) Chapter 29-10, sections 29-09-08, 29-09-09, 29-09-10, 29-09-11 and subdivisions c, d and g of subsection 2 of section 29-14-04 of the North Dakota Century Code are hereby repealed.

Approved March 30, 1971

## CHAPTER 316

SENATE BILL NO. 2383  
(Chesrown)

## DEMAND FOR CHANGE OF JUDGE

AN ACT to provide for the change of a district court judge upon written demand of a party and prescribing the procedure therefor; and to repeal chapter 28-13 and sections 29-15-13, 29-15-14, 29-15-15, 29-15-16, 29-15-17, 29-15-19, and 29-15-20 of the North Dakota Century Code, relating to affidavits of prejudice are hereby repealed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

## SECTION 1. DEMAND FOR CHANGE OF JUDGE.)

1. Subject to the provisions of this section, any party to a civil or criminal action or proceeding pending in the district court of any county in this state may obtain a change of the judge before whom the trial or any proceeding with respect thereto is to be heard, by filing with the clerk of the court in which the action or proceeding is pending a written demand for change of judge, executed in triplicate by the personal signature of the party, if an individual, and by personal signature of an authorized officer, if a corporation or association.
2. The demand is not operative unless it is filed with the clerk of the court at least three days before the matter is to be heard if upon a motion or upon arraignment, or ten days before the date the action or proceeding is scheduled for trial. In any event, no demand for a change of judge may be made after the judge sought to be disqualified has ruled upon any matter pertaining to the action or proceeding in which the demanding party was heard or had an opportunity to be heard.
3. The demand for change of judge shall state that it is filed in good faith and not for the purposes of delay. It shall indicate the nature of the action or proceeding, designate the judge sought to be disqualified, and certify that he has not ruled upon any matter pertaining to the action or proceeding in

which the moving party was heard or had an opportunity to be heard.

4. Upon the filing of the demand for change of judge, the clerk shall forthwith notify the judge sought to be disqualified by delivering to him a copy of the demand, and promptly forwarding another copy of the demand to the clerk of the supreme court.
5. Upon receipt of a copy of a timely filed demand for change of judge, the judge sought to be disqualified shall proceed no further in the action or proceeding and is thereafter disqualified from doing any further act in the cause.
6. If a demand for a change of judge has been made and another judge assigned by the supreme court, the supreme court may decline to grant another demand for a change of judge made by a party whose interests in the matter are not adverse to those of the party whose demand was granted. A judge assigned by the supreme court pursuant to a demand for change of judge is not disqualified upon a subsequent demand for change of judge unless and until the subsequent demand is granted and notice thereof is given to him by the supreme court. A subsequent demand for a change of judge may be made only within five days after receiving notice of the assignment of a judge by the supreme court pursuant to a previous demand.
7. Upon receipt of a timely filed demand for a change of judge from the clerk of the district court of any county in this state, the supreme court shall designate a district judge to act in the place and stead of the judge disqualified.
8. The judge designated, as soon as possible after receiving such notice from the supreme court and during the same term unless agreement to the contrary is made by the parties, shall proceed with the hearing or trial, first giving to the parties or their attorneys reasonable notice of the date of the hearing or trial.
9. Whenever a demand for a change of judge is filed in a criminal action, in accordance with the provisions of this section, and the party also asks for a change of place of trial upon any ground specified in section 29-15-01, the court shall proceed no further in the action and thereupon shall be disqualified to do any further act in said cause. In such case, the application for a change of place of trial shall be heard and determined by the judge

designated by the supreme court to act in said action.

SECTION 2. REPEAL.) Chapter 28-13 and sections 29-15-13, 29-15-14, 29-15-15, 29-15-16, 29-15-17, 29-15-19, and 29-15-20 of the North Dakota Century Code are hereby repealed.

Approved March 17, 1971

## CHAPTER 317

HOUSE BILL NO. 1380  
(Atkinson)

## GROUNDS FOR NEW TRIAL

AN ACT to amend and reenact subsection 8 of section 29-24-02 of the North Dakota century Code, relating to grounds for a new trial, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 8 of section 29-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. When the defendant, without fault or negligence on his or her part, is unable to procure a correct and complete transcript of the evidence given and the proceedings had at a trial after a plea of not guilty.

SECTION 2. EMERGENCY.) This measure is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 12, 1971

## CHAPTER 318

SENATE BILL NO. 2311  
(Freed)

## GROUNDS FOR ISSUING SEARCH WARRANT

AN ACT to create and enact subsection 4 of section 29-29-02 of the North Dakota Century Code, relating to grounds for the issuance of a search warrant.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 4 of section 29-29-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

4. When it is any property that constitutes or may constitute evidence of a criminal offense in violation of the laws of this state.

Approved March 17, 1971

## CHAPTER 319

SENATE BILL NO. 2302  
(Freed)

TEMPORARY INTERROGATION AND  
SEARCH OF NARCOTICS SUSPECTS

AN ACT to amend and reenact subsection 4 of section 29-29-21 of the North Dakota Century Code, relating to the temporary questioning and searching of persons in public places suspected of possessing narcotic and other drugs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 29-29-21 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A violation of any provision relating to possession of marijuana or of narcotic, hallucinogenic, depressant, or stimulant drugs.

Approved March 27, 1971

## CHAPTER 320

SENATE BILL NO. 2069  
(Doherty, Longmire, Pyle, Unruh)  
(From Legislative Council Study)

INTERSTATE RENDITION  
OF ACCUSED PERSONS

AN ACT to create and enact chapter 29-30.1 of the North Dakota Century Code, relating to the interstate rendition of accused persons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 29-30.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

29-30.1-01. PRESENCE OF PERSON CHARGED WITH CRIME IN  
ANOTHER STATE - DOCUMENTS FILED BY AGENT - ISSUANCE OF WARRANT.)

1. If a person who has been charged with a crime in another state and released from custody prior to final judgment, including the disposition of any appeal, is alleged to have violated the terms and conditions of his release and is present in this state, a designated agent of the court, judge, or magistrate who authorized the release may request the issuance of a warrant for the arrest of the person and an order authorizing his return to the demanding court, judge, or magistrate. Before the warrant is issued, the designated agent must file with a magistrate of the county or city wherein the person sought may be located the following documents:
  - a. An affidavit stating the name and whereabouts of the person whose removal is sought, the crime with which the person was charged, the time and place of the crime charged, and the status of the proceedings against him.
  - b. A certified copy of the order or other document specifying the terms and conditions under which the person was released from custody.
  - c. A certified copy of an order of the demanding court, judge, or magistrate stating the manner in which the terms and the conditions of the release have been violated, and designating the affiant as its agent for seeking removal of the person.

2. Upon initially determining that the affiant is a designated agent of the demanding court, judge, or magistrate, and that there is probable cause for believing that the person whose removal is sought has violated the terms or conditions of his release, the magistrate shall issue a warrant to a law enforcement officer of this state for the person's arrest.
3. The magistrate shall notify the state's attorney of his action, and shall direct him to investigate the case to ascertain the validity of the affidavits and documents required by subsection 1 of this section, and the identity and authority of the affiant.

29-30.1-02. PROCEDURE UPON ARREST OF PERSON SOUGHT - HEARING - WAIVER OF HEARING - RELEASE PRIOR TO HEARING.)

1. The person whose removal is sought shall be brought before the magistrate immediately upon arrest pursuant to the warrant; whereupon the magistrate shall set a time and place for hearing, and shall advise the person of his right to have the assistance of counsel, to confront the witnesses against him, and to produce evidence in his own behalf at the hearing.
2. The person whose removal is sought may at this time waive, in writing, the hearing and agree to be returned to the demanding court, judge, or magistrate. If a waiver is executed, the magistrate shall issue an order pursuant to section 29-30.1-03.
3. The magistrate may impose conditions of release authorized by the laws of this state, which will reasonably assure the appearance at the hearing of the person whose removal is sought.

29-30.1-03. PROCEDURE AT HEARING - DUTY OF STATE'S ATTORNEY - ISSUANCE OF ORDER.) The state's attorney shall appear at the hearing and shall report to the magistrate the results of his investigation. If the magistrate finds that the affiant is a designated agent of the demanding court, judge, or magistrate, that the person whose removal is sought was released from custody by the demanding court, judge, or magistrate, and that the person has violated the terms or conditions of his release, the magistrate shall issue an order authorizing the return of the person to the custody of the demanding court, judge, or magistrate forthwith.

29-30.1-04. UNIFORMITY OF INTERPRETATION - SHORT TITLE.) This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it, and it may be cited as the Uniform Rendition of Accused Persons Act.

Approved March 4, 1971

## CHAPTER 321

SENATE BILL NO. 2289  
(Chesrown)

## MANDATORY DISPOSITION OF DETAINERS

AN ACT relating to the mandatory disposition of detainees for criminal charges pending against persons imprisoned in this state and constituting the Uniform Mandatory Disposition of Detainers Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. REQUEST FOR DISPOSITION OF PENDING CHARGES - DUTY TO INFORM PRISONER - DISMISSAL.)

1. Any person who is imprisoned in a penal or correctional institution of this state may request final disposition of any untried indictment, information or complaint pending against him in this state. The request shall be in writing addressed to the court in which the indictment, information or complaint is pending and to the prosecuting official charged with the duty of prosecuting it, and shall set forth the place of imprisonment.
2. The warden or other official having custody of prisoners shall promptly inform each prisoner in writing of the source and nature of any untried indictment, information or complaint against him of which the warden or other official had knowledge or notice and of his right to make a request for final disposition thereof.
3. Failure of the warden or other official to inform a prisoner, as required by this section, within one year after a detainer has been filed at the institution shall entitle him to a final dismissal of the indictment, information or complaint with prejudice.

SECTION 2. DUTY TO INFORM COURT AND PROSECUTING OFFICIAL.) The request shall be delivered to the warden or other official having custody of the prisoner, who shall forthwith

1. Certify the term of commitment under which the

prisoner is being held, the time already served on the sentence, the time remaining to be served, the good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole board relating to the prisoner; and

2. Send by registered or certified mail, return receipt requested, one copy of the request and certificate to the court and one copy to the prosecuting official to whom it is addressed.

SECTION 3. WHEN CHARGES BROUGHT TO TRIAL - DISMISSAL.)

Within ninety days after the receipt of the request and certificate by the court and prosecuting official or within such additional time as the court for good cause shown in open court may grant, the prisoner or his counsel being present, the indictment, information or complaint shall be brought to trial; but the parties may stipulate for a continuance or a continuance may be granted on notice to the attorney of record and opportunity for him to be heard. If, after such a request, the indictment, information or complaint is not brought to trial within that period, no court of this state shall any longer have jurisdiction thereof, nor shall the untried indictment, information or complaint be of any further force or effect, and the court shall dismiss it with prejudice.

SECTION 4. REQUEST VOIDED BY ESCAPE.)

Escape from custody by any prisoner subsequent to his execution of a request for final disposition of an untried indictment, information or complaint voids the request.

SECTION 5. EXCLUSIONS.)

This Act does not apply to any person while under commitment to an institution for the mentally ill or mentally deficient.

SECTION 6. PRISONERS TO BE INFORMED OF ACT.)

The warden or other official having custody of prisoners shall arrange for all prisoners to be informed in writing of the provisions of this Act, and for a record thereof to be placed in the prisoner's file.

SECTION 7. APPLICATION AND CONSTRUCTION.)

This Act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among those states which enact it.

SECTION 8. CITATION OF ACT.)

This Act may be cited as the Uniform Mandatory Disposition of Detainers Act.

Approved March 24, 1971

## CHAPTER 322

SENATE BILL NO. 2305  
(Chesrown)

## INTERSTATE AGREEMENT ON DETAINERS

AN ACT providing for the adoption of an interstate agreement on detainers and for the implementation thereof.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AGREEMENT ON DETAINERS.) The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

## ARTICLE I

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

## ARTICLE II

As used in this agreement:

- (1) "State" shall mean a state of the United States; the United States of America; a territory of possession of the United States; District of Columbia; the Commonwealth of Puerto Rico;
- (2) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant

to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof;

- (3) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

#### ARTICLE III

- (1) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.
- (2) The written notice and request for final disposition referred to in paragraph (1) hereof shall be given or sent by the prisoner to the official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.
- (3) The official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.
- (4) Any request for final disposition made by a prisoner pursuant to paragraph (1) hereof shall operate as

a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

- (5) Any request for final disposition made by a prisoner pursuant to paragraph (1) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (4) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to affectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.
- (6) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (1) hereof shall void the request.

#### ARTICLE IV

- (1) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with

Article V, paragraph (1), hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; and provided further that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

- (2) Upon receipt of the officer's written request as provided in paragraph (1) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.
- (3) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.
- (4) Nothing contained in the Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (1) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.
- (5) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V, paragraph (5), hereof, such indictment, information or complaint shall not be of any further force or effect, and

the court shall enter an order dismissing the same with prejudice.

ARTICLE V

- (1) In response to a request made under Article III or Article IV, hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of federal prisoners, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.
- (2) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:
  - (a) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.
  - (b) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which a request for temporary custody of the prisoner has been made.
- (3) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.
- (4) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints

which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

- (5) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.
- (6) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.
- (7) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.
- (8) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

#### ARTICLE VI

- (1) In determining the duration and expiration dates of the time periods provided in Articles III and IV of

this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

- (2) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

#### ARTICLE VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

#### ARTICLE VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

#### ARTICLE IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SECTION 2. DEFINITION - APPROPRIATE COURT.) The phrase "appropriate court" as used in the agreement on detainers shall, with reference to the courts of this state, mean any court with criminal jurisdiction in the matter involved.

SECTION 3. ENFORCEMENT AND COOPERATION DIRECTED.) All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one

another and with other party states in enforcing the agreement and effectuating its purpose.

SECTION 4. APPLICATION OF HABITUAL CRIMINAL LAW NOT REQUIRED.) Nothing in this act or in the agreement on detainers shall be construed to require the application of the habitual criminal law of this state to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of said agreement.

SECTION 5. ESCAPE FROM CUSTODY.) Escape or attempt to escape from custody, whether within or without this state, while in the temporary custody of an authority of another state acting pursuant to the agreement on detainers shall constitute an offense against the laws of this state. Such escape or attempt to escape shall constitute an offense to the same extent and degree as an escape from the institution in which the prisoner was confined immediately prior to having been released to temporary custody, and shall be punishable in the same manner as an escape or attempt to escape from said institution.

SECTION 6. LAWFUL AND MANDATORY TO GIVE OVER INMATES.) It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers.

SECTION 7. ATTORNEY GENERAL SHALL BE THE ADMINISTRATOR.) The attorney general is hereby designated as the officer who shall be the central administrator of and information agent for the agreement on detainers as provided in Article VII of the agreement.

SECTION 8. TO WHOM COPIES OF THIS ACT SHALL BE SENT.) Copies of this Act shall, upon its approval, be transmitted to the governor of each state, the attorney general and the administrator of general services of the United States, and the council of state governments.

Approved March 24, 1971

# JUDICIAL PROCEDURE, PROBATE

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## CHAPTER 323

SENATE BILL NO. 2363  
(Stroup, Freed, Page)

### REPORT AND ACCOUNT OF GUARDIAN

AN ACT to amend and reenact section 30-14-10 of the North Dakota Century Code, relating to the report and account of guardians regarding the estate of a ward and the times at which such reports must be rendered.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 30-14-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30-14-10. REPORT AND ACCOUNT - TIMES AT WHICH REQUIRED.)  
If an inventory shows that the estate of a ward:

1. Exceeds three thousand dollars in value, a guardian shall make and render to the county court a report and account of his administration of the estate:
  - a. Annually, if the appraised value of the estate does not exceed twenty thousand dollars;
  - b. Semiannually, if the value of the estate exceeds twenty thousand dollars; and
  - c. At any time prescribed by the court, upon application for that purpose by an interested party.
2. Has a value of less than three thousand dollars, the court shall require such accountings as are deemed necessary.

Approved March 27, 1971

## CHAPTER 324

HOUSE BILL NO. 1149  
(Hentges)

EXECUTOR OR ADMINISTRATOR  
CONTRACTING WITH REAL ESTATE BROKER

AN ACT to authorize the executor or administrator of an estate to make and enter into a contract with a licensed real estate broker for the sale of real property and pay a commission out of the proceeds of sale.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. CONTRACT WITH LICENSED REAL ESTATE BROKER - PAYMENT OF COMMISSION.) The executor or administrator may make and enter into a written contract with a licensed real estate broker for the sale of real property of an estate and such contract may provide for the payment of a commission to the broker out of the proceeds of sale. The contract shall be binding in all respects except that the estate shall not be obligated to pay a commission until such commission has been allowed and the sale has been confirmed by the county court.

Approved March 12, 1971

# JUDICIAL PROOF

## CHAPTER 325

SENATE BILL NO. 2104  
(Stroup)

### DISPUTABLE PRESUMPTIONS

AN ACT to amend and reenact subsections 4 and 5 of section 31-11-03 of the North Dakota Century Code, relating to disputable presumptions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 4 and 5 of section 31-11-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. That a person takes ordinary care of his own concerns;
5. That evidence willfully suppressed would be adverse if produced;

Approved February 20, 1971

# JUDICIAL REMEDIES

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## CHAPTER 326

HOUSE BILL NO. 1389  
(Atkinson, Metzger)

### RESTRICTION ON GARNISHMENT

AN ACT to amend and reenact sections 32-09-02 and 32-09-03 of the North Dakota Century Code, relating to garnishment of earnings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 32-09-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09-02. RESTRICTION ON GARNISHMENT OF EARNINGS.)

1. As used in this chapter:
  - a. The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program; and
  - b. The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by other law to be withheld.
2. The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment may not exceed the lesser of:
  - a. Twenty-five percent of his disposable earnings for that week; or
  - b. The amount by which his disposable earnings for that week exceed forty times the federal minimum hourly wage prescribed by section 6 (a) (1) of the Fair Labor Standards Act of 1938 or any equivalent multiple thereof prescribed by regulation by the secretary of labor in case of earnings for any pay period other than a week, in effect at the time the earnings are

payable.

3. The restrictions of subsection 2 do not apply in the case of:
  - a. Any order of any court for the support of any person;
  - b. Any order of any court of bankruptcy under chapter XIII of the Bankruptcy Act; or
  - c. Any debt due for any state or federal tax.
4. No court of this state may make, execute, or enforce any order or process in violation of this section.

SECTION 2. AMENDMENT.) Section 32-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09-03. NOTICE BEFORE GARNISHMENT OF EARNINGS.) At least two days prior to the issuance of any garnishment summons against the earnings of any person, the creditor shall cause demand to be served upon the debtor and the employer for any disposable earnings subject to garnishment under section 32-09-02. In an action in justice court, such demand, with proof of service, shall be filed with the court at the time of the issuance of the garnishment summons, and in an action in district court or county court with increased jurisdiction, at the time the summons is filed. Failure to serve or file the notice as herein provided shall render such garnishment void. The amount of disposable earnings subject to garnishment shall be held by the employer subject to such garnishment from the time of service of such demand and for five days thereafter.

Approved March 29, 1971

## CHAPTER 327

HOUSE BILL NO. 1131  
(Bunker)

REDEMPTION PERIOD UNDER  
CONTRACT FOR DEED

AN ACT to amend and reenact sections 32-18-02, 32-18-04, and 32-18-05 of the North Dakota Century Code, relating to the period of redemption allowed a defaulting purchaser under a contract for deed or similar instrument.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 32-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-18-02. DEFAULT - CONTENTS OF NOTICE.) Whenever any default shall have been made in the terms or conditions of any such instrument for future conveyance of real estate or equity therein, and the owner or vendor shall desire to cancel or terminate the same, he, within a reasonable time after such default, shall cause a written notice to be served upon the vendee or purchaser, or his assigns, stating that such default occurred, and that said contract will be canceled or terminated, and shall recite in said notice the time when said cancellation or termination shall take effect, which shall be as provided in section 32-18-04.

SECTION 2. AMENDMENT.) Section 32-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-18-04. TIME ALLOWED TO CORRECT DEFAULT.) The vendee or purchaser, or his assigns, shall have the following periods of time after the service of notice of cancellation upon him in which to perform the conditions or comply with the provisions upon which the default shall have occurred:

1. If the amount claimed due under such instrument at the date of notice is more than sixty-six and two-thirds percent of the original indebtedness, the time allowed to correct the default shall be six months.
2. In any other case, the time for correction shall be one year.

Upon such performance and upon making such payments, together with the cost of service of such notice, such contract or other instrument shall be reinstated and shall remain in full force and effect as if no default had occurred therein. If, however, such vendee or purchaser, or his assigns, shall not complete such performance or make such payment within the time periods provided by this section, the contract shall be terminated and shall not be reinstated by any subsequent offer of performance, or tender of payment. No provisions in any contract for the purchase of land or an interest in land shall be construed to obviate the necessity of giving the aforesaid notice and no contract shall terminate unless such notice is given, any provision in such contract to the contrary notwithstanding, but the notice herein required shall not be deemed necessary where the contract in question is sought to be terminated by an action at law or in equity brought for that purpose upon failure to perform. This section shall apply to all instruments for a future conveyance of real estate or an equity therein which are executed on or after July 1, 1971. The time allowed to correct the default shall not be less than one year except in contracts involving an area not to exceed three acres.

SECTION 3. AMENDMENT.) Section 32-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-18-05. NOTICE OF CANCELLATION TO BE RECORDED.) In all cases of cancellation by notice of any contract for deed which has been recorded in the office of the register of deeds, the following documents shall also be recorded in that office: a copy of the notice of cancellation served upon the vendee, together with an affidavit of service and an affidavit of the vendor or his assigns, that the default of the vendee under the terms of the contract was not cured, after the date of service of such notice, within the time periods provided in section 32-18-04.

Approved March 16, 1971

## CHAPTER 328

SENATE BILL NO. 2446  
(Wenstrom)

LIMITATION ON USE OF SHORT TERM  
MORTGAGE REDEMPTION PERIOD

AN ACT to amend and reenact section 32-19.1-01 of the North Dakota Century Code, relating to acreage for use of short term redemption mortgage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 32-19.1-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-19.1-01. MORTGAGE MAY PROVIDE FOR FORECLOSURE UNDER CHAPTER.) The parties to a real estate mortgage upon property involving an area not to exceed ten acres may provide in said mortgage that upon default in the conditions of the mortgage, the mortgage may be foreclosed as provided in this chapter.

Approved March 19, 1971

# LABOR AND EMPLOYMENT

## CHAPTER 329

HOUSE BILL NO. 1450  
(Metzger)

### REGULATING EMPLOYMENT AGENCIES

AN ACT to create and enact a new subsection to section 34-13-01 of the North Dakota Century Code, relating to the licensing of employment agencies and to the establishment of maximum fees which may be charged for services, and to amend and reenact sections 34-13-02, 34-13-03, 34-13-04, 34-13-05, 34-13-07, 34-13-08, 34-13-09, 34-13-10, 34-13-11, and 34-13-12, and subsection 4 of section 34-13-15 of the North Dakota Century Code, relating to the transfer of the regulation of employment agencies from the attorney general to the commissioner of labor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) A new subsection to section 34-13-01 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The term "commissioner" means the commissioner of labor.

SECTION 2. AMENDMENT.) Section 34-13-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-02. LICENSES REQUIRED.) No person, firm, corporation, or association shall open or carry on an employment agency in the state, unless such person, firm, corporation, or association shall first procure a license from the commissioner. Any person, firm, corporation, or association who shall open or conduct any such agency without first procuring a license, shall be guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars, and not more than one hundred dollars, or by imprisonment for a period not to exceed ninety days, or both, at the discretion of the court.

SECTION 3. AMENDMENT.) Section 34-13-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-03. WRITTEN APPLICATION FILED.) On or before July first of each year, every applicant for a license shall

file with the commissioner a written application stating the name and address of the applicant, the kind of license desired, the street and number of the building in which the employment agency is to be maintained, the name of the person who is to have the general management of the office, the name under which the business of the office is to be carried on, whether or not the applicant is pecuniarily interested in any other business of a like nature, and if so, where. Such application shall also state whether the applicant is the only person pecuniarily interested in the business to be carried on under the license, and shall be signed by the applicant and sworn to before a notary public. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of the corporation, and shall be signed and sworn to by the president and treasurer thereof. If the applicant is a partnership, the application shall also state the names and addresses of all partners therein, and shall be signed and sworn to by all of them. The application shall also state whether or not the applicant is, at the time of making application, or has at any previous time been, engaged or interested in, or employed by anyone engaged in the business of conducting an employment agency, either in this state or any other, and if so, when and where. The application shall also give as reference the names and addresses of at least three persons of reputed business or professional integrity, located in the city or town where such applicant intends to conduct his business. Every applicant for a license to engage in the business of an employment agent shall, at the time of making application for said license, file with the commissioner a schedule of the fees or charges to be collected by such employment agent for any services rendered, together with all rules and regulations that may in any way affect the fees charged or to be charged for any service. Such fees and such rules or regulations may thereafter be changed by filing an amended or supplemental schedule showing such charges, with the commissioner. It shall be unlawful for any employment agent to charge, demand, collect, or receive a greater compensation for any service performed by him than is specified in such schedule filed with the commissioner.

It shall be the duty of the commissioner, and he shall have power, jurisdiction, and authority to issue licenses to employment agents, and to refuse to issue such license whenever, after due investigation, he finds that the character of the applicant makes him unfit to be an employment agent, or when the premises for conducting the business of an employment agent are found upon investigation to be unfit for such use. Any such license granted by the commissioner may also be revoked by him upon due notice to the holder of said license, and upon due cause shown. Failure to comply with the duties, terms, conditions, or provisions of this chapter, or any lawful orders of the commissioner shall be deemed due cause to revoke such license.

SECTION 4. AMENDMENT.) Section 34-13-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended

and reenacted to read as follows:

34-13-04. LICENSE - FEES.) All such licenses shall endure for a period of one year only, and annual fees therefor shall be paid as follows: Every employment agent engaged in placing female persons only in employment shall pay a license fee of seventy-five dollars. Every employment agent engaged in placing male persons only in employment shall pay a license fee of one hundred dollars. Every employment agent placing both male and female persons shall pay a license fee of one hundred fifty dollars. All license fees prescribed in this chapter shall be paid to the chief clerk under the direction and supervision of the commissioner and by him shall be paid promptly to the state treasurer, who shall deposit all such moneys in the general fund of this state.

SECTION 5. AMENDMENT.) Section 34-13-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-05. APPLICANTS TO FURNISH BONDS.) Every application for a license shall be accompanied by a bond in the penal sum of two thousand dollars, with one or more sureties or a duly authorized surety company, to be approved by the commissioner and filed in his office, conditioned that the agent will conform to and not violate any of the terms or requirements of this chapter or violate the covenants of any contract made by such agent in the conduct of said business. Action on this bond may be brought by and prosecuted in the name of any person damaged by any breach or any condition thereof, and successive actions may be maintained thereon.

SECTION 6. AMENDMENT.) Section 34-13-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-07. DURATION OF LICENSE.) Every license, unless previously revoked, shall remain in force until one year after its issue, and every employment agent shall, upon payment of the amount of the license fee required and the filing of a new bond, have issued to it a license for the ensuing year, unless the commissioner shall refuse to do so for any of the reasons stated in this chapter.

SECTION 7. AMENDMENT.) Section 34-13-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-08. SUSPENSION OR REVOCATION OF LICENSE.) If the commissioner shall find that the employment agent has violated any of the provisions of this chapter, or has acted dishonestly in connection with his business, or has improperly conducted his business, or that any other good and sufficient reason exists within the meaning and purpose of this chapter, the commissioner

may suspend or revoke his license, or refuse to grant a new license to the employment agent upon the termination thereof; but in any case no such action shall be taken until a written notice has been sent to the employment agent specifying the charges against him and he has been given a hearing, if he requests, and a reasonable opportunity to disprove or explain the charges.

SECTION 8. AMENDMENT.) Section 34-13-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-09. TRANSFER OF LICENSE - CONSENT TO OTHERS BECOMING CONNECTED WITH LICENSEE.) No license granted under the terms of this chapter shall be transferable, except with the consent of the commissioner. No employment agent shall permit any person not mentioned in the license to become connected with the business as a partner or as an active officer of a licensed corporation unless the consent of the commissioner shall first be obtained. Such consent may be withheld for any reason for which an original application for a license might have been rejected, if the person in question had been mentioned therein. If such consent is given, the names of the persons so becoming connected with the employment agency shall be endorsed upon the license and, if such license is renewed, shall be substituted for or added to the names of the persons originally mentioned therein.

SECTION 9. AMENDMENT.) Section 34-13-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-10. PLACES OF BUSINESS.) No employment agent shall open, conduct, or maintain an employment agency at any other place than that specified in the license without first obtaining the consent of the commissioner. Such consent may be withheld for any reason for which an original application might have been rejected, if such place had been mentioned therein. If such consent is given, it shall be endorsed upon the license and, if such license is renewed, such other place shall be substituted for the place originally named in the license. So long as any employment agent shall continue to act as such under his license he shall maintain and keep open an office or place of business at the place specified in the license.

SECTION 10. AMENDMENT.) Section 34-13-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-11. LICENSES CLASSIFIED.) Licenses granted under the provisions of this chapter shall be designated as class one, class two, or class three.

A class one license shall entitle the holder thereof to engage in a business of serving those seeking employment and those seeking employees as woodsmen, agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrubwomen, laundresses, maids, and all domestics and servants, unskilled workers, and general laborers.

A class two license shall entitle the holder thereof to engage in the business of serving those seeking employment and those seeking employees in technical (engineering or otherwise), educational, clerical, executive, hospital, medical, dental, and like pursuits not provided for under either a class one or a class three license.

A class three license shall entitle the holder thereof to engage in the business of serving those seeking employment and those seeking employees in circus, vaudeville, theatrical, or other entertainments, exhibitions, or performances, or allied pursuits.

Nothing in this chapter shall be construed to prohibit an employment agent holding a class one license from serving those included under a class two license, provided the business is conducted in accordance with the rules and regulations applicable to a class one license; and under no circumstances shall a licensee be allowed to conduct a theatrical agency under any but a class three license.

Any question of classification arising under the provisions of this chapter shall be determined by the commissioner.

SECTION 11. AMENDMENT.) Section 34-13-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-12. LICENSES POSTED - SCHEDULE OF CHARGES POSTED AND PRINTED ON RECEIPTS - SECTIONS OF LAW POSTED.) Every employment agent licensed under a class one license shall post in a conspicuous place in every room used for business purposes in the employment office conducted by him, and shall have printed on the back of every receipt given, a schedule showing the amount of the service charges to be made to either employees, employers, or both. In no case shall the amount collected exceed the schedule of charges so indicated.

Every employment agent licensed under a class one license shall post in a conspicuous place in every room used for business purposes in the employment office conducted by him, a copy of sections 34-13-12 and 34-13-15, to be furnished the employment agent by the commissioner.

No employment agent holding a class one license shall direct any applicant to apply for employment at any place outside of the office of such employment agent without first giving

to such applicant, in written form, the name and address of the employment agent, the name of the applicant, the name and address of the person to whom the applicant is referred, and the kind of employment supposed to be obtainable at such place. Nothing herein shall be construed to prohibit an employment agent from directing an applicant by telephone to apply for employment, but such telephone message must be confirmed in writing by the employment agent within twenty-four hours after the telephone conversation, and a carbon copy of such confirmation shall be kept on file at the place of business of the employment agent for a period of one year.

SECTION 12. AMENDMENT.) Subsection 4 of section 34-13-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Every employment agent shall keep a record of all services rendered employers and employees. This record shall contain the name and address of the employer by whom the services were solicited, the name and address of the employee, kind of position offered by the employer, kind of position accepted by the employee, probable duration of the employment, rate of wage or salary to be paid the employee, amount of the employment agent's service charge, dates and amounts of payments, date and amount of refund, if any, and for what, and a space for remarks under which shall be recorded anything of an individual nature to amplify the foregoing report and as information in the event of any question arising concerning the transaction. Such records shall during business hours be open to the inspection of the commissioner at the address where the employment agency is conducted for the purpose of satisfying the commissioner that they are being kept in conformity with this rule. Upon written complaint being made, the commissioner may require of the employment agent against whom the complaint is made a detailed account under oath in writing of the transaction referred to in the complaint. In the event the commissioner has reason to question the detailed report so submitted by the employment agent, the commissioner shall have authority to demand of the employment agent the production of these records for examination by him, or his agent, at such place as the commissioner may designate.

Approved March 12, 1971

## CHAPTER 330

SENATE BILL NO. 2316  
(Litten)

## REGULATING WORKING HOURS OF WOMEN

AN ACT to create and enact subsection 5 of section 34-06-06 and to amend and reenact subsection 4 of section 34-06-06 of the North Dakota Century Code, relating to females holding management positions, and to the hours of employment of female workers during emergency periods.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 34-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Females who are required to work in cases of emergency. In cases arising under subdivisions a, b, and c of this subsection, females may be employed for ten hours in any one day and seven days in one week, but shall not be employed for more than forty-eight hours in any one week. An emergency is deemed to exist under the provisions of this subsection:
  - a. In the case of the sickness of more than one female employee in which case a doctor's certificate must be furnished showing that it will not be dangerous to human life to continue employment in the establishment involved;
  - b. When such employment is required in connection with a banquet, convention, celebration, or because a session of the legislative assembly is in progress;
  - c. In the case of the employment of a female as a reporter in any of the courts of this state;
  - d. When such employment is required to provide the service furnished or supplied by a public utility during a disaster, a severe storm, mechanical failure, or epidemic, which adversely affects the provision of such service.

SECTION 2.) Subsection 5 of section 34-06-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. Females holding positions of management.

Approved March 27, 1971

# LIENS

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## CHAPTER 331

SENATE BILL NO. 2117  
(Stroup)

### SECURITY INTEREST IN MOTOR VEHICLE

AN ACT to amend and reenact section 35-01-05.1 of the North Dakota Century Code, relating to security interests in motor vehicles and to define "motor vehicle" for purposes of security interests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 35-01-05.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-01-05.1. WHEN SECURITY INTEREST IN MOTOR VEHICLE VALID.) No security interest in a motor vehicle which is not inventory held for sale shall be valid as against subsequent purchasers and encumbrances of the property in good faith and for value unless the security interest is clearly indicated upon the certificate of title to the motor vehicle or unless such certificate of title is in the possession of the secured party. The term "motor vehicle" as used in this section includes any vehicle as defined in Title 39 for which a certificate of title is required under the statutes of this state.

Approved March 11, 1971

## CHAPTER 332

HOUSE BILL NO. 1530  
(Fleming)

## SCOPE OF FARM LABORER'S LIEN

AN ACT to create and enact section 35-11-01.1 of the North Dakota Century Code, relating to farm laborers' liens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 35-11-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

35-11-01.1. SCOPE OF LIEN.) A farm laborer's lien shall be allowed when any person performs services for any person or corporation engaged in farming. The amount of the lien claimed may include: wages or salary due for labor performed; the value of any product expended in performing the labor or service; and the value of the use of any machinery, supplied by the prospective lienholder, and used in performing the labor or service.

Approved March 4, 1971

## CHAPTER 333

SENATE BILL NO. 2254  
(Strinden)

## PRIORITY OF REPAIRMAN'S LIEN

AN ACT to amend and reenact sections 35-13-02, 35-13-03, and 35-13-04 of the North Dakota Century Code, relating to the priority of a repairman's lien and the time in which it must be filed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 35-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-13-02. LIEN STATEMENT - CONTENTS - WHEN REQUIRED - FILING.) When a person entitled to a lien under this chapter retains possession of the property made, altered, or repaired, he shall not be required to file any statement to perfect his lien, but when he shall relinquish the possession of the property so made, altered, or repaired, he, within one hundred twenty days after the materials are furnished or the labor is performed, shall file in the office of the register of deeds of the county in which the owner or legal possessor of the property resides, a verified statement in writing showing:

1. The labor performed.
2. The materials furnished.
3. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
4. The name of the person for whom the labor was performed or to whom the materials were furnished.
5. A description of the property upon which the lien is claimed.

Unless the person entitled to the lien shall file such statement within the time limited in this section, he shall be deemed to have waived his right to a lien.

SECTION 2. AMENDMENT.) Section 35-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-13-03. SEPARATE ARTICLES OF PERSONAL PROPERTY MAY BE INCLUDED IN ONE LIEN STATEMENT.) If any person entitled to a lien under this chapter makes, alters, or repairs more than one article of personal property for the same owner or legal possessor thereof, he may include all the articles of personal property so made, altered, or repaired within one hundred twenty days preceding the filing of the lien statement in the same statement, and the statement shall have the same force and effect as to each article enumerated therein as though a separate statement had been filed for each such article.

SECTION 3. AMENDMENT.) Section 35-13-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-13-04. PRIORITY OF LIEN.) A lien obtained under this chapter shall have priority over all other liens, chattel mortgages, or encumbrances against the personal property upon which the lien is secured if the lien does not exceed one thousand dollars. Any amount of the lien in excess of one thousand dollars shall be a lien upon the property subject to any prior encumbrances thereon.

Approved March 17, 1971

# LIVESTOCK

## CHAPTER 334

HOUSE BILL NO. 1179  
(K. Johnson, Austin, K. Erickson)

### DEFINITION OF "LIVESTOCK AND WOOL DEALER"

AN ACT to amend and reenact section 36-04-01 of the North Dakota Century Code, relating to the definition of livestock and wool dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 36-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-01. "DEALER" DEFINED.) In this chapter unless the context or subject matter otherwise requires:

1. "Dealer" shall mean any person, copartnership, association, or corporation engaged in the business of buying, selling or dealing in horses, mules, cattle, hogs, sheep, poultry, or wool from the producer, terminal market or livestock auction market for resale or shipment within or without the state, and also resale in the local market.
2. "Dairy commissioner" shall mean the dairy department of the department of agriculture.

Approved March 4, 1971

## CHAPTER 335

HOUSE BILL NO. 1178  
(K. Johnson, Austin, K. Erickson)

ISSUANCE OF CHECKS BY  
LIVESTOCK DEALERS' AGENTS

AN ACT to amend and reenact Section 36-04-03 of the North Dakota Century Code, relating to agents of livestock, poultry and wool dealers use of checks or other commercial paper other than in the name of their principals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 36-04-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-03. DEALER'S LICENSE REQUIRED - AGENT LICENSED - LIABILITY OF OWNER FOR AGENT'S ACTS.) All dealers shall be licensed as provided in this chapter. No agent shall act for any such dealer unless the dealer is licensed and has designated such agent to act in his behalf and has notified the dairy department of such appointment in his application for a license or in a separate written instrument and requested the dairy department to issue to such agent an agent's license. Agents, as such, shall not deal in their own names or issue a check or any other commercial paper except in the name of their principals. Every officer of a corporation, association, or partnership, acting for the corporation, association, or partnership in dealing in livestock, must be licensed as an agent of the corporation, association, or partnership. A dealer shall be accountable and responsible for all the acts of his agent.

Approved March 4, 1971

## CHAPTER 336

SENATE BILL NO. 2467  
(Morgan, Barth)

BONDS OF LIVESTOCK  
DEALERS AND AGENTS

AN ACT to amend and reenact subsection 1 of section  
36-04-06 of the North Dakota Century Code, relating  
to bonds of livestock dealers and agents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF  
NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section  
36-04-06 of the 1969 supplement to the North Dakota Century  
Code is hereby amended and reenacted to read as follows:

1. For a dealer in livestock twenty thousand  
dollars and for agents of livestock dealers ten  
thousand dollars each;

Approved March 18, 1971

## CHAPTER 337

HOUSE BILL NO. 1180  
(K. Johnson, Austin, K. Erickson)

## LIVESTOCK DEALERS' LICENSES

AN ACT to amend and reenact section 36-04-07 of the North Dakota Century Code, relating to livestock, poultry and wool dealer's licensure, penalty fees and transferability of licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 36-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-07. ISSUANCE OF LICENSES - FEES - PENALTY - LICENSE NOT ISSUED TO FELON - TERM OF LICENSE - LICENSES NOT TRANSFERABLE.) The dairy department shall issue to each applicant who has complied with the provisions of this chapter a license of the kind applied for upon the payment by him of fees as follows:

1. For a livestock dealer's license, ten dollars;
2. For a poultry dealer's license, four dollars;
3. For a wool dealer's license, ten dollars;
4. Penalty fee for any late applicant's application or late fee shall be five dollars per month from January first of any year.

For each agent appointed by the dealer and licensed by the dairy department, the amount of such license fee shall be increased in the amount of ten dollars if the principal's license is a livestock dealer's license or a wool dealer's license, and in the amount of four dollars if the principal's license is a poultry dealer's license. No license shall be issued to a dealer or to an agent who has been convicted of a felony in this state or elsewhere. Each license issued under the provisions of this chapter shall license the conduct of the business described therein at the place or places named in the application therefor, and shall expire on the thirty-first day of December next following the date of its issue. Licenses issued hereunder are not transferable between persons or places.

Approved March 4, 1971

## CHAPTER 338

HOUSE BILL NO. 1040

(K. Johnson, J. Peterson, Reimers, Solberg, Tweten)  
(Legislative Council Study)

## BRAND BOOK FEES

AN ACT to amend and reenact section 36-09-14 of the North Dakota Century Code, relating to the issuance of brand books by the commissioner of agriculture.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 36-09-14 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-09-14. COMMISSIONER OF AGRICULTURE TO ISSUE BRAND BOOK.) The commissioner of agriculture shall compile and issue a brand book from the records of livestock brands in his office as of the final date for rerecording, and a copy of such brand book shall be delivered free of charge to every brand inspector and upon written request from other law enforcement officers of the state of North Dakota. Annually thereafter the commissioner shall prepare a supplement of brands registered during the year and shall distribute the same free of charge to every brand inspector and upon written request from other law enforcement officers of the state of North Dakota. Brand books shall also be sold to all interested persons at the general office for recording marks and brands maintained in the office of the commissioner of agriculture at a price of five dollars per brand book including supplement.

Approved February 20, 1971

## CHAPTER 339

HOUSE BILL NO. 1366  
(Murphy)

## DISPOSITION OF ESTRAY

AN ACT to create and enact section 36-13-03.1 of the North Dakota Century Code, relating to alternate disposition of an animal as an estray on the property of any person.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 36-13-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

36-13-03.1. ALTERNATE DISPOSITION OF ESTRAY.) In lieu of disposition of an animal as an estray as directed in the preceding section of this chapter, any person finding an estray upon his premises the ownership of which is unknown to him may dispose of the same by delivering such animal to a public livestock market licensed under the laws of this state as soon as practical after discovery of such animal upon his premises provided he first makes reasonable effort to determine the ownership thereof. At the time of delivery of an estray as provided in this section, the person so delivering the estray shall inform the brand inspector that the animal is being delivered as an estray. Such animal, and the proceeds of the sale thereof, shall thereupon be disposed of as provided in Chapter 36-22 of the North Dakota Century Code.

Approved March 4, 1971

## CHAPTER 340

HOUSE BILL NO. 1143  
(K. Johnson, Meyer, Rivinius)

## BRUCELLOSIS INDEMNITY

AN ACT to create and enact section 36-15-08.1 of the North Dakota Century Code, relating to payment of indemnity for brucellosis.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 36-15-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

36-15-08.1 - OWNER ENTITLED TO COMPENSATION FOR CATTLE INFECTED WITH OR EXPOSED TO BRUCELLOSIS - LIVESTOCK SANITARY BOARD MAY MAKE RULES AND REGULATIONS GOVERNING PAYMENTS.) When in the discretion and judgment of the livestock sanitary board, a herd of cattle is so seriously infected with bovine brucellosis, as to warrant disposal of the entire herd, the board is hereby authorized to approve indemnity on all cattle in such herds in accordance with the limits set forth in section 36-15-09. The board may make reasonable rules and regulations governing the payment of such compensation within the limits prescribed in this chapter.

Approved February 26, 1971

## CHAPTER 341

HOUSE BILL NO. 1538  
(Hentges, K. Johnson)

## HUMANE TREATMENT OF ANIMALS

AN ACT to provide for the humane treatment of animals, and to provide penalties for their inhumane treatment; to repeal sections 36-21-02, 36-21-03, 36-21-06, 36-21-07, 36-21-08, and 36-21-09 of the North Dakota Century Code; and providing penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) The word "animal" includes every living animal except the human race; the word "torture" or "cruelty", includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death shall be caused or permitted.

## SECTION 2. OVERWORKING OR MISTREATING ANIMALS - MISDEMEANOR.)

1. No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.

2. No person shall deprive any animal over which he has charge or control of necessary food, water, or shelter.

3. No person shall keep any animal in any enclosure without exercise and wholesome change of air.

4. No person shall abandon any animal.

5. No person shall allow any maimed, sick, infirm, or disabled animal of which he is the owner, or of which he has custody, to lie in any street, road, or other public place for more than three hours after notice.

6. No person shall willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.

7. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements, and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subsection shall not apply to the North Dakota

state fair association, to agricultural fair associations, to any agricultural display of caged animals by any political subdivision, or to district, regional, or national educational livestock or poultry exhibitions. Zoos which have been approved by the health district or the governing body of the political subdivision which has jurisdiction over the zoos shall be exempt from the provisions of this subsection.

8. Any person who fails to comply with any of the provisions of this section shall be guilty of a misdemeanor.

SECTION 3. CRUELTY IN TRANSPORTATION - MISDEMEANOR.) Every person who shall carry, or cause to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages, or other proper carrying container, or who shall carry an animal, or cause an animal to be carried, in any other cruel manner shall be guilty of a misdemeanor.

SECTION 4. POISONING ANIMALS - MISDEMEANOR.) Any person unjustifiably administering or exposing any known poisonous substance or noxious drug, whether mixed with meat or other food or not, which may be eaten or is eaten by any domestic animal, shall be guilty of a misdemeanor.

SECTION 5. ANIMAL WITH INFECTIOUS DISEASE - MISDEMEANOR.) Every owner or person having charge of any animal, knowing the animal to have any infectious or contagious disease, or to have recently been exposed thereto, who knowingly permits such animal to run at large or come into contact with another animal, or with another person without his knowledge and permission, shall be guilty of a misdemeanor.

SECTION 6. EXPOSURE OF ANIMALS - AUTHORITY OF OFFICERS.) Any sheriff, police officer or veterinarian may remove, shelter, and care for any animal found unjustifiably exposed to cold or inclement weather, or not properly fed and watered, and, when necessary, may deliver the animal to another person to be sheltered, cared for, and furnished suitable food and drink. In all cases the owner, if known, shall be immediately notified, and the officer, or whoever has the animal, shall have a lien thereon for its care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner. If the owner or custodian is unknown, and cannot by reasonable effort be ascertained, or shall not, within five days after notice, redeem the animal by paying the expenses incurred as aforesaid, the animal shall be sold to pay the charges for keeping the same, and the title to the animal shall pass by the sale.

SECTION 7. COCKFIGHTS, DOGFIGHTS, AND OTHER EXHIBITIONS PROHIBITED - MISDEMEANOR.) Every person who engages in, is employed at, aids, or abets cockfighting, dogfighting, bearbating, pitting one animal against another, or any other similar cruelty to animals; or who receives money for the admission of any person to any place used, or about to be used, for any such purpose, or

who shall willfully permit anyone to enter or use for any such purpose premises of which he is the owner, agent, or occupant; or who uses, trains, or possesses a dog or other animal for the purpose of seizing, detaining, or maltreating any domestic animal, or any person who knowingly purchases a ticket of admission to any such place, is present at, or witnesses such spectacle shall be guilty of a misdemeanor.

SECTION 8. ARTIFICIALLY COLORED ANIMALS - SALE - MISDEMEANOR.) Every person who sells or offers for sale, raffles, offers or gives as a prize, premium, or advertising device, or displays in any store, shop, carnival, or other public place, a chick, duckling, gosling, or rabbit which has been dyed or otherwise artificially colored, shall be guilty of a misdemeanor.

SECTION 9. USE OF CERTAIN BIRDS AS ADVERTISING DEVICES - MISDEMEANOR.) Every person who sells, offers for sale, raffles, offers, or gives as a prize, premium, or uses as an advertising device, chicks, ducklings, or goslings younger than four weeks of age in quantities of less than twelve birds to an individual person shall be guilty of a misdemeanor. Persons, firms, partnerships, or corporations engaging in the business of selling chicks, ducklings, or goslings for agricultural or wildlife purposes shall be exempt from the provisions of this section, but only when selling for such purposes.

SECTION 10. CARE OF ANIMALS USED AS ADVERTISING DEVICES.) Every person who sells, offers for sale, raffles, offers, or gives as a prize, premium, or advertising device, chicks, ducklings, or goslings to the public, shall provide and operate brooders or other heating devices necessary to maintain the chicks, ducklings, or goslings in good health, and shall keep adequate food and water available to the birds at all times.

SECTION 11. PENALTIES.) Any person violating any provisions of this chapter for which a specific penalty is not provided, shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SECTION 12. REPEAL.) Sections 36-21-02, 36-21-03, 36-21-06, 36-21-07, 36-21-08, and 36-21-09 of the North Dakota Century Code are hereby repealed.

Approved March 30, 1971

# MILITARY

## CHAPTER 342

HOUSE BILL NO. 1186  
(Hildebrand)

### COMMISSION OF OFFENSE WHILE ON MILITARY DUTY

AN ACT to amend and reenact section 37-01-03 of the North Dakota Century Code, relating to not having to charge a person under the code of military justice before turning the person over to civil authorities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 37-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-03. ARTICLES OF UNIFORM CODE OF MILITARY JUSTICE APPLICABLE IN STATE - REGULATIONS GOVERNING - PUNISHMENT FOR OFFENSES WHILE ON DUTY.) The articles of uniform code of military justice governing the armed forces of the United States, now or hereafter in effect, shall be a part of this title so far as the same are applicable and not modified by any provision of this title. A person who commits an offense while on duty may be tried by a court-martial lawfully appointed even after such duty has terminated, and if found guilty, the accused shall be punished according to the articles of uniform code of military justice and the rules and regulations governing the armed forces of the United States and within the limits prescribed in this title and by federal law for the courts-martial in the national guard. In any case in which the person alleged to have committed the offense could be charged either under the code of military justice or the civil law of this state, the officer whose duty it is to approve such charge, in his discretion, may order the person charged or subject to being charged to be turned over to the civil authorities for trial. Whenever reference is made to the articles of uniform code of military justice, to the military service, or to the armed forces of the United States, such reference shall be deemed to include the military service of this state. The intent of this title and of all laws of this state affecting the military forces is to conform to all acts and regulations of the United States affecting the same subjects, and all laws of this state shall be construed to effect this purpose.

Approved March 29, 1971

## CHAPTER 343

SENATE BILL NO. 2077  
(Lips, Morgan, Sanstead)  
(Legislative Council Study)

## BOARD OF ARMORY SUPERVISORS

AN ACT to amend and reenact sections 37-10-03, 37-10-03.1, 37-10-03.2, 37-10-03.3, 37-10-03.4, 37-10-04, and 37-10-06 of the North Dakota Century Code, relating to the administration of armories; and to repeal section 37-10-02 of the North Dakota Century Code, relating to the board of armory supervisors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 37-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-03. ADJUTANT GENERAL TO SUPERVISE ARMORIES.) The adjutant general shall fix for each unit of the national guard the maintenance and rent allowance to be paid by this state. The adjutant general shall acquire, contract for, erect, purchase, sell, maintain, repair, and alter state-owned armories subject to the laws made and provided therefor. The adjutant general may lease property to be used for armory purposes, but no lease shall extend for a period exceeding twenty-five years.

SECTION 2. AMENDMENT.) Section 37-10-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-03.1. SALE OF PORTIONS OF FRAINE BARRACKS.) The adjutant general, with the approval of the governor, may declare that portions of the military reservation known as Fraine Barracks are not needed for military purposes, as the facts and circumstances may reasonably warrant, and may negotiate sales thereof for civilian site purposes. Property to be sold may be subdivided and platted prior to sale at the option of the adjutant general. The North Dakota industrial commission may assist the adjutant general in the management and disposal of property to be sold under this section. Sales shall be made under the provisions of sections 54-01-05.1 and 54-01-05.2. All net proceeds of sales made under this section shall be placed in the state treasury in a separate fund for the construction of armories in North Dakota.

SECTION 3. AMENDMENT.) Section 37-10-03.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-03.2. EXCHANGE AND LEASE OF MILITARY LANDS.) The adjutant general may exchange lands owned by the state of North Dakota and used for military purposes with other agencies of the state, counties, municipalities or other political subdivisions, corporations or individuals, and may purchase, within funds available, parcels of land necessary for the construction of armories or the expansion of present military installations in the state of North Dakota. The adjutant general may lease parts of military installations to the department of defense or other agencies of the federal government.

SECTION 4. AMENDMENT.) Section 37-10-03.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-03.3. USE OF STATE FUNDS IN THE CONSTRUCTION OF ARMORIES.) Subject to appropriations made by the legislature, the adjutant general is authorized to make allocations not to exceed twenty thousand dollars for a single unit armory, and not to exceed forty thousand dollars for a multiple unit armory, in collaboration with the federal funds made available under the armory construction program as provided for in Public Law 783, 81st Congress, chapter 945, 2nd session, approved September 11, 1950, and in collaboration with funds made available by municipalities or counties wherein the armories are to be located, providing that the affected municipalities or counties made available an equal amount of money or facilities. In instances where a city has received a direct grant from the state of North Dakota for the construction of an armory since the year 1940 the amount of the direct grant under this provision of law shall be reduced proportionately.

SECTION 5. AMENDMENT.) Section 37-10-03.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-03.4. CONTRACTING OFFICER FOR CONSTRUCTION OF ARMORIES.) In order that full benefit may be derived under the provisions of Public Law 783, cited under this title, governing bodies of municipalities or counties may by proper resolution appoint and designate the adjutant general of the state as the contracting officer for the construction of such armories, provided that all contracts let shall be subject to the approval of the governing body concerned. The adjutant general is empowered to act as the contracting officer for the state, and may appoint agent officers, or a resident agent, to facilitate the proper completion of the contract.

SECTION 6. AMENDMENT.) Section 37-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-04. USE OF ARMORIES BY OTHER ORGANIZATIONS - REGULATIONS GOVERNING.) The use of armories for the regular meetings or functions of patriotic societies or recognized military servicemen's organizations holding charters from Congress or incorporated in this state shall be granted by the adjutant general or by the officer in charge of any armory at such times and under such circumstances as not to interfere with the use of the armory for military purposes by the company or companies quartered therein. The use of an armory by a society or organization shall be subject to the rules and regulations in force governing the use of armories.

SECTION 7. AMENDMENT.) Section 37-10-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-06. TRANSFER OF MOTOR STORAGE BUILDINGS.) Any motor storage buildings owned by the state of North Dakota and used by the national guard may be transferred and conveyed to a political subdivision in which such buildings are located in order to take advantage of the provisions of Public Law 783, 81st Congress, 2nd session, chapter 945, and approved September 11, 1950.

SECTION 8. REPEAL.) Section 37-10-02 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 344

SENATE BILL NO. 2089  
(Lips, Morgan)  
(From Legislative Council Study)

ADMINISTRATIVE COMMITTEE  
ON VETERANS' AFFAIRS

AN ACT to establish an administrative committee on veterans' affairs and to provide for its powers and duties and organization thereof; to amend and reenact sections 37-01-25.1, 37-14-04, 37-14-05, 37-14-06, 37-14-07, 37-14-08, 37-14-09, 37-14-10, 37-14-11, 37-14-12, 37-14-18, 37-15-03, 37-15-07, 37-15-08, 37-15-10, 37-15-15, 37-15-16, 37-15-19, 37-15-21, and 37-18-07 of the North Dakota Century Code, relating to the veterans' aid fund, the veterans' aid commission, and the soldiers' home, and the administrative procedures thereof; and to repeal sections 37-14-01, 37-14-02, 37-14-03.1, 37-14-03.2, 37-14-03.4, 37-14-03.5, 37-14-13, 37-14-15, 37-14-17, 37-15-04, 37-15-05, 37-15-06, 37-15-09, 37-15-20, 37-18-02, 37-18-03, and 37-18-09 of the North Dakota Century code, relating to the qualifications, compensation, and terms of members of the veterans' aid commission, appropriations to the veterans' aid fund, the postwar rehabilitation fund, meetings, compensation, powers and duties, oath and bond, approval of contracts, advertisement for bids by the trustees of the soldiers' home, qualifications and appointment of the veterans' service commissioner, and the advisory committee to the department of veterans' affairs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. ADMINISTRATIVE COMMITTEE ON VETERANS' AFFAIRS - MEMBERSHIP - APPOINTMENT.) There is hereby created an administrative committee on veterans' affairs, which, for purposes of this Act, shall hereinafter be referred to as the "committee". The committee shall consist of four ex officio nonvoting members and twelve voting members. The adjutant general, the center director of the veterans' administration, the executive director of the North Dakota employment security bureau, and the director of institutions shall be the ex officio nonvoting members who shall serve in an advisory capacity to the committee. On or before June 20, 1971, the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the Veterans of World War I, U.S.A., incorporated, shall each prepare a list containing the names of six persons qualifying as veterans under the provisions of section 37-01-40, for appointment as voting members of the committee. On or before July 1, 1971, the governor shall select twelve nominees, three from each list, four of whom shall

be appointed to a term of three years, four of whom shall be appointed to a term of two years, and four of whom shall be appointed to a term of one year, or until their successors are appointed and qualified. On or before the twentieth day of June in each year, beginning in the year 1972, each of the above-listed nominating organizations shall submit a list containing the names of two persons who qualify as veterans under the provisions of section 37-01-40, to the governor for appointment or reappointment as voting members of the committee. On or before the first day of July in each year, beginning in the year 1972, the governor shall select one nominee from each list, a total of four nominees, to fill expiring terms of voting members of the committee. Each such appointment shall be for a term of three years, or until a successor is appointed and qualified. All terms shall begin on the first day of July and end on the thirtieth day of June in the year specified. In case of the inability or failure of any voting member of the committee to serve, the governor shall appoint another member from a list of two persons qualifying as veterans under the provisions of section 37-01-40, submitted by the nominating organization represented by the member who was unable or failed to serve. Such appointments shall be made for the remainder of the unexpired term.

SECTION 2. CHAIRMAN - SECRETARY - DUTIES - TERMS - MEETINGS.) A chairman and a secretary of the committee shall be appointed by the governor from among the voting membership of the committee. Such appointment shall be made annually, with the term of office to begin on the first day of July of the year specified and to end on the thirtieth day of June of the following year. Meetings of the committee shall be held upon the call of the chairman, at such times and places as may be selected by him, and upon due notice to committee members by the secretary. Meetings shall also be called by the chairman upon the written request of any four voting members of the committee. A majority of the members of the committee shall be required for a quorum, and a majority of the members present voting in favor thereof shall be required for any action.

SECTION 3. POWERS AND DUTIES OF COMMITTEE - CREATION OF SUBCOMMITTEES.) The committee shall be responsible for organization, policy, and general administration of all veterans' affairs in the state of North Dakota. It shall have the following powers and duties:

1. The chairman and secretary of the committee, acting jointly, shall appoint from the voting membership of the committee, two subcommittees: a five-member subcommittee to be responsible for supervision and government of the soldiers' home, and a seven-member subcommittee to be responsible for supervision and government of the department of veterans' affairs. Once appointed, a subcommittee member shall continue to serve as long as he remains a voting member of the

committee, unless removed from the subcommittee by the committee chairman and secretary, acting jointly. In no case shall any one voting member serve on both subcommittees at the same time, and each nominating organization listed in section 1 of this Act shall have at least one voting member nominated by it serving on each subcommittee. From the membership of each subcommittee, a chairman will be selected by majority vote to preside over it for the term of one year. No person shall be permitted to serve as chairman of the committee and as chairman of a subcommittee simultaneously. A majority of the members of the subcommittee shall be required for a quorum, and a majority of the members present voting in favor thereof shall be required for any action.

2. The committee shall detail the specific powers and duties of each subcommittee relating to supervision, government, and implementation of programs or services provided by the soldiers' home and the department of veterans' affairs.
3. The committee shall appoint the commandant of the soldiers' home and the commissioner of the department of veterans' affairs. Individuals appointed to these positions must be bona fide residents of the state, must hold an honorable discharge from active service within the armed forces of the United States, and must have served during a period of war or armed conflict as defined in section 37-01-40. Their terms of office shall be for two years, commencing on July 1, 1971, and on every second anniversary thereof. The committee shall determine the salaries paid to the commandant of the soldiers' home and the commissioner of the department of veterans' affairs within the limits of legislative appropriation. Both officers shall be bonded through the state bonding fund in the sum of five thousand dollars. The commandant of the soldiers' home and the commissioner of veterans' affairs shall serve as the executive secretary for their respective subcommittees. The commandant and the commissioner shall have no vote in the affairs of the subcommittees.
4. The committee shall, under recommendation from each of its subcommittees, present any matters needing attention and action to the appropriate board, commission, agency, or department of the state, and the North Dakota veterans' coordinating council.
5. The committee shall assure compliance with applicable federal and state laws in the administration of both the department of veterans' affairs and the North Dakota soldiers' home and shall exercise its responsibilities in all things necessary to carry out the

provisions of this Act in regard to organization, policy, and general administration of the agencies served and involved in the conduct of veterans' affairs.

SECTION 4. COMMITTEE MEMBERS NOT TO RECEIVE COMPENSATION - EXPENSES PERMITTED.) Committee members shall not receive any compensation for the performance of their official duties. Voting members may be reimbursed for travel expenses and meals and lodging expenses in connection with their official duties at the same rate and in the same manner as are elected officials and employees of the state, with payment to be made by the department of veterans' affairs and the soldiers' home to each of their respective subcommittee members incurring such expenses. Such payment shall be made by warrant-check drawn by the department of accounts and purchases upon the submission of a proper voucher to it, signed by the commissioner of veterans' affairs or the commandant of the soldiers' home, as the case may be.

SECTION 5. AMENDMENT.) Section 37-01-25.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-25.1. REINSTATEMENT TO FORMER POSITION - APPEALS.) Any person referred to in section 37-01-25, who within ninety days after receiving a discharge other than dishonorable from such active noncivilian service, and who is not physically or otherwise incapacitated to perform the duties of the position formerly held by him, applies for such position held by him at the time of entering such active service, shall be given such position or one of like seniority, status, and pay, and shall be immune to discharge from said position except for cause, as defined by the department of veterans' affairs, for a period of one year after entering upon the duties of his civilian position. Any such person not so reemployed or who is discharged within a period of one year without cause, shall have the right of appeal to the department of veterans' affairs under such rules and regulations as the administrative committee on veterans' affairs may promulgate. If the department of veterans' affairs shall find that such person was not reemployed or was discharged within one year without cause, it may order any officer or other appointing power to comply with the provisions of this chapter. If such person at the time of entering noncivilian service shall have been an officer or employee of the state of North Dakota or any political subdivision or city thereof, having a merit or civil service system with an appeal board, such appeal board shall have the same powers as are granted to the department of veterans' affairs in this section. In order to carry out the provisions of this chapter, the department of veterans' affairs is hereby authorized to contract and pay for technical or other services with any board, council, or commission established by such state agencies, departments, or divisions to administer such systems. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by

a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

SECTION 6. AMENDMENT.) Section 37-14-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-04. VETERANS' AID FUND - PURPOSE.) The purpose of the veterans' aid fund is to make loans or advancements to any veteran of the armed forces of the United States in World War II, the Korean conflict, or during hostilities in Vietnam, all as defined by section 37-01-40, who has not been dishonorably discharged. A veteran may be permitted to make more than one loan providing he has satisfied payment requirements of a previous loan.

SECTION 7. AMENDMENT.) Section 37-14-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-05. APPLICATION FOR AID.) Any such veteran may make application to the department of veterans' affairs in such form as it may provide, either while he or she is waiting for relief or assistance from such other agency, state or federal, as may provide relief to him, or for further assistance for his education, or otherwise.

SECTION 8. AMENDMENT.) Section 37-14-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-06. DEPARTMENT MAY PROVIDE AID.) If the department of veterans' affairs is satisfied that such applicant has served as a member of the armed forces of the United States for an aggregate time of not less than thirty days during World War II, the Korean conflict, or during hostilities in Vietnam, all as defined by section 37-01-40, that he is a citizen and resident of the state of North Dakota, and that he has not been dishonorably discharged, the department may loan to such applicant, or a guardian of such applicant, a sum from the veterans' aid fund not to exceed the sum of five hundred dollars.

SECTION 9. AMENDMENT.) Section 37-14-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-07. REPAYMENT TO BE MADE TO AID FUND.) Upon the granting of such an application and at the time of such disbursement, the applicant, or his legally appointed guardian, shall be required to execute an agreement with the department of veterans' affairs that within a period of two years from the date of the receipt of the last item of such advancement he will repay to the state of North Dakota for the use of the veterans' aid fund the full amount of all advancements made to him without

interest. The department shall have the authority to take necessary legal action to collect loans if in the opinion of the department the veteran has the financial means to repay, and he deliberately refuses to do so.

SECTION 10. AMENDMENT.) Section 37-14-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-08. HOW PAYMENTS ARE MADE.) All payments or other expenditures approved by the department of veterans' affairs shall be made upon vouchers approved by the state auditing board by warrant-checks prepared by the department of accounts and purchases.

SECTION 11. AMENDMENT.) Section 37-14-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-09. RECORDS - REPORT TO GOVERNOR AND SECRETARY OF STATE.) The department of veterans' affairs shall keep full records and files of all transactions, applications, advancements, and business pertaining to the veterans' aid fund and shall present a report as prescribed by subsection 6 of section 54-06-04 to the governor and the secretary of state containing a full and complete audit and report of all such business and the disbursements made from, and repayments made to, the veterans' aid fund during the preceding two fiscal years.

SECTION 12. AMENDMENT.) Section 37-14-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-10. COMMITTEE MAY ADOPT RULES.) The administrative committee on veterans' affairs may make and promulgate such reasonable rules and regulations as may be necessary and proper to administer the provisions of this chapter relating to the veterans' aid fund. In any hearings or action taken under the provisions of this chapter, the provisions of chapters 28-32 of the title Judicial Procedure, Civil, shall not apply.

SECTION 13. AMENDMENT.) Section 37-14-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-11. PAYMENT OF EXPENSES - LIMITATION.) The department of veterans' affairs may expend for any purpose necessary to the proper administration of this chapter sums not to exceed the amount appropriated therefor by the legislative assembly. Vouchers shall be issued in the manner provided in this chapter.

SECTION 14. AMENDMENT.) Section 37-14-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-12. DECISION OF DEPARTMENT FINAL.) The department of veterans' affairs shall have full and sole power, authority, and jurisdiction over the granting or refusal of applications for relief or assistance from the veterans' aid fund under policies set by the administrative committee on veterans' affairs, and all of its decisions shall be final.

SECTION 15. AMENDMENT.) Section 37-14-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-18. COUNTY VETERANS' SERVICE OFFICER - APPOINTMENT - DUTIES.) The board of county commissioners of each county of the state of North Dakota may appoint, employ, and pay, on a full-time or part-time basis, an officer to be known as a county veterans' service officer. Such appointment shall be made with the advice of the commissioner of veterans' affairs. It shall be the duty of such county veterans' service officer to acquaint himself with the laws, both state and federal, enacted for the benefit of returning servicemen and to assist such returning members of the armed forces in the presentation, proof, and establishment of such claims, privileges, and rights as they have. It also shall be the duty of the county veterans' service officer, under the supervision of the state commissioner of veterans' affairs, to actively cooperate with and to coordinate the activities of the state and federal agencies within the county which he serves to facilitate their operation and ensure promptness in the solution of the problems concerned with the re-establishment of returning servicemen and women in civilian pursuits.

SECTION 16. AMENDMENT.) Section 37-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-03. GOVERNMENT OF SOLDIERS' HOME.) The general supervision and government of the soldiers' home shall be vested in the administrative committee on veterans' affairs.

SECTION 17. AMENDMENT.) Section 37-15-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-07. COMMANDANT OF SOLDIERS' HOME - APPOINTMENT - QUALIFICATIONS - SALARY - TERM - BOND.) The appointment, qualifications, term of office, and salary of the commandant of the soldiers' home shall be as prescribed in section 3 of this Act. The commandant shall be bonded through the state bonding fund in the amount as determined by the administrative committee on veterans' affairs, provided that such bond shall be in a minimum amount of five thousand dollars.

SECTION 18. AMENDMENT.) Section 37-15-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-08. SUBORDINATE OFFICERS - APPOINTMENT - PREFERENCE TO VETERANS - COMPENSATION - REMOVAL.) The commandant of the soldiers' home shall appoint all necessary subordinate officers of the home. In the appointment of such officers, the preference afforded by the provisions of section 37-01-31 shall be given to those persons who qualify as veterans under section 37-01-40. The compensation of all subordinate officers shall be fixed by the commandant, subject to legislative appropriation, and any such officer may be removed by the commandant for inefficiency or misconduct.

SECTION 19. AMENDMENT.) Section 37-15-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-10. ADMITTANCE TO SOLDIERS' HOME - REGULATIONS GOVERNING.)

1. No applicant shall be admitted to the soldiers' home unless he or she has been a bona fide resident of this state for at least three years next preceding his or her application for admission thereto. The three-year residency immediately preceding application may be waived if the applicant served in a North Dakota regiment or was accredited to the state of North Dakota during a war period.
2. All honorably discharged soldiers of the North Dakota national guard who heretofore or hereafter may become permanently disabled from any cause while in line and discharge of duty and are not able to support themselves, due to aforesaid disabilities, may be admitted to the North Dakota soldiers' home in accordance with the laws for admission of others and under such rules and regulations as the administrative committee on veterans' affairs may adopt.
3. The wife or widow of a United States or North Dakota serviceman mentioned in subsection 1 of section 37-15-02 may be admitted upon the same footing as her husband, provided, however, that such wife or widow shall have entered into the contract of marriage to her husband at least five years prior to date of application or prior to the date necessary for her to obtain a United States pension and shall have attained the age of forty-five years at date of application.
4. No person shall be admitted to the home until he or she shall have made formal application and furnished such proof as may be required by the administrative committee on veterans' affairs and such application shall have been approved by the committee or a board of officers of the institution which they shall designate.

5. When a member of the home who is not eligible for veterans' administration hospitalization and care becomes unable from any cause to care for himself or herself under the rules and regulations prescribed by the administrative committee on veterans' affairs for the admission and care of members in the home, he or she shall become a charge of the county of residence at the time of admission. No individual shall gain or lose legal residence by reason of residence in or being a member of the soldiers' home.

SECTION 20. AMENDMENT.) Section 37-15-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-15. DISBURSEMENT OF MONEYS FROM SOLDIERS' HOME OPERATING FUND.) All moneys withdrawn from the soldiers' home operating fund shall be transferred from the operating fund on the basis of an abstract approved by the commandant in accordance with policies established by the administrative committee on veterans' affairs, and approved by the auditing board, containing an enumeration of the names and amounts to be paid each payee by the commandant in accordance with the abstract. Warrant-checks drawn upon the state treasurer against the soldiers' home operating funds for transfer of funds to an account in the Bank of North Dakota for disbursement shall be prepared by the department of accounts and purchases upon approval of the abstract by the state auditing board.

SECTION 21. AMENDMENT.) Section 37-15-16 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-16. COMMANDANT SHALL TAKE CHARGE OF UNCLAIMED ESTATES OF SMALL VALUE.) If a member of the soldiers' home shall die leaving property of the value of three hundred dollars or less, the commandant immediately shall take charge of such property. If within one year of the date of the death of such member no valid claim of any heir or legatee is made for the property and no application is made for letters of administration, the commandant shall convert the property into cash without probate or other proceedings and shall deposit the cash with the state treasurer who shall credit it to the soldiers' home operating fund. The commandant shall make a report of his action to the administrative committee on veterans' affairs, which report shall be audited by, and spread upon the records of, the committee.

SECTION 22. AMENDMENT.) Section 37-15-19 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-19. REPORT OF COMMANDANT TO GOVERNOR AND SECRETARY OF STATE.) On or before the first day of October of each year preceding the regular session of the legislative assembly, the

commandant of the soldiers' home shall make to the governor and the secretary of state a full and detailed report as prescribed by subsection 6 of section 54-06-04 of the disbursements of the home for the two preceding fiscal years and of its condition financially and otherwise.

SECTION 23. AMENDMENT.) Section 37-15-21 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-21. COMMANDANT MAY ACCEPT GIFTS, DONATIONS, OR BEQUESTS.) The commandant for and in behalf of the soldiers' home is hereby authorized to accept or receive any donations, gifts, or bequests offered or tendered to, or for the benefit of the soldiers' home. All such moneys received or accepted shall be used for the specific purposes for which they were given or donated. This authority shall apply and be retroactive to any or all gifts, donations, or bequests heretofore tendered, offered, or made.

SECTION 24. AMENDMENT.) Section 37-18-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-18-07. COMMISSIONER'S SALARY - APPOINTMENT - QUALIFICATIONS - TERM - BOND.) The appointment, qualifications, term of office, and salary of the commissioner shall be as prescribed in section 3 of this Act. The commissioner shall be bonded through the state bonding fund in the amount as determined by the administrative committee on veterans' affairs, provided that such bond shall be in a minimum amount of five thousand dollars. He shall be allowed such amounts for travel, clerkhire, and expenses as may be prescribed from time to time by legislative appropriations.

SECTION 25. REPEAL.) Sections 37-14-02, 37-14-03.1, 37-14-03.2, 37-14-03.4, 37-14-13, 37-14-17, 37-15-04, 37-15-05, 37-15-09, 37-15-20, 37-18-02, 37-18-03, and 37-18-09 of the North Dakota Century Code, and sections 37-14-01, 37-14-03.5, 37-14-15, and 37-15-06 of the 1969 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 18, 1971

## CHAPTER 345

SENATE BILL NO. 2079  
(Lips, Morgan, Sanstead)  
(Legislative Council Study)

## CIVIL DEFENSE ADVISORY COUNCIL

AN ACT to repeal section 37-17-04 of the 1969 Supplement to the North Dakota Century Code, relating to the civil defense advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 37-17-04 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 346

SENATE BILL NO. 2456  
(Lips, Van Horn)

## VIETNAM VETERANS' BONUS

AN ACT to provide for Vietnam veterans' adjusted compensation, method of payment, duties of adjutant general, exemption from taxation and execution, time limits for filing, for a penalty, and for appropriations; and to create and enact section 37-24-08 of the North Dakota Century Code, relating to deduction of adjusted compensation, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TITLE.) This Act shall be known and may be cited as the "Vietnam Conflict Veterans' Adjusted Compensation Act".

SECTION 2. DEFINITIONS.) As used in this Act:

1. "Period of service" means the period of time beginning August 5, 1964, and ending on a date prescribed by the President or the Congress for the cessation of hostilities in Vietnam.
2. "Veteran" means a man or woman who served honorably and faithfully for more than sixty days on active duty in the armed forces of the United States, at any time during the period of service, and who was a resident of the state of North Dakota at the time of entering upon such duty and for at least six months prior thereto, and who has not received bonus or adjusted compensation from another state for the period of service.
3. "Beneficiary" in relation to a deceased veteran, means, in the order named:
  - a. The surviving unremarried husband or wife as of the date of signing the application;
  - b. The surviving child or children and the lawful issue of a deceased child or children by right of representation;

- c. The surviving person standing in loco parentis;  
or
  - d. The surviving parent or parents.
4. "Honorable and faithful service" shall be such service as is evidenced by:
- a. An honorable discharge, or its equivalent;
  - b. In the case of an officer, a certificate of service; and
  - c. In the case of a veteran who has not been discharged, a certificate from appropriate service authority that his service was honorable and faithful.
5. "Foreign service" means service by a veteran during the period of service anywhere outside of any state of the United States and the District of Columbia.
6. "Domestic service" means service by a veteran during the period of service in any state of the United States and the District of Columbia.
7. "Adjutant general" means the adjutant general of the state of North Dakota.
8. "Resident" means a person who has acquired a status as follows:
- a. Was born in and lived in the state of North Dakota until entrance into the armed forces of the United States;
  - b. Was born in, but was temporarily living outside the state of North Dakota, not having abandoned residence therein prior to entrance into the armed forces of the United States; or
  - c. Was born elsewhere but had resided within the state of North Dakota for at least six months prior to entrance into military service and had prior to or during such six-month period:
    - (1) Registered for voting, or voted in the state of North Dakota;
    - (2) Being an unemancipated minor during such period of residence, had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in this section; and

- (3) If not registered for voting in the state of North Dakota, was not registered for voting in another state, and had resided in the state of North Dakota for at least six months prior to entrance into the armed forces of the United States.
- d. In all other cases where the veteran was a bona fide resident of the state of North Dakota at the time of entering the armed forces as determined in accordance with the rules and regulations of the adjutant general and the laws of the state of North Dakota. No person shall be considered a resident of North Dakota for the purpose of receiving any benefits under this Act if he was on continuous active duty in the armed forces for a period of fifteen years or more, immediately prior to August 5, 1964, and has not established actual abode in North Dakota prior to the effective date of this Act.

SECTION 3. PAYMENT OF ADJUSTED COMPENSATION FOR DOMESTIC AND FOREIGN SERVICE.) Each veteran shall be paid for domestic service twelve dollars and fifty cents for each month or major fraction thereof and shall be paid for foreign service seventeen dollars and fifty cents for each month or major fraction thereof. If the veteran be deceased, payments shall be made to the beneficiary. Applications for adjusted compensation may be filed with the adjutant general after the date of October 1, 1971.

SECTION 4. PAYMENT TO BENEFICIARY OF VETERAN WHO DIED IN ACTIVE SERVICE.) In the case of a veteran who died in active service during the period of service, there shall be paid to the beneficiary of such veteran an amount as determined by section 3 of this Act, provided that in no case shall such beneficiary be paid less than six hundred dollars.

SECTION 5. APPLICATION.) Each veteran or his beneficiary entitled to payment shall make application to the adjutant general of the state of North Dakota upon such form as may be prescribed by him, provided that if the veteran be incompetent or his beneficiary be incompetent or a minor, application shall be made by the guardian, if any, of the veteran or beneficiary, or, if there be no guardian, then by the person, determined by the adjutant general, to have assumed the major responsibility for the care of the veteran or beneficiary and to be a proper person to receive payment for the veteran or beneficiary, or in case of a veteran who is hospitalized in a state, county, or federal institution if no application has otherwise been approved by the adjutant general, by the person in charge of such institution with the approval of the adjutant general. For the purpose of this section, the word "minor" shall not include the unremarried wife of a veteran.

Each application shall be accompanied by a certified copy of honorable discharge or by other evidence of honorable and faithful service as set forth in section 2 of this Act. Each application shall be subscribed and sworn to by the applicant in such manner as may be prescribed by the adjutant general. The adjutant general shall provide by regulation for an endorsement on the evidence of honorable and faithful service required that application for payment has been made.

SECTION 6. METHOD OF PAYMENT - DEDUCTION OF SUMS DUE EDUCATIONAL ASSISTANCE FUND AND VETERANS AID FUND.) Upon submission to him of satisfactory proof that the applicant is entitled to payment under this Act, the adjutant general shall compute the amount of payment due the applicant, make a record thereof, and forward a voucher for the payment to the department of accounts and purchases, which shall cause a warrant-check to be issued for the amount of the claim. Payment shall be made from funds appropriated by the legislative assembly, pursuant to the amendment to the Constitution of North Dakota adopted by the Forty-first Legislative Assembly as Senate Concurrent Resolution No. 17, and approved by the people at the primary election held in September 1970. Where the veteran or the applicant for payment under this Act is indebted to the veterans' aid fund of the state of North Dakota, the adjutant general shall determine the amount of such indebtedness and certify such determination to the department of accounts and purchases, together with the record of payment due. Within the limits of the payment due, the amount of such indebtedness shall be paid to the veterans' aid fund and the applicant shall be paid the difference, if any, to which he may be entitled. Grants or stipends paid by the state to any veteran for educational assistance under chapter 37-24 of this Code shall be deducted from the adjusted compensation payable to such veteran under this Act, and the department of veterans' affairs shall certify to the adjutant general the names of those veterans that have received educational assistance and the amounts received therefor; also, the names of those veterans who will receive educational assistance and the amounts to be received within ten days after it is determined that such veteran is eligible for and will receive such educational assistance.

SECTION 7. PAYMENTS EXEMPT FROM TAXATION AND FROM EXECUTION - ASSIGNMENTS VOID - DEBTS TO STATE AND POLITICAL SUBDIVISIONS NOT DEDUCTED.) Payments under this Act shall be exempt from all taxation and from levy, garnishment, attachment, and sale on execution. Any pledge, mortgage, sale, assignment, or transfer, heretofore or hereafter made, of any right, claim, or interest in any claim or payment under this Act shall be void and payment to the veteran shall not be denied, because of any sums owed to the state or any political subdivisions except as provided in section 6 of this Act.

SECTION 8. DUTY OF ADJUTANT GENERAL - FINALITY OF DECISIONS - QUESTIONS OF RESIDENCE SUBJECT TO COURT REVIEW.)

For the purpose of carrying into effect the provisions of this Act, the adjutant general is charged with the administration thereof, and for that purpose he shall prepare and distribute application blanks, investigate all claims and applications filed with him, and if satisfied of the proof of such claim and application, approve the same and direct payment thereof, and shall make any regulation necessary to the efficient administration of the provisions of this Act. The books, papers, and records, together with the filing cases and equipment procured and used in the administration of this Act, shall become a part of the permanent records of the office of the adjutant general. The adjutant general shall have authority to determine any claim in any case where a doubt arises as to the eligibility of an applicant to receive payment, and the decision of the adjutant general in such case shall be final, except on questions of residence which shall be subject to review by a court of competent jurisdiction. The adjutant general shall authorize payment for prisoners of war upon their release and return.

SECTION 9. PENALTY FOR FALSE STATEMENT.) Any person who shall willfully make a false statement in the application for benefits under the provisions of this Act shall be guilty of a misdemeanor.

SECTION 10. TIME LIMIT FOR FILING OR RECEIVING APPLICATIONS.) No application for benefits under the provisions of this Act shall be filed or received after three years from the date prescribed by the President or the Congress for the cessation of hostilities in Vietnam.

SECTION 11.) Section 37-24-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

37-24-08. ADJUSTED COMPENSATION TO BE DEDUCTED FROM AMOUNT OF EDUCATIONAL ASSISTANCE.) Any educational assistance to which a veteran shall be entitled under this chapter shall be reduced by the amount of any payments received under the provisions of the Vietnam Conflict Veterans' Adjusted Compensation Act. The adjutant general shall certify to the department of veterans' affairs the names of those veterans that will receive such adjusted compensation and the amounts to be received within ten days after it is determined that such veteran is eligible for and will receive such adjusted compensation.

SECTION 12. APPROPRIATION.) There is hereby appropriated out of any moneys in the special fund in the state treasury established for the purpose of paying adjusted compensation to North Dakota veterans of the Vietnam conflict, not otherwise appropriated, the sums necessary to make payment of adjusted compensation to North Dakota veterans of the Vietnam conflict in accordance with the provisions of this Act.

SECTION 13. APPROPRIATION.) There is hereby appropriated

out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$143,000.00, or so much thereof as may be necessary, to the adjutant general for the purpose of administering the provisions of the Vietnam Conflict Veterans' Adjusted Compensation Act for the biennium beginning July 1, 1971, and ending June 30, 1973. The moneys appropriated by this section shall be returned by the director of accounts and purchases to the general fund of the state treasury, such transfer to be made out of moneys in the Vietnam veterans' adjusted compensation fund no later than June 30, 1973.

SECTION 14. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 29, 1971

# MINING AND GAS AND OIL PRODUCTION

## CHAPTER 347

HOUSE BILL NO. 1261

(Hilleboe, Metzger, Gerl, Glaspey)

### MINE SAFETY AND INSPECTION

AN ACT to create and enact subsection 8 of section 38-03-07 of the North Dakota Century Code, relating to inspector's powers and duties relating to mine inspections; and to amend and reenact sections 38-03-03, 38-03-04, 38-03-06, subsection 5 of section 38-03-07, subsection 7 of section 38-03-07, sections 38-03-11, 38-03-17, 38-04-04, 38-05-01, 38-06-01, 38-06-02, 38-06-03, 38-07-01, 38-07-03, 38-07-04, 38-07-06, 38-07-07, and 38-07-08 of the North Dakota Century Code, relating to bond of inspector; salary of inspector; vacancy in office; inspector's powers and duties relating to mine inspections; posting inspection statement of mine and posting regulations governing carriage of men posted; inspector to order immediate compliance when provision or rule violated and failure to comply; license fee collections to workmen's compensation bureau; board of examiners for mine foreman; safety rules and regulations may be promulgated and enforced by state coal mine inspector; employment of mine foreman; inability of mine foreman to act and substitutes; map or plan of coal mine; map of seams; maps to include surface description; survey of active mines to be made annually and results of survey shown on map; refusal to furnish map, plan, or extension of mine and inspector to order survey and cost; operator of worked out, abandoned, or indefinitely closed mine to make survey and extension of maps; and to repeal sections 38-01-02, 38-01-03, 38-01-04, 38-01-05, 38-01-09, 38-03-15, 38-03-16, 38-05-02, 38-05-03, 38-05-04, 38-05-05, 38-05-06, 38-05-08, 38-05-09, 38-05-10, 38-05-11, 38-06-04, 38-06-05, 38-06-06, 38-06-07, 38-06-08, 38-06-09, 38-06-10, 38-06-11, 38-06-12, 38-06-13, 38-06-14, 38-06-15, 38-06-16, 38-06-17, 38-06-18, 38-06-19, 38-06-20, 38-06-21, 38-06-22, 38-06-23, 38-06-24, 38-06-25, 38-06-26, 38-06-27, 38-06-28, 38-06-29, 38-06-30, 38-06-31, 38-06-32, 38-06-33, 38-06-34, 38-06-35, 38-06-36, 38-06-37, 38-06-38, 38-06-39, 38-06-40, 38-06-41, 38-06-42, 38-06-43, 38-06-44, 38-06-45, 38-06-46, 38-06-47, 38-06-48, 38-06-49, 38-06-50, 38-06-51, 38-06-52, 38-06-53, 38-06-54, 38-06-58, and 38-06-59 of the North Dakota Century Code, and sections 38-03-12 and 38-05-07 of the 1969 supplement to the North Dakota Century Code are hereby repealed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 8 of section 38-03-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

8. The inspector shall make a biennial report to the workmen's compensation bureau. The information contained in said report shall be included by the bureau in its report as provided under 65-02-09.

SECTION 2. AMENDMENT.) Section 38-03-03 of the 1969 supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-03. BOND OF INSPECTOR.) Before entering upon the duties of his office, the inspector shall furnish a bond in the penal sum of five thousand dollars.

SECTION 3. AMENDMENT.) Section 38-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-04. SALARY OF INSPECTOR - COST OF OFFICE - PAID BY WORKMEN'S COMPENSATION BUREAU.) The entire cost of the office of the inspector including his salary, travel expenses, clerical help and other expenses necessary for carrying out the duties of his office shall be provided for in the budget of the workmen's compensation bureau and paid from the bureau's appropriation.

SECTION 4. AMENDMENT.) Section 38-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-06. TEMPORARY OR PERMANENT VACANCY IN OFFICE OF INSPECTOR - HOW FILLED.) If the inspector becomes incapacitated and cannot perform the duties of his office, the workmen's compensation bureau may depute a competent person who possesses the qualifications provided for in this chapter to perform the duties of the inspector until he resumes his duties.

SECTION 5. AMENDMENT.) Subsection 5 of section 38-03-07 of the 1969 supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Examine all the coal mines in operation in this state annually, and all mines having an annual output of twelve hundred tons or more, at least every three months, and oftener, if necessary, to see that every precaution is taken to insure the safety of all the working men that may be engaged in such coal mine;

SECTION 6. AMENDMENT.) Subsection 7 of section 38-03-07 of the 1969 supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Cooperate and assist in all accident prevention programs sponsored by the workmen's compensation bureau;

SECTION 7. AMENDMENT.) Section 38-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-11. INSPECTION STATEMENT OF UNDERGROUND MINE POSTED AT TOP OF MINE - REGULATIONS GOVERNING CARRIAGE OF MEN POSTED.) The inspector shall post in a conspicuous place at the top of each underground mine inspected by him a statement of the conditions of such mine, stating what is necessary for the better protection of the lives and health of persons employed therein. Such statement shall give the date of inspection and shall be signed by the inspector. He also shall post at the landing used by the men a notice stating the number of men permitted to ride on the cage, car, or cars at one time and the rate of speed men may be hoisted and lowered therein. The inspector shall observe especially that the code of signals between engineer and top men and bottom men is conspicuously posted for the information of all employees.

SECTION 8. AMENDMENT.) Section 38-03-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-17. INSPECTOR TO ORDER IMMEDIATE COMPLIANCE WHEN PROVISION OR RULE VIOLATED - FAILURE TO COMPLY.) If the inspector finds that any provision of this title or rule promulgated in accordance thereof relating to coal mines and the operation thereof is being neglected or violated, he shall order immediate compliance therewith, and in case of a continued failure to comply, he may stop the operation of the mine or remove any offending person or persons from the mine until the provision or rule is complied with.

SECTION 9. AMENDMENT.) Section 38-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-04-04. LICENSE FEE COLLECTIONS TO BE PAID TO WORKMEN'S COMPENSATION BUREAU.) The fees collected for coal mine licenses shall be paid to the workmen's compensation bureau.

SECTION 10. AMENDMENT.) Section 38-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 38-05-01. MINE FOREMEN - RULES REGARDING.) The workmen's

compensation bureau may promulgate, issue, and enforce all necessary and proper rules for the qualification, examination, and certification of mine foremen.

SECTION 11. AMENDMENT.) Section 38-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-06-01. SAFETY RULES AND REGULATIONS MAY BE PROMULGATED AND ENFORCED BY STATE COAL MINE INSPECTOR.) The inspector may promulgate, issue, and enforce all necessary and proper rules and safety regulations relative to any operation over which he has jurisdiction.

SECTION 12. AMENDMENT.) Section 38-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-06-02. MINE FOREMAN TO BE EMPLOYED - DUTIES.) The operator or superintendent of a coal mine shall employ a mine foreman. The mine foreman shall devote all of his time to his duties at the mine when it is in operation. He shall be responsible for the supervision of necessary and proper safety regulations.

SECTION 13. AMENDMENT.) Section 38-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-06-03. INABILITY OF MINE FOREMAN TO ACT - SUBSTITUTE APPOINTED.) If the mine foreman personally is unable to carry out his duties as provided in this chapter, on account of sickness or other unavoidable condition, a competent person shall be appointed to act in his place.

SECTION 14. AMENDMENT.) Section 38-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-01. MAP OR PLAN OF UNDERGROUND COAL MINE TO BE MADE BY OPERATOR - CONTENTS - SURFACE MINE MAPS - RULES REGARDING.) Every operator of an underground coal mine in this state shall make or shall cause to be made an accurate map or plan of such mine, which map or plan shall be drawn to a scale of not less than one inch to two hundred feet or to as much larger a scale as may be practicable. Such map or plan shall contain:

1. The name of the state, county, and township in which the mine is located;
2. The designation of the mine;
3. The name of the company or owner thereof;

4. The certificate of the mining engineer or surveyor as to the accuracy and date of the survey; and
5. The north point and the scale to which the drawing is made.

The coal mine inspector may promulgate, issue and enforce necessary and proper rules regarding the requirement and content of surface mine maps.

SECTION 15. AMENDMENT.) Section 38-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-03. MAP OF SEAMS TO BE DRAWN - CONTENTS.) A separate and similar map drawn to the same scale as the map provided for in section 38-07-01 shall be made of each and every seam which shall be worked in any underground mine. The map of each such seam shall show the shafts, drifts, tunnels, incline planes, or other passageways connecting the same to other seams or mining operations.

SECTION 16. AMENDMENT.) Section 38-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-04. MAPS TO INCLUDE SURFACE DESCRIPTION - SEPARATE SURFACE MAPS MAY BE DRAWN.) Every map or plan of an underground mine drawn by the operator, or at his option a separate map, shall show:

1. The surface boundary lines contiguous to the workings and pertaining to each mine; and
2. All section or quarter section lines and corners, town lots and streets, the tracks and side tracks of all railroads, the location of all wagon roads, rivers, streams, ponds, buildings, landmarks, and principal objects on the surface within such boundary lines.

If the map giving such data is a separate surface map, it shall be drawn on a transparent cloth or paper so that it can be laid upon the map of the underground workings and thus truly indicate the relative location of the lines and objects on the surface to the excavations of the mine.

SECTION 17. AMENDMENT.) Section 38-07-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-06. SURVEY OF ACTIVE MINES TO BE MADE ANNUALLY - RESULTS OF SURVEY SHOWN ON MAP.) On or before July first of each year, a survey of every underground mine in active operation

shall be made by the operator thereof. The results of such survey, with the date thereof, shall be entered promptly and extended accurately upon the original map of the mine to show all changes in plat and all new work in the mine and to show all the extensions of the workings which have been made since the preceding survey to the most advanced face or boundary thereof. The changes and extensions either shall be entered upon the copies of the maps in the hands of the inspector, or new copies of the map with such changes and extensions noted thereon shall be furnished to the inspector within thirty days after the completion of the survey.

SECTION 18. AMENDMENT.) Section 38-07-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-07. REFUSAL TO FURNISH MAP, PLAN, OR EXTENSION OF MINE - INSPECTOR TO ORDER SURVEY - COST.) If the operator of any underground mine neglects or refuses, or for any reason unsatisfactory to the inspector fails for a period of three months to furnish the inspector with a copy of a required map or with a plan of the mine or of the extension thereof, the inspector may make or cause to be made an accurate map or plan of such mine at the expense of the owner, operator, or lessee thereof.

SECTION 19. AMENDMENT.) Section 38-07-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-08. OPERATOR OF WORKED OUT, ABANDONED, OR INDEFINITELY CLOSED MINE TO MAKE SURVEY - EXTENSION OF MAPS.) The operator of any underground coal mine which is worked out or about to be abandoned or closed indefinitely shall make, or cause to be made, a final survey of all available parts of such mine. The results of such survey shall be extended on all maps and copies of maps of the mine to show all excavations and the most advanced workings of the mine and their exact relations to the boundary or section lines on the surface.

SECTION 20. REPEAL.) Section 38-01-02, 38-01-03, 38-01-04, 38-01-05, 38-01-09, 38-03-15, 38-03-16, 38-05-02, 38-05-03, 38-05-04, 38-05-05, 38-05-06, 38-05-08, 38-05-09, 38-05-10, 38-05-11, 38-06-04, 38-06-05, 38-06-06, 38-06-07, 38-06-08, 38-06-09, 38-06-10, 38-06-11, 38-06-12, 38-06-13, 38-06-14, 38-06-15, 38-06-16, 38-06-17, 38-06-18, 38-06-19, 38-06-20, 38-06-21, 38-06-22, 38-06-23, 38-06-24, 38-06-25, 38-06-26, 38-06-27, 38-06-28, 38-06-29, 38-06-30, 38-06-31, 38-06-32, 38-06-33, 38-06-34, 38-06-35, 38-06-36, 38-06-37, 38-06-38, 38-06-39, 38-06-40, 38-06-41, 38-06-42, 38-06-43, 38-06-44, 38-06-45, 38-06-46, 38-06-47, 38-06-48, 38-06-49, 38-06-50, 38-06-51, 38-06-52, 38-06-53, 38-06-54, 38-06-58, and 38-06-59 of the North Dakota Century Code, and sections 38-03-12 and 38-05-07 of the 1969 supplement to the North Dakota Century Code are hereby repealed.

Approved March 27, 1971

## CHAPTER 348

SENATE BILL NO. 2269  
(Wilhite, Christensen)

LIABILITY FOR UNITIZED  
OIL AND GAS FIELD EXPENSES

AN ACT to amend and reenact section 38-08-09.7 of the North Dakota Century Code, relating to the liability for expenses in unitized oil and gas fields.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 38-08-09.7 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08-09.7. STATUS AND POWERS OF UNIT - LIABILITY FOR EXPENSES - LIENS.) Each unit created under the provisions of sections 38-08-09.1 through 38-08-09.16 shall be a body politic and corporate, capable of suing, being sued, and contracting as such in its own name. Each such unit shall be authorized on behalf and for the account of all the owners of the oil and gas rights within the unit area, without profit to the unit, to supervise, manage, and conduct the further development and operations for the production of oil and gas from the unit area, pursuant to the powers conferred, and subject to the limitations imposed by the provisions of sections 38-08-09.1 through 38-08-09.16 and by the plan of unitization.

The obligation or liability of the lessee or other owners of the oil and gas rights in the several separately owned tracts for the payment of unit expense shall at all times be several and not joint or collective and in no event shall a lessee or other owner of the oil and gas rights in the separately owned tract be chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interest in such separately owned tract pursuant to the plan of unitization and then only to the extent of the lien provided for within sections 38-08-09.1 through 38-08-09.16.

Any nonsigning working interest owner may withdraw from the unit to which his interest is committed by transferring, without warranty of title, either express or implied, to the unit operator on the behalf of the other working interest owners, all of his working interest in all unit equipment and in all wells used in unit operations. The instrument of transfer shall be delivered to the unit operator. Such transfer shall relieve

the withdrawing working interest owner from any liability for unit operations except any incurred pursuant to sections 38-08-09.1 through 38-08-09.16. The interest so transferred shall be owned by the other working interest owners in proportion to their respective participation in the unit. The unit operator, on the behalf of the other working interest owners, in proportion to their respective interests so acquired, shall pay the transferor for his interest in unit equipment and wells the net salvage value thereof as determined by agreement between the transferor and the unit operator. In the event such net salvage value is not agreed upon within sixty days after such transfer, then either party may request a hearing of the matter before the commission, and, after notice and hearing, the commission shall determine such value.

Subject to such reasonable limitations as may be set out in the plan of unitization, the unit shall have a first and prior lien upon the leasehold production (exclusive of such interests which are free of costs, such as royalties, overriding royalties, and production payments) in and to each separately owned tract, the interest of the owners thereof in and to the unit production in the possession of the unit, to secure the payment of the amount of the unit expense charged to and assessed against such separately owned tract. The interest of the lessee or other persons who by lease, contract, or otherwise are obligated or responsible for the cost and expense of developing and operating a separately owned tract for oil and gas in the absence of unitization, shall, however, be primarily responsible for and charged with any assessment for unit expense made against such tract. Any landowner royalty or any overriding royalty, or any production payment which is a part of the unit production allocated to each separately owned tract shall in all events be regarded as royalty to be distributed to and among, or the proceeds thereof paid to the royalty owners free and clear of all unit expense and free of any lien thereof.

Approved March 19, 1971

## CHAPTER 349

SENATE BILL NO. 2391  
(Wilhite, Wenstrom)

## UNITIZING MORE THAN ONE POOL

AN ACT to create and enact section 38-08-09.17 of the North Dakota Century Code, to provide for the unitized management, operation, and development of two or more pools or parts thereof separated vertically in one field; defining the term "unit source of supply".

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 38-08-09.17 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.17. UNIT OF MORE THAN ONE POOL - UNIT SOURCE OF SUPPLY.) The commission upon its own motion may, and upon petition of any interested person shall, after notice therefor, hold a hearing to consider the need for the operation as a unit of two or more pools or parts thereof separated vertically in one field, and shall have the power to create such a unit and provide for the unitization and unitized operation of the unit source of supply. "Unit source of supply" shall mean those pools or parts thereof to be produced by such unit operation as designated by order of the industrial commission. The petition, the hearing, the commission's findings and order and all other matters shall be in the form and manner and in accordance with the procedure and requirements hereinabove set forth in sections 38-08-09.1 through 38-08-09.16, provided however, whenever and wherever the words "common source of supply" appear in said sections the words "unit source of supply" shall be substituted in lieu thereof and all other provisions of the sections shall otherwise apply.

Approved March 30, 1971

## CHAPTER 350

SENATE BILL NO. 2378  
(Roen, Stroup, Rait, Swedlund)

## STRIP MINE RECLAMATION

AN ACT to amend and reenact sections 38-14-05 and 38-14-07 of the North Dakota Century Code, relating to duties of an operator and bonding of an operator under the Strip Mining Reclamation Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 38-14-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-14-05. DUTIES OF OPERATOR.) Every operator to whom a permit is issued pursuant to the provisions of this chapter may engage in surface mining during the permit term upon the lands described in the permit upon the performance of and subject to the following requirements with respect to such lands:

1. On all affected land which is to be used for crops, including hay, the operator shall grade peaks and ridges to a slope of not more than twenty percent and fill valleys in such manner that the area can be traversed with farm machinery reasonably necessary for such use.
2. On all affected land which is to be seeded to pasture, the operator shall strike off all peaks or ridges to a minimum width of thirty-five feet at the top.
3. All ridges and peaks to be afforested shall be struck off to a minimum width of thirty-five feet at the top. On all affected land which is to be afforested, the operator shall construct access roads through the areas, such roads to be not less than twenty-five feet in width and constructed so that the right-of-way limits are not more than four hundred forty yards apart, with road grades not to exceed twenty percent.
4. The operator shall construct earth dams, where lakes may be formed, in accordance with sound engineering practices if necessary to impound water, provided the formation of the lakes or ponds will not interfere with underground or other mining operations.

5. All ridges and peaks of land affected by surface mining within six hundred sixty feet and which are visible from any public road maintained with public funds, public building, or cemetery that is being maintained in a usable condition, shall be graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes having no more than twenty percent grade; but such slopes need not be reduced to less than the original grade of the overburden of that area prior to mining.
6. Surface mining operations that remove and do not replace the lateral support, unless mutually agreed upon by the operator and the adjacent property owner, shall not approach property lines, established right-of-way lines of any public roads, streets, or highways closer than distance equal to ten feet plus one and one-half times the depth of the excavation, except where consolidated material or materials of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing exists in the high wall, in which case the distance from the property line or any established right-of-way line, unless mutually agreed, shall not be closer than a distance equal to ten feet plus one and one-half times the depth from the natural ground surface to the top of the consolidated material or materials.
7. The operator shall submit to the commission no later than the first day of September during each year of the permit term, a map in a form acceptable to the commission showing the location of the pit or pits by section, township, range, and county, with such other description as will identify the land which the operator has affected by surface mining during such permit term and has completed mining operations thereon, with a legend upon such map showing the number of acres of affected land.
8. A reclamation plan and map acceptable to the commission shall be submitted by the operator not later than the first day of December following the date of issue of the permit. The operator's reclamation plan and the commission's approval or modification thereof shall be based upon the advice and technical assistance of the state soil conservation committee, the state game and fish department, the state forester, and other agencies or individuals having experience in foresting and reclaiming surface-mined lands with forest or agronomic or horticultural species, based upon scientific knowledge from research into reclaiming and utilizing forest and agronomic species on

surface-mined lands. In addition, the operator and the commission shall have the landowner designate his preference for a reclamation plan covering his affected land. The operator's plan shall designate which parts of the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational, industrial, or other uses including food, shelter, and ground cover for wildlife, and shall show the same by appropriate designation on the reclamation map. Any operator feeling aggrieved by the plan approved by the commission may request a hearing which shall be conducted in accordance with the provisions of chapter 28-32 of the North Dakota Century Code. The operator shall have the right of appeal in the manner prescribed therein.

9. The operator shall sow, set out, or plant upon the affected land described in the reclamation plan and map or maps, seeds, plants, cuttings of trees, shrubs, grasses, or legumes as shall be approved in writing by the commission.
10. All reclamation provided for hereunder shall be carried to completion by the operator prior to the expiration of three years after termination of the permit term, except that no planting of any kind shall be required to be made within depressed haulage roads or final cuts or any other area where pools or lakes may be formed by rainfall or drainage runoff from adjoining land. Where natural weathering and leaching of any of such affected land fails to support plant growth at the end of three years, the commission shall, at the request of the operator, extend the reclamation period from year to year for a period of five years from the termination of the permit term on the land in question. If further extension of the reclamation period is necessary to accomplish acceptable reclamation, such extension shall be made at the discretion of the commission, or the commission shall declare forfeiture of the surety bond or security on such land not satisfactorily reclaimed; however, after the second seeding or planting of any affected area, the area shall be deemed reclaimed.
11. If the operator is unable to acquire sufficient planting stock of desired tree species from state nurseries or any nursery within the state, or acquire such tree species elsewhere at comparable prices, the commission shall grant the operator an extension of time until planting stock is available to plant such land as originally planned, or shall permit the operator to select an alternate method of reclamation in keeping with the provisions of this chapter.

12. Upon the application of the operator, the commission in its discretion may allow the modification of an approved reclamation plan, provided that justice requires the modification, and the modified plan will carry out the purposes of this chapter.

SECTION 2. AMENDMENT.) Section 38-14-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-14-07. BOND OF OPERATOR - AMOUNT - SUFFICIENCY OF SURETY - VIOLATIONS - COMPLIANCE.) Any bond herein provided to be filed with the department by the operator shall be in such form as the commission shall prescribe, payable to the state of North Dakota, conditioned that the operator shall faithfully perform all requirements of this chapter and comply with all rules of the commission made in accordance with the provisions of this chapter. Such bond shall be signed by the operator as principal, and by a good and sufficient corporate surety, licensed to do business in North Dakota, as surety. The penalty of such bond shall be two hundred dollars for each acre or portion thereof of land to be affected by surface mining in an area where the overburden shall exceed ten feet in depth, for the ensuing permit term. In lieu of such bonds, the operator may deposit cash or government securities or both with the commission in an amount equal to that of the required surety bond on conditions as above prescribed. The penalty of the bond or amount of cash and securities shall be increased or reduced from time to time as provided in this chapter. Such bond or security shall be in effect and subject to forfeiture in accordance with this chapter from and after the time a permit is granted by the commission until the mined acreages have been reclaimed, approved, and released.

A bond filed as above-prescribed shall not be canceled by the surety unless it shall give not less than ninety days' notice to the commission, and in no event shall a bond be canceled on lands that at the time of cancellation have become affected lands under the provisions of this chapter.

If the license to do business in North Dakota of any surety upon a bond filed with the commission pursuant to this chapter shall be suspended or revoked, the operator, within thirty days after receiving notice thereof from the commission, shall substitute for such surety a good and sufficient corporate surety licensed to do business in North Dakota. Upon failure of the operator to make substitution of surety as herein provided, the commission shall have the right to suspend the permit of the operator until such substitution has been made.

The commission shall give written notice to the operator of any violation of this chapter or noncompliance with any of the rules and regulations promulgated by the commission hereunder and if corrective measures, approved by the commission, are not

commenced, or agreed to within ninety days, the commission may proceed as provided in section 38-14-09 to request forfeiture of the bond or security. The amount of forfeiture shall be two hundred dollars for each acre or portion thereof of affected land. Such forfeiture shall fully satisfy all obligations of the operator to reclaim the affected land under the provisions of this chapter. However, any operator who refuses or willfully fails to comply with the provisions of this chapter shall be ineligible for any further mining permits, and shall cease all mining operations in this state within thirty days after the forfeiture.

The commission shall have the power to reclaim, in keeping with the provisions of this chapter, any affected land with respect to which a bond has been forfeited.

Whenever an operator shall have completed all requirements under the provisions of this chapter as to any affected land, he shall notify the commission thereof. If the commission determines that the operator has completed reclamation requirements and achieved results appropriate to the use for which the area was reclaimed, the commission shall release the operator from further obligations regarding such affected land and the penalty of the bond shall be reduced proportionately.

Approved March 19, 1971

## CHAPTER 351

SENATE BILL NO. 2364  
(Stroup, Jacobson, Christensen, Page)

RESOLUTION OF CONFLICTS IN  
SUBSURFACE MINERAL PRODUCTION

AN ACT to provide for the resolution of conflicting interests in the production of oil and gas, subsurface minerals, and coal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. POLICY.) It is hereby declared to be in the public interest to foster, encourage, and promote the development, production, and utilization of all natural resources of coal, oil, gas, and subsurface minerals in a manner as will prevent waste and allow a greater ultimate recovery of the natural resources, and to protect the rights of all owners so that the greatest possible economic recovery of natural resources be obtained in the state, to the end that landowners, royalty owners, producers, and the general public realize and enjoy the greatest possible good from these vital natural resources.

SECTION 2. DEFINITIONS.) As used in this Act, unless the context otherwise requires:

1. "Commission" means the industrial commission.
2. "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, instrumentality, or political subdivision of the state. The masculine gender, in referring to a person, includes the feminine and the neuter genders.
3. "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the wellhead in liquid form, and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas other than gas produced in association with oil and commonly known as casinghead gas.
4. "Gas" means all natural gas and other fluid hydrocarbons not hereinabove defined as oil.

5. "Subsurface minerals" means all naturally occurring elements and their compounds, and natural mineral salts of boron, bromine, calcium, fluorine, helium, iodine, lithium, magnesium, nitrogen, phosphorus, potassium, sodium, and sulfur, and their compounds, occurring more than five hundred feet below the surface of the land.
6. "Coal" means all kinds of coal, and shall include what is known as lignite coal, unless a contrary intention plainly appears.
7. "Producer" means the owner of a well or wells, or mine or mines, capable of producing coal, oil, gas, or subsurface minerals.
8. "Conflicting interests" means those interests of producers which are in conflict, so that full production and utilization by one producer is prohibited or impeded by the interests of another producer of a separate natural resource.
9. "Owner" means the person who has the right to produce natural resources either for himself or others.
10. "Natural resources" means coal, oil, gas, and subsurface minerals as defined herein.
11. "Waste" means the inefficient utilization of reserves of oil, gas, subsurface minerals, or coal, as the case may be.

SECTION 3. JURISDICTION OF COMMISSION.) The commission has continuing jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this Act. The state geologist shall act as a supervisor charged with enforcing the regulations and orders of the commission applicable to the provisions of this Act. The commission has authority to make investigations it deems proper to determine whether facts exist which justify action by the commission. The commission has the authority:

1. To require the furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this Act, and the rules and regulations of the industrial commission prescribed to govern, satisfy, and resolve conflicting interests among producers within North Dakota.
2. To resolve conflicting interests of producers of natural resources which cannot be voluntarily concluded by them in the public interest to eliminate

waste, to the end that the producer, landowner, and mineral owner realize the greatest possible economic advantage.

3. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and intent of this Act.

SECTION 4. PROCEDURE.) The administrative procedure involved in the adoption of any rules or regulations, or the issuance of any orders, by the commission under the provisions of this Act shall be in accordance with the provisions of chapter 38-08 governing the procedure in the administration of the Oil and Gas Conservation Act; provided, however, that in the event of any emergencies found to exist by the commission which in its judgment requires the making, revoking, changing, amending, modifying, altering, enlarging, renewal or extension of renewal, regulation, or order without first having a hearing, the emergency rule, regulation, or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation, or order permitted by this section shall remain in force no longer than fifteen days from its effective date, and in any event shall expire when the rule, regulation, or order, made after due notice and hearing with respect to the subject matter of the emergency rule, regulation, or order becomes effective.

SECTION 5. PENALTY - INJUNCTION - PROVISIONS APPLICABLE.) The provisions of sections 38-08-16 and 38-08-17 shall be applicable to the provisions of this Act and to the rules, regulations, and orders of the commission promulgated hereunder.

Approved March 24, 1971

# MOTOR VEHICLES

## CHAPTER 352

SENATE BILL NO. 2081  
(Lips, Morgan, Sanstead)  
(From Legislative Council Study)

### APPOINTMENT AND REMOVAL OF HIGHWAY PATROLMEN

AN ACT to amend and reenact sections 39-03-03 and 39-03-13 of the North Dakota Century Code, relating to the appointment of highway patrolmen and powers of the superintendent of the highway patrol; and to repeal section 39-03-14 of the North Dakota Century Code, relating to the state highway patrol hearing board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-03-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-03. PATROLMEN - APPOINTMENT - REMOVAL - DUTIES.) The superintendent, the assistant superintendent, and the patrolmen shall constitute the highway patrol. The highway patrol shall enforce the provisions of the laws of this state relating to the protection and use of highways and shall patrol such highways and cooperate with sheriffs and police in enforcing the laws regulating the operation of vehicles and the use of highways. All patrolmen and the assistant superintendent shall be appointed by the superintendent. Each patrolman so appointed shall be deemed a temporary appointee for a period of twelve months, during which period he shall be placed under probationary training and service and be subject to dismissal at the will of the superintendent. At the end of such twelve-month period, such temporary appointee shall either be given a permanent appointment by the superintendent or shall be automatically dismissed. The assistant superintendent and patrolmen who have received a permanent appointment shall be subject to removal for cause by the superintendent, but shall be permitted to appeal a dismissal to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03, provided that the removal of the assistant superintendent from his position shall not entitle him to appeal such removal unless he is also dismissed from the patrol.

SECTION 2. AMENDMENT.) Section 39-03-13 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-13. ADDITIONAL POWERS OF SUPERINTENDENT.) In addition to his powers as a member of the highway patrol, the superintendent of the patrol shall have the following powers as administrative head of the patrol:

1. He may organize the patrol into such divisions, bureaus, and districts as he deems necessary.
2. He may designate ranks, fix salaries with appropriate allowances for those ranks, and establish promotional procedures.
3. He may take reasonable disciplinary action against members of the patrol for inefficiency, misconduct, insubordination, or violation of an established rule or regulation, whenever he deems such actions necessary, provided that:
  - a. Where demotion in rank is summarily ordered against a member of the patrol as a disciplinary measure, to be limited to a one-grade reduction in rank, such order shall be appealable to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03.
  - b. Where a reduction in pay of a member of the patrol is summarily ordered as a disciplinary measure, it shall be limited to one year's duration and such order shall be appealable to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03.
  - c. Suspension of pay for a member of the patrol for a period not exceeding seven days may be summarily ordered as a disciplinary measure, but an order for suspension of pay for a longer period shall be appealable to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03.
  - d. Such suspension of pay for a member of the patrol may be summarily ordered not more than twice in one year as separate disciplinary measures, except that further suspensions shall be appealable to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03.

SECTION 3. REPEAL.) Section 39-03-14 of the North Dakota Century Code is hereby repealed.

Approved February 20, 1971

CHAPTER 353

HOUSE BILL NO. 1227  
(Hilleboe, Hensrud)

HIGHWAY PATROLMEN'S RETIREMENT SYSTEM

AN ACT to create and enact section 39-03A-27 of the North Dakota Century Code establishing the legislative intent and relating to effect of amendment of the highway patrolmen's retirement system; to amend and reenact sections 39-03A-09, 39-03A-10, 39-03A-12, 39-03A-14, 39-03A-16, 39-03A-17, 39-03A-21, and 39-03A-21.1 relating to the highway patrolmen's retirement system, payment by contributors, contributions of the state, retirement allowance, optional retirement allowance, disability retirement allowance, severance allowance, payments in case of death and children's benefits; and to repeal subsection 7 of section 39-03A-01 relating to the definition of average monthly salary.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 39-03A-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-03A-27. LEGISLATIVE INTENT - EFFECT OF AMENDMENTS UPON EXISTING RIGHTS.)

1. The legislative assembly in recognition of the value of good employer-employee relationships and the need to recruit and retain qualified highway patrolmen in this state, hereby declares its intent that the state should provide the comparable contribution for retirement of highway patrolmen's retirement system members as it provides for other state employees. It is the further intent of the legislative assembly that because of the increase in state contributions to the North Dakota highway patrolmen's retirement system, the members of such system shall not obligate the state to additional payments for federal social security benefits for such members.
2. Nothing contained in this chapter or in any amendment thereto or any amendment of any section thereof which has been or shall be adopted from time to time, unless the amendment expressly states otherwise, shall reduce, modify or enlarge any rights, privileges, or benefits established prior to the effective date

of such amendment. All retirement payments, disability payments, widow's benefits, children's benefits, severance payments and death payments which have become fixed and determined prior to the effective date of any such amendment or of this section shall remain unchanged unless the amendment expressly states otherwise; provided that all existing pensioners, widows and dependent children who are receiving payments from the fund as of July 1, 1971, or who have been granted a benefit by the highway patrolmen's retirement board, shall be entitled to receive, from and after that date, an increase of ten percent in such payments, or benefits.

SECTION 2. AMENDMENT.) Section 39-03A-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-09. PAYMENTS BY CONTRIBUTORS.) Every member shall be required to contribute into the fund a sum equal to nine percent of his monthly salary, but not to exceed sixty seven dollars and fifty cents, which sum shall be deducted from his salary and credited to his account in the fund. A contributor who was paid a refund or severance allowance upon termination of employment with the patrol and who again becomes a contributor may, at any time prior to retirement, elect to return to the fund the amount which was paid him as a refund or severance allowance plus regular interest thereon for the period during which such amount was withdrawn from the fund. All such payments must be made in full before a retirement or optional retirement allowance is granted, and, if the contributor elects to make such payment, any survivor's allowance to which his survivor would otherwise be entitled shall be reduced by an amount and for such time as will assure that the back payments will be returned to the fund. Every contributor who shall elect to make such back payments shall receive full credit under this chapter for all contributions made into the fund and for all service credits to which he might thereby be entitled.

SECTION 3. AMENDMENT.) Section 39-03A-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-10. CONTRIBUTIONS BY THE STATE OF NORTH DAKOTA.) The state of North Dakota shall annually contribute to the fund a sum equal to the amount contributed by patrolmen to this fund.

SECTION 4. AMENDMENT.) Section 39-03A-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-12. RETIREMENT ALLOWANCE.) Each contributor qualifying under section 39-03A-11 shall be entitled to

receive from the fund for the duration of his life, a monthly retirement allowance equal to two percent of the average monthly salary, not to exceed seven hundred fifty dollars, for the sixty months of service immediately preceding retirement from the patrol, multiplied by twenty-five. For each complete additional year of service over twenty-five the contributor shall be entitled to an additional one percent per month of his average salary, as determined above.

SECTION 5. AMENDMENT.) Section 39-03A-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-14. OPTIONAL RETIREMENT ALLOWANCE.) Each contributor qualifying under section 39-03A-13 shall be entitled to receive from the fund, for the duration of his life, a monthly optional retirement allowance equal to two percent of the average monthly salary, not to exceed seven hundred fifty dollars, for the last sixty months of service, times the total number of years served.

SECTION 6. AMENDMENT.) Section 39-03A-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-16. DISABILITY RETIREMENT ALLOWANCE.) Each contributor qualifying under section 39-03A-15 shall be entitled to receive from the fund for the duration of the period of total disability a monthly disability retirement allowance which when added to the compensation allowance, if any, to which the contributor may be entitled under the workmen's compensation laws will equal two hundred dollars per month.

SECTION 7. AMENDMENT.) Section 39-03A-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-17. SEVERANCE ALLOWANCE.) Each contributor who has not reached the age of sixty and whose employment with the patrol has been terminated and who is not entitled to any retirement or survivors benefits, shall be entitled to receive from the fund, upon making application therefor to the board, a severance allowance which shall consist of the amount of the accumulated deductions of the contributor plus regular interest.

SECTION 8. AMENDMENT.) Section 39-03A-21 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-21. PAYMENTS IN CASE OF DEATH.) Whenever a contributor, whether or not he is receiving or is entitled to receive a retirement, optional retirement, or disability retirement allowance, dies leaving a surviving wife or children an allowance shall be paid to the surviving wife until her

death or prior remarriage, or, if there is no surviving wife, to the surviving children under eighteen years of age. If there is no surviving wife or if the surviving wife remarries, and there are no surviving children under eighteen years of age, then an allowance shall be paid to the father or mother of the contributor as specified by the contributor, if both survive, or to either parent if one survives.

Eligibility for benefits under the provisions of this section shall be effective for the widows or children of all members making contributions to the North Dakota highway patrolmen's retirement fund subsequent to July 1, 1955.

Such allowance shall be one hundred sixty-five dollars per month.

SECTION 9. AMENDMENT.) Section 39-03A-21.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03A-21.1. CHILDREN'S BENEFIT - LIMITATION.) Each dependent child of a contributor shall be entitled to receive a monthly benefit of eleven dollars until such dependent child reaches the age of eighteen years. In the event of the remarriage of the surviving wife, each such dependent child shall then be entitled to receive a monthly benefit of twenty-seven dollars and fifty cents until such dependent child reaches the age of eighteen years. The benefits provided for dependent children in this section shall be payable only if the child or children are not receiving benefits under the preceding section. The aggregate maximum family benefit under this section and the preceding section shall, however, in no event exceed the two hundred twenty dollars per month. The children's benefit payable under this section or the preceding section shall be paid to the parent or legally appointed guardian as the case may be.

SECTION 10. REPEAL.) Subsection 7 of section 39-03A-01 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 3, 1971

## CHAPTER 354

HOUSE BILL NO. 1441  
(Giffey)

DEFINITION OF  
"COMMERCIAL FREIGHTING"

AN ACT to amend and reenact subsection 7 of section 39-04-01 of the North Dakota Century Code, relating to the definition of commercial freighting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 7 of section 39-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. "Commercial freighting" shall mean the carriage of things other than passengers, for hire, except that such terms shall not include:

- a. The carriage of things other than passengers within the limits of the same city;
- b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or in the immediate vicinity thereof, in this state, and not to exceed two miles from the corporate limits of said city; or
- c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market;

Approved March 18, 1971

## CHAPTER 355

HOUSE BILL NO. 1442  
(Giffey)

FURNISHING TIRE SIZE ON TRUCK  
REGISTRATION APPLICATION

AN ACT to repeal section 39-04-03 of the North Dakota Century Code, relating to furnishing of tire size on application for registration of trucks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 39-04-03 of the North Dakota Century Code is hereby repealed.

Approved March 18, 1971

## CHAPTER 356

SENATE BILL NO. 2326  
(Forkner, Page)

GROUNDS FOR REFUSAL TO  
REGISTER MOTOR VEHICLE

AN ACT to amend and reenact section 39-04-05 of the North Dakota Century Code relating to motor vehicle registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-05. GROUNDS FOR REFUSING REGISTRATION OR CERTIFICATE OF TITLE.) The department shall refuse registration or any transfer of registration upon any of the following grounds:

1. That the application contains any false or fraudulent statement or that the applicant has failed to furnish required information or reasonable additional information requested by the department or that the applicant is not entitled to the issuance of a certificate of title or registration of the vehicle under this chapter;
2. That the vehicle is mechanically unfit or unsafe to be operated or moved upon the highways;
3. That the department has reasonable ground to believe that the vehicle is a stolen or embezzled vehicle or that the granting of registration would constitute a fraud against the rightful owner or other person having valid lien upon such vehicle;
4. That the registration of the vehicle stands suspended or revoked for any reason as provided in the motor vehicle laws of this State; or
5. That the required fee has not been paid; or
6. When any sales tax or motor vehicle excise tax, properly due, has not been paid.

Approved March 11, 1971

## CHAPTER 357

HOUSE BILL NO. 1555  
(Boustead)

## LICENSE PLATE CONTENTS AND FEES

AN ACT to amend and reenact section 39-04-12, subsections 2, 3, 4, and 5 of section 39-04-19 of the 1969 Supplement to the North Dakota Century Code, and section 39-04-21 of the North Dakota Century Code, relating to contents of number plates and motor vehicle registration fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-04-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-12. CONTENTS OF NUMBER PLATES - SIZE OF LETTERS AND NUMERALS ON PLATES - REFLECTORIZED - TABS OR STICKERS - ADDITIONAL FEE.) Number plates shall be of metal or other suitable material bearing the name of the state, either in full or by abbreviation, the number of the year, the slogan "Peace Garden State" and a distinctive number for assignment to each vehicle. The distinctive number may be in figures or a combination of figures and letters and shall be of a size clearly distinguishable by law enforcement officers and individuals generally. To reduce high-way accidents at night all such number plates shall be legible for a minimum distance of one hundred feet to an approaching motorist by day or night with lawful headlight beams and without other illumination. Each standard six inch by twelve inch finished numeral plate except trailer plates and dealer's plates shall be treated with a reflectORIZED material according to the specifications prescribed by the registrar. The registrar shall furnish such number plates for a four-year period commencing January 1, 1958. In any year during which number plates are not furnished the registrar shall furnish for each annual registration a year plate, tab, or sticker to designate the year of registration. This plate, tab, or sticker shall show the calendar year for which issued, and is valid only for that year. It shall be unlawful for any person to transfer to another vehicle the number plate, tab, or sticker during the period or calendar year for which issued.

The motor vehicle registrar may, in his discretion, provide special plates marked with initials, letters, or combination of numerals and letters at the request of the registrant, upon application therefor and upon payment of an additional fee of one hundred dollars. In the event of sale or transfer of the vehicle,

the special plates shall be surrendered and upon application, a regular license plate shall be issued without additional cost.

SECTION 2. AMENDMENT.) Subsections 2, 3, 4, and 5 of section 39-04-19 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- 2. Motor vehicles required to be registered in this state shall be furnished license plates upon the payment of the following annual fees; however, if a motor vehicle first becomes subject to registration other than at the beginning of the registration period such fees shall be prorated on a monthly basis. The minimum fee charged hereunder shall be three dollars:
  - a. Passenger motor vehicles including buses for hire, hearses, and ambulances:

YEARS REGISTERED

Gross Weight	1st,2nd,and 3rd Years	4th,5th,and 6th Years	7th,8th,and 9th Years	10th and Subsequent Years
1999 or less	\$ 27.00	\$ 21.00	\$ 16.00	\$ 11.00
2000 - 2399	29.00	23.00	17.00	12.00
2400 - 2799	31.00	25.00	19.00	13.00
2800 - 3199	33.00	26.00	20.00	14.00
3200 - 3599	37.00	29.00	22.00	15.00
3600 - 3999	41.00	33.00	25.00	17.00
4000 - 4499	51.00	41.00	31.00	21.00
4500 - 4999	67.00	53.00	40.00	27.00
5000 - 5999	95.00	76.00	57.00	38.00
6000 - 6999	125.00	100.00	75.00	50.00
7000 - 7999	155.00	124.00	93.00	62.00
8000 - 8999	185.00	148.00	111.00	74.00
9000 - and over	215.00	172.00	129.00	86.00

In addition to the fees required in this subsection and section 49-18-32, all motor buses used for the transportation of persons for hire over the highways of this state, which have a seating capacity of more than seven passengers shall pay an annual additional license fee of eight dollars and fifty cents for each passenger capacity in excess of seven. The registrar shall design a distinctive number plate for such vehicles. Motor passenger buses operating exclusively within the corporate limits of any village or city shall not be required to pay this fee.

- b. School buses and trucks or combination trucks and trailers, including commercial and noncommercial trucks, except those trucks or combinations of trucks and trailers which qualify for registration under subsection 5 of this section:

Gross Weights	YEARS REGISTERED			
	1st,2nd,and 3rd Years	4th and 5th Years	6th and 7th Years	8th and Subsequent Years
0- 4,000	\$ 19.00	\$ 15.00	\$ 11.00	\$ 11.00
4,001- 6,000	24.00	19.00	15.00	11.00
6,001- 8,000	29.00	23.00	18.00	11.00
8,001-10,000	34.00	28.00	21.00	12.00
10,001-12,000	40.00	32.00	24.00	14.00
12,001-14,000	45.00	36.00	27.00	16.00
14,001-16,000	50.00	40.00	30.00	18.00
16,001-18,000	55.00	44.00	33.00	20.00
18,001-20,000	61.00	49.00	37.00	22.00
20,001-22,000	66.00	53.00	40.00	23.00
22,001-24,000	71.00	57.00	43.00	25.00

  

Gross Weights	YEARS REGISTERED		
	1st,2nd,3rd and 4th Years	5th,6th,7th,8th and 9th Years	10th and Subsequent Years
24,001-26,000	\$ 156.00	\$ 125.00	\$ 109.00
26,001-28,000	191.00	153.00	134.00
28,001-30,000	226.00	181.00	158.00
30,001-32,000	261.00	209.00	183.00
32,001-34,000	296.00	237.00	207.00
34,001-36,000	331.00	265.00	232.00
36,001-38,000	366.00	293.00	256.00
38,001-40,000	401.00	321.00	281.00
40,001-42,000	436.00	349.00	305.00
42,001-44,000	471.00	377.00	330.00
44,001,46,000	506.00	405.00	354.00
46,001-48,000	541.00	433.00	379.00
48,001-50,000	576.00	461.00	403.00
50,001-52,000	611.00	489.00	428.00
52,001-54,000	646.00	517.00	452.00
54,001-56,000	681.00	545.00	477.00
56,001-58,000	716.00	573.00	501.00
58,001-60,000	751.00	601.00	526.00
60,001-62,000	786.00	629.00	550.00
62,001-64,000	821.00	657.00	575.00
64,001-66,000	856.00	685.00	599.00
66,001-68,000	891.00	713.00	624.00
68,001-70,000	926.00	741.00	648.00
70,001-72,000	961.00	769.00	673.00
72,001-73,280	996.00	797.00	697.00

c. Motorcycles:

- (1) Without side car, five dollars per motorcycle
- (2) With side car, eight dollars per unit

d. A house car shall be subject to registration at the corresponding rate prescribed for trucks under

section 39-04-19, and the registrar shall issue distinctive plates for each house car registered.

3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 663 of the 79th Congress of the United States as codified into Section 1901 of title 38 of the United States Code shall be exempt from the payment of state sales or use tax and, if paid, such veterans shall be entitled to a refund. This exemption shall also apply to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds gross weight subsequently purchased or acquired by such a disabled veteran, provided that it shall be allowed only with respect to one such motor vehicle owned by such a disabled veteran at any one time.
4. The fee for a trailer identification plate for all privately owned trailers shall be two dollars; for all trailers which are offered for lease or rent to the public, five dollars; and for all commercial trailers, ten dollars.
5. Trucks or combinations of trucks and trailers weighing from 24,001 to 73,280 pounds which are used as farm vehicles only, shall be entitled to registration pursuant to the following fee schedule and the provisions of this subsection. Farm vehicles shall be considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing from 24,001 to 73,280 pounds owned by a bona fide resident farmer who uses such vehicles exclusively for transporting his own property or other property on a farm work exchange basis with other farmers between farms and the usual local trading places but not in connection with any commercial retail or wholesale business being conducted from such farms, nor otherwise for hire.

Gross Weights	1st,2nd,and 3rd Years	4th and 5th Years	6th and 7th Years	8th and Subsequent Years
0- 4,000	\$ 19.00	\$ 15.00	\$ 11.00	\$ 11.00
4,001- 6,000	24.00	19.00	15.00	11.00
6,001- 8,000	29.00	23.00	18.00	11.00
8,001-10,000	34.00	28.00	21.00	12.00
10,001-12,000	40.00	32.00	24.00	14.00
12,001-14,000	45.00	36.00	27.00	16.00
14,001-16,000	50.00	40.00	30.00	18.00
16,001-18,000	55.00	44.00	33.00	20.00
18,001-20,000	61.00	49.00	37.00	22.00
20,001-22,000	66.00	53.00	40.00	23.00
22,001-24,000	71.00	57.00	43.00	25.00
24,001,26,000	76.00	61.00	46.00	27.00
26,001-28,000	86.00	69.00	52.00	31.00
28,001-30,000	96.00	77.00	58.00	35.00

Gross Weights	1st, 2nd, and 3rd Years	4th and 5th Years	6th and 7th Years	8th and Subsequent Years
30,001-32,000	106.00	85.00	64.00	39.00
32,001-34,000	116.00	93.00	70.00	43.00
34,001-36,000	126.00	101.00	76.00	47.00
36,001-38,000	136.00	109.00	82.00	51.00
38,001-40,000	146.00	117.00	88.00	55.00
40,001-42,000	156.00	125.00	94.00	59.00
42,001-44,000	166.00	133.00	100.00	63.00
44,001-46,000	176.00	141.00	106.00	67.00
46,001-48,000	186.00	149.00	112.00	71.00
48,001-50,000	196.00	157.00	118.00	75.00
50,001-52,000	206.00	165.00	124.00	79.00
52,001-54,000	216.00	173.00	130.00	83.00
54,001-56,000	226.00	181.00	136.00	87.00
56,001-58,000	236.00	189.00	142.00	91.00

Gross Weights	1st, 2nd, 3rd and 4th Years	5th, 6th, 7th, 8th and 9th Years	10th and Subsequent Years
58,001-60,000	\$ 751.00	\$ 601.00	\$ 526.00
60,001-62,000	786.00	629.00	550.00
62,001-64,000	821.00	657.00	575.00
64,001-66,000	856.00	685.00	599.00
66,001-68,000	891.00	713.00	624.00
68,001-70,000	926.00	741.00	648.00
70,001-72,000	961.00	769.00	673.00
72,001-73,280	996.00	797.00	697.00

SECTION 3. AMENDMENT.) Section 39-04-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-21. FEES FOR MOTOR VEHICLES FIRST REGISTERED IN STATE.) When a motor vehicle first becomes subject to registration during the calendar year, the registration fee shall be for the remainder of the year prorated on a monthly basis, one-twelfth of the annual registration fee for each calendar month or fraction thereof. Penny adjustments shall be carried to the next even dollar. Temporary registrations shall be issued in such manner as is prescribed by the motor vehicle registrar.

Approved March 29, 1971

## CHAPTER 358

HOUSE BILL NO. 1435  
(Boustead, Boyum)

DUPLICATE LICENSE OR  
REGISTRATION CARD

AN ACT to amend and reenact section 39-04-13 of the 1969 supplement to the North Dakota Century Code, relating to number plates, tabs, sticker or registration card for motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-04-13 of the 1969 supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-13. DUPLICATES TO BE OBTAINED OF NUMBER PLATE, TAB, STICKER, OR REGISTRATION CARD IF LOST, MUTILATED, OR ILLEGIBLE - FEE.) If any number plate, tab, sticker, or registration card issued under the provisions of this chapter shall be lost, mutilated, or shall become illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information of such fact satisfactory to the department and upon payment of the cost of issuing the duplicate item, not to exceed the sum of three dollars for each duplicate number plate, tab, sticker, or registration card issued.

Approved March 18, 1971

## CHAPTER 359

SENATE BILL NO. 2327  
(Forkner, Page)

PENALTIES FOR LATE  
MOTOR VEHICLE REGISTRATION

AN ACT to amend and reenact section 39-04-16 of the North Dakota Century Code, relating to penalties for late registration of motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-04-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-16. PENALTY FOR DELINQUENT REGISTRATION FEES - EXCEPTION.) A penalty of one dollar for the first fifteen days, or fraction thereof, of the delinquency, and two dollars for every thirty days or fraction thereof, not to exceed one hundred and fifty days. If the registrar is satisfied that a vehicle is not owned by a dealer and that it has not been operated on the highways during one or more years previous to the application for reregistration, no penalty fee shall be charged.

Approved March 11, 1971

## CHAPTER 360

SENATE BILL NO. 2328  
(Forkner, Page)

NOTARY CERTIFICATE AS EVIDENCE OF  
COMPLIANCE WITH REGISTRATION REQUIREMENT

AN ACT to amend and reenact section 39-04-17 of the 1969 Supplement to the North Dakota Century Code, relating to notary certificates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-04-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-17. CERTIFICATE OF NOTARY SHOWING COMPLIANCE WITH REGISTRATION IS PRIMA FACIE EVIDENCE.) The possession of a certificate made out by the notary public who took the acknowledgment of the application when the vehicle was first registered or required to be registered under the laws of this state, where such certificate shows the date of application, the make and model of the motor vehicle, the manufacturer's number of the motor vehicle which such application described, and further shows that such notary public personally mailed the application with the remittance fee, shall be prima facie evidence of compliance with motor vehicle law with reference to the motor vehicle therein described, for a period of thirty days from the date of such application. Any violation of the requirements of this section shall constitute grounds for the suspension of the dealer's license; however, no such suspension shall be ordered upon a first violation. Intent shall not be a requisite for showing the violation.

Approved March 11, 1971

## CHAPTER 361

HOUSE BILL NO. 1553  
(Giffey)

REGISTRATION OF VEHICLES  
USED IN COMMERCIAL FREIGHTING

AN ACT to amend and reenact subsection 1 of section 39-04-18 of the 1969 Supplement to the North Dakota Century Code, relating to registration requirements of motor vehicles and to prescribe legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 39-04-18 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as provided in this section, every motor vehicle as defined in subsection 32 of section 39-01-01 and vehicles used in commercial freighting, as defined in subsection 6 of section 39-01-01, operated or intended to be operated upon any highway, road, or street in this state shall be registered annually with the motor vehicle registrar. Any vehicle being operated on the highways, roads, or streets of this state shall display such license plates as are furnished by the motor vehicle registrar upon the payment of the fees prescribed in this chapter.

Upon satisfactory proof to the registrar that a motor vehicle owned by a resident of this state was not used upon any of the highways of this state in any one or more years, such motor vehicle may be registered upon payment of the registration fee for the current year, and upon further payment of five dollars for each calendar year for which the vehicle was not registered and no license fee was paid therefor.

Any resident of the state of North Dakota, serving in the armed forces of the United States for a period of time greater than one year, may relicense any motor vehicle owned by him without paying any fee for the intervening years when such vehicle was not licensed, nor any penalties therefor, providing such veteran shows by suitable affidavit that such vehicle was not in use during any year in which it was not licensed. Such vehicle shall be licensed for the license fee applicable to the month of the year in which application for license is made.

SECTION 2. LEGISLATIVE INTENT.) It is the intent of the legislature that in the administration of this Act, the motor vehicle department will issue titles to any trailer which was purchased prior to July 1, 1965, and which will be required to be titled by this Act, without collecting motor vehicle excise tax.

Approved March 22, 1971

## CHAPTER 362

HOUSE BILL NO. 1434  
(Boustead, Boyum)

REGISTRATION CREDIT FOR  
DESTROYED VEHICLE

AN ACT to amend and reenact section 39-04-44 of the 1969 Supplement to the North Dakota Century Code relating to registration credits on destroyed vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-04-44 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-44. CREDITS ON DESTROYED VEHICLE.) Any owner of a motor vehicle licensed or taxed in this state, if such vehicle is permanently and involuntarily destroyed, may during the same year or following year claim a refund in an amount equal to the unused portion of the fee or tax paid upon the vehicle so destroyed, computed pro rata by the month, one twelfth of the annual fee or tax paid for each month of the year remaining after the month in which such vehicle was so destroyed. Any person or organization who completely destroys or completely dismantles a car or truck so as to cause that car or truck to lose its identity shall forward the title for this vehicle to the motor vehicle registrar within 10 days. A certificate of title of the vehicle shall not again be issued except upon application containing the information the department requires, accompanied by a certificate of inspection in the form and content specified by the registrar.

Approved March 27, 1971

## CHAPTER 363

HOUSE BILL NO. 1437  
(Boustead, Boyum)

## MOTOR VEHICLE TON FEE TAGS

AN ACT to amend and reenact section 39-04A-03 of the North Dakota Century Code relating to motor vehicle ton fee tags.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-04A-03 is hereby amended and reenacted to read as follows:

39-04A-03. DISTINCTIVE TAGS - ISSUANCE.) The motor vehicle registrar shall issue distinctive tags which shall be numbered consecutively. The tags issued pursuant to this chapter shall be transferable:

1. By the owner to motor vehicles which replace motor vehicles of the same registered gross weight;
2. By an owner to another owner subject to the provisions of this chapter.

Said tag shall be displayed upon the vehicle registered in the same manner as prescribed by section 39-04-11.

Approved March 18, 1971

CHAPTER 364

SENATE BILL NO. 2330  
(Forkner, Page)

DELINQUENT REGISTRATION PENALTIES

AN ACT to amend and reenact section 39-04A-05 of the North Dakota Century Code, relating to delinquent registration fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-04A-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04A-05. DELINQUENT FEES - PENALTY.) Fees shall be delinquent on February first after which date, the provisions of section 39-04-16 shall apply, provided the total penalty shall not exceed ten dollars.

Approved March 11, 1971

## CHAPTER 365

HOUSE BILL NO. 1365  
(Hensrud)

MOTOR VEHICLE  
REGISTRATION INDICES

AN ACT to amend and reenact section 39-05-08 of the North Dakota Century Code, relating to indexes on motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-08. APPLICATION TO BE CHECKED AGAINST CERTAIN INDEXES.) The department shall maintain a vehicle identification number index of registered motor vehicles, and upon receiving an application for a certificate of title it shall check first the vehicle identification number shown in the application against such index.

Approved February 26, 1971

## CHAPTER 366

HOUSE BILL NO. 1444  
(Giffey)

## ISSUANCE OF CERTIFICATE OF TITLE

AN ACT to amend and reenact section 39-05-09 of the 1969 supplement to the North Dakota Century Code, relating to the issuance of a title to a motor vehicle.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-05-09, of the 1969 supplement to the North Dakota Century Code, is hereby amended and reenacted to read as follows:

39-05-09. ISSUANCE, CONTENTS, DELIVERY, AND TERM OF CERTIFICATE.) After checking the application for a certificate as provided in section 39-05-08, the department, if it is satisfied that the applicant is the person entitled to the possession of the vehicle, shall issue in the name of the owner a certificate of title bearing a serial number, the signature of the registrar, and the seal of his office. Such certificate shall set forth further the date issued, a description of the vehicle as determined by the department, a statement of the owner's title and of all liens or encumbrances upon the vehicle therein described and whether possession is held by the legal owner. Upon the reverse side of such certificate shall be contained forms for the assignment of title or interest and warranty thereof by the owner with a space for the notation of liens and encumbrances upon such vehicle at the time of a transfer. The amount of any lien or encumbrance upon the vehicle need not be shown anywhere on the certificate of title, only the fact of such lien or encumbrance, and the identity of the lien holder or encumbrancer. The department shall deliver the certificate of title to the owner. Said certificate shall be good for the life of the vehicle as long as the vehicle is owned or held by the original holder of such certificate.

Approved March 18, 1971

## CHAPTER 367

HOUSE BILL NO. 1439  
(Boustead, Boyum)

ISSUING DUPLICATE  
CERTIFICATE OF TITLE

AN ACT to provide for the issuance of a duplicate certificate of title to a motor vehicle.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. LOST, STOLEN OR MUTILATED CERTIFICATE OF TITLE.) If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the first lienholder or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the department. The duplicate certificate of title shall contain the legend "This is a duplicate certificate and may be subject to the rights of a person under the original certificate." It shall be mailed to the first lienholder named in it or, if none, to the owner.

A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the department.

Approved March 18, 1971

## CHAPTER 368

HOUSE BILL NO. 1433  
(Boustead, Boyum)

SUSPENDING OR REVOKING  
CERTIFICATE OF TITLE

AN ACT to provide for the suspension or revocation of certificates of title to motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. SUSPENSION OR REVOCATION OF CERTIFICATES OF TITLE.) The department shall suspend or revoke a certificate of title, upon notice and reasonable opportunity to be heard in accordance with chapter 28-32 of the North Dakota Century Code, when authorized by any other provision of law or if it finds:

1. The certificate of title was fraudulently procured or erroneously issued, or
2. The vehicle has been scrapped, dismantled or destroyed.
3. For purposes of this section, the following shall apply:
  - a. Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.
  - b. When the department suspends or revokes a certificate of title, the owner or person in possession of it shall immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the department.
  - c. The department may seize and impound any certificate of title which has been suspended or revoked.

Approved March 27, 1971

## CHAPTER 369

HOUSE BILL NO. 1556  
(Hensrud)

MAINTAINING FILE OF SURRENDERED  
CERTIFICATES OF TITLE

AN ACT to amend and reenact section 39-05-22 of the North Dakota Century Code, relating to surrendered certificates of title to a motor vehicle; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-05-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-22. DEPARTMENT TO MAINTAIN FILE OF SURRENDERED CERTIFICATES OF TITLE - PURPOSE.) The department shall retain and appropriately file every surrendered certificate of title, such file to be maintained to permit the tracing of title of vehicles designated therein.

Such file of surrendered certificates of title shall be maintained for a period of five years, or for such further time that the registrar may determine.

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

Approved March 18, 1971

## CHAPTER 370

SENATE BILL NO. 2402  
(Freed, Nething)

## REVOCATION OF DRIVERS' LICENSES

AN ACT to amend and reenact subsection 4 of section 39-06-40.1 of the 1969 Supplement to the North Dakota Century Code, relating to the reproduction of driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 39-06-40.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended to read as follows:

4. The commissioner upon receiving a record of the conviction or other satisfactory evidence of the violation of this section shall revoke forthwith the operator's or driver's license or driving privileges of such person. The period of revocation shall be determined at the discretion of the commissioner.

Approved March 4, 1971

## CHAPTER 371

SENATE BILL NO. 2387  
(Sanstead)

PENALTIES FOR DRIVING  
WHILE INTOXICATED

AN ACT to amend and reenact subsection 2 of section 39-08-01 of the North Dakota Century Code, relating to second or subsequent convictions for driving while under the influence of intoxicating liquor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 39-08-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Upon conviction, any person violating any provision of this section shall be punished by a fine of not less than one hundred dollars nor more than two hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Upon a second conviction for a violation occurring within eighteen months of a previous violation resulting in a prior conviction, such person shall be punished by imprisonment in the county jail for not less than three days nor more than ninety days, and in the discretion of the court, a fine of not less than one hundred fifty dollars nor more than five hundred dollars. In the event the complaint does not include the allegation that if convicted, such conviction would be the second such conviction as provided in this section, the court may take judicial notice of such fact if indicated by the records of the state highway department or make such finding based on other evidence. Under no circumstances shall the punishment prescribed in this section be subject to suspension or a deferred imposition of sentence.

Approved March 29, 1971

## CHAPTER 372

HOUSE BILL NO. 1291  
(Moore)

RENDERING CARE AT  
SCENE OF ACCIDENT

AN ACT to create and enact section 39-08-04.1 of the North Dakota Century Code, providing for immunity from liability for the good faith rendering of emergency care at the scene of an accident.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 39-08-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-08-04.1. EMERGENCY CARE AT SCENE OF ACCIDENT - LIABILITY.) Any person, except a physician acting pursuant to sections 43-17-37 and 43-17-38 of the North Dakota Century Code, who, in good faith, shall administer emergency care at or near the scene of an accident or disaster to the victims of the accident or disaster shall not be held liable for any damages resulting from the rendering of that care.

The provisions of this section shall not be construed to relieve the person rendering emergency care from liability for injury or death to the victim proximately resulting from the intoxication, willful misconduct, or gross negligence of the person rendering the care. Further, liability is not relieved if the emergency care was rendered for remuneration or with the expectation of remuneration.

Approved March 27, 1971

## CHAPTER 373

HOUSE BILL NO. 1122  
(Kingsbury, Berg)

## REPORTING ACCIDENTS

AN ACT to amend and reenact section 39-08-09 of the North Dakota Century Code, relating to the extent of automobile damages required to be considered a reportable accident.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-08-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-09. IMMEDIATE NOTICE AND WRITTEN REPORT OF ACCIDENT.) The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of two hundred dollars or more shall immediately give notice of such accident to the local police department if such accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the state highway patrol. Within five days after such accident, the driver shall also forward a written report of the accident to the highway commissioner.

The highway commissioner may suspend the license or permit to drive and any nonresident operating privileges of any person failing to report an accident as provided in sections 39-08-06 through 39-08-09 until such report has been filed, and the commissioner may extend such suspension not to exceed thirty days.

Approved March 12, 1971

## CHAPTER 374

HOUSE BILL NO. 1478  
(Giffey, Grant)

## OPERATION AND EQUIPMENT OF VEHICLES

AN ACT to amend and reenact section 39-09-01, subsection 1 of section 39-10-11, and subsection 1 of section 39-21-36 of the North Dakota Century Code, relating to the care required in operating a vehicle, to the overtaking of a vehicle on the left, and to the equipment of horns and warning devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-09-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-01. CARE REQUIRED IN OPERATING VEHICLE.) Any person driving a vehicle upon a highway shall drive the same in a careful and prudent manner, having due regard to the traffic, surface and width of the highway and other conditions then existing, and shall give such warnings as are reasonably necessary for safe operation under the circumstances. No person shall drive any vehicle upon a highway in a manner to endanger the life, limb, or property of any person.

SECTION 2. AMENDMENT.) Subsection 1 of section 39-10-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. Whenever reasonably necessary for safe operation under the circumstances, the driver of an overtaking vehicle shall give audible warning with his horn or other warning device before passing or attempting to pass a vehicle proceeding in the same direction; and

SECTION 3. AMENDMENT.) Subsection 1 of section 39-21-36 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. While being operated upon a highway, every motor vehicle shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. Whenever reasonably necessary for safe operation, the driver of a motor vehicle upon a highway shall give audible warning with his horn, but shall not otherwise use his horn while upon a highway.

Approved March 24, 1971

## CHAPTER 375

HOUSE BILL NO. 1275

(Boyum)

## OVERWEIGHT AND OVERSIZE VEHICLES

AN ACT to amend and reenact sections 39-12-02 and 39-12-06 of the North Dakota Century Code, relating to extended loads on motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-12-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-02. SPECIAL PERMITS FOR VEHICLES OF EXCESSIVE SIZE AND WEIGHT ISSUED - CONTENTS - FEES.) The commissioner and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified by this chapter, upon a highway under the jurisdiction of the body granting the permit. Every such permit may designate the route to be traversed, and may contain any other restrictions or conditions deemed necessary by the body granting such permit. Every such permit shall be carried in the vehicle to which it refers and shall be opened to inspection by any peace officer. It shall be a violation of the provisions of this chapter for any person to violate any of the terms or conditions of such special permit. All permits for the movement of excessive size and weight on state highways shall be single trips only.

An appropriate charge shall be made for each permit and all funds collected hereunder by the state highway commissioner shall be deposited in the state highway fund and are hereby appropriated for use in the construction and maintenance of highways and operating expenses of the highway department. Official or publicly owned vehicles shall not be required to pay charges for permits.

SECTION 2. AMENDMENT.) Section 39-12-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-06. LIMITATIONS ON EXTENDING OF LOAD BEYOND SIDE OF MOTOR VEHICLE.) No motor vehicle carrying any load beyond the lines of the left fenders of such vehicle nor extending more than twelve inches beyond the line of the fenders on the right side of such vehicle shall be operated on the highways. The state highway department shall have authority to revoke permits when such holder violates or abuses the privilege or conditions of permit.

Approved March 18, 1971

## CHAPTER 376

SENATE BILL NO. 2176  
(Melland, Berube, Nasset, Roen)

TRUCK AND TRAILER  
LENGTH LIMITATION

AN ACT to amend and reenact subsection 6 of section 39-12-04 of the North Dakota Century Code, relating to width, height, and length limitations on vehicles - exceptions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 6 of section 39-12-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. A tractor-truck and semitrailer may draw a trailer or semitrailer converted to a trailer by use of a dolly and fifth wheel, and a motor vehicle may draw no more than three motor vehicles attached thereto by a triple saddle mount method, that is by mounting the front wheels of the drawn vehicle upon the bed of the drawing vehicle. No more than two vehicles shall be used in any other combination, provided that the total length of such combination shall not exceed sixty-five feet.

Approved March 12, 1971

## CHAPTER 377

SENATE BILL NO. 2218  
(Van Horn, Redlin, Jacobson)

## ABSTRACT OF DRIVER'S RECORD

AN ACT to amend and reenact section 39-16-03 of the North Dakota Century Code, relating to the fee charged for furnishing an abstract of a driver's record or accident report, and providing that a copy of each abstract requested also be sent to the driver.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-16-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-03. ABSTRACTS - FEE - NOT ADMISSIBLE IN EVIDENCE.) The commissioner upon request shall furnish any person a certified abstract of the operating record or any accident report filed by a law enforcement or investigating officer of any person subject to the provisions of this chapter. The opinion of the law enforcement or investigating officer, if included in the report, however, shall be confidential and not open to public inspection. If there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the commissioner shall so certify. Such abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. A fee of two dollars shall be paid for each such abstract of any operating record or copy of accident report and the commissioner shall send an additional copy of the abstract or accident report to the driver whose abstract or accident report was requested, accompanied by a statement identifying the person making the request, provided that no abstract or statement shall be sent to a driver where the request for his abstract was made by the federal bureau of investigation or the United States central intelligence agency, or their agents, or by any law enforcement agency of this state, or of its political subdivisions.

Approved March 27, 1971

## CHAPTER 378

HOUSE BILL NO. 1066  
(Dick, Kingsbury, Welder, White)  
(From Legislative Council Study)

SUSPENSION OF DRIVERS' LICENSES  
OR OPERATING PRIVILEGES

AN ACT to amend and reenact section 39-16-05 and subsection 3 of section 39-16-07 of the North Dakota Century Code, relating to suspension of drivers' licenses after the negligence or responsibility of drivers involved in accidents has been determined, and providing for filing of evidence of nonliability or confession of judgment with the commissioner, and for suspension of license in case of default.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-16-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-05. SUSPENSION OF LICENSE AND WHEN NOT APPLICABLE.) The commissioner, within sixty days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of one hundred dollars, shall suspend the license of each driver of each vehicle in any manner involved in such accident, and if such driver is a nonresident, the commissioner shall suspend the driver's privilege of operating a motor vehicle within this state unless such driver shall deposit security as provided in sections 39-16-09 and 39-16-10 in a sum which shall be sufficient in the judgment of the commissioner to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such driver; provided notice of such suspension shall be sent by the commissioner to such driver not less than ten days prior to the effective date of such suspension and shall state the amount required as security. However, if a driver either resident or nonresident involved in such accident purchases a policy of insurance with at least the amount of coverage required by this section and files proof, and satisfies financial responsibility requirements thereof with the commissioner, that driver shall be allowed to retain his license or privilege until such time as the driver has accepted responsibility for the accident or agreed to a settlement of claims arising from the accident or until a court of this state has determined that the driver was negligent or responsible for the accident in whole

or in part. If the driver is found negligent or responsible for the accident, in whole or in part, his license or privilege shall be suspended and shall not be returned until the driver complies with the provisions of this chapter. This section shall not apply under the conditions stated in section 39-16-06 or:

1. To a driver, if he is the owner of the motor vehicle involved in the accident and had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident, affording substantially the same coverage as is required for proof of financial responsibility under this chapter.
2. To a driver, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicle, affording substantially the same coverage as required for proof of financial responsibility under this chapter.
3. To a driver if the liability of such driver for damages resulting from such accident is, in the judgment of the commissioner, covered by any other form of liability insurance policy or bond or certificate of self-insurance under section 39-16-32.

No such policy or bond shall be effective under this section unless by an insurance carrier or surety company authorized to do business in this state, except that if such motor vehicle was not registered in the state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance carrier or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the commissioner to accept service, on its behalf, of notice or process in any action upon such policy or bond arising out of such accident; provided, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than ten thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property to a limit of not less than five thousand dollars because of injury to or destruction of property of others in any one accident. Upon receipt of notice of such accident, the insurance carrier or surety company which issued such policy or bond shall furnish for filing with the commissioner a written notice that such policy or bond was in effect at the time of such accident, or

the department may rely upon the accuracy of the information and the required report of an accident as to the existence of insurance or a bond unless and until the department has reason to believe that the information is erroneous.

SECTION 2. AMENDMENT.) Subsection 3 of section 39-16-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Evidence satisfactory to the commissioner has been filed with him of a release from liability, or a final adjudication of nonliability, or a confession of judgment, or a duly acknowledged written agreement, in accordance with subsection 3 of section 39-16-06; provided, in the event there shall be any default in the payment of any installment under any confession of judgment, then upon notice of such default, the commissioner shall forthwith suspend the license or nonresident's operating privilege of such persons defaulting which shall not be restored unless and until the entire amount provided for in said confession of judgment has been paid; and provided further, that in the event there shall be any default in the payment of any installment under any duly acknowledged written agreement, then, upon notice of such default, the commissioner shall forthwith suspend the license or nonresident's operating privilege of such person defaulting which shall not be restored unless and until such person deposits and thereafter maintains security as required under section 39-16-05 in such amount as the commissioner may then determine, or one year shall have elapsed following the date when such security was required and during such period no action upon such agreement has been instituted in a court in this state.

Approved March 16, 1971

## CHAPTER 379

HOUSE BILL NO. 1065  
(Dick, Kingsbury, Welder, White)  
(From Legislative Council Study)

LIMITING RECOVERY FROM  
UNSATISFIED JUDGMENT FUND

AN ACT to amend and reenact section 39-17-07 of the North Dakota Century Code, relating to the unsatisfied judgment fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-17-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-17-07. LIMITATION ON AMOUNT PAYABLE FROM FUND -  
NONASSIGNABLE.)

1. Recovery from the fund shall be limited to payment of the following, exclusive of costs:
  - a. Ten thousand dollars for bodily injury, including death, of one person in any one accident.
  - b. Twenty thousand dollars for bodily injury, including death, of two or more persons in any one accident.
2. The amount authorized to be paid shall be within the limits provided by this section, and shall be determined as follows:
  - a. If the judgment creditor has effected collection of a portion of the judgment from any source, except as provided for in subdivision b of subsection 2 of this section, the fund is authorized to pay him the difference between the amount collected and the amount of the judgment, or ten thousand dollars, whichever is smaller. Provided, if the judgment creditor or creditors have collected an amount equal to the limits payable from the fund from the insurance or nonexempt assets of the judgment debtor, then they are precluded from recovery from the fund.
  - b. If the judgment creditor has effected collection of a portion of the judgment from an uninsured

motorist insurance policy or payment from the workmen's compensation bureau, then the amount collected from these sources shall be subtracted from the judgment before the procedure outlined in subdivision a of subsection 2 of this section is followed.

The right of any person to recover from the unsatisfied judgment fund shall not be assignable and subrogation of such right shall not be allowed.

Approved March 27, 1971

## CHAPTER 380

HOUSE BILL NO. 1440  
(Boustead, Boyum)

LICENSING MOBILE HOMES  
AND BONDING OF DEALERS

AN ACT to amend and reenact sections 39-18-02 and 39-18-03 of the 1969 Supplement to the North Dakota Century Code, relating to mobile home dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-18-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-18-02. BOND REQUIRED.) Before the issuance of a mobile home dealer's license, as provided by law, the applicant for such license shall furnish a surety bond executed by the applicant as principal and executed by a surety company licensed and qualified to do business within the state of North Dakota, which shall be in the amount of ten thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer, if such license be issued to it or him, that such dealer will comply with all of the laws of the state of North Dakota pertaining to such business, and regulating or being applicable to the business of said dealer as a dealer in mobile homes, and indemnifying any person dealing or transacting business with such dealer in connection with any mobile home from any loss or damage occasioned by the failure of such dealer to comply with the provisions of the laws of the state of North Dakota, including, but not limited to, the furnishing of a proper and valid certificate of title to the vendee of a mobile home within ninety days of the sale of such mobile home, and to the vendee of a travel trailer as defined by section 57-55-01 within fifteen days of the sale of such travel trailer, and that such bond shall be filed with the registrar of motor vehicles prior to the issuance of the license herein provided for. Provided, however, that the aggregate liability of the surety to all such persons for all such losses or damages shall, in no event, exceed the amount of such bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings.

SECTION 2. AMENDMENT.) Section 39-18-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended

and reenacted to read as follows:

\*39-18-03. TITLING AND LICENSING OF MOBILE HOMES, HOUSE TRAILERS AND TRAVEL TRAILERS - LICENSE FEE IN LIEU OF PERSONAL PROPERTY TAX.) Every person other than a dealer who acquires a travel trailer, house trailer or mobile home shall within thirty days thereafter apply to the motor vehicle registrar for an official certificate of title to such vehicle in the manner and subject to the conditions prescribed in chapter 39-05. Except when transported by a driveway transporter duly registered and licensed under the laws of this state, no person shall haul a mobile home, house trailer or travel trailer upon the highways of the state of North Dakota unless the same shall first be registered with and titled by the motor vehicle department, a certificate of title has been issued, and it displays a number plate issued by and under such regulations as the registrar of motor vehicles may prescribe. The annual fee for such licensing shall be ten dollars for mobile homes and house trailers, and in accordance with the following schedule for travel trailers as defined by section 57-55-01:

1. Where the length is less than twelve feet, five dollars.
2. Where the length is twelve feet or more but less than fifteen feet, ten dollars.
3. Where the length is fifteen feet or more but less than nineteen feet, twenty dollars.
4. Where the length is nineteen feet or more but less than twenty-four feet, thirty dollars.
5. Where the length is twenty-four feet or more but less than twenty-nine feet, forty dollars.

If such mobile home, house trailer or travel trailer enters the state carrying the current number plate of another state, no number plate shall be required by the state of North Dakota for a period of thirty days.

The annual license fee provided for in this section shall be in lieu of all personal property taxes upon such trailers but shall not preclude the taxation of certain mobile homes pursuant to chapter 57-55.

If such mobile home, house trailer or travel trailer remains stationary or parked within the state of North Dakota for a period of one year, no license shall be required for that year; provided that nothing in this chapter shall permit the use of a dealer's tag on such mobile home, house trailer or travel trailer after the same has been sold by the dealer to whom such tag was issued.

\*NOTE: Section 39-18-03 was also amended by section 1 of Senate Bill No. 2458, chapter 381.

Approved March 27, 1971

## CHAPTER 381

SENATE BILL NO. 2458  
(Kautzmann)

LICENSING AND TITLING OF  
MOBILE HOMES AND TRAVEL TRAILERS

AN ACT to amend and reenact section 39-18-03 of the North Dakota Century Code, relating to license fees for travel trailers, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-18-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 39-18-03. TITLING AND LICENSING OF MOBILE HOMES, HOUSE TRAILERS AND TRAVEL TRAILERS - LICENSE FEE.) Every person other than a dealer who acquires a travel trailer, house trailer or mobile home shall within ninety days thereafter apply to the motor vehicle registrar for an official certificate of title to such vehicle in the manner and subject to the conditions prescribed in chapter 39-05. Except when transported by a drive-away transporter duly registered and licensed under the laws of this state, no person shall haul a mobile home, house trailer or travel trailer upon the highways of the state of North Dakota unless the same shall first be registered with and titled by the motor vehicle department, a certificate of title has been issued, and it displays a number plate issued by and under such regulations as the registrar of motor vehicles may prescribe. The annual fee for such licensing shall be ten dollars for mobile homes and house trailers, and in accordance with the following schedule for travel trailers as defined by section 57-55-01:

1. Where the length is less than thirteen feet, five dollars.
2. Where the length is thirteen feet or more but less than fifteen feet, ten dollars.
3. Where the length is fifteen feet or more but less than twenty feet, fifteen dollars.
4. Where the length is twenty feet or more but less than twenty-four feet, twenty dollars.
5. Where the length is twenty-four feet or more, thirty-five dollars.

\*NOTE: Section 39-18-03 was also amended by section 2 of House Bill No. 1440, chapter 380.

If such mobile home, house trailer, or travel trailer enters the state carrying the current number plate of another state, no number plate shall be required by the state of North Dakota for a period of thirty days.

The annual license fee provided for in this section shall not preclude the taxation of certain mobile homes pursuant to chapter 57-55.

If such mobile home, house trailer, or travel trailer remains stationary or parked within the state of North Dakota for a period of one year, no license shall be required for that year; provided that nothing in this chapter shall permit the use of a dealer's tag on such mobile home, house trailer or travel trailer after the same has been sold by the dealer to whom such tag was issued.

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

Approved March 29, 1971

## CHAPTER 382

SENATE BILL NO. 2088  
(Lips, Morgan, Sanstead)  
(From Legislative Council Study)

## RECIPROCITY COMMISSION

AN ACT to create and enact subsection 12 of section 57-01-02 of the North Dakota Century Code; to amend and reenact sections 39-19-01 and 39-19-03 of the North Dakota Century Code; and to repeal section 39-19-02 of the North Dakota Century Code, relating to the reciprocity commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-19-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-19-01. HIGHWAY COMMISSIONER - RECIPROCITY POWERS.) The highway commissioner shall have the power to execute agreements, arrangements, or declarations involving the reciprocal use of the highways of this state by vehicles excepted in part or in full from registration requirements or mile tax payments in lieu thereof, or involving reciprocity between this state and any other state on matters relating to drivers' licensing, financial responsibility, traffic law enforcement, vehicle sizes and weights, and vehicle inspection.

SECTION 2. AMENDMENT.) Section 39-19-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-19-03. RECIPROCAL USE OF HIGHWAYS.) No person shall operate a vehicle upon the highways of this state unless the driver is licensed to operate a motor vehicle in this state or under a reciprocal agreement, arrangement, or declaration, has paid the mile tax in lieu of registration, or has complied with the requirements of a reciprocity agreement, arrangement, or declaration executed as provided in section 39-19-01.

SECTION 3.) Subsection 12 of section 57-01-02 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

12. Shall have the power to execute reciprocal agreements with the appropriate officials of any other state

under which he may waive all or any part of the requirements imposed by the laws or statutes of this state upon those who use or consume in the state of North Dakota, gasoline, other motor vehicle fuel or special fuel upon which the tax has been paid to such other state, provided that the officials of such other state grant the equivalent privileges with respect to gasoline, other motor vehicle fuel or special fuels used in such other state upon which the tax has been paid to the state of North Dakota.

SECTION 4. REPEAL.) Section 39-19-02 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 383

HOUSE BILL NO. 1550  
(Atkinson, Peterson)

CHEMICAL SCREENING TEST  
OF DRIVER'S BREATH

AN ACT to authorize the use of a chemical screening test or tests of a driver's breath when the vehicle he is driving is involved in a collision which results in the death or personal injury requiring hospitalization of any person; to authorize a test of blood for screening test under certain circumstances; to limit the use of the results of screening tests to determine justification for a further test under the provisions of section 39-20-01; and to authorize the revocation of driver's license for a refusal to submit to a screening test.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. CHEMICAL SCREENING TESTS.) Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent to submit to a chemical screening test or tests of his breath for the purpose of estimating the alcohol content of his blood if he is involved in any collision which results in death or personal injury requiring hospitalization, upon the request of a law enforcement officer who has reason to believe that such person was under the influence of intoxicating liquor at the time of the collision. A person shall not be required to submit to a chemical screening test or tests of his breath while at a hospital as a patient if the medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient. In such cases, a blood specimen will be taken from the patient for the purpose of a chemical screening test. The chemical screening test or tests shall be performed according to methods and with devices approved by the state toxicologist. The results of such chemical screening test shall be used only for determining that a chemical test shall be given under the provisions of section 39-20-01, and a result which shows the presence of alcohol shall be additional grounds for a demand that such test be submitted to by such driver. If such person refuses to submit to such chemical screening test or tests, none shall be given; but such refusal shall be sufficient cause to revoke such person's license or permit to drive in the same manner as provided in section 39-20-04;

and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 shall be available. No provisions of this section shall supersede any provisions of chapter 39-20, nor shall any provision of chapter 39-20 be construed to supersede this section except as provided herein.

Approved March 30, 1971

## CHAPTER 384

SENATE BILL NO. 2403  
(Page, Strinden)

REPORTING USED MOTOR  
VEHICLE INVENTORIES

AN ACT to amend and reenact section 39-22-09 of the 1969 Supplement to the North Dakota Century Code, relating to the reporting of used motor vehicle inventories, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-22-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22-09. DEALER TO FILE LIST OF USED MOTOR VEHICLES WITH REGISTRAR - FEES PAID ON USED CARS BY DEALER - DELINQUENCY - PENALTY.)

1. On or before February fifth of each year, a licensed dealer shall file with the registrar a list and a description of all used motor vehicles, except passenger vehicles, on hand on February first of each year. Such motor vehicles need not be licensed until July first unless they are sold before that date. Each used motor vehicle on hand must be licensed at the full annual fee before July second; if not licensed before July second, such license fee shall become delinquent on July second and a penalty, as provided for in section 39-04-16, shall be added to such license fee.
2. On or before May fifth of each year, a licensed dealer shall file with the registrar a list and a description of all used passenger vehicles on hand May first of each year. Such used passenger vehicles need not be licensed until October first unless they are sold before that date. Each used passenger vehicle on hand must be licensed at the full annual fee before October first; if not licensed before October first, such license fee shall become delinquent on October second and the penalty provisions of Section 39-04-16 shall apply.
3. Any used motor vehicle taken in by a dealer after February first, or after May first in the case of

used passenger vehicles, of any year, which carry the current year's number plates of another state, if sold within the state, shall be required to pay a registration fee for the remainder of the calendar year prorated on a monthly basis with one-twelfth of the annual registration fee to be paid for each calendar month or fraction thereof of the remaining part of the year; penny adjustments shall be carried to the next quarter dollar.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 18, 1971

## CHAPTER 385

HOUSE BILL NO. 1514  
(Giffey, Raymond, Boustead)

REGISTRATION AND REGULATION  
OF SNOWMOBILES

AN ACT to amend and reenact sections 39-24-03 and 39-24-08, and subsections 3, 5, and 6 of section 39-24-09 of the North Dakota Century Code, relating to the regulation of snowmobiles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-24-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-03. REGISTRATION - APPLICATION - ISSUANCE - FEES - RENEWAL.) Application for registration shall be made to the registrar in such form as the registrar shall prescribe and furnish, and shall state the name and address of every owner of the snowmobile and be signed by at least one owner. A copy of such application shall serve as evidence of registration for a period of not more than thirty days from the date of application. Upon receipt of the application and the appropriate fee as hereinafter provided, such snowmobile shall be registered and a registration number and a certificate of registration assigned. Such registration number shall be:

1. At least two inches in height and of a reflectorized material; and
2. Securely affixed on each side of the forward half of the snowmobile in such position as to provide clear legibility for identification. Such certificate of registration shall include information regarding the manufacturer, model, year, and serial number, if such information is available; the address of the owner; and the address of the former owner or the dealer, as the case may be.

The fee for registration of each snowmobile shall be four dollars for a registration period of two years beginning July first of each biennium. The fee for initial registration of each snowmobile registered on and after July first of the second year of the biennium shall also be four dollars. The fee for a duplicate or transfer registration shall be one dollar. In addition,

in each year that fees are collected for the unsatisfied judgment fund there shall be assessed a fee of one dollar per year for each snowmobile registered, which shall be placed in the unsatisfied judgment fund.

Every owner of a snowmobile shall renew his registration in such manner as the registrar shall prescribe, upon payment of the same registration fees provided in this section.

Upon application for registration as prescribed in this section, any snowmobile dealer as defined in section 39-24-01 shall be issued registration numbers distinctively marked as dealer's registration numbers upon payment of the appropriate fee as prescribed in this section. Such dealer's registration numbers shall be used only on snowmobiles owned by the dealership.

SECTION 2. AMENDMENT.) Section 39-24-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-08. RULES AND REGULATIONS.) Pursuant to this Code and this chapter, rules and regulations for the regulation and use of snowmobiles shall be adopted as follows:

1. The registrar shall promulgate rules and regulations for the registration of snowmobiles and display of registration numbers.
2. The highway commissioner shall promulgate rules and regulations for regulating the use of snowmobiles on highways under his jurisdiction.
3. The director of state parks shall promulgate rules and regulations for regulating use of snowmobiles in state parks and other state-owned land described in section 55-08-03.
4. The governing bodies of political subdivisions shall promulgate rules and regulations for regulating use of snowmobiles in recreation and other appropriate areas under their jurisdiction. The governing bodies of cities may, by ordinance, regulate, restrict, and prohibit the use of snowmobiles when operated within the exclusive jurisdiction of cities.

SECTION 3. AMENDMENT.) Subsections 3, 5, and 6 of section 39-24-09 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. No snowmobile shall be operated unless it is equipped with at least one head lamp, one tail lamp, and brakes, all in working order, which conform to standards prescribed by rule of the highway commissioner pursuant to the authority vested in him by this Code and this chapter.

5. It shall be unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:
  - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
  - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
  - c. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
  - d. Without a lighted head lamp and tail lamp when required for safety.
  - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
  - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the snowmobile exhaust system.
  - g. Upon any private land where the private land is posted by the owner or tenant prohibiting trespassing. The name and address of the person posting the land and the date of posting shall appear on each sign in legible characters. The posted signs shall be readable from the outside of the land and shall be placed conspicuously at a distance of not more than eighty rods apart, provided further that as to land entirely enclosed by a fence or other enclosure, posting of such signs at or on all gates through such fence or enclosure, shall be construed to be a posting of all such enclosed lands.
6. It shall be unlawful for any person to operate a snowmobile pursuant to chapter 39-24 of the North Dakota Century Code without having in his possession a valid driver's license or permit.

Approved March 29, 1971

# MUNICIPAL GOVERNMENT

## CHAPTER 386

HOUSE BILL NO. 1473  
(Dornacker)

### PUBLICATION OF LEGAL NOTICES

AN ACT to amend and reenact sections 40-01-09 and 40-01-11 of the North Dakota Century Code, relating to publication of legal notices in municipalities without a newspaper.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-01-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-09. OFFICIAL NEWSPAPER OF MUNICIPALITY.) The official newspaper as chosen by the electors of the county shall be the official newspaper of the municipality in which it is published, and such official notices and legal publications as the municipality is required to publish by law shall be published therein. In municipalities where the official newspaper is not published, the governing body of the municipality, annually by resolution at its first meeting in May, or as soon thereafter as practicable, shall designate a newspaper published in the municipality, or if there is not one published, then it shall designate a newspaper which is circulated in the municipality, as the official newspaper of the municipality, including park districts therein, for the publication of notices and legal publications, including legal notices and official statements of the school districts embracing or encompassed by the municipality.

SECTION 2. AMENDMENT.) Section 40-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-11. PUBLICATION BY A CITY OR PARK DISTRICT IN WHICH NO OFFICIAL NEWSPAPER IS PUBLISHED.) Whenever any ordinance, notice, or other instrument is required by law to be published in a city or park district in which no official newspaper is published, such publication may be made or such notice given by publication of such ordinance, notice, or other instrument in the official newspaper designated pursuant to section 40-01-09. In a county in which no newspaper is published, any notice required by law to be published may be published in a newspaper printed in an adjoining county and having a general circulation in said county.

Approved March 27, 1971

## CHAPTER 387

HOUSE BILL NO. 1280  
(Anderson)

PARTICIPATION IN FEDERAL  
PUBLIC WORKS PROJECTS

AN ACT to amend and reenact subsection 59 of section 40-05-01 of the North Dakota Century Code, relating to the powers of municipalities to participate with the federal government on public works projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 59 of section 40-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

59. PUBLIC WORKS PROJECT.) To accept aid from, cooperate and contract with, and to comply with and meet the requirements of any federal or state agency for the establishment, construction, and maintenance of public works, including dams and reservoirs for municipal water supply, for water conservation, for flood control, for the prevention of stream pollution, or for sewage disposal; and in furtherance thereof to acquire by purchase, lease, gift, or condemnation the necessary lands, rights-of-way, and easements for such projects, and to transfer and convey to the state or federal government, or any agency thereof, such lands, rights-of-way, and easements in consideration of the establishment and construction of, and the public benefits which will be derived from any such project. Cities shall also have the power to enter into an agreement with any such government, agency, or municipality within or without this state, to hold such government, agency, or municipality harmless from any and all liability or claim of liability arising from the establishment, construction, and maintenance of such works, and to indemnify such government, agency, or municipality for any such liability sustained by it and to pay all costs of defending against any such claim; and in furtherance thereof to acquire by purchase, lease, gift, or condemnation the necessary lands, rights-of-way, and easements for such projects, and to transfer and convey to such government, agency, or municipality, such lands, rights-of-way, and easements in consideration of

the establishment and construction of, and the public benefits which will be derived from any such project, or to pay the cost of the acquisition of such lands, rights-of-way, and easements by such government, agency, or municipality. All actions herein authorized may be taken by resolution duly adopted by the governing body of the municipality. Any and all actions and proceedings heretofore taken by any municipality which are within the authority granted by this subsection are hereby legalized and validated;

Approved March 16, 1971

## CHAPTER 388

HOUSE BILL NO. 1249  
(Bunker, Brekke)

## OVERHEAD PEDESTRIAN BRIDGES

AN ACT to amend and reenact subsection 8 of section 40-05-02 of the North Dakota Century Code, relating to the power of a municipality to construct and keep in repair overhead pedestrian bridges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 8 of section 40-05-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. BRIDGES, VIADUCTS, TUNNELS, OVERHEAD PEDESTRIAN BRIDGES. To construct and keep in repair bridges, viaducts, overhead pedestrian bridges, and tunnels, and to regulate the use thereof;

Approved March 4, 1971

## CHAPTER 389

SENATE BILL NO. 2290  
(Chesrown, Longmire)

## COMPENSATION OF ALDERMEN

AN ACT to amend and reenact section 40-08-07 of the North Dakota Century Code, relating to compensation of aldermen in council cities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-08-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-07. COMPENSATION OF ALDERMEN.) The aldermen shall receive such compensation for their services as shall be fixed by ordinance, but such compensation shall not exceed the following limitations based upon the population of the city according to the latest state or federal census:

1. In cities not exceeding one thousand in population, to each alderman not to exceed twenty dollars per month.
2. In cities over one thousand and not exceeding two thousand in population, to each alderman not to exceed twenty-five dollars per month.
3. In cities over two thousand and not exceeding four thousand in population, to each alderman not to exceed thirty-five dollars per month.
4. In cities over four thousand and not exceeding six thousand in population, to each alderman not to exceed fifty dollars per month.
5. In cities over six thousand and not exceeding eight thousand in population, to each alderman not to exceed sixty dollars per month.
6. In cities over eight thousand and not exceeding twelve thousand in population, to each alderman not to exceed seventy-five dollars per month.
7. In cities over twelve thousand and not exceeding thirty thousand in population, to each alderman not to exceed one hundred dollars per month.
8. In cities having a population of over thirty thousand, to each alderman not to exceed one hundred twenty-five dollars per month.

Approved March 19, 1971

## CHAPTER 390

SENATE BILL NO. 2335  
(Chesrown, Longmire)

## SALARIES OF CITY COMMISSIONERS

AN ACT to amend and reenact section 40-09-06 of the North Dakota Century Code, relating to salaries of city commissioners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-09-06. STYLE OF BOARD - OATH AND SALARY OF COMMISSIONERS.) The commissioners and president of the board collectively shall constitute and be known as the "board of city commissioners of the city . . .", and shall take an oath faithfully to perform the duties of their respective offices. The salaries of the city commissioners shall be fixed by ordinance subject to the following limitations based upon the population of the city according to the latest state or federal census:

1. In cities not exceeding one thousand in population, each commissioner may receive a monthly salary of not to exceed twenty dollars.
2. In cities over one thousand and not exceeding two thousand in population, each commissioner may receive a monthly salary of not to exceed twenty-five dollars.
3. In cities over two thousand and not exceeding four thousand in population, each commissioner may receive a monthly salary of not to exceed fifty dollars.
4. In cities over four thousand and not exceeding six thousand in population, each commissioner may receive a monthly salary of not to exceed seventy-five dollars.
5. In cities over six thousand and not exceeding eight thousand in population, each commissioner may receive a monthly salary of not to exceed one hundred twenty-five dollars.
6. In cities over eight thousand and not exceeding twelve thousand in population, each commissioner may receive a monthly salary of not to exceed two hundred dollars.

7. In cities over twelve thousand and not exceeding thirty thousand in population, each commissioner may receive a monthly salary of not to exceed three hundred dollars.
8. In cities over thirty thousand and not exceeding forty thousand in population, each commissioner may receive a monthly salary of not to exceed five hundred dollars.
9. In cities having a population of over forty thousand, each commissioner may receive a monthly salary of not to exceed six hundred dollars.

Approved March 12, 1971

## CHAPTER 391

HOUSE BILL NO. 1224  
(Brekke, Strinden)

## PRELIMINARY CITY BUDGET

AN ACT to amend and reenact subsection 2 of section 40-10-06, section 40-40-04 and subsection 2 of section 40-40-06 of the North Dakota Century Code, relating to the preparation and submission of a preliminary budget in city manager cities, the dates of preparation of a preliminary budget in all other municipalities and the date the governing body is to meet for the purpose of adopting the final budget and making the annual tax levy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 40-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. He shall prepare and submit to the governing body an annual preliminary budget as provided for under Chapter 40-40, and shall be responsible for the administration of the final budget, subject to the control of the governing body as to changes in the same;

SECTION 2. AMENDMENT.) Section 40-40-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-40-04. MUNICIPALITY TO PREPARE PRELIMINARY BUDGET STATEMENT - BLANKS TO BE FURNISHED.) The governing body of each municipality, annually between July first and July twenty-fifth, shall make, on suitable blanks prescribed by the state tax commissioner, an itemized statement known as the preliminary budget statement showing the amounts of money which, in the opinion of the governing body, will be required for the proper maintenance, expansion, or improvement of the municipality during the fiscal year, and giving such other information relating to the finances of the municipality as the tax commissioner may require.

SECTION 3. AMENDMENT.) Subsection 2 of section 40-40-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The governing body will meet on the first Wednesday in August at a time and place specified in the notice for the purpose of adopting the final budget and making the annual tax levy;

Approved March 27, 1971

## CHAPTER 392

SENATE BILL NO. 2161  
(Chesrown, Nething, Holand, Freed, Longmire)

## MUNICIPAL COURT JURORS' FEES

AN ACT to amend and reenact section 40-18-18 of the North Dakota Century Code relating to the fees of jurors in municipal court and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-18-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-18. FEE OF JUROR IN COURT OF MUNICIPAL JUDGE.) Each person summoned as a juror in any case in the court of a municipal judge shall be entitled to a fee of four dollars.

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

Approved March 4, 1971

## CHAPTER 393

SENATE BILL NO. 2313  
(Anderson, Sanstead)

## POWERS OF POLICE CHIEF

AN ACT to amend and reenact section 40-20-05 of the North Dakota Century Code, relating to the powers of a chief of police.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-20-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-20-05. CHIEF OF POLICE AND POLICE OFFICERS - POWERS AND DUTIES.) The chief of police shall perform such duties as shall be prescribed by the governing body for the preservation of the peace. The chief of police shall have the authority to administer oaths to police officers under his supervision. Within the city limits, and for a distance of one and one-half miles in all directions outside the city limits, the police officers and watchmen of the city shall perform the duties and exercise the powers of peace officers as defined and prescribed by the laws of this state. They shall serve and execute any warrant, writ, process, order, or notice issued to them by a police magistrate within the city in any civil or criminal action or proceeding for or on account of a violation of any city ordinance or in any action or proceeding in which the city is a party or is interested beneficially. The police, within the limits prescribed in this section, may serve and execute all writs and process issued by justices in civil actions. In addition to the duties set out in this section, the police shall perform such other duties as may be prescribed by ordinance or statute.

Approved March 12, 1971

## CHAPTER 394

HOUSE BILL NO. 1542  
(Hilleboe, White)

## ELECTIONS IN COMMISSION CITIES

AN ACT to amend and reenact section 40-21-02 of the North Dakota Century Code, to provide for the appointment of poll clerks for municipal elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-02. ELECTIONS IN COMMISSION CITIES - WHEN HELD - NOTICE - POLLS - JUDGES AND INSPECTORS.) Biennial municipal elections in cities operating under the commission system of government shall be held on the first Tuesday in April in each even-numbered year at such place or places as the board of city commissioners shall designate. Ten days' notice of the time and place of the election and of the offices to be filled at such election shall be given by the city auditor by publication in the official newspaper of the city or if the city has no official newspaper, by publication in the official county newspaper. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general, and special elections. For all general city elections, the board of city commissioners shall appoint one inspector for each precinct at least twenty-one days before the election is held, and two judges of election for each precinct at least ten days before the election is held. For special city elections the board of city commissioners shall appoint one inspector and two judges of election for each precinct in the city at least ten days before the election is held. Each precinct election judge, in either a general or a special city election, shall appoint a poll clerk who shall be a qualified elector of the precinct in which he is to serve.

Approved March 30, 1971

## CHAPTER 395

HOUSE BILL NO. 1265  
(Rice, Raymond)

## ELECTIONS IN COUNCIL CITIES

AN ACT to amend and reenact section 40-21-03 of the North Dakota Century Code, relating to appointment of judges, clerks and inspectors of municipal elections in council cities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-03. ELECTIONS IN COUNCIL CITIES - POLLING PLACES - POLLS OPEN - NOTICE - JUDGES, CLERKS AND INSPECTORS.) Biennial municipal elections in cities operating under the council form of government shall be held on the first Tuesday in April in each even-numbered year at such place or places as the city council shall designate. In cities where aldermen are elected at large, the council shall designate one polling place only. The polls shall be opened and closed as provided by state law for the opening and closing of polls at primary, general and special elections. Ten days' notice of the time and place of holding each election and of the offices to be filled thereat shall be given by the city auditor by publication in at least two newspapers published in said city if two are published therein. Publication in one such newspaper shall be sufficient if only one newspaper is published in the city. For all general city elections the city council shall appoint one inspector for each precinct at least twenty-one days before the election is held, and two judges and two clerks of election for each precinct at least ten days before the election is held. For special city elections the city council shall appoint one inspector, two clerks and two judges of election for each precinct in the city at least ten days before the election is held.

Approved March 12, 1971

## CHAPTER 396

HOUSE BILL NO. 1221  
(Stone, Welder)

COMPENSATION OF CITY  
ELECTION OFFICIALS

AN ACT to amend and reenact section 40-21-05 of the North Dakota Century Code, relating to compensation of inspectors, judges, and clerks at municipal elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-21-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-05. COMPENSATION OF INSPECTORS, JUDGES, AND CLERKS AT MUNICIPAL ELECTIONS.) Each inspector, judge, or clerk of any regular or special municipal election, for services performed at such election, shall receive as compensation therefor the sum of twelve dollars. When the number of votes cast at such election exceeds one hundred, each such officer shall receive as additional compensation the sum of two dollars for each additional one hundred votes cast, or major fraction thereof, but not more than twenty-five dollars in all for such services.

Approved March 12, 1971

## CHAPTER 397

SENATE BILL NO. 2140  
(Melland)

NOMINATING PETITIONS FOR MUNICIPAL  
OFFICE - SIGNATURES REQUIRED

AN ACT to amend and reenact section 40-21-07 of the North Dakota Century Code, relating to the number of signatures necessary on a nominating petition for a candidate for municipal office.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 40-21-07. PETITION FOR NOMINATION OF ELECTIVE OFFICIAL IN MUNICIPALITIES - SIGNATURES REQUIRED - CONTENTS.) A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least thirty days and before four o'clock p.m. on the thirtieth day prior to the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. Signers of a petition shall reside within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or within the corporate limits of the city if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the electors at large residing within the city. If a petition is mailed it shall be in the possession of the city auditor before four o'clock p.m. on the thirtieth day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each signer of such petition shall add to his name his mailing address.

\*NOTE: Section 40-21-07 was also amended by section 1 of House Bill No. 1222, chapter 398.

Approved March 4, 1971

## CHAPTER 398

HOUSE BILL NO. 1222  
(Strinden)

NOMINATING PETITIONS FOR MUNICIPAL  
OFFICE - TIME FOR FILING

AN ACT to amend and reenact section 40-21-07 of the North Dakota Century Code, relating to the time for filing petition for nomination of elective official in cities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 40-21-07. PETITION FOR NOMINATION OF ELECTIVE OFFICIAL IN MUNICIPALITIES - SIGNATURE REQUIRED - CONTENTS.) A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least thirty-three days and before four o'clock p.m. on the thirty-third day prior to the holding of the election, a petition signed by not less than ten percent of the qualified electors residing within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or a like percent of the voters of the city if the officer is elected at large, except that in cities operating under the commission system of government the required petition may be signed by the electors at large residing within such city. If a petition is mailed it shall be in the possession of the city auditor before four o'clock p.m. on the thirty-third day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each signer of such petition shall add to his name his mailing address.

\*NOTE: Section 40-21-07 was also amended by section 1 of Senate Bill No. 2140, chapter 397.

Approved March 12, 1971

## CHAPTER 399

HOUSE BILL NO. 1452  
(Weber)

## ELECTION DISTRICTS IN COUNCIL CITIES

AN ACT to amend and reenact section 40-21-09 of the North Dakota Century Code, relating to elections in cities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-21-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-09. ELECTION DISTRICTS IN COUNCIL CITIES - DIVISION AND CONSOLIDATION BY ORDINANCE - BALLOTS TO BE KEPT SEPARATE BY WARDS.) Each city operating under the council form of government in which aldermen are elected at large shall constitute an election district or voting precinct, and in all other cities each ward shall constitute an election district or voting precinct. Whenever the number of electors in any two or more contiguous wards does not exceed one hundred as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate such two or more wards into one precinct for voting purposes. In any city containing less than four hundred electors as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate all the wards of such city into one precinct for voting purposes. An ordinance dividing or consolidating wards shall be passed and shall take effect before the time of giving notice of the election. Wards and precincts established under the provisions of this section shall constitute election districts for all state, county, city, and school elections. In city elections, separate ballot boxes and pollbooks shall be provided and kept for each precinct. The terms "wards", "precincts", and "election districts" shall have the same meaning except in the case where two or more wards are consolidated into one precinct for voting purposes or where one ward is divided into more than one precinct for voting purposes. Nothing herein shall be construed as prohibiting the use of one building as the election polling place for more than one ward or the installation of voting machines from separate wards therein.

Approved March 27, 1971

## CHAPTER 400

HOUSE BILL NO. 1243  
(Bunker, Brekke)

SPECIAL ASSESSMENTS FOR  
OVERHEAD PEDESTRIAN BRIDGES

AN ACT to amend and reenact subsection 2 of section 40-22-01 of the North Dakota Century Code, relating to power of municipalities to defray expense of overhead pedestrian bridges by special assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 40-22-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The improvement of the municipal street system and any part thereof, including any one or more of the processes of acquisition, opening, widening, grading, graveling, paving, repaving, surfacing with tar, asphalt, bituminous or other appropriate material, resurfacing, resealing, and repairing of any street, highway, avenue, alley, or public place within the municipality, and the construction and reconstruction of overhead pedestrian bridges, pedestrian tunnels, storm sewers, curb and gutters, sidewalks, and service connections for water and other utilities, and the installation, operation, and maintenance of street lights and all types of decorative street lighting, including but not restricted to Christmas street lighting decorations;

Approved March 4, 1971

## CHAPTER 401

SENATE BILL NO. 2352  
(Sanstead, Coughlin)

SPECIAL ASSESSMENT FOR FLOOD CONTROL  
DAMAGE RESTORATION

AN ACT relating to the restoration of certain property damaged in flood control and providing for the imposition of special assessments for costs incurred.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. RESTORATION OF CERTAIN PROPERTY DAMAGED IN FLOOD CONTROL - SPECIAL ASSESSMENTS FOR COSTS.) When any city shall have constructed any temporary emergency flood control protection devices or works to protect property located within a portion of a city from flood damage, the city may cause the removal of material used in the construction of such temporary emergency flood control protection devices or works and the repair of damages to land, buildings, or personal property caused by the operation of its equipment upon the property while in the process of installing or removing such temporary emergency flood protection systems. Such city may create by resolution of its governing board a special assessment district encompassing the protected area. Special assessments against the property within the district shall be imposed to cover the costs incurred by the city in removing the material used and in repairing the damages caused by the operation of equipment while installing or removing such temporary emergency flood protection systems. Special assessments against any property in the district shall be determined and made in the same manner as is provided for improvements by special assessments to the extent consistent herewith, and the certification and collection, including lien provisions, applicable to other special assessments shall be applicable hereto: Provided, however, that the provisions of sections 40-22-15, 40-22-17, and 40-22-18 of the North Dakota Century Code, relating to a resolution of necessity and protests against special assessments, shall not apply to special assessment districts created pursuant to this Act.

Approved March 19, 1971

## CHAPTER 402

SENATE BILL NO. 2389  
(Redlin)

REGULATIONS AND PROCEDURES  
GOVERNING IMPROVEMENT DISTRICTS

AN ACT to amend and reenact sections 40-22-09, 40-22-10, 40-22-11, 40-22-15, 40-22-18, 40-22-19 and 40-22-36, of the North Dakota Century Code, relating to improvement districts in municipalities, and changing procedures with respect thereto.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-09. SIZE AND FORM OF IMPROVEMENT DISTRICTS - REGULATIONS GOVERNING.) Any improvement district created by a municipality may embrace two or more separate property areas. Each improvement district shall be of such size and form as to include all properties which in the judgment of the governing body, after consultation with the engineer planning the improvement, will be benefited by the construction of the improvement project which is proposed to be made in or for such district, or by any portion or portions of such project. A single district may be created for an improvement of the type specified in any one of the subsections of section 40-22-01, notwithstanding any lack of uniformity among the types, items or quantities of work and materials to be used at particular locations throughout the district. The jurisdiction of a municipality to make, finance and assess the cost of any improvement project shall not be impaired by any lack of commonness, unity, or singleness of the location, purpose or character of the improvement, or by the fact that any one or more of the properties included in the district is subsequently determined not to be benefited by the improvement, or by a particular portion thereof, and is not assessed therefor. There may be omitted from a water or sewer district, in the discretion of the governing body, properties within the corporate limits which are benefited by the improvement therein but do not abut upon a water or sewer main, without prejudice to the right and power of the municipality subsequently to assess such properties to the extent and in the manner permitted by law. The governing body may by resolution enlarge an improvement district in which an improvement is proposed or under construction upon receipt of a petition therefor signed by the owners of three-fourths

of the area to be added to the district.

SECTION 2. AMENDMENT.) Section 40-22-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-10. ENGINEER'S REPORT REQUIRED - CONTENTS.) After a special improvement district has been created, the governing body of a municipality, if it deems it necessary to make any of the improvements set out in section 40-22-01 in the manner provided in this chapter, shall direct the engineer for the municipality, or some other competent engineer if the municipality does not have a competent municipal engineer, to prepare a report as to the general nature, purpose and feasibility of the proposed improvement and an estimate of the probable cost of the work.

SECTION 3. AMENDMENT.) Section 40-22-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-11. APPROVAL OF PLANS, SPECIFICATIONS, AND ESTIMATES - APPROVAL ESTABLISHES GRADE OF STREET.) At any time after receiving the engineer's report required by section 40-22-10, the governing body may direct the engineer to prepare detailed plans and specifications for construction of the improvement. The plans and specifications shall be approved by a resolution of the governing body of the municipality. If the plans and specifications include the establishment of the grade of a street and such grade has not been established previously by ordinance, the resolution approving the plans, specifications, and estimates shall constitute an establishment of the grade.

SECTION 4. AMENDMENT.) Section 40-22-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-15. RESOLUTION DECLARING IMPROVEMENTS NECESSARY - EXCEPTION FOR SEWER AND WATER MAINS - CONTENTS OF RESOLUTION.) After the engineer's report required by section 40-22-10 has been filed and approved, the governing body of the municipality, by resolution, shall declare that it is necessary to make the improvements described therein. Such resolution shall not be required, however, if the improvement consists of the construction or alteration of sewer or water mains, unless it is determined that the cost thereof shall be paid in part as is provided in section 40-22-16, nor if the governing body determines by resolution that a written petition for the improvement, signed by the owners of a majority of the area of the property included within the district, has been received. The resolution shall refer intelligibly to the engineer's report, and shall be published once each week for two consecutive weeks in the official newspaper of the municipality.

SECTION 5. AMENDMENT.) Section 40-22-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-18. PROTEST BAR TO PROCEEDING - INVALID OR INSUFFICIENT PROTESTS.) If the governing body finds the protests to contain the names of the owners of a majority of the area of the property included within the improvement district the protests shall be a bar against proceeding further with the improvement project described in the plans and specifications. If the governing body finds the protests to contain the names of the owners of a majority of any separate property area included within the district, such protests shall be a bar against proceeding with the portion of such improvement project, the cost of which is to be assessed in whole or in part upon property within such area, but shall not bar against proceeding with the remainder of the improvement project or assessing the cost thereof against other areas within the district, unless such protests represent a majority of the area of the entire district. The termination of proceedings, by reason of protest or otherwise, shall not relieve the municipality of responsibility for payment of costs theretofore incurred; and for payment of such costs a municipality may, if funds on hand and available for the purpose are insufficient, issue its certificates of indebtedness or warrants, or levy a tax which shall be considered a tax for a portion of the cost of a special improvement project by general taxation with the meaning of section 57-15-10. If the protests are found to be insufficient or invalid, the governing body may cause the improvement to be made and may contract or otherwise provide in accordance with this title for the construction thereof and the acquisition of property required in connection therewith and may levy and collect assessments therefor.

SECTION 6. AMENDMENT.) Section 40-22-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-19. CALL FOR BIDS - CONTENTS - ADVERTISING.) Proposals for the work of making improvements provided for in this chapter shall be advertised for by the governing body in the official newspaper of the municipality once each week for two consecutive weeks. The governing body may cause the work on two or more improvements to be combined in one advertisement and one contract awarded pursuant thereto. The advertisement for bids may be published at the same time as the resolution of necessity and shall:

1. Specify the work to be done according to the plans and specifications on file in the office of the city auditor;
2. Call for bids upon the basis of cash payment for the work;

3. Describe the several kinds of paving material if the governing body shall have required plans, specifications and estimates for the improvement to be made for more than one kind of pavement;
4. State the time within which the bids will be received; and
5. State the time within which the work on the improvement is to be completed.

The governing body may require bidders to state also the rate of interest, not exceeding seven percent per annum, which the warrants to be received and accepted by the bidder at par in payment for the work shall bear.

SECTION 7. AMENDMENT.) Section 40-22-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-36. CONTRACTS - CONDITIONS AND TERMS.) A contract let under the provisions of this chapter shall require the work to be done pursuant to the plans and specifications on file in the office of the city auditor, subject to the approval of the engineer acting for the municipality, and shall provide further:

1. That the governing body shall have the right to suspend the work at any time for improper construction and to relet the contract therefor or to order a reconstruction of the work as to any part thereof improperly done;
2. The time within which the work shall be completed;
3. The period of time for which the work shall be guaranteed as to workmanship and materials;
4. The fund from which the contract price is to be paid by the municipality;
5. That the consideration expressed in the contract is payable only in warrants drawn on the fund described in the contract;
6. That the municipality assumes and incurs no general liability under such contract; and
7. That failure of the engineer to reject work and materials which are not up to specifications and acceptance of the job by the engineer shall not release the contractor from liability for any failure on his part to perform work or furnish materials in accordance with the plans and specifications.

The engineer acting for the municipality shall supervise and inspect the work during its progress. In addition to any rights which a municipality may have under its contract for construction of part or all of an improvement after a contract has been awarded and before work thereunder has been completed a municipality may, with consent of the contractor and without advertising for bids, order additional work done by that contractor of the same character as that which was contracted for, whether within or without the improvement district for which the original contract was made, and upon the same terms and conditions specified in the original contract except as to time of performance, and at the same prices for the additional work; provided that the total price payable to the contractor for such additional work shall not exceed twenty percent of the amount estimated by the engineer for the municipality to be payable for that character of work under the original contract.

Approved March 29, 1971

## CHAPTER 403

SENATE BILL NO. 2356  
(Lips, Sanstead)

BOND OF MUNICIPAL  
CONTRACT BIDDER

AN ACT to amend and reenact section 40-22-20 of the North Dakota Century Code, relating to bond or check to accompany bids; and to repeal section 40-22-21 of the North Dakota Century Code, relating to amount of bidder's bond.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-22-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-20. BID TO BE ACCOMPANIED BY A BOND - BOND RETAINED UPON FAILURE OF BIDDER TO CONTRACT - AMOUNT OF BOND.) Each bid for any work to be done under the provisions of this chapter shall be accompanied by a bidder's bond in the amount of five percent of the amount of the bid, executed as provided in this chapter and running to the municipality that the bidder will enter into a contract for performance of such work in case a contract is awarded to him. If any bidder to whom a contract is awarded fails or refuses to enter into such contract when requested to do so, the bond accompanying his bid shall be retained by the municipality as liquidated damages for such failure. The bond shall be delivered to the treasurer of the municipality and shall be credited by him to the fund from which the consideration for such work is payable. The sufficiency of any bond filed by a bidder shall be determined by the governing body at the time of considering bids.

SECTION 2. REPEAL.) Section 40-22-21 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1971

## CHAPTER 404

SENATE BILL NO. 2365  
(Longmire, Lips, Sanstead)

PROCEDURE FOR OPENING  
AND CONSIDERATION OF BIDS

AN ACT to amend and reenact section 40-22-24 of the North Dakota Century Code, relating to filing, sealing, endorsing, opening and considering bids.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-22-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-24. BIDS - FILING - SEALING - ENDORSING- OPENING - CONSIDERING.) Bids for the work to be let under the provisions of this chapter shall be forwarded to the city auditor and shall be sealed securely to prevent the opening thereof without detection. There shall be endorsed upon the outside of the envelope containing the bid a statement of what work such proposal is for. The bids shall be opened by the governing body at the expiration of the time limited in the advertisement for receiving the same, which shall be not less than fifteen days after the first publication of the advertisement, or at such other time as the governing body may appoint. Only bids which are accompanied by the bond provided for in section 40-22-20 shall be considered by the governing body.

Approved March 8, 1971

## CHAPTER 405

SENATE BILL NO. 2359  
(Forkner, Butler)

## PROGRESS PAYMENTS ON PUBLIC CONTRACTS

AN ACT to amend and reenact section 40-22-37 of the North Dakota Century Code, relating to progress payments on public contracts, retainage, failure to pay and rate of interest.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-22-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-37. CONTRACTOR SHALL BE PAID DURING PROGRESS OF WORK - RETAINAGE - FAILURE TO PAY - RATE OF INTEREST.) If the contractor to whom a contract is let properly performs the work therein designated, the governing body, at least once in each calendar month during the continuance of such contract work, shall meet, receive and consider estimates furnished by the agent, engineer or architect acting for the municipality or if not so furnished, then by the contractor, and shall allow such estimates in an amount of the estimated value of the labor and material furnished upon such contract, and of the material then upon the ground for use in such contract, subject to retentions as follows: Ten percent of each estimate presented until such time as the project is fifty percent completed, with no further retainage on estimates during the continuance of the contract. The governing body may however, upon completion of ninety-five percent of the contract according to the estimates, pay to the contractor ninety-five percent of the amount retained from previous estimates. Any amount retained after ninety-five percent completion of the contract shall be paid to the contractor in such amounts and at such times as are approved by the municipality, upon estimates by its agent, engineer or architect or the contractor, with final payment of all moneys due to the contractor to be made immediately following completion and acceptance of the project. The governing body, immediately after considering and allowing any such estimate, shall certify and forward the same to the city auditor or other official having the power to draw warrants, who forthwith shall draw his warrant upon the proper fund and transmit the same promptly to the contractor entitled thereto. In case the governing body shall fail or neglect to receive and allow such estimate or certify any estimate or final payment upon completion and acceptance or

the proper officer required to issue such warrant shall fail or neglect to issue a warrant as provided herein, for a period of more than thirty days from the date of such estimate or completion date, then said estimate or final payment, together with any retainage properly payable, shall draw interest from its date at the rate of six percent per annum until the issuance of a proper warrant therefor. Such interest shall be computed and added to the face of said estimate, final payment or retainage by the officer required to issue such warrant, shall be included in the warrant when drawn, and shall be charged to the fund from which payment for the improvement is to be made.

Approved March 27, 1971

## CHAPTER 406

SENATE BILL NO. 2296  
(Doherty, Butler)

## SPECIAL ASSESSMENT HEARING NOTICES

AN ACT to amend and reenact section 40-23-10 of the North Dakota Century Code, relating to special assessment hearing notices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-23-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-23-10. PUBLICATION OF ASSESSMENT LIST AND NOTICE OF HEARING OF OBJECTIONS TO LIST.) The commission shall cause the assessment list, which list shall not include the amount each lot or tract is benefited by the improvement, to be published once each week for two consecutive weeks in the official newspaper of the municipality, together with a notice of the time when and the place where the commission will meet to hear objections made to any assessment by any interested party, his agent, or attorney; provided that in lieu of publication of an assessment list, if it includes more than five thousand lots or tracts, the commission may cause it to be filed and made available for public inspection at all times after the first publication of the notice, during reasonable business hours, at such place as shall be designated in the published notice. The date set for such hearing shall be not less than fifteen days after the first publication of the notice. A copy of the notice shall be mailed to each public utility having property on the assessment list at least ten days before the hearing to its address shown on the tax rolls.

Approved March 11, 1971

## CHAPTER 407

SENATE BILL NO. 2464  
(Butler)

SPECIAL ASSESSMENTS  
FOR PARKING FACILITIES

AN ACT relating to the levy of special assessments for municipal improvements consisting of parking lots, ramps, garages and other facilities for motor vehicles, and enacting section 40-23-23.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 40-23-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-23-23. ASSESSMENTS FOR PARKING IMPROVEMENTS.) For any improvement consisting of acquiring or leasing of property and easements and construction of parking lots, ramps, garages, and other facilities for motor vehicles, whether constructed pursuant to chapter 40-22, 40-60, 40-61, or other law authorizing a municipality to acquire facilities used and usable in connection with the parking and storing of motor vehicles, the governing body of the municipality, on or before October 1 in any year, may cancel all installments of special assessments theretofore levied for such facilities which are due and payable in the following year and all subsequent years, and may levy a new assessment for such facility in accordance with the law authorizing the initial levy of special assessments therefor, except that the amount to be newly assessed shall not exceed the total principal amount of the installments of assessments so cancelled. The new assessment shall follow the same district lines as the original assessment district, and the same method of assessment shall be used as was used in the original assessment. If the new assessment causes any prepaid payment to be refunded, the refund plus four and one-half percent interest per annum on the refunded prepaid payment shall be paid to the person or corporation who prepaid the original assessment. In determining the special benefit and levying the new assessment against any lot or parcel, the previous determination of special benefit in any previous proceeding shall not be binding upon the assessment commission or governing body, but the new assessment levied on any lot or parcel, together with the principal amount of the installments of special assessments previously paid or to be paid in the current year for that lot or parcel with respect to that facility to be assessed, if any, shall not exceed the total special benefit to the lot or parcel from the facility for which the assessment is levied. In levying new assessments pursuant

to this authority, an assessment commission and governing body of a municipality may take into account any changes in conditions affecting the benefits derived and to be derived from the improvement for which the assessments were initially levied against the respective properties assessed. Provided, however, that in cancelling any special assessments previously levied and in levying new special assessments, a municipality cannot violate any covenants or agreements which it has made with holders of any obligations issued by the municipality to finance the acquisition of that improvement.

Approved March 29, 1971

## CHAPTER 408

HOUSE BILL NO. 1269  
(Gengler, Strinden)

## NOTICE TO REPAIR SIDEWALKS

AN ACT to amend and reenact section 40-29-03 of the North Dakota Century Code, relating to required notice to construct, rebuild, or repair sidewalks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-29-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-03. NOTICE TO CONSTRUCT, REBUILD, OR REPAIR SIDEWALKS.) Except as otherwise provided in this chapter, if the governing body deems it necessary to construct, rebuild, or repair any sidewalk in the municipality, it shall notify each owner of record at the last address shown in the office of the register of deeds or the county treasurer or occupant of any lot or parcel of land adjoining the sidewalk to construct, rebuild, or repair the same at his own expense and subject to the approval of the street commissioner or city engineer, within the time designated in the notice. The notice shall be directed in the manner hereinbefore provided to the owner of record or occupant and shall set forth what work is to be done, the character of the same as specified in the ordinance, and the time within which he is required to do the work. The work shall be done to the satisfaction of the street commissioner or city engineer. The notice may be general as to the owner of record or occupant but shall be specific as to the description of the lot or parcel of ground adjacent to where the sidewalk is to be built or repaired. The street commissioner or city engineer shall serve such notice by certified mail or delivering a copy thereof to the occupant or owner of record of each lot or parcel of occupied land described in the notice, or as to the occupant by leaving a copy thereof at the dwelling house upon such lot or parcel of land with some person over the age of fourteen years residing therein. If any lot or parcel of land is not occupied and service by mail is deemed impractical, the commissioner or city engineer may serve the notice by posting a copy thereof in a conspicuous place therein or immediately in front thereof. If such sidewalk is not repaired within the time fixed in such notice, the street commissioner or city engineer, as soon as practicable, shall repair the same and certify the cost thereof, with his return of service of the notice, to the city auditor, and the cost of such repairs shall be paid out of the sidewalk special fund.

Approved March 29, 1971

## CHAPTER 409

SENATE BILL NO. 2354  
(Stroup, Lips)

## MUNICIPAL REVENUE BONDS

AN ACT to amend and reenact section 40-35-02, 40-35-09, and 40-36-13 of the North Dakota Century Code, relating to municipal revenue bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-35-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-35-02. "UNDERTAKING" DEFINED.) The term "undertaking", as used in this chapter, unless a different meaning clearly appears from the context, shall mean systems, plants, works, instrumentalities, and properties used in revenue producing undertakings, or any combination of two or more of such undertakings, which are used or useful in connection with:

1. The obtaining of a water supply and the conservation, treatment, distribution, and disposal of water for public and private uses;
2. The collection, treatment, and disposal of sewage, waste, and storm water;
3. The generation, production, transmission, and distribution of natural, artificial, or mixed gas, or electric energy, for lighting, heating, and power for public and private uses;
4. The operation of parking lots, trailer courts, and facilities for motor vehicles and house trailers;
5. The purchase, acquisition or establishment, maintenance and operation of a public transportation system;
6. The purchase, acquisition, construction, establishment, maintenance, and operation of an airport and the facilities and services in connection therewith; and

7. The purchase, acquisition, construction, maintenance, and operation of a hospital;

together with all parts of any such undertaking and all appurtenances thereto, including lands, easements, rights in land, water rights, contract rights, franchises, approaches, dams, reservoirs, generating stations, sewage disposal plants, intercepting sewers, trunk connections, other sewer and water mains, filtration works, pumping stations, and equipment, and facilities in and upon such buildings and lands.

SECTION 2. AMENDMENT.) Section 40-35-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 40-35-09. SALE OF REVENUE BONDS - WHEN PRIVATE SALE AUTHORIZED - PUBLIC SALE AND NOTICE THEREOF.) Revenue bonds shall be sold at not less than ninety-eight percent of par. Such bonds may be sold at private sale to the United States of America or any agency, instrumentality, or corporation thereof, or to the state of North Dakota or any agency or instrumentality thereof. Unless the bonds are sold to the United States, to an agency, instrumentality, or corporation thereof, to the state of North Dakota, or to an agency or instrumentality thereof, such bonds shall be sold at public sale after notice of such sale has been published once at least five days prior to such sale in a newspaper circulating in the municipality, and in a financial newspaper published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Francisco, California. Provided, that if the principal amount of the series or issue of bonds to be sold does not exceed fifty thousand dollars, it shall not be necessary to publish a notice of sale of the bonds, and as to any series or issue of bonds for which a notice of sale was published but for which no bids were received or all bids received were rejected, the governing body may, without re-advertising the bonds for sale, negotiate the sale of all of the bonds to any person upon terms complying with those specified in the notice of sale theretofore published and, if bids were rejected, more favorable to the municipality than those specified in the rejected bid.

SECTION 3. AMENDMENT.) Section 40-36-13 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-36-13. EXCHANGE OR SALE OF REFUNDING BONDS - REGULATIONS GOVERNING.) Refunding bonds may be sold or exchanged in installments at different times, or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in part in installments at different times or at one time, and such bonds may be sold or exchanged at any time on, before, or after the maturity of any of the out-

\*NOTE: Section 40-35-09 was also amended by section 20 of Senate Bill No. 2063, chapter 249.

standing notes, bonds, certificates, or other obligations to be refinanced thereby. If the governing body shall determine to:

1. Exchange any refunding bonds, such bonds may be exchanged privately for, and in payment and discharge of, any of the outstanding notes, bonds, or other obligations of the municipality issued to finance or to aid in financing the acquisition, construction, improvement, or refinancing of an enterprise. The refunding bonds may be exchanged for a like or a greater principal amount of such notes, bonds, or other obligations of the municipality. The principal amount of the refunding bonds, however, may exceed the principal amount of outstanding notes, bonds, or other obligations for which they are exchanged only to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds, or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if, and to the same extent that, interest is due or accrued and unpaid on such outstanding notes, bonds, or other obligations to be surrendered.
2. Sell any refunding bonds, such bonds shall be sold at not less than ninety-eight percent of par at public or private sale in such manner and upon such terms as the governing body shall deem for the best interests of the municipality.
3. Exchange or sell any refunding bonds more than six months in advance of the date on which the bonds being refunded mature or are redeemable in accordance with their terms in order to reduce the interest costs or extend or adjust maturities in relation to the revenues pledged for payment of the bonds, then the proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or, if it is prepayable, to the earliest prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such bond at maturity or, if prepayable, at its earliest redemption date; and any

premium required for redemption on such date; and the governing body's resolution authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all investments thereof, which shall be held in safekeeping by the escrow agent, and all income therefrom, and shall provide for the call for redemption of all prepayable bonds in accordance with their terms. The securities to be purchased with the escrow fund shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for cooperatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds. Moneys on hand in the sinking fund maintained for the payment of the outstanding bonds, and not immediately needed for the payment of interest or principal due, may likewise be deposited in the escrow fund and invested in the same manner as the proceeds of the new bonds, to the extent consistent with the provisions of resolutions authorizing the outstanding bonds.

Approved March 29, 1971

## CHAPTER 410

SENATE BILL NO. 2192  
(Lips, Sanstead, Christensen, Litten)

## PUBLIC LIBRARIES

AN ACT to amend and reenact sections 40-38-01, 40-38-02, and 40-38-03 of the North Dakota Century Code, and to repeal section 58-03-08 of the North Dakota Century Code, relating to public libraries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-01. PUBLIC LIBRARY AND READING ROOM - ESTABLISHMENT - ELECTION.) The governing body of any municipality or county upon petition of not less than fifty-one percent of the voters of such municipality or county as determined by the total number of votes cast at the last general election or upon a majority vote of the electors thereof shall establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service, either singly or in cooperation with the state library commission, or with one or more municipalities or counties, or by participation in an approved state plan for rendering public library service under the Library Services and Construction Act, 20 U.S.C.A., sections 351-358, and act(s) amendatory thereof. Such question shall be submitted to the electors upon resolution of the governing body or upon the petition of not less than twenty-five percent of that number of electors of the municipality or county that voted at the last general election, filed with the governing body not less than sixty days before the next regular election. Library service may be discontinued within any municipality or county by any of the methods by which library services may be established, except that once established, such service shall not be discontinued until after it has been in operation for at least five years from the date of establishment.

SECTION 2. AMENDMENT.) Section 40-38-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-02. LIBRARY FUND - LEVY - COLLECTION - KEPT SEPARATE.) For the purpose of establishing and maintaining public library service, the governing body of a municipality or county

authorizing the same shall establish a library fund by annually levying and causing to be collected as other taxes are collected, a municipal or county tax not to exceed four mills on the net taxable assessed valuation of property in such municipality and not to exceed two mills on the net taxable assessed valuation of property in such county. The treasurer of the municipality or county shall keep such fund separate and apart from the other money of the county or municipality, and it shall be used exclusively for the establishment and maintenance of public library service. Whenever a tax for county library service is levied, any municipality already levying a tax for public library service under the provisions of this section or other provisions of law shall, upon written application to the county board of such county, be exempted from such county tax levy to the extent that the municipality making such application levies taxes for a library fund during the year for which such tax levy is made. If such municipality has been totally exempted from participation in any prospective county library program, the phrase "not less than fifty-one percent of the voters of such municipality or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in such county less the total number of votes cast at the last general election in such municipality, and if an election on the question is held, the voters of any municipality so exempted from the county library tax shall not be entitled to vote on the establishment or discontinuance of the county library service. Upon motion of the governing body or upon petition of not less than twenty-five percent of the voters in the last general election of any city, school district, township, or county, filed not less than sixty days before the next regular election, the governing body shall submit to the voters at the next regular election the question of whether such governing body shall increase the mill levy a specified amount for public library service above the mill levy limitation set out in this section. Upon approval by sixty percent of the voters voting in such election, the governing body shall increase the levy for public library service in the amount approved by the voters.

SECTION 3. AMENDMENT.) Section 40-38-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-03. BOARD OF DIRECTORS - APPOINTMENT - TERM OF OFFICE - NO COMPENSATION - FILLING VACANCIES - ORGANIZATION.) The school board of a school district which embraces a municipality which has established a public library and reading room, or the board of county commissioners for a county library, shall appoint a board of five directors who must be residents of the municipality or county, as the case may be, to govern such library and reading room. One member of the school board shall be a member of the board of directors of a municipal library, and must be a resident of the municipality which establishes and maintains such municipal library; and one member of the board of

county commissioners shall be a member of the county board of directors. The terms of office of the members of the first board of directors shall be as follows: one member shall hold office for one year; two members shall hold office for two years; and two members shall hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms shall be appointed each year, and each such director shall hold office for a term of three years from the first day of July in the year of his appointment and until his successor has been appointed. No member of such board shall serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors shall be reported by such board to the school board or the board of county commissioners, as the case may be, and shall be filled thereby. Appointments made to fill unexpired terms shall be for the residue of the term only. No compensation shall be paid or allowed to a director. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president. The governing board of a municipality or county establishing public library service may, in lieu of appointing a library board, contract directly with a library board established by another governing body of a municipality or county for the purpose of extending public library service.

SECTION 4. REPEAL.) Section 58-03-08 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1971

## CHAPTER 411

SENATE BILL NO. 2194  
(Wenstrom, Christensen, Sanstead)

CONSOLIDATION OR MERGER  
OF LIBRARY SERVICES

AN ACT to amend and reenact section 40-38-11 of the North Dakota Century Code, relating to the consolidation or merger of library services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-38-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-11. CONSOLIDATION OR MERGER OF LIBRARY SERVICES.) Upon the approval of the electors of the municipality or county thereof, and with the approval of the state library commission, public library service maintained by any municipality or county may be merged or consolidated with any other existing library service maintained by any other municipalities or counties. The merger or consolidation shall become effective only if approved by each individual municipality or county considering the question. Such mergers and consolidations shall include provision for a single library board representing the various municipalities or counties levying funds for support of library services. The method of representation on the consolidated or merged board shall be determined in the merger or consolidation agreements. Such consolidated or merged library board shall have all power and responsibilities provided in sections 40-38-04 through 40-38-09. The treasurer of the consolidated or merged library board shall receive and retain all tax funds levied for public library service by the governing boards of all municipalities and counties represented on the consolidated or merged library board. The treasurer shall pay out moneys belonging to the consolidated or merged library board only upon properly drawn vouchers, pursuant to order of the library board, by library board treasurer's checks. The funds received by the consolidated or merged library board treasurer shall not revert to or be considered funds on hand by any governmental unit furnishing the same, at the end of any biennium or fiscal year. The consolidated or merged library board treasurer shall be bonded in such amount as may be specified by resolution adopted by the consolidated or merged library board. This section shall not be construed as prohibiting an agreement between political subdivisions for the joint provision of libraries and library services pursuant to chapter 54-40, which agreement does not encompass the merger or consolidation of existing library services.

Approved March 27, 1971

## CHAPTER 412

SENATE BILL NO. 2463  
(Freed)

## POLICE PENSION TAX LEVY

AN ACT to amend and reenact section 40-45-02 of the North Dakota Century Code, relating to a tax levy for police pension systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-45-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-02. TAX LEVY FOR PENSION FUND WHERE RETIREMENT SYSTEM BASED UPON ACTUARIAL TABLES IS MAINTAINED.) Any city having established by law a police retirement system based upon actuarial tables may levy for the police pension fund, in addition to any other levies authorized by law for general purposes, a total tax of not more than two mills.

Approved March 22, 1971

## CHAPTER 413

SENATE BILL NO. 2271  
(Anderson, Coughlin, Sanstead)

INVESTMENT OF SURPLUS  
POLICE PENSION FUND MONEYS

AN ACT to amend and reenact section 40-45-06 of the North Dakota Century Code, relating to the investment of surplus funds of the policemen's pension fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-45-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-06. INVESTMENT OF SURPLUS IN FUNDS - LIMITATIONS.) At the end of the fiscal year, the board of trustees may invest any surplus left in the policemen's pension fund, but no part of the moneys realized from any tax levy shall be used for any purpose other than the payment of pensions. Such surplus funds may be invested in interest-bearing bonds of the United States or the state of North Dakota, or bonds or warrants of any county, township, or municipal corporation of this state which constitute the general obligations or contingent general obligations of the issuing tax authority, or investments with any federally insured bank or savings and loan association. All securities shall be deposited with the treasurer of the board for safekeeping. The board may also invest all or part of such surplus funds in other investments by selecting a funding agent or agents and establish an investment agreement contract regarding such surplus funds. The contract shall authorize the funding agent or agents to hold and invest such funds for the board and such funds shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. The board of trustees may pay the fees and charges of said funding agent or agents from any surplus remaining in the policemen's pension fund in excess of the moneys realized from any tax levy. The board of trustees may use a portion of the surplus left in the policemen's pension fund in excess of moneys realized from any tax levy to pay the cost of actuarial studies of said pension system.

Approved March 12, 1971

## CHAPTER 414

SENATE BILL NO. 2272  
(Anderson, Coughlin, Sanstead)

## ELIGIBILITY FOR POLICE PENSION

AN ACT to amend and reenact section 40-45-09 of the North Dakota Century Code, relating to policemen's pensions and who may be retired.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-45-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-45-09. WHO MAY BE RETIRED ON PENSION - AMOUNT PAID TO RETIRING MEMBER - RETIRING MEMBER NOT PAID.) Any member of the police department, including officers and police matrons, who shall have served twenty-two years or more in the department and shall have reached the age of sixty years, or who, while a member of such department shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he may be paid out of the pension fund of the department a monthly pension equal to sixty percent of the average monthly salary received during the highest paid consecutive thirty-six-month period of his employment in the department. If any member shall have served twenty-two years in the department but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years, except as provided in section 40-45-11 of the North Dakota Century Code. Notwithstanding the provisions of this section, upon the approval of the governing body of the municipality, and at the discretion of the board of trustees if it shall find that the actuarial soundness of the fund would not be materially impaired, any member otherwise qualifying in accordance with the provisions of this section may retire if he has reached the age of fifty-five years.

Approved March 12, 1971

## CHAPTER 415

SENATE BILL NO. 2314  
(Anderson, Sanstead)

PAYMENT OF POLICE PENSION  
TO SURVIVING SPOUSE

AN ACT to amend and reenact subsection 1 of section 40-45-13 of the North Dakota Century Code, relating to payments of police pension benefits to police widows or widowers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 40-45-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To the surviving spouse, as long as he or she remains unmarried, a sum not less than fifty dollars per month and not more than sixty percent of the deceased spouse's police retirement benefits;

Approved March 22, 1971

## CHAPTER 416

SENATE BILL NO. 2259  
(Kautzmann, Melland)

CITY EMPLOYEES'  
PENSION TAX LEVY

AN ACT to amend and reenact sections 40-46-02 and 40-46-26 of the North Dakota Century Code, relating to tax levies for city employees' pension funds and to pay city's share of federal social security plans for employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-46-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-02. TAX LEVY FOR CITY EMPLOYEES' PENSION FUND AUTHORIZED - LIMITATIONS.) In addition to any other levies authorized by law for general purposes, any city which has adopted a civil service system for city employees may levy an annual tax of not more than five mills for the purpose of creating and maintaining a city employees' pension fund. Any pension system shall be based on actuarial tables and actuarial valuation shall be performed at intervals of not more than five years.

SECTION 2. AMENDMENT.) Section 40-46-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-46-26. TAX LEVY FOR CITY HAVING PROVIDED ITS EMPLOYEES WITH THE FEDERAL SOCIAL SECURITY PLAN.) In addition to any other levies authorized by law for general purposes, any city having provided its employees with the federal social security plan may levy such annual tax upon its taxable valuation as will be necessary to pay such city's share as employer of the cost of providing its employees with the federal social security plan.

Approved March 29, 1971

## CHAPTER 417

HOUSE BILL NO. 1409  
(Herman)

## CITY ZONING HEARINGS

AN ACT to amend and reenact section 40-47-04 of the North Dakota Century Code, relating to notice of public hearings in zoning matters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-47-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-04. DETERMINING AND ENFORCING REGULATIONS - PUBLIC HEARING AND NOTICE THEREOF.) The governing body of a city which shall use zoning regulations shall provide for the manner in which the regulations and restrictions shall be established, enforced, or supplemented, and for the manner in which the boundaries of the districts shall be established and from time to time changed. No regulation, restriction, or boundary shall become effective until after a public hearing thereon at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and the place of such hearing shall be published in the official newspaper of the city and such notice shall contain a description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.

Approved March 24, 1971

## CHAPTER 418

HOUSE BILL NO. 1268  
(Strinden)

## MEMBERSHIP OF BOARD OF ADJUSTMENT

AN ACT to amend and reenact section 40-47-07 of the North Dakota Century Code, relating to appointment of an alternate member to a board of adjustment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-47-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-07. BOARD OF ADJUSTMENT - MEMBERS - TERM - HEAR AND DECIDE APPEALS AND REVIEW ORDERS.) The governing body may provide for the appointment of a board of adjustment consisting of five members, each member to be appointed for a term of three years. The board of adjustment shall hear and decide appeals from and shall review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to this chapter. It shall hear and decide all matters referred to it or upon which it is required to pass under any such ordinance. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. Upon request of the board, the governing body shall have the right to appoint an alternate member of said board of adjustment, who shall sit as an active member when and if a member of said board is unable to serve at any hearing.

Approved March 4, 1971

## CHAPTER 419

SENATE BILL NO. 2286  
(Freed)

EXCLUSION AND DISCONNECTION  
OF LAND WITHIN CITY LIMITS

AN ACT to amend and reenact section 40-51.2-04 of the North Dakota Century Code, relating to excluding and disconnecting land within a city's limits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-51.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-51.2-04. EXCLUSION BY PETITION OF OWNERS AND ELECTORS.) Upon a petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in any territory within the limits of an incorporated municipality and contiguous or adjacent to such limits, the governing body of the municipality, by ordinance, may in its discretion, disconnect and exclude such territory from the municipality. The provisions of this section, however, shall apply only to lands which have not been platted under the provisions of either chapter 40-50 or section 57-02-39, and where no municipal improvements have been made or constructed therein or adjacent thereto. Further, in the event any property for which exclusion is petitioned has been within the limits of an incorporated municipality for more than ten years prior thereto and, as of the time of filing the petition, is not platted and has no municipal improvements thereon, the governing body of the municipality shall disconnect and exclude such territory by ordinance from the municipality.

Approved March 18, 1971

## CHAPTER 420

SENATE BILL NO. 2293  
(Kautzmann)

## EFFECTIVE DATE OF ANNEXATION

AN ACT to amend and reenact section 40-51.2-06, subsection 3 of 40-51.2-07 and section 40-51.2-16 of the North Dakota Century Code, relating to effective date of an annexation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-51.2-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-51.2-06. PETITION OF OWNERS AND ELECTORS - ANNEXATION OR EXCLUSION.) If the governing body determines to annex said area it shall do so by ordinance, a copy of which with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, whereupon annexation shall then be effective. If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in case of annexation.

SECTION 2. AMENDMENT.) Subsection 3 of 40-51.2-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution shall be included within and shall become a part of the city, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, whereupon annexation shall become effective.

SECTION 3. AMENDMENT.) Section 40-51.2-16 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-51.2-16. EFFECTIVE DATE OF ANNEXATION BY ANNEXATION REVIEW COMMISSION.) Territory annexed to a municipality under the provisions of this chapter relating to petition to annexation review commission shall be annexed as of the date of the order of the commission, except for tax purposes, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds. Annexation shall be effective for the purpose of general taxation on and after the first day of April next ensuing, provided, however, the municipal corporation shall continue to classify as agricultural lands for tax purpose all lands in the annexed area which were classified as agricultural lands immediately prior to such annexation proceedings until such lands are subdivided, or put to another use.

Approved March 4, 1971

## CHAPTER 421

SENATE BILL NO. 2213  
(Nasset, Jacobson, Freed)

CONSENT TO ANNEXATION  
OF STATE PROPERTY

AN ACT to amend and reenact subsection 2 of section 40-51.2-07 of the North Dakota Century Code, relating to annexation of territory to cities and protests thereto.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 40-51.2-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Shall cause said resolution together with a notice of the time and place it will meet to hear and determine the sufficiency of any written protests against such proposed annexation to be published in the official newspaper once each week for two consecutive weeks. The owners of any real property within the territory proposed to be annexed within thirty days of the first publication of such resolution may file written protests with the city auditor protesting against the proposed annexation. No state-owned property shall be annexed without the written consent of the state agency or department having control thereof. The governing body of the municipality, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof; and

Approved March 4, 1971

## CHAPTER 422

SENATE BILL NO. 2487  
(Kautzmann)

SALE OF INDUSTRIAL  
DEVELOPMENT BONDS

AN ACT to amend and reenact section 40-57-10 of the North Dakota Century Code, relating to sale of revenue bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-57-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-10. SALE OF REVENUE BONDS.) Revenue bonds shall be sold at not less than ninety-five percent of par plus any accrued interest. Such bonds may be sold at private sale, or such bonds may be sold at public sale after notice of such sale has been published once at least five days prior to such sale in a newspaper circulating in the municipality, and in at least two financial newspapers published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Francisco, California. State or national banks may purchase the revenue bonds issued under the provisions of this chapter in an amount not to exceed ten percent of their capital and surplus.

Approved March 17, 1971

## CHAPTER 423

SENATE BILL NO. 2053  
(Butler, Jacobson, Rait, Wilhite)  
(From Legislative Council Study)

MUNICIPAL INDUSTRIAL DEVELOPMENT  
TAX EXEMPTIONS

AN ACT to amend and reenact section 40-57-17 of the North Dakota Century Code, to provide that leaseholds granted by municipalities shall be classified as personal property for only five years.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-57-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-17. EXEMPTIONS FROM TAXATION.) The leasehold granted by a municipality under this chapter is hereby classified as personal property for a period of five years from the granting of such leasehold and the execution of any instrument evidencing said grant. Upon application by the project lessee to the governing body of the municipality and approval the leasehold and all other personal property used by the lessee in connection with the project and located on the premises of the leasehold shall be exempt from personal property taxation for such five-year period. Further, that any corporate lessee under such a leasehold referred to shall, after making application therefor to the state tax commissioner, be exempt from the payment of corporate income taxes on any corporate income attributable to the business carried on by the lessee on such leasehold premises for a period of five years from the year in which the corporation lessee commenced business operations on the leased premises, provided, however, that this section shall not have the effect of exempting such corporation lessee from filing an annual income tax return. The application for exemption from personal property taxation shall be made within thirty days from the date of the granting of the leasehold referred to in this section. The application for exemption from taxation on corporate income shall be made within sixty days from the time the corporate lessee commences business operations on the leased premises. The project lessee may waive, in writing or by the act of making a payment, all or any portion of the tax exemption granted by this section.

Approved March 2, 1971

## CHAPTER 424

SENATE BILL NO. 2050

(Butler, Jacobson, Rait, Wilhite)  
(From Legislative Council Study)COMPETITORS TO RECEIVE NOTICE  
OF TAX EXEMPTION APPLICATION

AN ACT to amend and reenact section 40-57.1-03 of the North Dakota Century Code, to require notice by publication to competitors by potential project operators applying for tax exemptions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-57.1-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 40-57.1-03. MUNICIPALITIES' AUTHORITY TO GRANT TAX EXEMPTION - NOTICE TO COMPETITORS - LIMITATIONS.) Municipalities are hereby authorized and empowered, in their discretion, as limited hereafter, to grant, after negotiation with a potential project operator, partial or complete exemption from ad valorem taxation on all tangible property used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations, which date shall be determined by the tax commissioner. Negotiations with potential project operators for tax exemption shall be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if such project is proposed to be located outside the corporate limits of any city. A partial exemption shall be stated as a percentage of the total ad valorem taxes assessed against the property. The potential project operator shall publish two notices, the form of which shall be prescribed by the state board of equalization, to competitors of such application for tax exemption in the official newspaper of the municipality at least one week apart. Such publications shall be completed not less than thirty nor more than forty-five days before the governing body of the municipality is to consider such application. The municipality shall, before granting any such exemption, make application to the state board of equalization for approval, and the board shall, if it finds that such exemption will not result in unfair tax reduction competition between political subdivisions of this state, determine whether the granting of the exemption is in the best interest of the people of North Dakota, and if it so determines shall give its approval. The board shall, after making the determination, certify the findings back to the municipality and to the tax commissioner.

\*NOTE: Section 40-57.1-03 was also amended by section 1 of House Bill No. 1133, chapter 425.

Approved March 2, 1971

## CHAPTER 425

HOUSE BILL NO. 1133  
(Gackle, Sandness, Stoltenow)

INDUSTRIAL DEVELOPMENT TAX  
EXEMPTIONS ON LAND

AN ACT to amend and reenact section 40-57.1-03 of the North Dakota Century Code, relating to municipalities' authority to grant tax exemptions on land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 40-57.1-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 40-57.1-03. MUNICIPALITIES' AUTHORITY TO GRANT TAX EXEMPTION - LIMITATIONS.) Municipalities are hereby authorized and empowered, in their discretion, as limited hereafter, to grant, after negotiation with a potential project operator, partial or complete exemption from ad valorem taxation on all tangible property used in or necessary to the operation of a project for a period of five years from the date of commencement of project operations, which date shall be determined by the tax commissioner. Provided, however, that the exemption granted under this chapter shall apply only to the valuation over and above the assessed valuation placed upon the property for the last assessment period immediately preceding the date of application for exemption. Negotiations with potential project operators for tax exemption shall be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if such project is proposed to be located outside the corporate limits of any city. A partial exemption shall be stated as a percentage of the total ad valorem taxes assessed against the property. The municipality shall, before granting any such exemption, make application to the state board of equalization for approval, and the board shall, if it finds that such exemption will not result in unfair tax reduction competition between political subdivisions of this state, determine whether the granting of the exemption is in the best interest of the people of North Dakota, and if it so determines shall give its approval. The board shall, after making its determination, certify the findings back to the municipality and to the tax commissioner.

\*NOTE: Section 40-57.1-03 was also amended by section 1 of Senate Bill No. 2050, chapter 424.

Approved March 27, 1971

## CHAPTER 426

SENATE BILL NO. 2052  
(Butler, Jacobson, Rait, Wilhite)  
(From Legislative Council Study)

## REAPPLICATION FOR TAX EXEMPTION

AN ACT to create and enact section 40-57.1-05 of the North Dakota Century Code, to provide that the state board of equalization shall have discretion in accepting reapplications for tax exemptions for new industries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 40-57.1-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-57.1-05. REAPPLICATION FOR TAX EXEMPTION - DISCRETION OF BOARD OF EQUALIZATION.) The state board of equalization may, in its discretion, upon the presentation of additional facts and circumstances which were not presented or discovered at the time of the original application for tax exemption under the provisions of this chapter, accept reapplications from project operators at any time if such project operators first negotiate with the municipality and publish notice of application for tax exemption as required by this chapter.

Approved March 2, 1971

## CHAPTER 427

SENATE BILL NO. 2051  
(Butler, Rait, Wilhite)  
(From Legislative Council Study)

REAPPLICATION FOR EXEMPTION  
ON RELOCATION OR REVALUATION

AN ACT to create and enact section 40-57.1-06 of the North Dakota Century Code, to provide for reapplication for tax exemptions in those cases where the exempted property increases in value and in those cases where a project operator moves to a new location.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 40-57.1-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-57.1-06. CHANGE IN VALUE OR NEW LOCATION REQUIRING REAPPLICATION FOR TAX EXEMPTION.) If at any time the value of the property exempted from taxation under the provisions of this chapter exceeds the original valuation by more than ten percent, the project operator must reapply in order to receive an exemption on the added value of such property. If he does not reapply, or if his reapplication is disapproved, the increased valuation will be subject to ad valorem taxation. If at any time a project operator who is exempt from taxation under this chapter moves the business to a new location within this state, such project operator must reapply to retain the property tax exemption or he may elect to make application as a new business; but such move shall have no effect on the income tax exemption of such project operator if it is shown by the project operator to the satisfaction of the state board of equalization that the nature of the business has not been changed by such move and that the effect of the business upon competitors has not been changed by such move.

Approved March 2, 1971

# UNIFORM COMMERCIAL CODE

## CHAPTER 428

HOUSE BILL NO. 1233  
(R. Peterson, Atkinson)

### PRIORITY OF SECURITY INTERESTS IN FIXTURES

AN ACT to amend and reenact subsection 5 of section 41-09-34 of the North Dakota Century Code relating to the priority of a real estate interest in fixtures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 5 of section 41-09-34 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. A real estate interest in a fixture of any encumbrancer or owner of the real estate who is not the debtor has priority over a conflicting security interest except as follows:
  - a. The security interest has priority over a lien upon the fixture by legal or equitable proceedings obtained after the security interest was perfected by fixture filing or otherwise.
  - b. The security interest has priority over the real estate interest (other than a construction mortgage to finance a construction or improvement including the fixture which is of record before the goods become a fixture) if the security interest is a purchase money security interest, the debtor has an interest of record in the real estate, and the security interest is perfected by a fixture filing and recorded before the goods become a fixture or within ten days thereafter.
  - c. The security interest has priority over an encumbrance if the debtor has an interest of record in the real estate and the security interest is perfected by a fixture filing and recorded before the encumbrance is recorded.

Approved March 12, 1971

## CHAPTER 429

SENATE BILL NO. 2459  
(Holand)

SECURED PARTY'S RIGHT  
TO POSSESSION OF SECURITY

AN ACT to amend and reenact section 41-09-49 of the North Dakota Century Code, relating to a secured party's right to take possession after default.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 41-09-49 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

41-09-49. (9-503) SECURED PARTY'S RIGHT TO TAKE POSSESSION AFTER DEFAULT.) Unless otherwise agreed and subject to Chapter 28-29 of the North Dakota Century Code as amended, a secured party has, on default, the right to take possession of the collateral. In taking possession a secured party may proceed without judicial process if this can be done without breach of the peace or may proceed by action. If the security agreement so provides the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. Without removal a secured party may render equipment unusable, and may dispose of collateral on the debtor's premises under section 41-09-50.

Approved March 18, 1971

# OCCUPATIONS AND PROFESSIONS

## CHAPTER 430

SENATE BILL NO. 2400  
(Lips)

### CERTIFIED PUBLIC ACCOUNTANTS

AN ACT to create and enact section 43-02-14.1 of the North Dakota Century Code, relating to an annual license fee for certified public accountants; to create and enact subsection 5 of section 43-02-08 relating to the powers of the board of accountancy; to amend and reenact sections 43-02-11, 43-02-12, 43-02-13, 43-02-14, 43-02-15 and subsections 2 and 3 of section 43-02-17 of the North Dakota Century Code relating to examination, revocation of certificates, fees for examination for certificates for certified public accountants, use of the title "certified public accountant", and penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 5 of section 43-02-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. To employ an executive director whose salary shall be established by the board.

SECTION 2. AMENDMENT.) Section 43-02-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-11. EXAMINATION - WHEN NOT NECESSARY.) The board, upon application in writing, may waive the examination and issue a certificate to practice as a certified public accountant to a person who is not a resident of this state, if he:

1. Has the other qualifications required by section 43-02-10.
2. Holds a certificate in good standing to practice as a certified public accountant in another state where the standards, in the opinion of the board, are equivalent to the standards maintained in this state, provided, however, that the other state extends reciprocity to the certificate holders of this state.
3. Has remitted a fee of not to exceed one hundred dollars.

The applicant for a certificate without examination shall submit to the board such evidence as to qualifications as it may require.

SECTION 3. AMENDMENT.) Section 43-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-12. GROUNDS FOR REVOCATION OR SUSPENSION OF CERTIFICATE.) The board may revoke or suspend for a period of not to exceed five years a certificate to practice as a certified public accountant for any of the following reasons:

1. If the holder thereof has been convicted of a felony;
2. If the holder thereof is found guilty of conduct involving moral turpitude;
3. For fraud or misrepresentation in the application for the certificate or in the examination therefor;
4. For the failure of the holder of a certificate, if at the time the certificate was issued he was not a citizen of the United States, to qualify as a citizen within one year after the time allowed by law;
5. If the certificate of a nonresident who was certified under the provisions of section 43-02-11 is suspended, revoked or canceled in the state where it originally was issued;
6. For failure to register as provided by section 43-02-14.1;
7. For violation of any of the provisions of this chapter.

SECTION 4. AMENDMENT.) Section 43-02-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-13. REVOCATION OR SUSPENSION OF CERTIFICATE - HEARING - NOTICE - PROCEDURE - RECORD.) A certificate to practice as a certified public accountant shall not be revoked or suspended except after a hearing by a majority of the members of the board. The attorney general or an attorney designated by him shall attend the hearing and shall act as the legal advisor of the board. Written notice of the hearing shall be mailed to the holder of the certificate at his last known address at least twenty days before the date of such hearing. Such notice shall state the basis for the proposed action or revocation or suspension and shall appoint a time and place for the hearing. The board may compel the attendance of witnesses at such hearing, administer oaths, and examine witnesses under oath. The board shall keep a record of all proceedings with respect to the revocation or suspension of any certificate.

SECTION 5. AMENDMENT.) Section 43-02-14 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-14. FEE FOR EXAMINATION - FAILURE TO PASS EXAMINATION - RE-EXAMINATION.) At the time of filing his application each applicant for a certificate to practice as a certified public accountant shall pay to the board a fee not to exceed one hundred dollars. In case the applicant withdraws after approval or is not approved for examination due to the failure of the applicant to qualify under one or more of subsections 1, 2, 3, 4, or 5 of section 43-02-10 fifty per cent of such fee shall be returned to the applicant. If the applicant passes accounting practice or any other two subjects covered by the examination, but shall fail to pass the examination as a whole, he shall be entitled to re-examination on the subjects which he has failed. Such re-examination may be taken only at the next five examinations held, provided that if the applicant is serving temporarily in the armed forces on active duty during the time such examinations are held such examinations shall be excluded in computing the five examinations unless the applicant takes an examination while so serving, in which case such examination shall be included in computing the five examinations. Each applicant shall pay to the board a fee of not to exceed forty dollars for each re-examination in accounting practice and a fee of not to exceed twenty dollars for each re-examination in any other subject.

SECTION 6.) Section 43-02-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-02-14.1. ANNUAL REGISTRATION FEE - ISSUANCE OF LICENSE.) On or before July first of each year, every person legally certified to practice as a certified public accountant within this state shall file with the secretary-treasurer of the board a registration statement upon blanks prepared and provided by the board and shall pay to the secretary-treasurer an annual registration fee in an amount to be fixed by regulation of the board and not to exceed one hundred dollars. The secretary-treasurer of the board, upon payment of the annual registration fee by a person certified to practice as a certified public accountant in this state, shall issue an annual license. The holder of such license shall post it in a conspicuous place in his office.

SECTION 7. AMENDMENT.) Section 43-02-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-15. USE OF TITLE "CERTIFIED PUBLIC ACCOUNTANT".) No person or partnership shall assume the title "certified public accountant", or the abbreviations, "C.P.A.", "C.A.", or any other words, letters, or abbreviations tending to indicate that such person or partnership is a certified public accountant, without first having received a certificate to practice as a certified

public accountant and registered as provided in section 43-02-14.1. No partnership shall assume such title or abbreviations unless each member thereof has received a certificate as a certified public accountant and registered as provided in section 43-02-14.1.

SECTION 8. AMENDMENT.) Subsections 2 and 3 of section 43-02-17 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Assume to practice as a certified public accountant without first having received a certificate and registered annually as provided in this chapter;
3. Continue to practice as a certified public accountant or to use such title or any other title, word, or abbreviation tending to indicate that he is a certified public accountant, after his certificate to practice has been revoked or while it is suspended;  
or

Approved March 12, 1971

## CHAPTER 431

HOUSE BILL NO. 1288  
(Metzger, Raymond, J. Peterson)

PUBLIC CONTRACT  
EMPLOYMENT PREFERENCE

AN ACT to create and enact sections 43-07-20, 43-07-21 and 43-07-22, relating to employment of North Dakota residents for work performed under public contracts, providing a penalty, and establishing responsibility for enforcement of the act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 43-07-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-07-20. EMPLOYMENT PREFERENCE IN CONTRACT.) In all public contracts, except which involve federal-aid funds and where a preference or discrimination would be contrary to a federal law or regulation, hereafter let for state, county, city, school district, or township construction, repair or maintenance work under any laws of this state there shall be inserted a provision by which the contractor must give preference to the employment of bona fide North Dakota residents who are deemed to be qualified by the employer in the performance of said work. Such preference shall not apply to engineering, superintendence, management, or office or clerical work.

No contract shall be let to any person, firm, association, cooperative, or corporation refusing to execute an agreement containing the aforementioned provisions.

SECTION 2.) Section 43-07-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-07-21. PENALTY - INJUNCTION PROCEEDINGS.) Any person, firm, association, cooperative, or corporation violating any provisions of section 43-07-20 shall be guilty of a misdemeanor and be punished by a fine not to exceed \$1,000.00. A repeated violation shall constitute legal grounds for a court, on proper application by commissioner of labor, to grant an injunction without requiring the posting of a bond or undertaking. All contracts shall provide that \$1,000.00 of the contract price is to be withheld in addition to any other withholding until it has been determined by the commissioner of labor that no action or fines are pending.

SECTION 3.) Section 43-07-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-07-22. ENFORCEMENT RESPONSIBILITY.) The commissioner of labor shall have the primary responsibility of enforcing the provisions of sections 43-07-20 and 43-07-22 and is hereby authorized to make reciprocal agreements or arrangements with any other state or territory exempting the application of the provisions of this Act, and is authorized to examine records of employment relative to public contracts for such purposes. However, any person being adversely affected because of non-compliance with section 43-07-20 may also institute an appropriate civil action, and, any person having knowledge of a violation may file a criminal complaint with the proper official.

Approved March 24, 1971

## CHAPTER 432

HOUSE BILL NO. 1322  
(White, Bunker, Hentges, Rundle, Eagles)

COSMETOLOGIST GIVING MANICURES  
IN LICENSED BARBER SHOP

AN ACT to amend and reenact subsection 4 of section 43-11-02 of the 1969 Supplement to the North Dakota Century Code, to allow a licensed cosmetologist to perform manicuring services in a licensed barber shop.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 43-11-02 of the 1969 Supplement to the North Dakota Century Code, is hereby amended and reenacted to read as follows:

43-11-02. EXEMPTIONS FROM PROVISIONS OF CHAPTER.) The provisions of this chapter shall not apply to services:

1. In case of emergency;
2. In case of domestic administration without compensation;
3. By persons authorized under the laws of this state to practice medicine, surgery, dentistry, chiropody, osteopathy, or chiropractic;
4. By barbers, nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation; or by a licensed cosmetologist engaged in manicuring the nails of any person in a licensed barber shop;
5. This section shall not be construed as applying to the educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, from which the general public is excluded. For purposes of this section a "bona fide association of cosmetologists" shall mean any organization whose constitution, by-laws, or membership rules establish within said organization a class of membership consisting of licensed cosmetologists.

Approved March 27, 1971

## CHAPTER 433

HOUSE BILL NO. 1099  
(Hoffner)

CANCELLING ENROLLMENT IN  
SCHOOL OF HAIRDRESSING AND COSMETOLOGY

AN ACT to create and enact sections 43-11-20.1, 43-11-20.2, 43-11-20.3, and 43-11-20.4 of the North Dakota Century Code, relating to partial refunds of tuition paid by students cancelling their enrollment in a school of hairdressing and cosmetology, providing the rate of refund, providing the procedure for cancellation of contracts of instruction, prohibiting the negotiation of promissory instruments given in payment of student tuition until after a certain portion of the course of instruction has been completed and requiring a solicitor's permit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 43-11-20.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-11-20.1. REFUND OF STUDENT TUITION FEES UPON CANCELLATION OF COURSE.) Schools of hairdressing and cosmetology shall refund tuition and other charges paid by or on behalf of a student when written notice of cancellation is given by the student. Refunds shall be made in accordance with the following schedule:

1. When notice is received prior to or within seven days after completion of the first day of instruction, all tuition and other charges except twenty-five dollars thereof shall be refunded to the student.
2. When notice is received within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the course, all tuition and other charges except twenty-five percent thereof shall be refunded to the student.
3. When notice is received upon or after completion of one-fourth of the course, but prior to the completion of one-half of the course, all tuition and other charges except fifty percent thereof shall be refunded to the student.

4. When notice is received upon or after the completion of fifty percent of the course, no tuition or other charges shall be refunded to the student.

Notice of the provisions of this section, and of the provisions of sections 43-11-20.2 and 43-11-20.3, shall be posted in a conspicuous place in each school of hairdressing and cosmetology. The notice shall be in such form and shall contain such information as shall be prescribed by the board. The board shall take such action as may be necessary to enforce the provisions of this section and sections 43-11-20.2 and 43-11-20.3, including revocation of the certificate of registration issued pursuant to section 43-11-17. The provisions of this section shall not prejudice the right of any student to recovery in an action against any school of hairdressing and cosmetology for breach of contract or fraud.

SECTION 2.) Section 43-11-20.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-11-20.2. NEGOTIATION OF PROMISSORY INSTRUMENTS.) No school of hairdressing and cosmetology shall negotiate any promissory instrument received as payment for tuition or other charges prior to the completion of one-half of the course of instruction offered by the school.

SECTION 3.) Section 43-11-20.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-11-20.3. CANCELLATION OF CONTRACT FOR INSTRUCTION.) Any person shall have the unrestricted right to rescind, revoke, or cancel a contract for a course of instruction at any school of hairdressing and cosmetology after entering into such contract without incurring any tort or contract liability. In such event, the school of hairdressing and cosmetology may retain the amount of tuition and other charges as set forth in section 43-11-20.1.

SECTION 4.) Section 43-11-20.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-11-20.4. SOLICITOR'S PERMIT REQUIRED.) Schools of hairdressing and cosmetology licensed under the provisions of this chapter shall be exempt from the license requirement of chapter 15-50, but all persons who solicit business for a school of hairdressing and cosmetology, or who sells any course or courses of instruction, shall secure a solicitor's permit and bond as required by chapter 15-50.

Approved March 22, 1971

## CHAPTER 434

HOUSE BILL NO. 1325  
(Wagner, Atkinson, Lang)

## PROFESSIONAL NURSES

AN ACT to amend and reenact sections 43-12-01, 43-12-02, 43-12-03, 43-12-04, 43-12-05, 43-12-06, 43-12-07, 43-12-08, 43-12-09, 43-12-10, 43-12-11, 43-12-13, 43-12-15, 43-12-16, 43-12-17, 43-12-18, 43-12-21, 43-12-22, and 43-12-24 of the North Dakota Century Code, and to repeal sections 43-12-19 and 43-12-20 of the North Dakota Century Code, all relating to professional nurses, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 43-12-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-01. DEFINITIONS.) In sections 43-12-01 through 43-12-24, unless the context or subject matter otherwise requires:

1. "Board" shall mean the North Dakota board of nursing.
2. The practice of professional nursing means the performance for compensation of any act in the observation, care, and counsel of the ill, injured, or infirm, or in the maintenance of health or prevention of illness in others, or in the supervision and teaching of other personnel, or in the administration of medications and treatments as prescribed by a licensed physician or dentist, requiring substantial specialized judgment and skill based on knowledge and applications of the principles of biological, physical, and social science.
3. "Professional nurse" or "registered nurse" shall mean one who has met all the legal requirements for licensure in this state, has been registered by the board, and who holds a license for the current year, acquired according to the provisions of sections 43-12-01 through 43-12-24.

SECTION 2. AMENDMENT.) Section 43-12-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-02. PERSONS EXEMPTED.) The provisions of sections 43-12-01 through 43-12-24 shall not apply to:

1. The furnishing of nursing assistance in a natural or manmade disaster.
2. The practice of nursing which is incidental to their program of study by students enrolled in nursing education programs approved by the board.
3. The practice by a graduate of a North Dakota approved school of nursing between the dates of graduation and notification of results of the first licensing examination for which such person is eligible.
4. The practice of any legally licensed nurse who is currently employed in North Dakota by the United States government or any bureau, division, or agency thereof, while in the discharge of his official duties.

SECTION 3. AMENDMENT.) Section 43-12-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-03. NORTH DAKOTA BOARD OF NURSING - MEMBERS - APPOINTMENT - TERMS OF OFFICE.) The North Dakota board of nursing shall consist of five professional nurses, appointed by the governor for terms of five years each, so arranged that one term shall expire on the thirtieth day of June in each year, and in addition, for matters pertaining to practical nursing, there shall be two licensed practical nurses appointed by the governor for terms of four years each, so arranged that one term shall expire on the 30th day of June on each odd numbered year. Each member of the board shall hold office until his successor is appointed and qualified. Persons appointed to the board shall take the oath required of civil officers. Vacancies on the board shall be filled by appointment by the governor for the remainder of the unexpired term. No appointee shall serve more than two consecutive terms.

SECTION 4. AMENDMENT.) Section 43-12-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-04. QUALIFICATIONS OF PROFESSIONAL NURSE MEMBERS OF THE BOARD.) No professional nurse shall be appointed as a member of the board unless such person has the following qualifications:

1. Is recommended by the North Dakota state nurses' association.
2. Is licensed to practice nursing in North Dakota.
3. Has resided at least two years in North Dakota.
4. Is currently engaged in nursing, teaching, or administration.
5. Has had at least five years' experience in the nursing profession including teaching, administration, or supervision.
6. Has graduated from an accredited university or college.

At least ten days before an appointment is to be made, the North Dakota state nurses' association shall recommend three persons to the governor for such appointment.

SECTION 5. AMENDMENT.) Section 43-12-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-05. BOARD - ORGANIZATION - MEETINGS - OFFICERS - BOND OF TREASURER - OFFICE OF BOARD.) The board shall meet annually at its office for the purpose of organization. At such meeting the members of the board shall elect from their number a president, a vice president, a secretary, and a treasurer. The office of the secretary and treasurer may be held by the same person, if so determined by the board. The treasurer shall be bonded in a penal sum equal at least to the largest amount of money which will come into his hands in any one year. The amount of such bond shall be determined by the board and in no event shall be less than two thousand dollars. The bond shall be filed in the office of the secretary of state.

In addition, the board shall hold at least two regular meetings in each year for the examination of applicants for licensure as professional nurses and such additional meetings at such times and places as it may determine.

SECTION 6. AMENDMENT.) Section 43-12-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-06. COMPENSATION OF MEMBERS OF BOARD - EXPENSES - HOW PAID.) Each member of the board shall receive a per diem fee, not exceeding that authorized by law for other occupational or professional licensing boards as determined by the board, and the expenses necessarily incurred while actually engaged in the performance of the duties of his

office. Such compensation shall be paid from fees received by the board under the provisions of sections 43-12-01 through 43-12-24.

SECTION 7. AMENDMENT.) Section 43-12-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-07. POWERS AND DUTIES OF BOARD.) The board may draw up such rules and regulations as are necessary to carry out the provisions of sections 43-12-01 through 43-12-24 and shall:

1. Adopt an official seal which shall remain in the custody of the executive director of the board.
2. Maintain a permanent record, wherein the names of the nursing education programs approved under the provisions of sections 43-12-01 through 43-12-24 are listed.
3. Maintain a permanent register of the names of all persons to whom licenses to practice professional nursing are issued. Such register shall be open to public inspection.
4. Maintain a roster of nurses who desire to retire temporarily from the practice of nursing in this state.
5. Employ an executive director and such other staff as may be required. The board shall define the duties of the executive director and other staff members and fix their salaries.
6. Receive all fees and moneys collected under sections 43-12-01 through 43-12-24, and deposit and disburse them in accordance with section 54-44-12.
7. Authorize all expenditures necessary for conducting the business of the board and execute any other legitimate project pertaining to nursing education or practice.
8. Report all receipts and expenditures of said funds at the close of each fiscal year to the governor and the legislative assembly. Any balance of such fees after payment of such compensation and expenditures by the treasurer of the board shall be held by the board and is to be used only in administering sections 43-12-01 through 43-12-24.

SECTION 8. AMENDMENT.) Section 43-12-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-08. APPROVAL OF NURSING EDUCATION PROGRAMS - FEE - REVOCATION OF APPROVAL.) Any nursing education program to be approved under the provisions of sections 43-12-01 through 43-12-24 shall meet the requirements of the board for such a program and shall be required to pay an annual fee as determined by the board to the treasurer of the board.

SECTION 9. AMENDMENT.) Section 43-12-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-09. NURSING EDUCATION PROGRAMS - QUALIFICATIONS OF APPLICANTS FOR ADMISSION.) Before any nursing education program shall admit a student, the student shall present certified evidence that he has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency or pass an entrance examination.

SECTION 10. AMENDMENT.) Section 43-12-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-10. SURVEY OF NURSING EDUCATION PROGRAMS.) All nursing education programs in the state shall be surveyed at any time by the executive director, members of the board, or other duly qualified consultants at the board's discretion.

SECTION 11. AMENDMENT.) Section 43-12-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-11. EXECUTIVE DIRECTOR - QUALIFICATIONS AND DUTIES.) The executive director shall be a graduate of an approved nursing education program and of a college or university, preferably with a master's degree. He shall be a registered nurse with at least five years' experience in any combination of the administration, teaching, or supervision of nursing. He shall perform the nursing education and administrative duties assigned by the board.

SECTION 12. AMENDMENT.) Section 43-12-13 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-13. EXAMINATION REQUIRED - APPLICATION - FEE FOR EXAMINATION - QUALIFICATIONS FOR EXAMINATION.) Any person who desires to practice professional nursing in this state shall pass the examination given by the board before a license shall be issued. Such person shall make an application for licensure to the executive director of the board at least three weeks prior to the date set for the examination and shall pay to the treasurer of the board at the time of making such application the fee set by the board. Enclosed with such

application, proof shall be submitted that the applicant has the following qualifications:

1. Has received the preliminary education required for admission into a nursing education program.
2. Has successfully completed a board-approved nursing education program.
3. Is recommended by the faculty of a nursing education program.

SECTION 13. AMENDMENT.) Section 43-12-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-15. EXAMINATION.) An applicant for a license to practice professional nursing in this state shall present himself for examination at the next regular examination held by the board after his application has been filed. Ten days prior to the examination, notice of the time and place of examination shall be mailed to each applicant.

SECTION 14. AMENDMENT.) Section 43-12-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-16. LICENSE - WHEN ISSUED - AUTHORITY UNDER.) If an applicant for a license to practice professional nursing in this state passes his examination, the board shall enter his name in the register provided for in subsection 3 of section 43-12-07 and shall issue to him a certificate of registration and a current license authorizing him to practice as a professional nurse in this state. He shall show the evidence of licensure upon request.

SECTION 15. AMENDMENT.) Section 43-12-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-17. RE-EXAMINATION - FEES FOR RE-EXAMINATION - QUALIFICATIONS FOR EXAMINATION.) The board may make such rules and regulations as it deems necessary for the re-examination of applicants who fail to pass a regular examination. The fee for rewriting the examination shall be set by the board.

SECTION 16. AMENDMENT.) Section 43-12-18 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-18. LICENSE ISSUED TO APPLICANT LICENSED IN ANOTHER STATE - EXAMINATION NOT REQUIRED.) Notwithstanding the provisions of section 43-12-13, the board may issue a

license to practice professional nursing in this state to an applicant who has not taken the examination if he:

1. Meets the qualifications for nurse licensure in this state.
2. Produces satisfactory evidence of being duly licensed by examination in another state to practice as a professional nurse. Applicants for licensure from a foreign country or territory shall have been graduated from a nursing education program approved in such country or territory and shall be required to pass the same written examination as applicants from this state.
3. Pays the fee set by the board.

Upon receipt of the application for license and payment of the fee, and of evidence that an applicant has met all the requirements of this chapter, the board may issue a temporary permit to practice professional nursing in this state until the license has been issued. Such temporary permit shall expire at the end of ninety days and may be renewed only for reasons satisfactory to the board.

SECTION 17. AMENDMENT.) Section 43-12-21 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-21. RENEWAL OF LICENSE - FEE - FAILURE TO PAY - RELICENSURE - ROSTER OF INACTIVE NURSES.) A license issued under the provisions of sections 43-12-01 through 43-12-24 shall be valid for only one year and shall be renewed on or before the thirty-first day of December in each year. The fee shall be set by the board. On or before the first day of November in each year the executive director of the board shall mail to all registered nurses an application form for a license renewal. The application and fee shall be in the hands of the executive director of the board by the thirty-first day of December in each year. The failure of any person to renew his license annually shall suspend his right to practice professional nursing in this state, but he may be relicensed by paying the required annual renewal fee for each year it has not been paid but not to exceed twenty-five dollars for failure to complete his relicensure on time.

A roster, as provided for in subsection 4 of section 43-12-07, shall be compiled by the executive director of the board. Any nurse, upon payment of a fee set by the board, who voluntarily places his name on such roster on or before the first day of January in the year he desires to retire temporarily from the practice of nursing may be relicensed in any subsequent year by paying the current annual fee without incurring any penalty. Nurses who have not placed their

names on such roster shall be subject to payment of the required renewal fee for each year it has not been paid as specified.

SECTION 18. AMENDMENT.) Section 43-12-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-22. REVOCATION OF LICENSE OR PERMIT - GROUNDS FOR - DISCIPLINE - APPEAL - BOARD TO FURNISH LIST OF PERSONS HAVING LICENSES REVOKED TO OTHER STATES.) The board shall have the power to deny, revoke, or suspend any license or permit to practice nursing issued by the board in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon proof that the person:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; or
2. Is guilty of a crime of moral turpitude; or
3. Becomes unfit or incompetent to practice by reason of gross negligence; or
4. Is habitually intemperate or is addicted to the use of habit-forming drugs; or
5. Is mentally incompetent; or
6. Is guilty of unprofessional conduct; or
7. Has willfully or repeatedly violated any of the provisions of this chapter.

Upon filing of a sworn complaint with the board, charging a person with having been guilty of any of the actions specified as a ground for disciplinary action, or upon the board's own initiative, the executive officer of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the accused at least ten days prior thereto. Subpoenas issued by the board and served in accordance with the law, shall compel the attendance of witnesses and shall cause evidence to be produced at the hearing. The board shall administer such oaths as may be necessary for the proper conduct of the hearings. At the hearing the accused shall have the right to appear personally or be represented by counsel, or both, to produce witnesses or evidence on his own behalf, to cross-examine witnesses, and to have subpoenas issued by the board. If the accused is found guilty of the charges, the board may revoke or suspend a license, reprimand a licensee, or refuse to issue a license to an applicant. A revoked or suspended license

may be reissued after one year at the discretion of the board. The board shall keep a record of all its proceedings in the matter of revoking or suspending licenses or permits, together with the evidence offered. An appeal from the final decision of the board revoking or suspending a license to practice professional nursing in this state may be taken to the district court of Burleigh County in accordance with the provisions of chapter 28-32. The board shall furnish a list of the names and addresses of those whose certificates have been revoked to the boards of nursing, or comparable boards of all other states.

SECTION 19. AMENDMENT.) Section 43-12-24 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-24. VIOLATION - PENALTIES.) No person, corporation, association, or individual shall:

1. Sell or fraudulently obtain or furnish any nursing diploma, license, renewal or record, or aid or abet therein.
2. Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation.
3. Practice professional nursing as defined by this chapter unless duly licensed to do so under the provisions of this chapter.
4. Use in connection with his name any designation tending to imply that he is a licensed registered nurse unless duly licensed so to practice under the provisions of this chapter.
5. Practice professional nursing during the time his license issued under the provisions of this chapter shall be suspended or revoked.
6. Conduct a nursing education program for the preparation of professional nurses unless the program has been approved by the board.
7. Otherwise violate any provisions of this chapter.

Any violation of this section shall be a misdemeanor and shall be punishable by a fine of not less than ten dollars nor more than one hundred dollars for a first offense. Each subsequent offense shall be punishable by a fine of one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

SECTION 20. REPEAL.) Sections 43-12-19 and 43-12-20 of the North Dakota Century Code are hereby repealed.

Approved March 29, 1971

## CHAPTER 435

SENATE BILL NO. 2382  
(Freed)REQUIRING CONTINUING  
OPTOMETRIC EDUCATION

AN ACT to amend and reenact section 43-13-20 of the North Dakota Century Code, relating to the renewal of a certificate of registration to practice optometry, to the requirement of continuing optometric education, and to the payment of a license fee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 43-13-20 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-20. TERM OF CERTIFICATE - RENEWAL - ANNUAL LICENSE FEE - CONTINUING EDUCATIONAL REQUIREMENTS.) A certificate of registration to practice optometry in the state shall be issued for one year only, but may be renewed by paying to the secretary of the board, during the month of January of each year, the license fee for that year, and as of January 1, 1974, by submitting satisfactory proof to the board that within the preceding three-year period the applicant has attended optometric educational programs as required by the board. The board shall grant an applicant an additional year in which to attend such educational programs if an applicant furnishes the board with sufficient proof that he has been unable to attend such education programs during a year, which proof shall include a physician's certificate stating that the applicant was ill and that it would have been hazardous to the applicant's health to attend such educational programs. The license fee for each year shall be determined annually by the North Dakota state board of optometry and shall not exceed one hundred dollars. The board shall adopt reasonable rules and regulations which shall state the type of optometric educational programs which are approved. The board shall also designate the number of classroom hours which must be attended, which shall not exceed eighteen within each three-year period. Any person who does not meet these requirements by February first of the year in which the license fee becomes due and payable shall be in default and may be reinstated by the board upon the payment of an additional sum of twenty-five dollars, and upon the acceptance by the board of satisfactory evidence that the person has sufficiently attended approved optometric educational programs, and upon the compliance with other reasonable conditions the board may impose. Nothing contained herein shall require an applicant to become a member of the North Dakota optometric association or any other association of optometrists.

Approved March 11, 1971

## CHAPTER 436

HOUSE BILL NO. 1156  
(Patrick, Giffey)

## PHYSICAL DESIGN OF PHARMACIES

AN ACT to create and enact subsection 11 of section 43-15-10 of the North Dakota Century Code, relating to powers of the state board of pharmacy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 11 of section 43-15-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

11. To prescribe reasonable rules and regulations relating to the physical design of space occupied by a pharmacy to ensure appropriate control of and safeguards over the contents of such pharmacy.

Approved March 15, 1971

## CHAPTER 437

HOUSE BILL NO. 1189  
(Wagner)

EXAMINING APPLICANTS  
FOR MEDICAL LICENSURE

AN ACT to amend and reenact sections 43-17-07, 43-17-18, and 43-17-20 of the North Dakota Century Code, relating to the examination of applicants for a license to practice medicine in this state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 43-17-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-07. MEETINGS OF THE BOARD - SEAL OF BOARD.) The board shall hold at least two meetings in each calendar year for the examination of applicants for licensure, and may call such special meetings as may be necessary. The meetings shall be held at such places as the board may designate. The board shall have a seal.

SECTION 2. AMENDMENT.) Section 43-17-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-18. QUALIFICATIONS OF APPLICANT FOR EXAMINATION.) An applicant for a license to practice medicine shall present evidence satisfactory to the board that he has the following qualifications:

1. That he is at least twenty one years of age;
2. That he is a graduate of some reputable medical or osteopathic college approved by the board;
3. That he has satisfactorily completed a one year internship in a hospital approved by the board, or at the discretion of the board that he has completed such post graduate training or such approved hospital residency training, or any combination thereof, as the board deems equivalent thereto.

SECTION 3. AMENDMENT.) Section 43-17-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-20. EXAMINATIONS - HOW CONDUCTED - SUBJECTS.) Examination of applicants for license to practice medicine shall be made by the board in the manner deemed by it to be most practicable and expeditious to test the applicant's qualifications. Each applicant shall be designated by a number instead of his name so that his identity shall not be disclosed to the members of the board until the examinations have been graded. The subjects covered by the examinations shall be those subjects that the board deems appropriate. Upon passing the examinations in a manner satisfactory to the majority of the board, the applicant shall be issued a license.

Approved March 15, 1971

## CHAPTER 438

HOUSE BILL NO. 1064  
(Austin, Bunker, Halcrow, Henning, Hentges)  
(From Legislative Council Study)

### LICENSING ALIEN PHYSICIANS

AN ACT to amend and reenact section 43-17-22 of the North Dakota Century Code, to remove the citizenship requirements for the licensing of physicians.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 43-17-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-22. LICENSE - FEES.) An applicant for a license to practice medicine found by the board to be qualified for licensure, shall be granted a license to practice medicine in this state. The license shall be signed by the president, secretary-treasurer, and members of the board and shall have the seal of the board affixed thereto or impressed thereon. The fee for the examination shall be determined by regulation of the board.

Approved March 24, 1971

## CHAPTER 439

HOUSE BILL NO. 1326  
(Bunker, Backes, Haugland, R. Peterson)

## LIABILITY FOR HUMAN TRANSPLANTATION

AN ACT to provide that persons engaged in the transplantation or transfusion of human tissues and related purposes shall not be liable for damages except for their own negligence or willful misconduct.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DECLARATION OF LEGISLATIVE PURPOSE AND INTENT.) The availability of scientific knowledge, skills and materials for the transplantation, injection, transfusion or transfer of human tissue, organs, blood and components thereof is important to the health and welfare of the people of this state. The imposition of legal liability without fault upon the persons and organizations engaged in such scientific procedures inhibits the exercise of sound medical judgment and restricts the availability of important scientific knowledge, skills and materials. It is therefore the public policy of this state to promote the health and welfare of the people by limiting the legal liability arising out of such scientific procedures to instances of negligence or willful misconduct.

SECTION 2. LIMITATION OF LIABILITY.) No physician, surgeon, hospital, blood bank, tissue bank, or other person or entity who donates, obtains, prepares, transplants, injects, transfuses or otherwise transfers, or who assists or participates in obtaining, preparing, transplanting, injecting, transfusing or transferring any tissue, organ, blood or component thereof from one or more human beings, living or dead, to another human being, shall be liable as the result of any such activity, save and except that each such person or entity shall remain liable for his or its own negligence or willful misconduct only.

Approved March 29, 1971

## CHAPTER 440

HOUSE BILL NO. 1110  
(Wagner)

CONTINUING EDUCATION  
FOR DENTAL HYGIENISTS

AN ACT to create and enact sections 43-20-12 and 43-20-12.1 of the North Dakota Century Code, relating to the delegation of duties to dental hygienists and to continuing education requirements for dental hygienists; to amend and reenact sections 43-20-02 and 43-20-03 of the North Dakota Century Code, relating to acceptance of a national test in lieu of graduation from hygienist school and practice by dental hygienists.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 43-20-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-02. DENTAL HYGIENISTS - QUALIFICATIONS - EXAMINATIONS - REGISTRATION AND LICENSE.) Any person of good moral character not already a licensed dental hygienist of this state, being a graduate of an accredited high school or its equivalent, who is a graduate of a school of dental hygiene approved or provisionally approved by the council on education of the American dental association, upon making application for such license and upon the payment of thirty-five dollars, may be examined by the North Dakota state board of dental examiners on the subjects considered essential by it for a dental hygienist. Such examinations shall be conducted by the board of dental examiners. If the applicant, in the opinion of the board, successfully passes said examination, the applicant shall be registered and licensed as a dental hygienist. For such applicants as fail to pass a satisfactory initial examination, subsequent examinations may be had before the board upon payment of a fee of ten dollars for each subsequent examination, but no applicant shall be allowed to take more than three examinations. Applicants for examination shall submit their credentials to said board at least thirty days prior to the examination date, which date shall correspond to the date of examination for applicants for license to practice dentistry in this state.

The North Dakota board of dental examiners may accept the results of the national board examination as the equivalent to the testing of an applicant by the North Dakota board of dental examiners in all areas covered by the national board examination.

SECTION 2. AMENDMENT.) Section 43-20-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-03. DENTAL HYGIENISTS - PRACTICE BY.) The term dental hygiene and the practice thereof as used in this chapter shall mean the removal of accumulated matter from the natural and restored surfaces of teeth and from restorations in the human mouth, the polishing of such surfaces, and the topical application of drugs to the surface tissues of the mouth and to the surface of teeth; provided, however, that such acts must be performed under the direction and control of a licensed dentist. Persons practicing dental hygiene, other than dentists, shall be referred to as dental hygienists. Additional tasks permitted to be performed by licensed dental hygienists may be outlined from time to time by the board of dental examiners by appropriate rules and regulations.

SECTION 3.) Section 43-20-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-20-12. DENTAL HYGIENISTS - AUXILIARY PERSONNEL - DISTINCTION.) A legally licensed and registered dentist may delegate to competent dental auxiliary personnel those procedures over which the dentist exercises direct supervision and full responsibility, except those procedures which require professional judgment and skill such as diagnosis and treatment planning, the cutting of hard or soft tissue, or any intraoral procedure which would lead to the fabrication of an appliance which, when worn by the patient, would come in direct contact with hard or soft tissue and which could result in tissue irritation or injury.

SECTION 4.) Section 43-20-12.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-20-12.1. CONTINUING EDUCATIONAL REQUIREMENT FOR DENTAL HYGIENISTS.) Five years from July 1, 1971, or upon the fifth anniversary of the issuance of his license, whichever occurs last, and each five years thereafter, each person licensed to practice dental hygiene in this state shall provide the state board of dentistry evidence, of a nature suitable to the board, that such licensed person has attended, or participated in such amount of continuing education in dental hygiene as shall be required by the board. The board may accept for compliance with this requirement any of the following which, in the opinion of the board, contributes directly to the dental education of the licensee:

1. Attendance at lectures, study clubs, college post-graduate courses, or scientific sessions of conventions.
2. Research, graduate study, teaching, or service as a clinician.

3. Any other such evidence of continuing education the board may approve.

Any licensed person who shall fail to comply with this requirement shall, at the discretion of the board, be re-examined to determine his competency to continue licensure. If, in the opinion of the board, such licensed person does not qualify for further licensed practice, the board shall suspend such license until such time as the dental hygienist shall provide acceptable evidence to the board of his competency to practice.

Approved March 22, 1971

## CHAPTER 441

HOUSE BILL NO. 1259

(Atkinson, Peterson, Giffey, Lundene, Stoltenow)

## LICENSED PRACTICAL NURSES

AN ACT to amend and reenact subsection 2 of section 43-21-01, and sections 43-21-02, 43-21-03, 43-21-04, 43-21-08, 43-21-09, 43-21-10, 43-21-11, and 43-21-12 of the North Dakota Century Code, relating to practical nurses, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 43-21-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Licensed practical nurse" shall mean one who has met all legal requirements for licensure in this state, has been licensed by the board, and who holds a license for the current year, acquired according to the provisions of sections 43-21-01 through 43-21-12; and

SECTION 2. AMENDMENT.) Section 43-21-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-02. PERSONS EXEMPTED.) The provisions of this chapter shall not apply to:

1. The furnishing of nursing assistance in a natural or manmade disaster.
2. The practice of nursing which is incidental to their program of study by students enrolled in practical nurse education programs approved by the board.
3. The practice by a graduate of a North Dakota approved school of practical nursing between the dates of graduation and notification of results of the first licensing examination for which such person is eligible.
4. The practice of any legally licensed practical nurse who is currently employed in North Dakota

by the United States Government or any bureau, division, or agency thereof, while in the discharge of his or her official duties.

SECTION 3. AMENDMENT.) Section 43-21-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-03. EXAMINATION REQUIRED - APPLICATION - FEE FOR EXAMINATION - QUALIFICATIONS FOR EXAMINATION.) Any person who desires to practice as a licensed practical nurse in this state shall pass the examination given by the board before a license shall be issued. Such person shall make an application for licensure to the executive director of the board at least ten days prior to the date set for the examination and shall at the time of making such application pay the fee set by the board. Enclosed with the application shall be proof that the applicant has the following qualifications:

1. Has received the preliminary education required for admission into a school of practical nursing.
2. Has successfully completed a board-approved practical nursing education program.
3. Is recommended by the faculty of a practical nursing education program.

SECTION 4. AMENDMENT.) Section 43-21-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-04. EXAMINATION AND LICENSING OF PRACTICAL NURSES - RE-EXAMINATION FEE.) The state board shall prescribe rules and regulations consistent with the provisions of this chapter for the examination, licensing, and regulation of practical nurses. Written examinations shall be held at least twice in each year, at a time and place to be designated by the state board. Upon successfully passing the examination as administered by the board, the board shall issue to such applicant a license to practice as a licensed practical nurse. A fee set by the board shall be required for rewriting each examination failed.

SECTION 5. AMENDMENT.) Section 43-21-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-08. RENEWAL OF LICENSE - FAILURE TO RENEW - ROSTER.) The license issued under this chapter must be renewed annually and a fee set by the board shall be submitted with every application for renewal. On or before November first of each year, the executive director of the board shall mail to each licensed practical nurse an application form for

renewal of license. Such form must be completed and returned to the executive director of the board together with the renewal fee on or before the thirty-first day of December. The failure of any licensee to renew his license annually shall suspend the right of such person to practice in this state as a licensed practical nurse. A licensee who fails to file the renewal application within the time provided for in this section may be relicensed by paying the required annual renewal fee for each year it has not been paid but not to exceed twenty dollars.

A roster shall be compiled by the executive director of the board. Any nurse, upon payment of one dollar, who voluntarily places his name on such roster on or before the first day of January in the year he desires to retire temporarily from the practice of nursing may be relicensed in any subsequent year by paying the current annual fee for a license without incurring any penalty. Nurses who have not placed their name on such roster shall be subject to payment of the required renewal fee as specified.

SECTION 6. AMENDMENT.) Section 43-21-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-09. REVOCATION OR SUSPENSION OF LICENSE - HEARING - FURNISHING INFORMATION TO OTHER STATES.) The board may revoke or suspend any license issued under the provisions of this chapter for gross incompetency, dishonesty, or any other act which shall constitute just cause for such revocation or suspension. Such revocation or suspension shall be by a majority vote of the entire board and after a hearing has been held on specific charges filed against such licensee, which charges shall be made in writing under oath and filed by the executive director. A certified copy of the charges and a notice of the hearing before the board shall be serviced on the licensee whose license is sought to be revoked or suspended not less than twenty or more than thirty days prior to the hearing on such charges. The board shall furnish to the boards of nursing of other states, a list of names and addresses of persons whose licenses have been revoked or suspended for cause. A revoked license may be reissued after one year at the board's discretion. A suspended license may be reinstated at any time by the board.

SECTION 7. AMENDMENT.) Section 43-21-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-10. LICENSE REQUIRED - TITLE - ABBREVIATION.) In order to safeguard life and health, any person before practicing or offering to practice as a licensed practical nurse in this state for compensation, shall be required to submit evidence that he or she is qualified so to practice,

and shall first be licensed as hereinafter provided. After July 1, 1971, it shall be unlawful for any person not licensed under the provisions of this chapter:

1. To practice or offer to practice licensed practical nursing in this state.
2. To use the title "Licensed Practical Nurse", the abbreviation "L.P.N.", or any other sign, card, or device to indicate that such person is a licensed practical nurse.

The board shall keep a register, open to the public, of all persons to whom licenses are issued.

SECTION 8. AMENDMENT.) Section 43-21-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-11. APPROVED EDUCATIONAL COURSES FOR PRACTICAL NURSES.) Any institution, under rules and regulations to be adopted by the board, which shall be qualified to conduct a course for educating practical nurses, shall apply to the board and submit an application giving evidence that it is prepared to give a course of not less than nine months nor more than twelve months for preparing practical nurses, and that such institution further is able to meet standards prescribed by statute and the board for the education of practical nurses. A fee set by the board shall accompany such application. Upon receipt of such application and fee, the board shall make a survey of the institution. If, in the opinion of the members of the board, the requirements for an approved course for educating practical nurses are met by such institution, it shall approve the institution as qualified to give an accredited course for education of practical nurses. It shall further be the duty of the board to survey all schools for the education of practical nurses annually. Written reports of such survey shall be prepared. If the board shall determine, as a result of such survey, that any institution heretofore approved as a school for education of practical nurses, is not maintaining the standards required by law and by the rules and regulations of the board, notice thereof shall immediately be given to such school. If requirements of the board are not complied with within a reasonable time set by the board in such notice, such school shall be removed from the list of approved schools authorized to offer courses for the education of practical nurses within this state.

SECTION 9. AMENDMENT.) Section 43-21-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-12. VIOLATIONS - PENALTY.) Any person violating

any of the provisions of this chapter or willfully making false representations to the board in applying for a license shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten or more than fifty dollars for the first offense, and by a fine of fifty dollars for each subsequent offense.

Approved March 30, 1971

## CHAPTER 442

HOUSE BILL NO. 1250  
(Hentges, Hilleboe)

## SUBDIVIDED LANDS DISPOSITION ACT

AN ACT for the registration of subdivided lands situated outside North Dakota which are offered or disposed of in North Dakota and providing requirements for such registration; defining certain terms; naming the state real estate commission to administer this Act; providing for certain exemptions from the registration requirements; providing for full disclosure of material facts concerning subdivided lands offered or disposed of; providing for a public offering statement; providing for an inquiry and examination; providing for the payment of registration and renewal fees; providing for annual reports by registered subdividers; providing general powers and duties in the administration of this Act; defining fraudulent practices; providing for investigations and proceedings; providing for cease and desist orders for certain violations of this Act; providing grounds for the revocation of registration; providing for judicial review of administrative decisions; providing for the licensure of real estate brokers, salesmen, and mortgage brokers in connection with the offer or disposition of subdivided lands; providing a civil remedy for dispositions made in violation of this Act; providing for jurisdiction of causes of action arising under this Act; providing for extradition; providing for service of process; providing for certain evidentiary matters; and providing penalties for violations of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TITLE.) This Act shall be known and may be cited as the "Subdivided Lands Disposition Act".

SECTION 2. DEFINITIONS.) When used in this Act, unless the context otherwise requires:

1. "Commission" means the state real estate commission;
2. "Disposition" includes sale, lease, assignment, award by lottery, or any other transaction concerning a subdivision, if undertaken for gain or profit;
3. "Offer" includes any inducement, solicitation, or attempt to encourage a person to acquire an interest in land, if undertaken for gain or profit;

4. "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;
5. "Purchaser" means a person who acquires or attempts to acquire or succeeds to an interest in land;
6. "Subdivider" means any owner of subdivided land who offers it for disposition or the principal agent of an inactive owner; and
7. "Subdivision" and "subdivided lands" means any land situated outside the state of North Dakota which is divided or is proposed to be divided for the purpose of disposition into five or more lots, parcels, units, or interests and also includes any land, whether contiguous or not, if five or more lots, parcels, units, or interests are offered as a part of a common promotional plan of advertising and sale.

SECTION 3. ADMINISTRATION OF ACT.) This Act shall be administered by the state real estate commission.

SECTION 4. PROHIBITIONS ON DISPOSITIONS OF INTERESTS IN SUBDIVISIONS.) Unless the subdivided lands or the transaction is exempt under section 5, it shall be unlawful for any person in this state

1. To offer or to dispose of any interest in subdivided lands located without this state prior to the time that the subdivided lands are registered in accordance with this Act;
2. To dispose of any interest in subdivided lands unless a current public offering statement is delivered to the purchaser and the purchaser is afforded a reasonable opportunity to examine the public offering statement prior to the disposition.

SECTION 5. EXEMPTIONS.)

1. Unless the method of disposition is adopted for the purpose of evasion of this Act, the registration provisions of this Act do not apply to offers or dispositions of an interest in land
  - a. By a purchaser of subdivided lands for his own account in a single or isolated transaction;
  - b. If fewer than five separate lots, parcels, units, or interests in subdivided lands are offered by a person in a period of twelve months;

- c. To persons who are engaged in the business of construction of buildings for resale or to persons who acquire an interest in subdivided lands for the purpose of engaging, and do engage, in the business of construction of buildings for resale;
  - d. Pursuant to court order;
  - e. By any government or government agency; or
  - f. As cemetery lots or interests.
2. Unless the method of disposition is adopted for the purpose of evasion of this Act, the registration provisions of this Act do not apply to
- a. Offers and dispositions of securities currently registered with the North Dakota commissioner of securities;
  - b. A subdivision as to which the plan of disposition is to dispose to ten or fewer persons; or
  - c. A subdivision as to which the commission has granted an exemption as provided in section 11.

SECTION 6. APPLICATION FOR REGISTRATION.)

1. The application for registration of subdivided lands shall be filed as prescribed by the commission and shall contain the following documents and information:
  - a. An irrevocable appointment of the commission to receive service of any lawful process in any non-criminal proceeding arising under this Act against the applicant or his personal representative;
  - b. A legal description of the subdivided lands offered for registration, together with a map showing the division proposed or made, the dimensions of the lots, parcels, units, or interests, and the relation of the subdivided lands to existing streets, roads, waterways, schools, churches, shopping centers, public transportation facilities, and other off-site improvements;
  - c. The states or jurisdictions in which an application for registration or similar document has been filed, and any adverse order, judgment, or decree entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;

- d. The applicant's name, address, and the form, date, and jurisdiction of organization; and the address of each of its offices in this state;
- e. The name, address, and principal occupation for the past five years of every director and officer of the applicant or person occupying a similar status or performing similar functions; the extent and nature of his interest in the applicant or the subdivided lands as of a specified date within thirty days of the filing of the application;
- f. A statement, in a form acceptable to the commission, of the condition of the title to the subdivided lands including encumbrances as of a specified date within thirty days of the date of application by a title opinion of a licensed attorney, not a salaried employee, officer, or director of the applicant or owner, or by other evidence of title acceptable to the commission;
- g. Copies of the instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts and other agreements which a purchaser will be required to agree to or sign;
- h. Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with data as to recording;
- i. If there is a lien or encumbrance affecting more than one lot, parcel, unit, or interest, a statement of the consequences for a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;
- j. Copies of instruments creating easements, restrictions, or other encumbrances affecting the subdivided lands;
- k. A statement of the zoning and other governmental regulations affecting the use of the subdivided lands and also of any existing tax and existing or proposed special taxes or assessments which affect the subdivided lands;
- l. A statement of the existing provisions for legal

and physical access or, if none exists, a statement to that effect; a statement of the existing or proposed provisions for sewage disposal; water, and other public utilities in the subdivision; a statement of the improvements to be installed, the schedule for their completion, and a statement as to the provisions for improvement maintenance;

- m. A narrative description of the promotional plan for the disposition of the subdivided lands, including the range of selling prices or rents at which it is proposed to dispose of the lots in the subdivision, together with copies of all advertising material which has been prepared for public distribution by any means of communication.
  - n. A copy of its articles of incorporation, with all amendments thereto, if the subdivider is a corporation; copies of all instruments by which the trust is created or declared, if the subdivider is a trust; copies of its articles of partnership or association and all other papers pertaining to its organization, if the subdivider is a partnership, unincorporated association, or any other legal or commercial entity; and if the purported holder of legal title is a person other than the subdivider, copies of the above documents for such person;
  - o. The proposed public offering statement;
  - p. Such current financial statements, certified or otherwise, as the commission may require; and
  - q. Such other information and such other documents and certifications as the commission may require as being reasonably necessary or appropriate for the protection of purchasers.
- 2. If the subdivider registers additional subdivided lands to be offered for disposition, he may consolidate the subsequent registration with any earlier registration offering subdivided lands for disposition under the same promotional plan.
  - 3. The subdivider shall immediately report any material changes in the information contained in an application for registration.

SECTION 7. PUBLIC OFFERING STATEMENT.)

- 1. A public offering statement shall disclose fully and accurately the physical characteristics of the

subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the subdivided lands. The proposed public offering statement submitted to the commission shall be in a form prescribed by it and shall include the following:

- a. The name and principal address of the subdivider;
  - b. A general description of the subdivided lands stating the total number of lots, parcels, units, or interests in the offering;
  - c. The significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations, affecting the subdivided lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;
  - d. A statement of the use for which the property is offered;
  - e. Information concerning improvements, including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities, and customary utilities, and the estimated cost, date of completion, and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any interest in subdivided lands; and
  - f. Such of the information contained in the application for registration, and any amendments thereto, and such other information as the commission may require as being necessary or appropriate in the public interest or for the protection of purchasers.
2. The public offering statement shall not be used for any promotional purposes before registration of the subdivided lands and afterwards only if it is used in its entirety. No person may advertise or represent that the commission approves or recommends the subdivided lands or disposition thereof. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the commission requires it.
  3. The commission may require the subdivider to alter

or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of the subdivision may be made after registration without notifying the commission and without making appropriate amendment of the public offering statement. A public offering statement is not current unless all amendments are incorporated.

SECTION 8. INQUIRY AND EXAMINATION.) Upon receipt of an application for registration in proper form, the commission shall forthwith initiate an examination to determine that

1. The subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and, when appropriate, that release clauses, conveyances in trust, escrow and impoundage provisions, and other safeguards have been provided;
2. There is reasonable assurance that all proposed improvements will be completed as represented;
3. The advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the commission in its rules and regulations and afford full and fair disclosures;
4. The subdivider has not, or if a corporation, its officers, directors, and principals have not been convicted of a crime involving land dispositions or any aspect of the land sales business in this state, the United States, or any other state or foreign country within the past ten years and has not been subject to any injunction or administrative order within the past ten years restraining a false or misleading promotional plan involving land dispositions;
5. There is no evidence which would reasonably lead the commission to believe that the subdivider, or if a corporation, its officers, directors, or principals are contemplating a fraudulent or misleading sales promotion; and
6. The public offering statement requirements of this Act have been satisfied.

SECTION 9. NOTICE OF FILING; REGISTRATION; FEES.)

1. Upon receipt of the application for registration in proper form and of a registration fee of one hundred dollars, the commission shall issue a notice of filing to the applicant. Within ninety days from the date of the notice of filing, the commission shall enter

an order registering the subdivided lands or rejecting the registration. If no order of rejection is entered within ninety days from the date of notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay.

2. If the commission affirmatively determines, upon inquiry and examination, that the requirements of section 8 have been met, it shall enter an order registering the subdivided lands and shall designate the form of the public offering statement.
3. If the commission determines, upon inquiry and examination, that any of the requirements of section 8 has not been met, the commission shall notify the applicant that the application for registration must be corrected in the particulars specified within ten days. If the requirements are not met within the time allowed, the commission shall enter an order rejecting the registration which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for twenty days during which time the applicant may petition for reconsideration and shall be entitled to a hearing.
4. Registration under this Act shall be effective for a period of one year and may be renewed for additional periods of one year by filing, not later than fifteen days prior to the expiration of a registration, a renewal application in such form and containing such information as the commission shall prescribe, together with the payment of a renewal fee of one hundred dollars. The initial registration and any renewal fees shall not be returned or refunded for any reason.

SECTION 10. ANNUAL REPORT.)

1. Within thirty days after each annual anniversary date of an order registering subdivided lands, the subdivider shall file a report in the form prescribed by the commission. The report shall reflect any material changes in information contained in the original application for registration.
2. The commission, at its option, may permit the filing of annual reports within thirty days after the anniversary date of the consolidated registration in lieu of the anniversary date of the original registration.

SECTION 11. GENERAL POWERS AND DUTIES.)

1. The commission shall have the authority to promulgate,

to amend, and to repeal reasonable rules and regulations for the administration and enforcement of this Act. Such rules and regulations shall include, but not be limited to, provisions for advertising standards to assure full and fair disclosure; provisions for escrow or trust agreements or other means to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land for which they contracted; provisions for operating procedures; and such other rules and regulations as are necessary or proper to accomplish the purposes of this Act.

2. All advertising material of any nature whatsoever prepared for use in connection with the offer and disposition of any interests in subdivided lands registered under this Act shall be submitted to and approved by the commission prior to its use.
3. As a condition precedent to the registration of any subdivided lands, the commission shall require that the subdivider file an indemnity bond running to the state of North Dakota for the use, benefit, and protection of any person and conditioned for the faithful compliance by the subdivider, his agents, and his employees with all of the provisions of this Act, as amended, and with all rules, regulations, and orders made pursuant thereto and for the faithful performance and payment of all obligations of the subdivider, his agents, and his employees in connection with the registration. The indemnity bond shall be of such type and in such form as shall be prescribed by the commission and shall be in such amount as the commission shall deem necessary to protect purchasers when the volume of business of the subdivider and other relevant factors are taken into consideration, but in no event less than twenty-five thousand dollars. Any such bond shall have as surety thereon a surety company authorized to do business in this state.
4. Whenever it appears that a person has engaged or is about to engage in acts or practices which constitute or will constitute a violation of the provisions of this Act or of a rule or regulation or order hereunder, the commission, with or without prior administrative proceedings, may bring an action in any district court to enjoin the acts or practices and to enforce compliance with this Act or any rule or regulation or order hereunder. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.
5. The commission may intervene in a suit involving subdivided lands. In any suit by or against a

subdivider involving subdivided lands, the subdivider promptly shall furnish the commission notice of the suit and copies of all pleadings.

6. The commission may
  - a. Accept registrations filed in other states or with the federal government;
  - b. Contract with similar agencies in this state or other jurisdictions to perform investigative functions; and
  - c. Accept grants-in-aid from any source.
7. The commission shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and regulations, and common administrative practices.
8. The commission may exempt a subdivision of ten or fewer lots, parcels, units, or interests from the provisions of this Act if it determines that the plan of promotion and disposition is primarily directed to persons in the local community in which the subdivision is located.

SECTION 12. FRAUDULENT PRACTICES.) It shall be a fraudulent practice, and it shall be unlawful

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

disposition, or purchase of subdivided lands, directly or indirectly, to engage in any act, practice, or course of business which operates or would operate as a fraud or deception upon purchasers or the public.

SECTION 13. INVESTIGATIONS AND PROCEEDINGS.)

1. The commission shall investigate any subdivision offered for disposition in this state and may
  - a. Rely upon any relevant information concerning a subdivision obtained from the Federal Housing Administration, the United States Veterans Administration, or any other federal agency having comparable duties in relation to subdivisions;
  - b. Require the applicant to submit reports prepared by competent engineers as to any hazard to which any subdivision offered for disposition is subject or any factor which affects the utility of interests within the subdivisions, and require evidence of compliance in removing or minimizing all hazards reflected in engineering reports;
  - c. Require an on-site inspection of the subdivision by a person or persons designated by it. All expenses incurred in connection with an on-site inspection shall be defrayed by the applicant, and the commission shall require a deposit sufficient to defray such expenses in advance;
  - d. Make public or private investigations within or outside this state to determine whether any person has violated or is about to violate this Act or any rule, regulation, or order hereunder, or to aid in the enforcement of this Act or in prescribing rules and regulations and forms hereunder; and
  - e. Require or permit any person to file a statement in writing, under oath or otherwise as the commission determines, as to all the facts and circumstances concerning the matter to be investigated.
2. For the purpose of any investigation or proceeding under this Act, the commission or any person designated by it may administer oaths or affirmations, and upon its own motion or upon the request of any party shall subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or

other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

3. Upon failure to obey a subpoena or to answer questions propounded by the investigator and upon reasonable notice to all persons affected thereby, the agency may apply to the district court for an order compelling compliance.
4. The commission may permit a person registered with the commission whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against said person.
5. Except as otherwise provided in this Act, all proceedings under this Act shall be in accordance with chapter 28-32.

SECTION 14. CEASE AND DESIST ORDERS.)

1. If the commission determines after notice and hearing that a person has
  - a. Violated any provision of this Act;
  - b. Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of an interest in subdivided lands;
  - c. Made any substantial change in the plan of disposition and development of the subdivided lands subsequent to the order of registration without obtaining prior written approval from the commission;
  - d. Disposed of any subdivided lands which have not been registered with the commission; or
  - e. Violated any lawful order or rule or regulation of the commission; it may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this Act.
2. If the commission makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary

cease and desist order. Prior to issuing the temporary cease and desist order, the commission, whenever possible, by telephone or otherwise shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

SECTION 15. REVOCATION.)

1. A registration may be revoked after notice and hearing upon a written finding of fact that the subdivider has
  - a. Failed to comply with the terms of a cease and desist order;
  - b. Been convicted or found liable in any court subsequent to the filing of the application for registration of a crime or tort involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;
  - c. Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;
  - d. Failed faithfully to perform any stipulation or agreement made with the commission as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement; or
  - e. Made intentional misrepresentations or concealed material facts in an application for registration. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
2. If the commission finds after notice and hearing that the subdivider has been guilty of a violation for which revocation could be ordered, it may issue a cease and desist order instead.

SECTION 16. JUDICIAL REVIEW.) A person who has exhausted all administrative remedies available within the commission and who is aggrieved by an order pertaining to registration, a cease and desist order, an order of revocation, or any other final decision of the commission is entitled to judicial review in accordance with chapter 28-32.

SECTION 17. REAL ESTATE LICENSE REQUIRED.) No real estate broker, salesman, or mortgage broker shall offer or dispose of

subdivided lands within or from this state, except in dispositions and transactions exempt under section 5, unless said real estate broker, salesman, or mortgage broker is licensed pursuant to chapter 43-23.

SECTION 18. CIVIL REMEDY.)

1. Every disposition made in violation of any of the provisions of this Act, or of any order issued by the commission under any of the provisions of this Act, shall be voidable at the election of the purchaser. The person making such disposition, and every director, officer, salesman, or agent of or for such person who shall have participated or aided in any way in making such disposition, shall be jointly and severally liable to such purchaser in any action at law in any court of competent jurisdiction for the consideration paid for the lot, parcel, unit, or interest, together with interest at the rate of six percent per year from the date of payment, property taxes and assessments paid, court costs, and reasonable attorney's fees, less the amount of any income received from the subdivided lands, upon tender of appropriate instruments of reconveyance made at any time before the entry of judgment. If the purchaser no longer owns the lot, parcel, unit, or interest in subdivided lands, he may recover the amount that would be recoverable upon a tender of a reconveyance less the value of the land when disposed of and less interest at the rate of six percent per year on that amount from the date of disposition.
2. No action shall be brought under this section for the recovery of the consideration paid after five years from the date of such disposition nor more than three years after the purchaser has received information as to matter or matters upon which the proposed recovery is based, whichever occurs first.
3. Any stipulation or provision purporting to bind any person acquiring subdivided lands to waive compliance with this Act or any rule or regulation or order under it is void.
4. The rights and remedies provided by this Act shall be in addition to any and all other rights and remedies that may exist at law or in equity.

SECTION 19. JURISDICTION.) Dispositions of subdivided lands are subject to this Act, and the district courts of this state have jurisdiction in claims or causes of action arising under this Act if

1. The subdivider's principal office is located in this state; or

2. Any offer or disposition of subdivided lands is made in this state, whether or not the offeror or offeree is then present in this state, if the offer originates within this state or is directed by the offeror to a person or place in this state and received by the person or at the place to which it is directed.

SECTION 20. EXTRADITION.) In proceedings for extradition of a person charged with a crime under this Act, it need not be shown that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding or other state.

SECTION 21. SERVICE OF PROCESS.)

1. In addition to the methods of service provided for in the North Dakota Rules of Civil Procedure and statutes, service may be made by delivering a copy of the process to the office of the commission, but it is not effective unless the plaintiff (which may be the commission in a proceeding instituted by it)
  - a. Forthwith sends a copy of the process and of the pleading by certified or registered mail to the defendant or respondent at his last known address, and
  - b. The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.
2. If any person, including any nonresident of this state, engages in conduct prohibited by this Act or any rule or regulation or order hereunder, and has not filed a consent to service of process and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct authorizes the commission to receive service of process in any noncriminal proceeding against him or his successor which grows out of that conduct and which is brought under this Act or any rule or regulation or order hereunder, with the same force and validity as if served on him personally. Notice shall be given as provided in subsection 1.

SECTION 22. EVIDENTIARY MATTERS.)

1. In any action, civil or criminal, where a defense is based upon any exemption provided for in this Act, the burden of proving the existence of such exemption shall be upon the party raising such defense.
2. In any action, civil or criminal, a certificate signed and sealed by the commission stating compliance or noncompliance with the provisions of this Act shall be

admissible in any such action.

SECTION 23. PENALTIES.) Any person who shall willfully violate any provision of this Act or who willfully violates any rule or regulation or order of the commission made pursuant to the provisions of this Act, or who shall engage in any act, practice, or transaction declared by any provision of this Act to be unlawful shall upon conviction thereof be sentenced to pay a fine of not more than five thousand dollars or to imprisonment in the penitentiary for not more than five years or to both such fine and imprisonment.

Approved March 15, 1971

## CHAPTER 443

HOUSE BILL NO. 1121  
(Wagner)

## LICENSING OF DENTISTS

AN ACT to create and enact sections 43-28-12.1 and 43-28-12.2 of the North Dakota Century Code, relating to licensing qualifications of dentists; and to amend and reenact subsection 1 of section 43-28-01, sections 43-28-05, 43-28-07, 43-28-11, 43-28-12, 43-28-13, 43-28-15, 43-28-16, and 43-28-24 of the North Dakota Century Code, relating to the definition of the practice of dentistry, the board of dental examiners, examinations, licensing, licenses, and fees for the practice of dentistry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 43-28-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the purposes of this Act, the term "practice of dentistry" shall mean and include examination, diagnosis, treatment, repair, administration of local or general anesthetics, prescriptions, or surgery of or for any disease, disorder, deficiency, deformity, condition, lesion, injury, or pain of the human oral cavity, teeth, gingivae and soft tissues, and the diagnosis, the surgical and adjunctive treatment of the diseases, injuries, and defects of the human jaw and associated structures.

SECTION 2. AMENDMENT.) Section 43-28-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-05. MEETING OF BOARD - OFFICERS - BOND - COMPENSATION OF MEMBERS - QUORUM.) The board shall hold a regular annual meeting, at such place as is designated by it and such special meetings as are necessary. At the regular meeting of the board, the members shall elect from their number a president, vice president, and a secretary-treasurer. The secretary-treasurer shall furnish a bond in the amount fixed by the board. Each member of the board shall receive as compensation the sum of fifty dollars for each day actually engaged in the duties of his office, ten cents per mile for

the distance necessarily traveled in going to and returning from meetings of the board, and not to exceed ten dollars a day for meals and lodging while attending meetings of the board. The secretary-treasurer shall be paid an annual salary equal to fifteen percent of all funds received by the board during the year. Three members of the board shall constitute a quorum but a smaller number may adjourn from time to time.

SECTION 3. AMENDMENT.) Section 43-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-07. EXPENSES OF BOARD - HOW PAID - FUNDS HELD BY SECRETARY-TREASURER.) All moneys collected for the board under the provisions of this chapter shall be kept in a separate account by the secretary-treasurer and shall be used for the payment of the compensation and necessary expenses of the officers and members of the board, and disbursed only on warrants signed by the secretary-treasurer. At the end of his term, the secretary-treasurer shall render a full and true account to his successor for any moneys remaining in his hands.

SECTION 4. AMENDMENT.) Section 43-28-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-11. EXAMINATION REQUIRED - APPLICATION - QUALIFICATIONS - FEES.) Any person who desires to obtain a license to practice dentistry in this state shall make application to the secretary-treasurer of the board on such forms as it may provide and shall submit to an examination by the board. The application shall be verified under oath to the effect that all of the statements contained therein are true of applicant's own knowledge. Applicant shall enclose with his application a recent autographed picture of himself and the sum of seventy-five dollars. Additional costs of simultaneous examination as set out in 43-28-12.1 and chargeable under 43-28-05 as board member compensation may be assessed against the applicant or applicants. The applicant must show proof that he has the following qualifications:

1. Is a graduate of a dental college recognized by the board.
2. Is a citizen of the United States or has filed a declaration of his intention to become a citizen of the United States and that his application for naturalization has been approved by the proper authorities.
3. Is a person of good moral character.

SECTION 5. AMENDMENT.) Section 43-28-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-12. EXAMINATION - SUBJECTS COVERED.) At the next regular meeting of the board held after an application for a license and a certificate of registration to practice dentistry in this state is made the applicant shall present himself to the board, which shall give him an examination to test his fitness for the practice of dentistry. The board may require the applicant to supply the board with the results of his national board examination which may at the discretion of the board be considered determinative of the applicant's theoretical knowledge and scholastic fitness for the practice of dentistry. The examination may include the following subjects:

1. Anatomy.
2. Physiology.
3. Oral Surgery.
4. Chemistry.
5. Materia medica.
6. Therapeutics.
7. Metallurgy.
8. Histology.
9. Pathology.
10. Bacteriology.
11. Orthodontics.
12. Prosthetic dentistry.
13. Crown and bridge, X-ray, operative, surgical and mechanical dentistry.
14. Such other subjects which the board, at the time the examination is given, may deem necessary.

SECTION 6.) Section 43-28-12.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-28-12.1. SIMULTANEOUS EXAMINATION.) The results of an examination given in another state by that state's equivalent to the North Dakota dental board may be considered by this state's board as an example of the applicant's fitness to practice dentistry in this state. The other state examination must be observed by a member of this state's board.

SECTION 7.) Section 43-28-12.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-28-12.2. CONTINUING EDUCATIONAL REQUIREMENT FOR DENTISTS.) Five years from July 1, 1971, or upon the fifth anniversary of the issuance of his license, whichever occurs last, and each five years thereafter, each person licensed to practice dentistry in this state shall provide the state board of dentistry evidence, of a nature suitable to the board, that such licensed person has attended, or participated in such amount of continuing education in dentistry as shall be required by the board. The minimum requirement shall be not less than twenty hours during the preceding five years of licensure. The board may accept for compliance with this requirement any of the following which, in the opinion of the board, contributes directly to the dental education of the licensee:

1. Attendance at lectures, study clubs, college postgraduate courses, or scientific sessions of conventions.
2. Research, graduate study, teaching, or service as a clinician.
3. Any other such evidence of continuing education the board may approve.

Any licensed dentist who shall fail to comply with this requirement shall, at the discretion of the board, be re-examined to determine his competency to continue licensure. If, in the opinion of the board, such licensed dentist does not qualify for further licensed practice, the board shall suspend such license until such time as the dentist shall provide acceptable evidence to the board of his competency to practice.

SECTION 8. AMENDMENT.) Section 43-28-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-13. LICENSE - WHEN CERTIFICATE ISSUED - WHEN RE-EXAMINATION REQUIRED.) If an applicant has the necessary qualifications and successfully passes the examination for a license to practice dentistry in this state, or an equivalent examination in another state as set out in section 43-28-12.1, the board may:

1. Issue to the applicant a license to practice dentistry in this state, which shall be entered upon the records of the board.
2. Issue said licensed dentist a certificate of registration in the form prescribed by the board. Any dentist so licensed and registered, who does not undertake the actual practice of dentistry in this state within five years from

the date of his license and registration, shall, before engaging in the practice of dentistry in this state, notify the board of his intention in writing so to do, whereupon the board, after a full investigation, may re-examine said dentist as to his qualifications to practice dentistry in this state should the board deem such re-examination necessary and notify such dentist thereof. The failure of such dentist to give the written notice to the board required herein before he engages in the practice of dentistry in this state shall operate as a forfeiture of his license to practice dentistry.

SECTION 9. AMENDMENT.) Section 43-28-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-15. LICENSE AND CERTIFICATE - WHEN ISSUED TO PRACTITIONERS OF ANOTHER STATE.) The board may issue a license and certificate of registration to practice dentistry in this state to any person who wishes to move to this state from another state upon a practical examination only, if such person:

1. Has been licensed to practice dentistry in another state where the requirements are equivalent to those of this state, and where like provisions are accorded to holders of certificates of registration issued in this state.
2. Is a reputable dentist of good moral character.
3. Pays to the board a fee of seventy-five dollars.
4. Delivers to the board a certificate from the examining board of the state in which he is practicing, certifying that he is a licensed and registered dentist in that state, and is of good moral character.
5. Demonstrates his ability to the satisfaction of the board.

However, if there is complete reciprocity between the applicant's state and this state, the requirement of a practical examination may be waived by the board if the applicant meets the other requirements of this section.

SECTION 10. AMENDMENT.) Section 43-28-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-16. CERTIFICATE - TERM - DISPLAYED IN PLACE OF

BUSINESS - RENEWAL - FEE.) A certificate of registration issued under the provisions of this chapter shall be valid for only one year and shall be renewed on or before the first day of January in each year. The fee for renewal of the certificate shall not exceed fifty dollars. The holder of a license and certificate of registration shall display the same conspicuously in his place of business. The certificate of registration or the renewal thereof, shall be prima facie evidence of the right of the holder to practice dentistry in this state during the time for which it is issued. All fees provided for in this chapter may be collected by the board in a civil action.

SECTION 11. AMENDMENT.) Section 43-28-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-24. DUPLICATE LICENSE AND CERTIFICATE - WHEN ISSUED - FEE.) If a license or certificate of registration to practice dentistry in this state is lost or destroyed, the board shall issue and deliver a duplicate license or certificate upon satisfactory proof by applicant of the loss or destruction thereof. The fee for such duplicate license shall be ten dollars and the fee for issuing a duplicate certificate of registration shall be five dollars.

Approved March 24, 1971

## CHAPTER 444

SENATE BILL NO. 2412  
(Lips)

## HEARING AID DEALERS AND FITTERS

AN ACT to create and enact a new subdivision of subsection 1 of section 43-33-09, a new subsection of section 43-33-10, two new subdivisions of subsection 4 of section 43-33-12, and a new subsection of section 43-33-12 of the North Dakota Century Code, relating to the scope of the hearing aid dealers examination, duties of the licensing department, and grounds for suspension of licenses; and to amend and reenact subsection 6 of section 43-33-01, section 43-33-04, section 43-33-07, subsection 2 of section 43-33-08, subdivision e of subsection 4 of section 43-33-12, and subsection 2 of section 43-33-15 of the North Dakota Century Code, relating to definitions, persons and practices not affected, educational qualifications of applicants, frequency of examinations, temporary trainee supervision, and qualifications of members of the board of hearing aid dealers and fitters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 6 of section 43-33-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Practice of fitting and dealing in hearing aids" shall mean the measurement of human hearing by means of an audiometer or by any means solely for the purpose of making selections, adaptations, or sale of hearing aids. The term also includes the making of impressions for earmolds. A dealer, at the request of a physician or member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing.

SECTION 2. AMENDMENT.) Section 43-33-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-33-04. PERSONS AND PRACTICES NOT AFFECTED.)

1. This chapter is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids

provided this person or organization employing such person does not sell hearing aids or accessories thereto.

2. This chapter does not apply to a person who is a licensed physician and surgeon or osteopath.

SECTION 3. AMENDMENT.) Section 43-33-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-33-07. LICENSE BY EXAMINATION.)

1. Applicants who do not meet the experience qualification on the effective date of this chapter may obtain a license by successfully passing a qualifying examination, provided the applicant:
  - a. Be at least twenty-one years of age.
  - b. Be of good moral character.
  - c. Has a high school diploma.
  - d. Is free of contagious or infectious disease.
2. The applicant for a license by examination shall appear at a time, place and before such persons as the department may designate, to be examined by means of written and practical tests in order to demonstrate that he is qualified to practice the fitting and sale of hearing aids. The examination administered as directed by the board constituting standards for licensing shall not be conducted in such a manner that college training be required in order to pass the examination. Nothing in this examination shall imply that the applicant shall possess the degree of medical competence normally expected of physicians.
3. The department shall give examinations once a year at a time and place to be designated by the board, and may give more frequent examinations if deemed necessary by the board.

SECTION 4. AMENDMENT.) Subsection 2 of section 43-33-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Upon receiving an application as provided under this section and accompanied by a fee of twenty-five dollars, the department shall issue a trainee permit which shall enable the applicant to engage in the training of fitting and sale of hearing aids

for a period of one year under the direct supervision of a person holding a valid hearing aid dealers and fitters license. The trainee shall train in the same place of business as that of the supervisor and shall be required to have fulfilled at least thirty hours of book and visual aid training during office hours and at least ten hours of training with an audiometer, as well as a minimum of one week with the supervisor before his first public contact alone. A trainee shall not be permitted to deal with the public outside the supervisor's office or place of business until these requirements have been fulfilled. After this initial period of training the trainee must spend one week in the office or place of business within any period of sixty days, and one week with the supervisor within any period of sixty days. The trainee shall not make any sale of a hearing aid without first consulting with his supervisor and obtaining the supervisor's approval for such sale.

SECTION 5.) A new subdivision of subsection 1 of section 43-33-09 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Elementary audiology.

SECTION 6.) A new subsection of section 43-33-10 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The department shall keep a record of the trainees, their place of training and their supervisors.

SECTION 7. AMENDMENT.) Subdivision e of subsection 4 of section 43-33-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

e. Representing that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or using the word "doctor", "clinic", "audiologist" or similar words, abbreviations or symbols which tend to connote the medical or audiological profession when such is not accurate, except that the designation of "Certified Hearing Aid Audiologist" may be used when certification thereof has been conferred by and is in good standing with the National Hearing Aid Society.

SECTION 8.) Two new subdivisions of subsection 4 of

section 43-33-12 of the 1969 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Sale of a hearing aid to a person without adequate and proper audiometric testing.

Sale of a hearing aid to a person where the need for a hearing aid has not been established after adequate and proper audiometric testing.

SECTION 9.) A new subsection of section 43-33-12 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The fitting and sale of a hearing aid to any person fourteen years of age or younger unless within ninety days prior to the fitting the person to be fitted has been examined by a physician to determine whether or not there exist any physical deficiencies that would prohibit the effective use of a hearing aid.

SECTION 10. AMENDMENT.) Subsection 2 of section 43-33-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Members of the board shall be residents of the state. The board shall consist of four hearing aid dealers and fitters, two otolaryngologists and two audiologists. Each hearing aid dealer and fitter on the board shall be primarily engaged as a hearing aid dealer and fitter, shall have had no less than five years of experience in this state and shall hold a valid license as a hearing aid dealer, as provided under this chapter. Exception shall be the hearing aid dealers and fitters of the first board appointed who shall have had no less than five years experience and shall have fulfilled all qualifications for "license by experience" as provided by this chapter.

Approved March 17, 1971

## CHAPTER 445

HOUSE BILL NO. 1061  
(Eagles, Lundene, Wagner, Wilkie)  
(From Legislative Council Study)

## NURSING HOME ADMINISTRATORS

AN ACT to provide for new appointments to the board of examiners for nursing home administrators, and to amend and reenact subsection 2 of section 43-34-01, and sections 43-34-02 and 43-34-11 of the North Dakota Century Code, relating to the board of examiners for nursing home administrators, and to amend and reenact section 43-34-05 of the North Dakota Century Code, relating to license fees of nursing home administrators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 43-34-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The term "nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a North Dakota nursing home whether such individual has an ownership interest in such home and whether his functions and duties are shared with one or more individuals; and

SECTION 2. AMENDMENT.) Section 43-34-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-34-02. COMPOSITION OF THE BOARD.) There is hereby created the state board of examiners for nursing home administrators which shall consist of nine members.

1. Three members of the board shall be the state health officer, state welfare director, and the commissioner of higher education.
2. One member of the board shall be a physician appointed to the board for a three-year term by the governor from a list of three names submitted to him by the state medical association.
3. One member of the board shall be a hospital administrator appointed to the board for a three-year term

by the governor from a list of three names submitted to him by the North Dakota hospital association.

4. Three members of the board shall be licensed nursing home administrators appointed to the board for three-year terms by the governor from a list of names submitted to him by the North Dakota hospital association. The association shall submit three names for each appointive position.
5. One member of the board shall be a nurse appointed to the board for a three-year term by the governor from a list of three names submitted to him by the North Dakota state nurses' association.
6. Any vacancies occurring in the appointments made by the governor shall be filled in the same manner as was used in naming the prior appointee.
7. Appointive members may be removed by the governor for cause after due notice and hearing.

SECTION 3. AMENDMENT.) Section 43-34-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-34-11. EMERGENCY LICENSES.) In the event of the death or other unexpected removal of a licensed nursing home administrator from his position, the owner, the governing body, or other appropriate authority of the nursing home may designate an acting administrator to whom the board may issue an emergency license. This emergency license shall be in force for a period not to exceed ninety days but may be renewed for an additional ninety days by the board upon good cause shown.

SECTION 4. APPOINTMENTS SHALL BE MADE AT END OF TERMS OF PRESENT BOARD MEMBERS.) The board members provided for in subsections 3 and 5 of section 43-34-02 shall be appointed to succeed the two members of the board appointed when chapter 43-34 was first enacted whose terms expire on July 1, 1971. Two of the three board members provided for in subsection 4 of section 43-34-02 shall be appointed to succeed the two members of the board appointed when chapter 43-34 was first enacted whose terms expire on July 1, 1972. The third board member provided for in subsection 4 of section 43-34-02 shall be appointed to succeed the nursing home administrator appointed when chapter 43-34 was first enacted whose term expires on July 1, 1973. The physician board member provided for in subsection 2 of section 43-34-02 shall be appointed to succeed the present representative of the state medical association appointed when chapter 43-34 was first enacted whose term expires on July 1, 1973.

SECTION 5. AMENDMENT.) Section 43-34-05 of the 1969

Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-34-05. LICENSE FEES.) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount to be fixed by the board, which fee shall not exceed twenty-five dollars per annum. Said license shall expire on the thirty-first day of December of the year following its issuance, and shall be renewable biennially upon payment of the license fee. Any licensee, or applicant for license, may take a special examination for the purpose of being eligible for reciprocity with other states, upon the payment of an additional fee to be established by the board for that purpose.

Approved March 15, 1971

## CHAPTER 446

HOUSE BILL NO. 1336  
(Henry, Walsh, Hentges, Rice)

## WATER WELL CONTRACTORS

AN ACT for the preservation of public health through the regulation of the business of water well drilling, to create a state board of water well contractors, to provide for the certification of water well contractors, to provide for bonds, and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DECLARATION OF POLICY.) The business or activity of constructing water wells is declared to be an industry affecting the public welfare, health, and safety of all the people of North Dakota and requires the exercise of the sovereign powers of the state for a public purpose, and it hereby is declared necessary that a state board of water well contractors be established, which in the exercise of its powers shall be deemed to be an administrative agency within the purview of chapter 28-32.

SECTION 2. DEFINITIONS.) As used in this Act, unless the context or subject matter otherwise requires:

1. "Board" shall mean the North Dakota board of water well contractors.
2. "Water well contractor" shall mean any person who is certified to conduct the business of well drilling under the provisions of this Act.
3. "Drilling" shall mean making any opening in the earth's surface by drilling, boring, or otherwise, and shall include inserting any object into any part of the earth's surface for the purpose of obtaining an underground water supply except drainage tiles or similar devices designed primarily to improve land by removing excess water.
4. "Constructing" a well includes boring, digging, drilling, or excavating and installing casings, well screens, and other appurtenances.
5. "Well" shall mean any artificial opening or artificially altered natural opening, however

made, by which ground water is sought or through which ground water flows under natural pressure or is artificially withdrawn, provided that this definition shall not include a natural spring, stock ponds, or holes drilled for the purpose of exploration for production of oil, gas, gravel, or other minerals.

SECTION 3. STATE BOARD OF WATER WELL CONTRACTORS - MEMBERS' APPOINTMENT - QUALIFICATION.) The state board of water well contractors shall consist of the state engineer and the state health officer, or their duly authorized designees, and two water well contractors appointed by the governor from a list of five names submitted by the North Dakota well drillers association, and one member appointed at large by the governor.

SECTION 4. APPOINTIVE MEMBERS TO QUALIFY - TERMS OF OFFICE - FILLING VACANCY.) Each appointive member to the board shall qualify by taking the oath of office required of civil officers and shall hold office for a term of four years or until a successor is appointed and qualified, except that the initial appointments shall be for terms of two and four years, respectively, and shall expire on June thirtieth of the respective years. A vacancy on the board shall be filled for the unexpired term in the same manner as was the member whose office is vacant.

SECTION 5. OFFICERS - OFFICE.) The members of the board shall meet annually on the second Monday in July at a time and place designated by the president, except that the first meeting shall be held in the office of the state engineer at ten o'clock a.m., to select from their number a president, vice president, and a secretary-treasurer. The secretary-treasurer need not be a member of the board. Additional board meetings may be provided for in the bylaws or rules and regulations adopted by the board.

SECTION 6. SECRETARY-TREASURER BOND.) Promptly upon assuming the office, the secretary-treasurer shall furnish a bond satisfactory to the board for the faithful performance and discharge of his duties, as civil officers generally are bonded, in such amount as may be prescribed by the board, the premium therefor to be paid from board funds.

SECTION 7. COMPENSATION AND REIMBURSEMENT OF EXPENSES.) Each appointive member of the board shall receive fifteen dollars per day for the actual services rendered, and in addition thereto, each member shall receive the necessary and actual expenses incurred by him in the discharge of his duties. The mileage and travel expenses allowed shall not exceed the amount provided for in section 54-06-09.

SECTION 8. OFFICE, ADMINISTRATIVE, AND TECHNICAL PER-

SONNEL - COMPENSATION.) The board may employ such office, administrative, and technical personnel as it deems necessary and shall fix their compensation and prescribe their duties. It may retain legal counsel and incur such other expenses as and when deemed necessary to carry out the provisions of this Act.

SECTION 9. DEPOSIT OF FEES - USE AND APPROPRIATION OF FUNDS.) All fees received by the treasurer under this Act shall be deposited to the credit of the board in the Bank of North Dakota and disbursed only on order of the president and secretary-treasurer. Funds collected for certifying and inspections may be expended in such manner as the board deems necessary to best carry out the provisions of this Act. All funds accruing to the credit of the state board of water well contractors are hereby permanently appropriated to the board for the purpose of this Act.

SECTION 10. POWERS AND DUTIES OF BOARD.) The board shall have the power and it shall be its duty:

1. To effectively administer and carry out the provisions of this Act.
2. To adopt bylaws, rules, and regulations for the conduct of the business affairs of the board and administration of its functions.

SECTION 11. CERTIFICATE REQUIRED.) After the first day of January 1972 no person, partnership, firm, or corporation shall engage in the business of water well contracting unless certified to do so by the board of water well contractors.

SECTION 12. EXAMINATION - WHEN HELD - NOTICE.) The board shall hold meetings at such times and such places as it shall designate for the purpose of administering an examination to those persons desiring to become certified as water well contractors. The board shall give no less than ten days' written notice to each applicant of the time and place of such examination.

SECTION 13. CERTIFICATE - HOW OBTAINED - FEE - BOND.) Any person desiring to take the examination to become a certified water well contractor shall make application to the board and pay to the board treasurer a nonrefundable examination fee in the amount of ten dollars. If upon examination the applicant is found to be qualified as a water well contractor, the board shall issue to him a certificate upon the applicant's executing and filing with the board a bond as required in this Act. Such certificate shall not be transferable.

SECTION 14. BOND REQUIRED.) Before receiving a certificate as a water well contractor, a qualified applicant shall execute and deposit with the board a surety bond in

the amount of one thousand dollars conditioned for the faithful performance of all water well contracts undertaken by him and the strict compliance with the provisions of this Act.

SECTION 15. CERTIFICATION OF PERSONS ENGAGED IN CONTRACTING AT EFFECTIVE DATE OF ACT.) Upon application and sworn affidavit and the payment of a registration fee in the amount of twenty dollars, the board shall issue a certificate, without an examination, to any person who has been engaged in the business of a water well contractor as an occupation for at least one year prior to the effective date of this Act.

SECTION 16. DISPLAY OF CERTIFICATION.) The board shall furnish each certified contractor a decal for each drill rig the contractor owns or leases. Such decal shall be displayed in a conspicuous place on the drill rig.

SECTION 17. RENEWAL OF CERTIFICATE.) A certificate issued under the provisions of this Act shall be valid for one year and shall expire on the thirty-first day of December in the year it was issued. The certificate may be renewed by the board upon application accompanied by a fee in the amount of twenty dollars and the furnishing of a bond as provided in section 14 of this Act.

SECTION 18. FIRM ENGAGED IN WATER WELL WORK TO EMPLOY CERTIFIED WATER WELL CONTRACTOR - EXCEPTION.) No person, partnership, association, or corporation shall engage in the business of constructing a water well in this state unless at all times a certified water well contractor, who is responsible for the proper construction or alteration thereof, is in charge; provided, however, that nothing in this Act shall be construed so as to prohibit any person, partnership, association, or corporation from constructing any water well on his or its own premises for his or its own use.

SECTION 19. STANDARDS FOR WELL DRILLING - REPORTS REQUIRED.) All construction of water wells shall comply with the rules and regulations promulgated by the state health department. Each water well contractor shall furnish to the board on forms provided by the board within thirty days after the completion of each well, such information as the health department shall require, including a log of formations penetrated; well depth, and casing size and weight. A copy of each report shall also be furnished to the customer. All information submitted shall remain the property of the board.

SECTION 20. REVOCATION OR SUSPENSION OF CERTIFICATE - GROUNDS FOR - HOW REINSTATED.) The board may suspend or revoke any certificate issued under the provisions of this Act if the holder is found guilty by the board of any violation of the rules and regulations established and promulgated by the health department after a hearing duly held substantially in conformance with the provisions of chapter 28-32. Six months after

any certificate has been revoked, an application may be made for another certificate in the same manner as a new certificate is obtained.

SECTION 21. CERTIFICATION TO NONRESIDENTS - RECIPROCITY.) To the extent that other states which provide for the certification of water well contractors provide for similar action, the state board of water well contractors may grant certification to water well contractors certified by other states, upon payment by the applicant of the required fee and the furnishing of a bond as provided by section 14 of this Act, after being furnished with proof that the qualifications of the applicant are equal to the qualifications of holders of such certificates in this state.

SECTION 22. CONTRACTING FOR WELL CONSTRUCTION WITHOUT CERTIFICATION - PENALTY.) Any person contracting for water well drilling without being certified in accordance with the provisions of this Act or otherwise willfully violating the provisions thereof shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Approved March 18, 1971

# OFFICES AND OFFICERS

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## CHAPTER 447

HOUSE BILL NO. 1116

(Giffey, Hilleboe, Opedahl)

(From Legislative Audit and Fiscal Review Committee Study)

### ANNUAL OR BIENNIAL STATE AGENCY REPORTS

AN ACT to amend and reenact section 44-04-08 of the North Dakota Century Code, relating to the reports of state institutions, boards, departments, and offices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 44-04-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-04-08. DUTY OF THE HEADS OF STATE INSTITUTIONS AND STATE BOARDS, DEPARTMENTS, OR OFFICES TO MAKE REPORTS.) The head of each institution, except those institutions under the control of the board of higher education, and each state board, department, or office shall set forth, in the annual or biennial report required by law, a list of all persons in the employ of the institution, department, office, or board. Such list shall give the name of each person drawing a salary at such institution, from such board, department, or office, the amount of salary and other emoluments drawn, the fund or funds from which drawn, and the number of installments per annum in which such salary is drawn.

Approved March 29, 1971

## CHAPTER 448

SENATE BILL NO. 2304  
(Sanstead, Chesrown)

STATE EMPLOYEES'  
TRAVEL EXPENSE ALLOWANCES

AN ACT to amend and reenact subsections 1, 2, 3, and 4 of section 44-08-04 and subsection 1 of section 54-06-09 of the North Dakota Century Code, relating to travel expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 1, 2, 3, and 4 of section 44-08-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. First quarter shall be from six o'clock a.m. to twelve o'clock noon and the sum shall not exceed one dollar and fifty cents;
2. Second quarter shall be from twelve o'clock noon to six o'clock p.m. and the sum shall not exceed two dollars;
3. Third quarter shall be from six o'clock p.m. to twelve o'clock midnight and the sum shall not exceed three dollars and fifty cents;
4. Fourth quarter shall be from twelve o'clock midnight to six o'clock a.m. and the sum shall be the actual lodging expenses not to exceed eleven dollars.

SECTION 2. AMENDMENT.) Subsection 1 of section 54-06-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The sum of ten cents per mile for each mile actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle. The sum of ten cents per mile for each mile actually and necessarily traveled in the performance of official duty when such travel is by private airplane. If only one person shall engage in such travel in a motor vehicle exceeding at any geographical point one hundred fifty miles beyond the borders of this state, reimbursement shall be limited to seven cents per mile for the out-of-state portion of the travel. When official travel is by motor vehicle or airplane owned by the state or by any department or political subdivision thereof, no allowance shall be made or paid for such mileage;

Approved March 27, 1971

# PRINTING LAWS

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## CHAPTER 449

SENATE BILL NO. 2395  
(Melland)

### DEFINITION OF LEGISLATIVE DOCUMENT

AN ACT to amend and reenact subsection 1 of section 46-02-04 of the North Dakota Century Code, relating to the printing of legislative documents; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 46-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The printing of legislative documents for the use of the legislative assembly shall constitute the first class. For the purposes of this subsection, the words "legislative documents" shall mean bills and resolutions;

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

Approved March 22, 1971

## CHAPTER 450

HOUSE BILL NO. 1068  
(Hoffner, Streibel, Strinden)  
(From Legislative Council Study)

DEADLINES FOR PRINTERS  
OF PUBLIC DOCUMENTS

AN ACT to amend and reenact section 46-02-10 of the North Dakota Century Code, relating to the printing and binding of public documents, and providing deadlines for delivery.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 46-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-02-10. PRINTING AND BINDING DONE WITHOUT UNNECESSARY DELAY - TIME WITHIN WHICH LAWS AND PUBLIC DOCUMENTS MUST BE DELIVERED - HOW EXTENSION GRANTED.) Each contractor under the provisions of this chapter, promptly and without unnecessary delay, shall execute all orders issued to him by the legislative assembly, either branch thereof, or by the legislative council, or by the department of accounts and purchases on behalf of the executive officers of the state. Volumes of public documents shall be delivered to the secretary of state within seventy days after receipt of final copy, exclusive of index copy, and the journals of the two houses of the legislative assembly shall be delivered within sixty days after the index shall have been made out and delivered to the contractor. The session laws shall be completed and delivered to the secretary of state within ninety days after the date of adjournment of the legislative assembly as recorded in the journals of that body. The legislative council, with the assistance of the secretary of state, shall, with reasonable expedition, furnish the printing contractor with true and correct copies of the laws and resolutions to be contained in the session laws and copy for the index to the session laws. The department of accounts and purchases, with the concurrence of the legislative council in the case of a contractor for the printing of the session laws, may, for good cause shown, extend the time for the execution of any printing contract for a period not to exceed twenty consecutive calendar days.

Approved March 29, 1971

## CHAPTER 451

SENATE BILL NO. 2098  
(Guy Larson)

DISTRIBUTING PRINTED LAWS  
TO JUNIOR COLLEGES

AN ACT to amend and reenact section 46-04-02 of the North Dakota Century Code, relating to distribution of North Dakota printed laws to state-supported junior colleges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 46-04-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-02. STATE LIBRARIES ENTITLED TO RECEIVE COPY OF STATE LAWS.) The state libraries shall receive copies of the Session Laws, compilations, or codifications as follows:

1. The supreme court law library, five copies.
2. The law library of the state university, fifty copies.
3. The library in each state institution of higher education and junior college which receives state support, one copy.

Approved February 19, 1971

# PROPERTY

## CHAPTER 452

SENATE BILL NO. 2449  
(Longmire, Chesrown)

### TRANSFER OF PERSONAL PROPERTY

AN ACT to amend and reenact sections 47-11-01 and 47-11-02 of the North Dakota Century Code relating to the transfer of personal property by sale or exchange and interests in trusts, and to repeal sections 47-11-03, 47-11-04, and 47-11-05 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 47-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-11-01. MODE OF TRANSFER - GENERAL PROVISIONS.) The mode of transferring personal property other than the beneficial interest in an express trust is regulated, except as otherwise specifically provided in this title, in title 41, Uniform Commercial Code and title 17, Uniform Consumer Credit Code.

SECTION 2. AMENDMENT.) Section 47-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-11-02. INTEREST IN EXPRESS TRUSTS - OPERATION OF LAW OR WRITTEN INSTRUMENT REQUIRED.) The beneficial interest in an express trust can be transferred only by operation of law or by a written instrument subscribed by the person making the transfer or by his agent.

SECTION 3. REPEAL.) Sections 47-11-03, 47-11-04, and 47-11-05 of the North Dakota Century Code are hereby repealed.

Approved March 30, 1971

## CHAPTER 453

HOUSE BILL NO. 1072  
(Jenkins, Metzger, Olienyk, Sandness)  
(From Legislative Council Study)

## RECOGNITION OF FOREIGN ACKNOWLEDGMENTS

AN ACT to create and enact sections 47-19-14.1, 47-19-14.2, 47-19-14.3, 47-19-14.4, 47-19-14.5, 47-19-14.6, 47-19-14.7, and 47-19-14.8 of the North Dakota Century Code, to provide for uniform recognition of notarial acts done outside the state; to amend and reenact sections 47-19-26 of the North Dakota Century Code, relating to forms of certificates of acknowledgment; and to repeal sections 47-19-15, 47-19-16, 47-19-17, 47-19-17.1, 47-19-17.2, and 47-19-31 of the North Dakota Century Code, relating to recognition of foreign acknowledgments and acknowledgments made outside this state but within the United States.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 47-19-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.1. RECOGNITION OF NOTARIAL ACTS PERFORMED OUTSIDE THIS STATE.) For the purposes of this section and sections 47-19-14.2 and 47-19-14.7, "notarial acts" mean acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

1. A notary public authorized to perform notarial acts in the place in which the act is performed.
2. A justice, judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed.
3. An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States depart-

ment of state to perform notarial acts in the place in which the act is performed.

4. A commissioned officer or noncommissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts, if the notarial act is performed for one of the following, or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States, or any other person serving with or accompanying the armed forces of the United States.
5. Any other person authorized to perform notarial acts in the place in which the act is performed.

SECTION 2.) Section 47-19-14.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.2. AUTHENTICATION OF AUTHORITY OF OFFICER.)

1. If the notarial act is performed by any of the persons described in subsections 1 through 4, inclusive, of section 47-19-14.1, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, written indication of his title or rank and serial number, if any, is sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.
2. If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to perform the act if:
  - a. Either a foreign service officer of the United States, resident in the country in which the act is performed, or a diplomatic or consular officer of the foreign country, resident in the United States, certifies that a person holding that office is authorized to perform the act;
  - b. The official seal of the person performing the notarial act is affixed to the document; or
  - c. The title of the person, and an indication of his authority to perform notarial acts appears either in a recognized digest of foreign law, or in a list customarily used as a source of such information.
3. If the notarial act is performed by a person other than one described in subsections 1 and 2 of this

section, there is sufficient proof of the authority of that person to act, if the clerk of a court of record, in the place in which the notarial act is performed, certifies to the official character of that person, and to his authority to perform the notarial act.

4. The signature and title of the person performing the notarial act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

SECTION 3.) Section 47-19-14.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.3. CERTIFICATE OF PERSON TAKING ACKNOWLEDGMENT.) The person taking an acknowledgment shall certify that:

1. The person acknowledging appeared before him and acknowledged that he executed the instrument; and
2. The person acknowledging was known to the person taking the acknowledgment, or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

SECTION 4.) Section 47-19-14.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.4. RECOGNITION OF CERTIFICATE OF ACKNOWLEDGMENT.) The form of a certificate of acknowledgment used by a person whose authority is recognized under section 47-19-14.2 shall be accepted in this state if:

1. The certificate is in a form prescribed by the laws or regulations of this state;
2. The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or
3. The certificate contains the words "acknowledged before me" or their substantial equivalent.

SECTION 5.) Section 47-19-14.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.5. CERTIFICATE OF ACKNOWLEDGMENT.) The words "acknowledged before me", or their substantial equivalent, as used in a certificate of acknowledgment made by a person taking an acknowledgment outside this state shall mean:

1. That the person acknowledging appeared before the



State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent and title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation.

\_\_\_\_\_  
(Signature of person taking acknowledgment)  
\_\_\_\_\_  
(Title or rank)  
\_\_\_\_\_  
(Serial number, if any)

3. For a partnership:

State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent), on behalf of (name of partnership), a partnership.

\_\_\_\_\_  
(Signature of person taking acknowledgment)  
\_\_\_\_\_  
(Title or rank)  
\_\_\_\_\_  
(Serial number, if any)

4. For an individual acting as attorney in fact for a principal:

State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

\_\_\_\_\_  
(Signature of person taking acknowledgment)  
\_\_\_\_\_  
(Title or rank)  
\_\_\_\_\_  
(Serial number, if any)

5. For a public officer, trustee, guardian, personal representative, or other representative:

State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

\_\_\_\_\_  
(Signature of person taking acknowledgment)  
\_\_\_\_\_  
(Title or rank)  
\_\_\_\_\_  
(Serial number, if any)

SECTION 7.) Section 47-19-14.7 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.7. PRIOR ACKNOWLEDGMENTS NOT AFFECTED.) A notarial act performed prior to the effective date of sections 47-19-14.1 through 47-19-14.8 shall not be affected by those sections. Sections 47-19-14.1 through 47-19-14.8 provide an additional method of proving notarial acts, and do not diminish or invalidate the recognition accorded to notarial acts by other laws or regulations of this state.

SECTION 8.) Section 47-19-14.8 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.8. SHORT TITLE - UNIFORMITY OF INTERPRETATION.) Sections 47-19-14.1 through 47-19-14.8 may be cited as the "Uniform Recognition of Acknowledgments Act", and the Act shall be so interpreted as to make uniform the laws of those states which enact it.

SECTION 9. AMENDMENT.) Section 47-19-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-26. CERTIFICATE OF ACKNOWLEDGMENT - FORMS.) An officer taking an acknowledgment of an instrument within this state must endorse thereon or attach thereto a certificate substantially in the forms prescribed in sections 47-19-27, 47-19-28, 47-19-29, and 47-19-30.

SECTION 10. REPEAL.) Sections 47-19-15, 47-19-16, 47-19-17, 47-19-17.1, 47-19-17.2, and 47-19-31 of the North Dakota Century Code are hereby repealed.

Approved February 20, 1971

# PUBLIC BUILDINGS

## CHAPTER 454

SENATE BILL NO. 2121

(Christensen, Litten, Sorlie)

(From Legislative Audit and Fiscal Review Committee Study)

### PREREQUISITES TO BUILDING OR REPAIRING PUBLIC BUILDINGS

AN ACT to amend and reenact sections 48-02-02 and 48-02-03 of the North Dakota Century Code, relating to the prerequisite to building or repair of public buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 48-02-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-02. PREREQUISITE TO BUILDING AND REPAIR BY CONTRACT - EXCEPTIONS.) In altering, repairing, or constructing any building belonging or appertaining to any of the public institutions of the state, or to any county, city, park district, school district, or other political subdivision of the state, or in making any improvements connected therewith or pertaining thereto, or in doing any work thereon, the estimated cost of which amounts to more than twenty-five thousand dollars, the governing body of such public institution, or of such municipality or political subdivision, shall procure such plans, drawings, and specifications thereof, upon competitive bids or otherwise as such board may deem necessary. In all cases where the estimated cost of such work exceeds twenty-five thousand dollars, such plans, drawings, and specifications shall be procured from a licensed architect, provided that any state agency or institution contemplating doing any work amounting to more than five thousand dollars without such plans, drawings, and specifications, shall first obtain the approval of the state superintendent of construction, and that, in the case of public buildings in use by or to be used by the North Dakota agricultural experiment station in connection with farm or agricultural research operations, such plans, drawings, and specifications may, with the approval of the board of higher education, be procured from a registered professional engineer, providing such engineer is in the regular employment of the agricultural experiment station. Any type or class of engineering or electrical modifications in any state building must be done by or under the supervision of a licensed engineer or electrician if so directed by the state superintendent of construction.

SECTION 2. AMENDMENT.) Section 48-02-03 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-03. METHOD USED IN SECURING BIDS.) The governing board shall advertise for bids for the doing of the work for which plans, drawings, and specifications are required by section 48-02-02. Such advertisement shall be published for three successive weeks, the first publication thereof to be at least twenty-one days prior to the date of the opening of bids thereunder. Such advertisement shall be published in the official newspaper of such municipality or political subdivision, and if it has no official newspaper, then in the official newspaper of the county in which such building is located, and also in some trade publication of general circulation among the contractors, building manufacturers, and dealers of this state. Alterations or improvements may be accomplished by a state department or institution on competitive bids or on a time and material basis or by institutional personnel if the total cost of any one project does not exceed the sum of twenty-five thousand dollars, but if the cost exceeds five thousand dollars, prior approval shall be obtained from the state superintendent of construction. In instances where a contractor is performing work on a time and material basis, all materials and all labor supplied by such contractor must be obtained by competitive estimates from qualified suppliers for projects.

Approved March 3, 1971

## CHAPTER 455

SENATE BILL NO. 2357  
(Lips, Sanstead)

ADVERTISEMENTS FOR BIDS  
ON PUBLIC BUILDINGS

AN ACT to amend and reenact subsection 4 of section 48-02-04 of the North Dakota Century Code, relating to contents of advertisement for bids on public buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 48-02-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Each bid shall be accompanied by a bidder's bond in a sum equal to five per cent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within ten days after notice of award, will execute and effect a contract in accordance with the terms of his bid and a contractor's bond as required by law and the regulations and determinations of the governing board;

Approved March 3, 1971

## CHAPTER 456

SENATE BILL NO. 2360  
(Forkner, Butler)

PAYMENT OF ESTIMATES ON  
PUBLIC BUILDING CONSTRUCTION

AN ACT to amend and reenact section 48-02-07 and 48-02-08 of the North Dakota Century Code, relating to allowance and payment of estimates on public building construction, failure to certify and rate of interest.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 48-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-07. ALLOWANCE AND PAYMENT OF ESTIMATES.) At least once in each calendar month during the continuance of work upon any public building or erection begun and carried on under the provisions of this chapter, the governing board, or a committee thereof duly authorized by the board for that purpose, shall meet and receive and consider estimates furnished by the supervising architect or the superintendent of construction of such building or erection, and shall allow such estimates in an amount of the estimated value of the labor and material furnished upon such contract, and of the material then upon the ground for use in the construction thereof, subject to retentions as follows: ten percent of each estimate presented until such time as the project is fifty percent completed, with no further retainage on estimates during the continuance of the contract. The governing board may however, upon completion of ninety-five percent of the contract according to the estimates, pay to the contractor ninety-five percent of the amount retained from previous estimates. The remaining amount retained shall be paid to the contractor in such amounts and at such times as are approved by the supervising architect or superintendent of construction, with final payment of all moneys due to the contractor to be made immediately following completion and acceptance of the project. If no supervising architect and no superintendent of construction is employed upon such contract, the contractor, at the end of each calendar month during the continuance of work under any such contract, may furnish to such board or public body in charge of such work like estimates which shall be allowed in like manner. Said board or committee thereof, immediately after considering and allowing any such estimate, shall certify and forward the same to the state auditor, county auditor, city auditor, or other official having the power

to draw warrants, who forthwith shall draw his warrant upon the proper fund and transmit the same promptly to the contractor entitled thereto.

SECTION 2. AMENDMENT.) Section 48-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-08. ESTIMATE - FAILURE TO CERTIFY - RATE OF INTEREST.) In case the board or committee mentioned in section 48-02-07 shall fail or neglect to certify any estimate allowed or final payment upon completion and acceptance, or the proper official shall neglect or fail to issue a warrant as provided in section 48-02-07, for a period of more than thirty days from the date of such estimate or completion date, then said estimate or final payment shall draw interest from its date at the rate of six percent per annum until the issuance of a proper warrant therefor. Such interest shall be computed and added to the face of said estimate or final payment by the officer required to issue such warrant, shall be included in the warrant when drawn, and shall be charged to the fund upon which payment for the contract is to be made. No payment for, or on account of, any contract made under the provisions of this chapter shall be made except upon estimate of the supervising architect or superintendent of construction or contractor as provided in section 48-02-07.

Approved March 4, 1971

## CHAPTER 457

HOUSE BILL NO. 1038  
(Reimers, Tweten)  
(From Legislative Council Study)

USE OF NATIVE FUEL  
AT PUBLIC INSTITUTIONS

AN ACT to repeal sections 48-05-02 and 48-05-04 of the North Dakota Century Code, relating to the use of native fuel by public institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Sections 48-05-02 and 48-05-04  
of the North Dakota Century Code are hereby repealed.

Approved March 22, 1971

# PUBLIC UTILITIES

## CHAPTER 458

SENATE BILL NO. 2301  
(Chesrown)

### UTILITY FRANCHISE HEARINGS

AN ACT to amend and reenact section 49-03-02 of the North Dakota Century Code, relating to notice and hearings in certain utility franchise proceedings, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 49-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-03-02. PREREQUISITES TO ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.) Before any certificate may issue under this chapter, a certified copy of the articles of incorporation or charter of the utility, if the applicant is a corporation, shall be filed with the commission. At the hearing of said application upon notice as provided in this title, the utility shall submit evidence showing that such applicant has received the consent, franchise, permit, ordinance, or other authority of the proper municipality or other public authority, if required, or has or is about to make application therefor. The commission shall have the power, after notice and hearing, to:

1. Issue the certificate prayed for;
2. Refuse to issue such certificate;
3. Issue it for the construction or operation of a portion only of the contemplated facility, line, plant, system, or extension thereof; or
4. Issue it for the partial exercise of the right or privilege sought, conditioned upon the applicant's having secured or upon his securing the consent, franchise, permit, ordinance, or other authority of the proper municipality or other public authority, and may attach to the exercise of the rights granted by any certificate such terms and conditions as in its judgment the public convenience and necessity may require.

Notwithstanding any of the foregoing provisions, the commission may grant a certificate if no interested party, including any local electric cooperative, has requested a hearing on said application after receiving at least twenty days' notice of opportunity to request such hearing.

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

Approved March 17, 1971

## CHAPTER 459

HOUSE BILL NO. 1472  
(Fleming)

## VIOLATION OF GAS SAFETY STANDARDS

AN ACT to create and enact section 49-07-05.1 of the North Dakota Century Code, relating to violations of gas safety standards and providing monetary penalties therefor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 49-07-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

49-07-05.1 VIOLATIONS OF GAS SAFETY STANDARDS - PENALTIES.) Any person who violates any law or rule of the public service commission enacted pursuant to the Natural Gas Pipeline Safety Act (Public Law 90-481; 49 U.S.C. sections 1671 et. seq.) shall be subject to a civil penalty to be imposed by the public service commission of not to exceed one thousand dollars for each such violation for each day that such violation persists, except that the maximum penalty shall not exceed two hundred thousand dollars for any related series of violations: Provided, That for a reasonable period of time, not to exceed one year after the date of enactment of this section, such civil penalties shall not be applicable to pipeline facilities existing on such date of enactment. Any such civil penalty may be compromised by the public service commission. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state of North Dakota to the person charged or may be recovered in a civil action in the district court of Burleigh County.

Approved March 4, 1971

## CHAPTER 460

HOUSE BILL NO. 1219  
(Gengler)

HOURS OF SERVICE  
OF RAILROAD EMPLOYEES

AN ACT to amend and reenact section 49-13-18 of the North Dakota Century Code relating to the hours of service of railroad employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 49-13-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-13-18. HOURS OF SERVICE OF RAILROAD EMPLOYEES LIMITED.) No railroad corporation engaged in commerce in whole or in part within this state, nor any of its officers or agents, shall require or permit any employee engaged in or connected with the movement of any train carrying freight or passengers within the state to remain on duty more than fourteen consecutive hours until he has at least ten consecutive hours off duty except when any casualty, storms, wrecks, washouts, snow blockades, or any unavoidable delay arising from like causes, he is prevented from reaching his terminal provided further that effective on December 26, 1972, such fourteen-hour period shall be reduced to twelve hours. Time on duty shall commence when an employee reports for duty and terminate when the employee is finally released from duty and shall include:

1. Interim periods available for rest at other than a designated terminal;
2. Interim periods available for less than four hours rest at a designated terminal;
3. Time spent in deadhead transportation by an employee to a duty assignment: Provided, that time spent in deadhead transportation by an employee shall not be counted in computing time off duty; and
4. The time an employee is actually engaged in or connected with the movement of any train. Provided that the provisions of this section shall not apply to employees performing the duties of train dispatcher, operators, or any other duties not directly pertaining to the movement of trains.

Approved March 22, 1971

## CHAPTER 461

HOUSE BILL NO. 1276  
(Hensrud, DeGroot)

EXEMPTION FOR TRANSPORTATION  
FOR HIRE OF FARM PRODUCTS

AN ACT to create and enact subsection 6 of section 49-18-02 of the North Dakota Century Code, relating to exemption from regulation of the transportation, for hire, of agricultural commodities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. Subsection 6 of section 49-18-02 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

6. To the transportation, for hire, of unmanufactured agricultural commodities, excluding dairy commodities, poultry and livestock.

Approved March 27, 1971

## CHAPTER 462

HOUSE BILL NO. 1205  
(Halcrow)

STUDY OF LIABILITY  
OF COMMON CARRIERS

AN ACT to direct a study of the liability of common carriers for damages incurred in the course of shipment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. STUDY BY PUBLIC SERVICE COMMISSION.) The public service commission is hereby directed to study, during the 1971-73 biennium, the problem of the liability of common carriers for damages incurred to property in the course of shipment, and to consider alternative methods of fixing responsibility and ascertaining the possible damages due consignees. The public service commission shall report its findings and recommendations to the Forty-third Legislative Assembly.

Approved March 27, 1971

# PUBLIC WELFARE

## CHAPTER 463

SENATE BILL NO. 2060

(Coughlin, Holand, Kautzmann, Lips, Litten, Van Horn)  
(From Legislative Council Study)

### FRAUDULENT TRANSFER OF PROPERTY FOR WELFARE ELIGIBILITY

AN ACT to create and enact section 50-01-25 of the North Dakota Century Code; to amend and reenact section 50-01-01 of the North Dakota Century Code, concerning the transfer of property to become eligible for welfare aid and defining fraud in obtaining such aid; and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 50-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-01-01. COUNTY OBLIGATED TO SUPPORT POOR - ELIGIBILITY FOR ASSISTANCE - TRANSFER OF PROPERTY AS SECURITY FOR ASSISTANCE.) Each county in this state is obligated to relieve and support persons who are residents of the county and who are in need of poor relief. To be eligible for such relief, the poor person:

1. Shall not at any time before or after making application for county poor relief have made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this chapter.
2. Shall comply with the provisions of section 50-24-13 of the North Dakota Century Code.

SECTION 2.) Section 50-01-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-01-25. FRAUDULENT ACTS - PENALTY.) Whoever knowingly obtains or attempts to obtain, or aids or abets another in obtaining assistance under this chapter, by means of a wilfully false statement or representation, by means of impersonation, by assisting knowingly in the transfer or assignment of property, or by other fraudulent device, to which the applicant is not entitled, or assistance greater than that to which he is justly entitled, is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than twelve months, or by both such fine and imprisonment. In assessing the penalty, the court shall take into consideration, along with other facts, the amount of money fraudulently received.

Approved March 11, 1971

## CHAPTER 464

SENATE BILL NO. 2056  
(Coughlin, Holand, Kautzmann, Lips,  
Litten, Sorlie, Strinden, Van Horn)  
(From Legislative Council Study)

## MULTICOUNTY WELFARE DISTRICTS

AN ACT to permit the consolidation of county welfare boards into multicounty welfare districts, for determinations, for hearings, and for a plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

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

1. "State board" shall mean the public welfare board of North Dakota.
2. "County board" shall mean the county welfare boards.

SECTION 2. CONSOLIDATION OF COUNTY WELFARE BOARDS INTO MULTICOUNTY WELFARE DISTRICTS.) In order to provide optimum services, reduce program costs, and benefit recipients of social services within this state, any county board may consolidate with the county board or boards of any contiguous county or counties in the manner provided in this Act in order to form a multicounty welfare district. Such multicounty welfare districts shall succeed to all the powers and duties enumerated for county boards, and perform all the functions and responsibilities assigned to such county boards by Title 50 of this Code. Where consistent with the provisions of this Act, all provisions relating to county boards contained in Title 50 of this Code shall apply to and govern multicounty welfare districts. Any county board wishing to become a member of a multicounty welfare district shall file a written request for such membership with the state board, together with a plan for the creation of such a district, if such a district does not already exist. The plan shall be prepared as prescribed in section 4 of this Act. The request shall be approved or disapproved by the state board, with the determination being made in accordance with the provisions of section 3 of this Act. In permitting the creation of such a district, the state board shall, to as great a degree as possible, allow the consolidation of county boards in such a manner as will:

1. Conform with the existing pattern of the trade area.
2. Conform with any regional pattern established by the executive department of this state.

SECTION 3. MANNER OF DETERMINATION - NOTICES - HEARINGS.) In determining whether the creation of a multi-county welfare district should be approved, the state board shall refer to, among other pertinent factors, the following:

1. Whether the affected county boards are able to supply an adequate level and quality of social services.
2. The number and qualifications of staff personnel serving the affected county boards.
3. The ratio of the number of cases handled by the affected county boards to the number of their staff personnel.
4. The geographical area and population served by the affected county boards.
5. The distance of recipients from the affected county boards.
6. The benefits which would be realized from the creation of such district in terms of lower costs, increased availability of services, new services, and improvement of services.

Any county which is denied approval to become a member of a multicounty welfare district, or any member of that board, shall have the right to request a hearing thereon. Such county board shall be notified of such right by the state board, and shall have thirty days from the time of the notice to request such a hearing. If a hearing is requested, it shall be scheduled by the state board within fifteen days after the request for the same, and it shall be held at the state capitol. At the hearing, evidence may be presented relative to the creation of the proposed multicounty welfare district. The hearing shall be conducted in accordance with the applicable provisions of chapter 28-32 of this Code.

SECTION 4. PLAN - FINANCING - DISTRIBUTION OF PROPERTY - GOVERNING BOARD - COMPENSATION OF MEMBERS.)

1. A plan for the creation of a multicounty welfare district prepared by a county board shall provide for the method of operation of the consolidated office, its administration, its location, the disbursements from public funds, and the accountability of funds and manner of reporting receipts

and disbursements. The plan shall provide that all services provided by county officials to county boards under the provisions of this Code shall be provided by those county officials residing within the same county wherein the office of the multicounty welfare district is located. The plan shall also provide for the distribution of property owned by each of the county boards affected by the consolidation. Such plan may also provide that the program supervisor of a state board area social service center shall serve as the director of the multicounty welfare district.

2. The governing board of a multicounty welfare district shall consist of seven, nine, or eleven members, as determined by the plan. The plan shall provide that there shall be appointed as members to such board from each respective county, the number of members in the ratio that each county's population bears to the total population of the multicounty welfare district; provided that each county to be included in such district shall be represented by at least one board member. Appointments shall be made by committees created in each county included in the district, and composed of the chairman of the board of county commissioners, the county judge, and the state's attorney of each such county acting with the advice and consent of the public welfare board of North Dakota. Members shall be appointed for a term of three years, or until a successor has been appointed and qualifies. Each member of the governing board shall qualify by taking the oath prescribed for civil officers and filing the same with the county auditor in his county of residence. No person shall serve as a board member for more than two consecutive three-year terms. No person shall be appointed to the board who has served within three years prior to appointment, unless he is being reappointed to a second consecutive term. Vacancies occurring on the board shall be filled in the same manner as regular appointments, provided, however, that a person appointed to fill the unexpired term of a member shall be eligible for appointment to another term only if his consecutive service on the board after completion of such term will not exceed six years. No person shall be eligible for appointment if he would become seventy-one years of age or older before the end of such term.

3. The members of the governing board shall each receive the sum of fifteen dollars per day for each day necessarily spent in the performance of their official duties. In addition, such members shall be permitted the reimbursement of travel and board and lodging expenses incurred in connection with their official duties, at the same rate and under the same conditions as provided for state officials and officers.

Approved March 19, 1971

## CHAPTER 465

HOUSE BILL NO. 1058  
(Eagles, Lundene, Wagner, Wilkie)  
(From Legislative Council Study)

SOCIAL SERVICE BOARD  
OF NORTH DAKOTA

AN ACT to create and enact section 50-06-01.1 of the North Dakota Century Code, relating to changing the name of the public welfare board of North Dakota to the social service board of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 50-06-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-06-01.1. SOCIAL SERVICE BOARD OF NORTH DAKOTA TO BE SUBSTITUTED FOR PUBLIC WELFARE BOARD OF NORTH DAKOTA, MEMBERS OF BOARD, AND EXECUTIVE DIRECTOR.) Wherever the terms "public welfare board of North Dakota", "executive director of the public welfare board", or "member of the public welfare board", or any derivative of those terms which, when used in context indicates an intention to refer to those persons or that board, shall appear in the North Dakota Century Code, the term "social service board of North Dakota", or the term "executive director of the social service board", as the case may be, shall be substituted therefor. It is the intent of the legislative assembly that the social service board of North Dakota shall be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the public welfare board of North Dakota.

Approved March 18, 1971

## CHAPTER 466

SENATE BILL NO. 2058

(Coughlin, Holand, Kautzmann, Lips, Litten, Van Horn)  
(From Legislative Council Study)

## MEMBERSHIP OF PUBLIC WELFARE BOARD

AN ACT to create and enact sections 50-06-03.1 and 50-06-05.1 of the North Dakota Century Code, relating to terms of office of the members of the public welfare board and the powers and duties of such board; to amend and reenact sections 50-06-02, 50-06-03, 50-06-04, 50-06-09, and 50-06-14 of the North Dakota Century Code, relating to the appointment of members of the public welfare board, qualifications for the executive director, and financing of public welfare programs; and to repeal section 50-06-06 of the North Dakota Century Code, relating to powers and duties of the public welfare board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 50-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-02. PUBLIC WELFARE BOARD - MEMBERS - APPOINTMENT.)  
The public welfare board of North Dakota shall consist of seven members appointed by the governor, with the consent of the senate.

When the legislative assembly shall be in session at any time within six months prior to the date of the expiration of the term of a member of the public welfare board, the governor shall appoint a successor within the first twenty days of such session and if confirmed by the senate, such successor shall take office on the date of the expiration of the term of the incumbent. When a vacancy occurs upon the board other than by expiration of the term of office of a member thereof when the legislative assembly is not in session, the governor shall appoint a person to fill such vacancy and such person shall serve until the opening of the next session of the legislative assembly following such interim appointment, at which time such appointment shall be certified to the senate for confirmation. If this appointment or such other appointments as may be made by law are not confirmed by the twentieth legislative day of the legislative session, the office shall be deemed vacant, and the governor shall nominate other candidates for such office

until a nomination has been confirmed by the senate. No person who has been nominated by the governor in accordance with this chapter and whose nomination the senate has failed to confirm shall be eligible for an interim appointment.

SECTION 2. AMENDMENT.) Section 50-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-03. PUBLIC WELFARE BOARD - TERM OF OFFICE - REMOVAL.) Each member of the public welfare board shall be appointed for a term of four years with the terms of office so arranged that the terms of at least two members shall expire on April sixth of each odd-numbered year. Each member shall qualify by taking the oath of office provided for civil officers and shall serve until his successor has been appointed and qualified. Any person appointed to fill a vacancy on the board shall serve only during the unexpired term in which the vacancy occurred. A member of the board may be removed by the governor for cause.

No member shall serve more than two four-year terms, except as provided in this section. No person shall be eligible for appointment if he would become seventy-one years of age or older before the end of such term. A person appointed to fill the unexpired term of a member shall be eligible for appointment to another term only if his total service on the board after completion of such term will not exceed nine years. To be eligible for appointment, no member shall be currently serving on a county welfare board or a board of county commissioners.

SECTION 3.) Section 50-06-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-06-03.1. PUBLIC WELFARE BOARD MEMBERS WITH UNEXPIRED TERMS.) Public welfare board members currently serving terms to expire on April 6, 1973, and April 6, 1975, shall be eligible to serve until the completion of such terms.

SECTION 4. AMENDMENT.) Section 50-06-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-04. MEMBERS OF BOARD - COMPENSATION.) The members of the public welfare board shall receive twenty-five dollars per day, not to exceed seventy-five days in any one year, and their necessary expenses for travel in the same amounts as other public officials while attending meetings, or in the performance of such special duties as the board may direct.

SECTION 5.) Section 50-06-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-06-05.1. POWERS AND DUTIES OF THE BOARD.) The public welfare board of North Dakota shall have the following powers and duties to be administered by such board through its state office or through regional offices or otherwise as directed by it:

1. To act as the official agency of the state in any social welfare activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive rehabilitative and other social services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being of deprived, unruly, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate social legislation to the legislative assembly.
8. To direct and supervise county welfare board activities as may be financed in whole or in part by or with funds allocated or distributed by the board.
9. To inform the public as to social conditions and ways of meeting social needs.
10. To secure, hold, and administer for the purpose for which it is established, any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the board, and to administer said funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.

11. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the board including child-care facilities, nonmedical adult-care facilities and maternity homes, and persons or organizations receiving and placing children, and to require such facilities, persons, and organizations to submit such reports and information as the board may determine necessary.
12. To permit the making of any surveys of social welfare needs and activities if deemed by the board to be necessary and expedient.
13. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever the board deems it necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena shall not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of such facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
14. To provide insofar as staff resources permit appropriate social services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, county welfare board, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide social services to children and adults in relation to their placement in or return from the Grafton state school, state hospital, or North Dakota industrial school.
15. To provide marital counseling to individuals ordered to participate in such treatment by the family court.
16. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court, all reports to be kept confidential for the use of the judge except as may be disclosed by the judge.

17. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case, all reports to be kept confidential for use by the judge except as may be disclosed by the judge.

SECTION 6. AMENDMENT.) Section 50-06-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-09. EXECUTIVE DIRECTOR - QUALIFICATIONS - TERM OF OFFICE.) The executive director of the public welfare board shall be a person who has professional qualifications, wide experience, education, and training in the administration of substantial governmental programs and agencies or substantial private enterprises. He shall hold office at the pleasure of the board.

SECTION 7. AMENDMENT.) Section 50-06-14 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-14. FINANCING OF WELFARE PROGRAMS.) All programs carried out by the public welfare board under the provisions of this title shall be financed by payments out of a special operating fund maintained within the state treasury to be known as the welfare special operating fund. The executive director of the public welfare board or such other person as the board may designate and the state treasurer shall deposit in the welfare special fund, at such times as they may become available, all moneys received from any of the counties within the state, all moneys received from the United States under the provisions of the Social Security Act, such moneys as may be periodically required from legislative appropriations for public welfare purposes, and all public moneys received from any other source. All administrative expenditures made under the provisions of this title shall be paid upon individual warrants prepared by the department of accounts and purchases drawn on the state treasurer against the welfare special operating fund and signed by the state auditor after approval by the state auditing board, such expenditures to be supported by itemized vouchers signed by the executive director of the board or by such other officer or assistant as the board may designate and certify to the department of accounts and purchases. Funds available for payments to or on behalf of recipients of assistance shall be withdrawn as needed from the welfare special operating fund upon a voucher or vouchers approved and signed by the executive director of the public welfare board and by warrant-checks prepared by the department of accounts and purchases. Any funds received from federal agencies shall be deposited and disbursed as herein provided and in the manner provided by act of Congress or by the regulations of the federal agencies from which the funds were received.

SECTION 8. REPEAL.) Section 50-06-06 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 467

SENATE BILL NO. 2206

(Kautzmann, Coughlin, Swedlund, Doherty, Berube, Freed)

## DEFINITION OF "DEPENDENT CHILD"

AN ACT to amend and reenact subsection 6 of section 50-09-01 of the North Dakota Century Code, relating to payments to adoptive families for children with special needs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 6 of section 50-09-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Dependent child" shall mean any needy child:
  - a. Who is living in the home of a relative by birth, marriage, or adoption, who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental condition of a parent, and who is:
    - (1) Under the age of eighteen years; or
    - (2) Under the age of twenty-one years and physically or mentally incapacitated; or
    - (3) Under the age of twenty-one years and a student regularly attending a high school, and making satisfactory progress, in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending and making satisfactory progress in a course of vocational or technical training designed to fit him for gainful employment;
  - b. Under the age of twenty-one years, who is living in a licensed foster home or in a licensed child-caring or child-placing institution:
    - (1) Who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of the parent; or

- (2) Who is abandoned by his parent, guardian, or custodian; or
  - (3) Whose parent, guardian, or custodian is unable, neglects, or refuses to provide proper or necessary subsistence, education, medical or surgical care, or other care necessary for his health, morals, or well-being; or
  - (4) Who is in need of special care as provided by a private agency for which his parent, guardian, or custodian is unable, neglects, or refuses to provide.
- c. Under the age of twenty-one years, who is living in an adoptive home and would in all probability go without adoption except for acceptance by the adoptive family, and whose adoptive family does not have the economic ability and resources as established by guidelines and rules of the public welfare board to take care of the special needs of such child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of such child, in which case the public welfare board may make payments to the adoptive parents in accordance with the provisions of this chapter and the rules and regulations established thereunder.

Under this chapter no fee shall be paid for the adoptive study and/or the supervision and evaluation of the placement.

Approved March 19, 1971

## CHAPTER 468

SENATE BILL NO. 2080  
(Lips, Morgan, Sanstead)  
(Legislative Council Study)

CRIPPLED CHILDREN'S COMMISSION  
ABROGATED

AN ACT to amend and reenact sections 50-10-01, 50-10-05, subsection 1 of section 50-10-06, and subsection 1 of section 50-10-09 of the North Dakota Century Code, and to repeal sections 50-10-02, 50-10-03, 50-10-04, and subsection 10 of section 50-10-06 of the North Dakota Century Code, to provide for the abrogation of the crippled children's commission and to transfer its functions to the public welfare board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 50-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-10-01. DEFINITIONS.) In this chapter unless the context or subject matter otherwise requires:

1. "State agency" shall mean the public welfare board of North Dakota.
2. "County agency" shall mean the county welfare board in this state.

SECTION 2. AMENDMENT.) Section 50-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-10-05. ADMINISTRATION OF SERVICES FOR CRIPPLED CHILDREN BY STATE AGENCY.) Services for crippled children shall be administered by the state agency.

SECTION 3. AMENDMENT.) Subsection 1 of section 50-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Cooperate with the federal government in the development of plans and policies for services for crippled children;

SECTION 4. AMENDMENT.) Subsection 1 of section 50-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Cooperate with the state agency in administering the provisions of this chapter in its county subject to the rules and regulations prescribed by the state agency;

SECTION 5. REPEAL.) Sections 50-10-02, 50-10-03, 50-10-04, and subsection 10 of section 50-10-06 of the North Dakota Century Code are hereby repealed.

Approved February 19, 1971

## CHAPTER 469

HOUSE BILL NO. 1456  
(R. Peterson, W. Erickson)

## DAY CARE CENTERS AND HOMES

AN ACT to create and enact sections 50-11-01.1, 50-11-01.2, and 50-11-01.3 of the North Dakota Century Code, defining a family day care home for children, a day care center for children, and providing for the use of public funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 50-11-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-11-01.1. FAMILY DAY CARE HOME FOR CHILDREN DEFINED.) As used in this chapter, the term family day care home for children shall mean any home which advertises or holds itself out to the public as providing family day care or which provides care for children from more than one family for more than one day a week. The term shall not apply to reciprocal arrangements among parents, nor to private arrangements entered into by the parents and another family home not coming within the above definition, nor when the children received for care by such person are related to him by blood or marriage.

SECTION 2.) Section 50-11-01.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-11-01.2. DAY CARE CENTER FOR CHILDREN DEFINED.) As used in this chapter, the term day care center shall mean any facility providing care for a group of children including but not limited to nursery schools, activity centers for retarded, day nurseries, and day care centers.

SECTION 3.) Section 50-11-01.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-11-01.3. USE OF PUBLIC FUNDS.) Public funds for the purchase of day care shall be used only in licensed day care facilities.

Approved March 27, 1971

## CHAPTER 470

HOUSE BILL NO. 1059  
(Eagles, Lundene, Wagner, Wilkie)  
(From Legislative Council Study)

## MEDICAL ASSISTANCE FOR THE AGED

AN ACT to amend and reenact subsection 6 of section 50-24-01, sections 50-24-13 and 50-24-15 of the North Dakota Century Code, and to repeal subsections 10 and 11 of section 50-24-01, subsection 10 of section 50-24-03, and section 50-24-04 of the North Dakota Century Code, all relating to medical assistance for the aged.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 6 of section 50-24-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Assistance to the aged, blind, or disabled" shall mean money payments to or in behalf of persons eligible under the provisions of this chapter and the services that will improve their well-being and aid them in increasing their capability for self-care, self-support, and self-reliance; the term "assistance to aged, blind, or disabled" shall be understood and interpreted as a general term referring to "old age assistance", "aid to the blind", and "aid to the permanently and totally disabled";

SECTION 2. AMENDMENT.) Section 50-24-13 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24-13. OWNERSHIP OF PROPERTY - TRANSFER IN TRUST.) The ownership of real or personal property by an applicant for assistance to the aged, blind, or disabled, or by the spouse of such applicant, either individually or jointly, or of insurance on the life of the applicant, shall not preclude the granting of such assistance if the applicant is without funds for his support. However, as a condition to the grant of old-age assistance, aid to the blind, or aid to the permanently and totally disabled, the applicant shall be required to transfer such property in trust by appropriate instrument as security for assistance payments the applicant may thereafter receive, unless the property consists of the following:

1. A homestead;
2. A life insurance policy having a cash surrender value of less than three hundred dollars; or
3. Personal property of a value less than three hundred dollars, not including household goods, wearing apparel and personal effects, such as money; or
4. Property selected by the applicant having a value of less than three hundred dollars;
5. Real or personal property held in trust for the applicant by the federal government;
6. Real or personal property on which the taking of security may be prohibited through legislation enacted by the Congress of the United States.

SECTION 3. AMENDMENT.) Section 50-24-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24-15. HOMESTEAD OF APPLICANT FOR ASSISTANCE NOT ENCUMBERED.) An applicant for assistance to the aged, blind, or disabled under the provisions of this chapter in no case shall be required to transfer a homestead occupied by him as such unless he or she desires to do so. A recipient of old-age assistance, aid to the blind, or aid to the permanently and totally disabled shall not be permitted to encumber or convey such homestead without the approval in writing of the state department. When an application for old-age assistance, aid to the blind, or aid to the permanently and totally disabled is granted and it appears that the applicant occupies a homestead, which he owns, the state department shall cause to be recorded, in the office of the register of deeds of the county in which such homestead is located, a statement in writing to the effect that the owner of such homestead is receiving or is about to receive assistance payments. Such written statement shall be signed by the executive director of the state department. After the recording of such statement, any instrument of conveyance or encumbrance executed by such applicant for assistance without the approval of the state department shall be null and void. No fee shall be charged by the register of deeds for recording such statement. This section shall not apply to an applicant or recipient of assistance to the aged, blind, or disabled who owns a homestead which is held in trust for him by the federal government.

SECTION 4. REPEAL.) Subsections 10 and 11 of section 50-24-01, subsection 10 of section 50-24-03, and section 50-24-04 of the 1969 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 27, 1971

## CHAPTER 471

HOUSE BILL NO. 1060  
(Eagles, Lundene, Wagner, Wilkie)  
(From Legislative Council Study)

## WELFARE RESIDENCY REQUIREMENTS

AN ACT to amend and reenact subsections 7 and 9 of section 50-24-03, and to repeal subdivision b of subsection 8 of section 50-24-03 and section 50-24-24 of the North Dakota Century Code, relating to residency for receiving aid for the aged or disabled.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 7 of section 50-24-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Applicants for old-age assistance shall in addition have attained the age of sixty-five years. A county in which an applicant has residence for poor relief purposes will be financially responsible for the county's share of any assistance provided under this chapter.

SECTION 2. AMENDMENT.) Subsection 9 of section 50-24-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. Or applicants for aid to the permanently and totally disabled shall in addition have:
  - a. Attained the age of eighteen years.
  - b. Been determined in the manner prescribed in federal regulations to be permanently and totally disabled.
  - c. A county in which an applicant has residence for poor relief purposes will be financially responsible for the county's share of any assistance provided under this chapter.

SECTION 3. REPEAL.) Subdivision b of subsection 8 of section 50-24-03 and section 50-24-24 of the 1969 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 22, 1971

# SALES AND EXCHANGE

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## CHAPTER 472

SENATE BILL NO. 2342  
(Melland, Strinden, Page)

### RECOVERY OF PRICE OF INVENTORY UPON DISCONTINUANCE OF DEALERSHIP

AN ACT to amend and reenact section 51-07-01 of the North Dakota Century Code, relating to the recovery of the price of articles upon the discontinuance of contract between retailer and wholesaler, manufacturer or distributor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 51-07-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-07-01. RETAIL IMPLEMENT OR CAR DEALER MAY RECOVER PRICE OF ARTICLES UPON DISCONTINUANCE OF CONTRACT BY WHOLESALER OR RETAIL DEALER.) Whenever any person, firm, or corporation engaged in the business of selling and retailing farm implements and repair parts for farm implements, or in the business of selling and retailing automobiles or trucks, or repair parts for automobiles or trucks, enters into a written contract whereby such retailer agrees to maintain a stock of parts or complete or whole machines, or attachments with any wholesaler, manufacturer, or distributor of farm implements, machinery, attachments, or repair parts, or automobiles, trucks, or repair parts, and either such wholesaler, manufacturer, or distributor or the retailer desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor, shall pay to such retailer unless the retailer should desire to keep such merchandise, a sum equal to one hundred percent of the net cost of all current unused complete farm implements, machinery, attachments, automobiles, and trucks including transportation charges which have been paid by such retailer, and eighty-five percent of the current net prices on repair parts, including superseded parts listed in current price lists or catalogs which parts had previously been purchased from such wholesaler, manufacturer, or distributor, and held by such retailer on the date of the cancellation or discontinuance of such contract or thereafter received by such retailer from the wholesaler, manufacturer, or distributor. The wholesaler, manufacturer, or distributor shall also pay such retailer a sum equal to five percent of the current net price of all parts returned for the handling, packing, and loading of such parts back to the wholesaler, manufacturer, or distributor. Upon the payment

of the sum equal to one hundred percent of the net cost of such farm implements, machinery, attachments, automobiles, and trucks, plus transportation charges which have been paid by the retailer and eighty-five percent of the current net prices on repair parts, plus freight charges which have been paid by the retailer, plus five percent of the current net prices for handling and loading costs on repair parts only, the title to such farm implements, farm machinery, attachments, automobiles, trucks, or repair parts, shall pass to the manufacturer, wholesaler, or distributor making such payment, and such manufacturer, wholesaler, or distributor, shall be entitled to the possession of such farm implements, machinery, attachments, automobiles, trucks, or repair parts.

The provisions of this section shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler, or distributor covering the return of farm implements, machinery, attachments, automobiles, trucks, and repair parts so that the retailer can elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to the remedy provided herein as to those farm implements, machinery, attachments, automobiles, trucks, and repair parts not affected by the contract remedy.

The provisions of this section shall apply to all contracts now in effect which have no expiration date and are a continuing contract, and all other contracts entered into or renewed after July 1, 1971. Any contract in force and effect on July 1, 1971, which by its own terms will terminate on a date subsequent thereto shall be governed by the law as it existed prior to the 1971 amendment.

Approved March 19, 1971

## CHAPTER 473

HOUSE BILL NO. 1188  
(Boustead, Gackle, Olienyk, L. Larson)

WHOLESALEERS' SERVICE CHARGE  
ON OVERDUE ACCOUNTS

AN ACT to create and enact section 51-07-14 of the North Dakota Century Code, to allow wholesalers and manufacturers to charge a one and one-half percent service charge per month on all accounts which are overdue.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 51-07-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

51-07-14. MAXIMUM AMOUNT OF SERVICE CHARGE WHICH WHOLESALEERS AND MANUFACTURERS MAY CHARGE ON OVERDUE ACCOUNTS.) Wholesalers and manufacturers, when selling to retailers or other persons, may charge a service charge of up to one and one-half percent per month on the remaining balance of all overdue accounts, provided the parties have entered into a written agreement prior to the transaction setting forth the amount of service charge, computed on the basis of simple interest per annum. The wholesaler or manufacturer must inform the purchaser in writing at the time of the purchase of the service charge which will be charged if the account becomes overdue. The service charge allowed in this section shall be allowed on any such purchase on or after July 1, 1971.

Approved March 27, 1971

## CHAPTER 474

SENATE BILL NO. 2299  
(Stroup, Pyle)

## DEFINITION OF "RETAIL SELLER"

AN ACT to amend and reenact subsection 2 of section 51-14-01 of the North Dakota Century Code, relating to definition of retail seller or seller.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 51-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Retail seller" or "seller" means a person who agrees to sell or sells goods or services pursuant to a revolving charge agreement, including without limitation, a state chartered or national bank in issuing bank credit cards for the advancement of monies thereunder or the sale of goods or services thereunder;

Approved March 27, 1971

# SOCIAL SECURITY

## CHAPTER 475

SENATE BILL NO. 2228  
(Hernett, Sanstead)

### UNEMPLOYMENT COMPENSATION DEFINITIONS

AN ACT to create and enact subdivisions h and i of subsection 11 of section 52-01-01, subdivisions f, g, h, i, j, k of subsection 13 of section 52-01-01, paragraphs (10) and (11) of subdivision i of subsection 15 of section 52-01-01, subsections 28, 29, and 30 of section 52-01-01, section 52-04-18, section 52-04-19, section 52-04-20, and subsection 11 of section 52-06-02 of the North Dakota Century Code, relating to unemployment compensation definitions and benefits, and to amend and reenact subsection 4 of section 52-01-01, subdivisions a, b, c, e, f, g of subsection 11 of section 52-01-01, subdivision a of subsection 13 of section 52-01-01, subdivision a of subsection 15 of section 52-01-01, paragraphs (1) and (5) of subdivision i of subsection 15 of section 52-01-01, section 52-04-07, subdivision a of subsection 3 of section 52-06-01 and subsection 6 of section 52-06-02 of the North Dakota Century Code, subdivision e of subsection 13 of section 52-01-01 and section 52-05-03 of the 1969 Supplement to the North Dakota Century Code, relating to unemployment compensation definitions, accounts, coverage and benefits, and to repeal subdivision c of subsection 15 of section 52-01-01 and subsection 17 of section 52-01-01 of the North Dakota Century Code, relating to unemployment compensation definitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subdivisions h and i of subsection 11 of section 52-01-01 of the North Dakota Century Code are hereby created and enacted to read as follows:

- h. Any employing unit for which service in employment, as defined in section 52-01-01, subsection 13, subdivision f, is performed after December 31, 1971;
- i. Any employing unit for which service in employment, as defined in section 52-01-01, subsection 13, subdivision g, is performed after December 31, 1971.

SECTION 2.) Subdivisions f, g, h, i, j and k of subsection 13 of section 52-01-01 of the North Dakota Century Code are hereby created and enacted to read as follows:

- f. Service performed after December 31, 1971 by an individual in the employ of this State or any of its instrumentalities (or in the employ of this State and one or more other states or their instrumentalities) for a hospital or institution of higher education located in this State provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) of that Act and is not excluded from "employment" under subdivision h herein.
- g. Service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:
- (1) the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(8) of that Act; and
  - (2) the organization had four or more individuals in employment for some portion of a day in each of twenty different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.
- h. For the purposes of subdivisions f and g herein the term "employment" does not apply to service performed
- (1) in the employ of
    - (a) a church or convention or association of churches, or
    - (b) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches; or
  - (2) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or
  - (3) in the employ of a school which is not an institution of higher education; or
  - (4) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or

- physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or
- (5) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or an agency of a State or political subdivision thereof, by an individual receiving such work relief or work training; or
  - (6) for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution.
- i. The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada or the Virgin Islands), after December 31, 1971 in the employ of an American employer (other than service which is deemed "employment" under the provisions of subdivision b of this subsection and subsection 14 of this section or the parallel provisions of another State's law), if:
- (1) the employer's principal place of business in the United States is located in this State; or
  - (2) the employer has no place of business in the United States, but
    - (a) the employer is an individual who is a resident of this State; or
    - (b) the employer is a corporation which is organized under the laws of this State; or
    - (c) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any one other State; or
  - (3) none of the criteria of paragraph (1) and (2) of this subdivision is met but the employer has elected coverage in this State or, the employer having failed to elect coverage in any State, the individual has filed a claim for benefits, based on such service, under the law of this State.

- (4) An "American employer", for purposes of this subdivision, means a person who is
- (a) an individual who is a resident of the United States; or
  - (b) a partnership if two-thirds or more of the partners are residents of the United States; or
  - (c) a trust, if all of the trustees are residents of the United States; or
  - (d) a corporation organized under the laws of the the United States or of any State.
- (5) The term "United States" for purposes of this subdivision includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.
- j. Notwithstanding subdivision b of this subsection, all service performed after December 31, 1971 by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office, from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within this State; and
- k. Notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a State unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the North Dakota Unemployment Compensation Law.

SECTION 3.) Paragraphs (10) and (11) of subdivision i of subsection 15 of section 52-01-01 of the North Dakota Century Code are hereby created and enacted to read as follows:

- (10) By an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this paragraph shall not apply to service performed in a program established

for or on behalf of an employer or group of employees;

- (11) In the employ of a hospital, if such service is performed by a patient of the hospital, as defined in subsection 29 of this section.

SECTION 4.) Subsections 28, 29 and 30 of section 52-01-01 of the North Dakota Century Code are hereby created and enacted to read as follows:

28. "Institution of higher education", for the purposes of the North Dakota Unemployment Compensation Law, means an educational institution which
- a. admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate; and
  - b. is legally authorized in this State to provide a program of education beyond high school; and
  - c. provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and
  - d. is a public or other nonprofit institution.
  - e. Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of the North Dakota Unemployment Compensation Law.
29. "Hospital" means an institution which has been licensed as a hospital by the licensing authority of the State of North Dakota.
30. "Extended benefits" means benefits (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of chapter 52-07.1 for weeks of unemployment in his eligibility period.

SECTION 5.) Section 52-04-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-04-18. FINANCING BENEFITS PAID TO EMPLOYEES OF NONPROFIT ORGANIZATIONS.) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this

section. For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in section 501(c)(3) of the U. S. Internal Revenue Code which is exempt from income tax under section 501(a) of such Code.

1. "Liability for contributions and election of reimbursement." Any nonprofit organization which, pursuant to section 52-01-01, subsection 11, subdivision i, is, or becomes, subject to the North Dakota Unemployment Compensation Law on or after January 1, 1972 shall pay contributions under the provisions of chapter 52-04, unless it elects, in accordance with this subsection, to pay to the bureau for the unemployment fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.
  - a. Any nonprofit organization which is, or becomes, subject to the North Dakota Unemployment Compensation Law on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than one taxable year beginning with January 1, 1972 provided it files with the bureau a written notice of its election within the thirty day period immediately following such date or within a like period immediately following the date of enactment of this subdivision, whichever occurs later.
  - b. Any nonprofit organization which becomes subject to the North Dakota Unemployment Compensation Law after January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the bureau not later than thirty days immediately following the date of the determination of such subjectivity.
  - c. Any nonprofit organization which makes an election in accordance with subdivision a or subdivision b of this subsection will continue to be liable for payments in lieu of contributions until it files with the bureau a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.
  - d. Any nonprofit organization which has been paying contributions under the North Dakota Unemployment

Compensation Law for a period subsequent to January 1, 1972 may change to a reimbursable basis by filing with the bureau not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

- e. The bureau may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.
  - f. The bureau, in accordance with such regulations as it may prescribe, shall notify each nonprofit organization of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with administrative regulations of the bureau established for appeals from determinations on claims for benefits and thereafter the decision of the bureau shall be subject to judicial review as provided for in chapter 52-06 of the North Dakota Century Code.
2. "Reimbursement payments." Payments in lieu of contributions shall be made in accordance with the provisions of this subsection including either subdivision a or subdivision b herein.
- a. At the end of each calendar quarter, or at the end of any other period as determined by the bureau, the bureau shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization.
  - b. An alternative method for reimbursement payments may be as follows:
    - (1) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make such payments as hereinafter provided. Such method of payment shall become effective upon approval by the bureau;

- (2) At the end of each calendar quarter, the bureau shall bill each nonprofit organization for an amount representing one of the following:
    - (a) For 1972, two-tenths of one percent of its total payroll for 1971.
    - (b) For years after 1972, such percentage of its total payroll for the immediately preceding calendar year as the bureau shall determine. Such determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.
    - (c) For any organization which did not pay wages throughout the four calendar quarters of the preceding calendar year, such percentage of its payroll during such year as the bureau shall determine;
  - (3) At the end of each taxable year, the bureau may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments; and
  - (4) At the end of each taxable year, the bureau shall determine whether the total of payments for such year made by a nonprofit organization is less than, or in excess of, the total amount of regular benefits plus one-half of the amount of extended benefits paid to individuals during such taxable year based on wages attributable to service in the employ of such organization. Each nonprofit organization whose total payments for such year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with subdivision c. If the total payments exceed the amount so determined for the taxable year, all or a part of the excess may, at the discretion of the bureau, be refunded from the fund or retained in the fund as part of the payments which may be required for the next taxable year.
- c. Payment of any bill rendered under subdivision a or subdivision b shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with subdivision e.

- d. Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.
  - e. The amount due specified in any bill from the bureau shall be conclusive on the organization unless, not later than fifteen days after the bill was mailed to the last known address or otherwise delivered to it, the organization files an appeal with the bureau setting forth the grounds for such appeal. Proceedings on appeal to the bureau from the amount of a bill rendered under this subsection shall be in accordance with administrative regulations of the bureau and thereafter the decision of the bureau shall be subject to judicial review as provided for in chapter 52-06.
  - f. Past due payments of amounts in lieu of contributions shall be subject to the same interest, delinquency fee and penalties that, pursuant to chapter 52-04 apply to past due contributions.
3. "Authority to terminate elections." If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection 2 of this section, the bureau may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year.
  4. "Allocation of benefit costs." Each employer that is liable for payments in lieu of contributions shall pay to the bureau for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subdivision a or subdivision b of this subsection.
    - a. "Proportionate allocation (when fewer than all base-period employers are liable for reimbursement)." If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of

benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

- b. "Proportionate allocation (when all base-period employers are liable for reimbursement)." If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.
5. Notwithstanding any provisions in this section, any nonprofit organization that prior to January 1, 1969, paid contributions required by chapter 52-04, and elects, within thirty days after the effective date of this section, to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the experience rating account of such organization.

SECTION 6.) Section 52-04-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-04-19. FINANCING BENEFITS PAID TO EMPLOYEES OF THE STATE HOSPITALS OR STATE INSTITUTIONS OF HIGHER EDUCATION.) Benefits paid to employees of the state hospitals or of state institutions of higher education shall be financed in accordance with the provisions of this section. For the purpose of this section and section 52-01-01, subsection 11, subdivision h, an institution of higher education means an educational institution defined in section 52-01-01, subsection 28 and a state hospital means an institution defined in section 52-01-01, subsection 29.

1. "Liability for contributions and election of reimbursement." An employing unit which, pursuant to section 52-01-01, subsection 11, subdivision h, is, or becomes, subject to the North Dakota Unemployment Compensation Law on or after January 1, 1972 shall pay contributions

under the provisions of chapter 52-04, unless it elects as hereafter provided to pay to the bureau for the unemployment fund:

- a. An amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such state hospital or such state institution of higher education, to individuals for weeks of unemployment which begin during the effective period of such election. Payments in lieu of contributions shall be made at the end of each calendar quarter or at the end of any other period determined by the bureau.

SECTION 7.) Section 52-04-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-04-20. GROUP ACCOUNTS.) Two or more employers that have become liable for payments in lieu of contributions may file a joint application to the bureau for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of the North Dakota Unemployment Compensation Law. Upon the approval of the application, the bureau shall establish a group account for such employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the bureau or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The bureau shall prescribe such regulations as it deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this section, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this section by members of the group and the time and manner of such payments.

SECTION 8.) Subsection 11 of section 52-06-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

11. Which are based on service in an instructional,

research, or principal administrative capacity in an institution of higher education (as defined in section 52-01-01, subsection 28) for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms. Except for the provisions of this subsection, benefits based on service in employment as defined in section 52-01-01, subsection 13, subdivision f and subdivision g shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to the North Dakota Unemployment Compensation Law.

SECTION 9. AMENDMENT.) Subsection 4 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Benefits" means the money payments payable to an individual with respect to his unemployment as provided in chapter 52-06;

SECTION 10. AMENDMENT.) Subdivisions a, b, c, e, f, and g of subsection 11 of section 52-01-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- a. Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty different calendar weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year has or had in employment four or more individuals, irrespective of whether the same individuals are or were employed in each such day. After December 31, 1971, any employing unit which in any calendar quarter in either the current or preceding calendar year paid for services in employment wages of fifteen hundred dollars or more, or which for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment at least one individual (irrespective of whether the same individual was in employment in each such day). For the purpose of this definition, if any week includes both December thirty-first and January first, the days that precede January first shall be deemed one calendar week

and the days beginning January first another such week;

- b. Any individual who or employing unit which acquired the organization, trade or business, or substantially all of the assets thereof, of another who or which at the time of such acquisition was an employer subject to the provisions of the North Dakota Unemployment Compensation Law, or who or which acquired a part of the organization, trade or business of another which at the time of such acquisition was an employer subject to the provisions of the North Dakota Unemployment Compensation Law if such other would have been an employer under subdivision a of this subsection if such part had constituted its entire organization, trade, or business;
- c. Any individual who or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit if the employment record of such individual or employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit an employer subject to the North Dakota Unemployment Compensation Law, under subdivision a of this subsection. After December 31, 1971, any individual who or employing unit which acquired the organization, trade, or business, or substantially all the assets of another employing unit if such individual or employing unit subsequent to such acquisition, and such acquired unit prior to such acquisition, both within the same calendar quarter, together paid for services in employment wages totaling fifteen hundred dollars or more;
- e. Any employing unit not an employer by reason of any of the provisions of this subsection for which services in employment are performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions paid into a state unemployment compensation fund or an employing unit which, as a condition for approval of the North Dakota Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such Act, to be an "employer" under the North Dakota Unemployment Compensation Law;
- f. Any employing unit which, having become an employer

under any one of subdivisions a, b, c, or e, has not under chapter 52-05 ceased to be an employer subject to the North Dakota Unemployment Compensation Law; or

- g. For the effective period of its election pursuant to sections 52-05-02 and 52-05-03, any other employing unit which has elected to become fully subject to the North Dakota Unemployment Compensation Law;

SECTION 11. AMENDMENT.) Subdivision a of subsection 13 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Any service performed prior to January 1, 1972, which was employment as defined in this subsection prior to such date, and subject to the other provisions of this subsection, service performed after December 31, 1971, including service in interstate commerce, by
- (1) any officer of a corporation; or
  - (2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or
  - (3) any individual other than an individual who is an employee under paragraph (1) or (2) who performs services for remuneration for any person--
    - (a) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal; or
    - (b) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

Provided, that for purposes of subdivision a, paragraph (3), the term "employment" shall include services described in either subparagraph (a) or (b) performed after December 31, 1971 only if:

- 1.) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;
- 2.) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and
- 3.) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

SECTION 12. AMENDMENT.) Subdivision e of subsection 13 of section 52-01-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- e. Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to the North Dakota Unemployment Compensation Law unless and until it is shown that such individual, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor, or such individual (except an officer of a corporation) is not an employee under such common-law rules provided that this subdivision shall not operate to exclude services as defined in section 52-01-01, subsection 13, subdivision a, paragraph (3);

SECTION 13. AMENDMENT.) Subdivision a of subsection 15 of section 52-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Service performed by an individual in agricultural labor. For purposes of this subdivision, the term "agricultural labor" means
  - (1) any service performed prior to January 1, 1972 which was agricultural labor as defined in this subdivision prior to such date and
  - (2) remunerated service performed after December 31, 1971 in agricultural labor as defined in section 3306(k), Federal Unemployment Tax Act.

SECTION 14. AMENDMENT.) Paragraphs (1) and (5) of subdivision i of subsection 15 of section 52-01-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- (1) In any calendar quarter in the employ of any organization exempt from income tax under section 501(a) (other than an organization described in section 401(a) ) or under section 521, Federal Internal Revenue Code, if the remuneration for such service is less than fifty dollars;
- (5) In any calendar quarter in the employ of a school, college, or university, if such service is performed by a student who is enrolled and regularly is attending classes at such school, college, or university;

SECTION 15. AMENDMENT.) Section 52-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-07. BENEFITS PAID CHARGEABLE TO ACCOUNTS OF BASE-PERIOD EMPLOYERS.) Benefits paid to an individual shall be charged against the accounts of his base-period employers. The amount of benefits so chargeable against each base-period employer's account shall bear the same ratio to the benefits paid to an individual as the base-period wages paid to the individual by such employer bear to the total amount of the base-period wages paid to the individual by all his base-period employers.

SECTION 16. AMENDMENT.) Section 52-05-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-05-03. EMPLOYMENT NOT INCLUDED WITHIN TITLE MAY BE DEEMED SUBJECT TO PROVISIONS OF TITLE.)

1. Any political subdivision of this State may elect to cover under the North Dakota Unemployment Compensation Law service performed by employees in all of the hospitals and institutions of higher education, as defined in section 52-01-01, subsections 28 and 29, operated by such political subdivision.
  - a. Election is to be made by filing with the bureau a notice of such election at least thirty days prior to the effective date of such election. The election may exclude any services described in section 52-01-01, subsection 13, subdivision h. Any political subdivision electing coverage under this subsection shall make payments in lieu of contributions with respect to benefits attributable to such employment in the same manner

- provided for payment by nonprofit organizations in chapter 52-04.
- b. The provisions in section 52-06-02, subsection 11, with respect to benefit rights based on service for State and nonprofit institutions of higher education shall be applicable also to service covered by an election under this section.
  - c. The amounts required to be paid in lieu of contributions by any political subdivision under this section shall be billed and payment made as provided in chapter 52-04 with respect to similar payments by nonprofit organizations.
  - d. An election under this subsection may be terminated, by filing with the bureau written notice not later than thirty days preceding the last day of the calendar year in which the termination is to be effective. Such termination becomes effective as of the first day of the next ensuing calendar year with respect to services performed after that date.
2. Any other employing unit for which services are performed that do not constitute employment as defined in the North Dakota Unemployment Compensation Law may file with the bureau a written election that all such services with respect to which payments are not required under an unemployment compensation law of any other state or of the federal government, and which are performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of the North Dakota Unemployment Compensation Law for not less than two calendar years. Upon the written approval of such election by the bureau, such services shall be deemed to constitute employment subject to the provisions of the North Dakota Unemployment Compensation Law from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if during January of such year such employing unit has filed with the bureau a written notice to that effect. The bureau in its discretion may on its own motion terminate any election agreement under this subsection upon thirty days' notice to the employer. The rate of contribution for employment covered by an election under this subsection shall be seven percent of wages paid subject to tax, unless the employer qualifies for a rate of contribution of less than the standard rate, as

provided in chapter 52-04, except, however, an electing governmental unit in addition to those provided for in subsection 1, which hereafter becomes an employer under this chapter, shall reimburse the state unemployment fund in an amount equal to its share of costs to the unemployment fund.

3. After the termination of an election under this chapter, governmental units shall remain liable for their proportionate share of benefits which are based on wages paid for services during the period of election.

SECTION 17. AMENDMENT.) Subdivision a of subsection 3 of section 52-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. That notwithstanding any other provisions in this section, no otherwise eligible individual shall be denied benefits for any week because he is in training with the approval of the bureau by reason of the application of provisions of this subsection relating to availability for work and to active search for work, or the provisions of subsection 3 of section 52-06-02 relating to disqualification for benefits for failure to apply for, or a refusal to accept, suitable work.

SECTION 18. AMENDMENT.) Subsection 6 of section 52-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. For any week of unemployment if such individual is a student registered for full attendance at and is regularly attending an established school, college or university, except as provided in section 52-06-01, subsection 3, subdivision a;

SECTION 19. REPEAL.) Subdivision c of subsection 15 of section 52-01-01 of the North Dakota Century Code is hereby repealed.

SECTION 20. REPEAL.) Subsection 17 of section 52-01-01 of the North Dakota Century Code is hereby repealed.

Approved March 17, 1971

## CHAPTER 476

SENATE BILL NO. 2310  
(Sanstead)

## EMPLOYMENT SECURITY BUREAU

AN ACT to amend and reenact section 52-01-04 of the 1969 Supplement to the North Dakota Century Code, sections 52-01-07, 52-02-15, 52-02-16, and 52-04-08 of the North Dakota Century Code, relating to penalty for disclosure of information or use of list of names obtained from the North Dakota employment security bureau, a short title for chapters 52-01 through 52-07.1, reciprocal arrangements for unemployment compensation, acquisition of real property for the use and benefit of the North Dakota employment security bureau, and succession to predecessors rights, accounts, contributions, benefit experience and ratings under the North Dakota Unemployment Compensation Law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 52-01-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-01-04. PENALTY FOR DISCLOSURE OF INFORMATION OR USE OF LIST OF NAMES.) Any employee, appeals referee, member of any appeals tribunal, executive director, who in violation of the provisions of section 52-01-03 makes any disclosure of information obtained from any employing unit or individual in the administration of the North Dakota Unemployment Compensation Law, or any person who has obtained any list of applicants for work, claimants or recipients of benefits from the bureau under any pretext whatever, who uses or permits the use of such list for any political purpose, is guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not longer than ninety days, or by both such fine and imprisonment.

SECTION 2. AMENDMENT.) Section 52-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-01-07. SHORT TITLE.) Chapters 52-01 through 52-07.1 shall be known and may be cited as the "North Dakota Unemployment Compensation Law."

SECTION 3. AMENDMENT.) Section 52-02-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-02-15. RECIPROCAL ARRANGEMENTS WITH OTHER STATES AND FEDERAL GOVERNMENT.) The bureau shall enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government or both, whereby:

1. Services performed by an individual for a single employing unit, which services customarily are performed in more than one state, shall be deemed to be services performed entirely within any one of the states:
  - a. In which any part of such individual's services is performed;
  - b. In which such individual has his residence; or
  - c. In which the employing unit maintains a place of business if there is in effect as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit, are deemed to be entirely within such state;
2. Potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under one or more such laws of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the bureau finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;
3. Wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining his rights to benefits under the North Dakota Unemployment Compensation Law, and wages for insured work, on the basis of which an individual may become entitled to benefits under the North Dakota Unemployment Compensation Law, shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable. No such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under the

North Dakota Unemployment Compensation Law upon the basis of such wages or services, and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the bureau finds will be fair and reasonable as to all affected interests; and

4. Contributions due under the North Dakota Unemployment Compensation Law with respect to wages for insured work, for the purposes of sections 52-04-11 through 52-04-14, shall be deemed to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursements to the fund of such contributions and the actual earnings thereon as the bureau finds will be fair and reasonable as to all affected interests.

SECTION 4. AMENDMENT.) Section 52-02-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-02-16. TITLE TO REAL PROPERTY ACQUIRED WITH FEDERAL FUNDS.) The state of North Dakota may receive and accept title by general warranty deed to real property which may be acquired under standard legal practices, or combinations thereof, for acquisition of real estate in accordance with the needs and requirements of the particular transaction by documents executed or to be executed by the North Dakota employment security bureau, provided the property shall be acquired without appropriation by the state of North Dakota and the cost thereof shall be defrayed by federal funds made available for the administration of said bureau. Sufficiency of title to any property acquired hereunder shall be approved by the attorney general prior to execution of documents for acquisition of such property. Property acquired under authority hereof shall be for the use and benefit of the North Dakota employment security bureau to carry out and perform the duties, powers and authority vested therein, and to administer and participate in federal programs delegated thereto by federal authority. Upon completion of negotiations for acquisition said property may be held and occupied by the North Dakota employment security bureau at no cost other than maintenance.

SECTION 5. AMENDMENT.) Section 52-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-08. SUCCESSION TO PREDECESSORS RIGHTS, ACCOUNTS, CONTRIBUTIONS, BENEFIT EXPERIENCE AND RATINGS.) For the purpose of establishing benefit experience and fixing contributions to be paid, an employing unit which in any manner succeeds to or acquired substantially all of the organization, trade, business,

or the assets thereof, of any employing unit shall upon request be substituted to the position and all rights of the predecessor employing unit with respect to such predecessor employing unit's separate account, actual contributions and benefit experience, annual payroll, or otherwise, as if no change with respect to such separate account, contributions and benefit experience, payrolls or otherwise had occurred. The bureau upon notification thereof shall forthwith transfer to such succeeding employing unit all rights, accounts, contributions, benefit experience and all ratings of such predecessor employing unit in accordance with such regulations as the bureau may prescribe; provided that if good cause can be shown to the bureau why such transfer would be inequitable, the bureau may refuse the same.

Approved March 19, 1971

## CHAPTER 477

SENATE BILL NO. 2424  
(Unruh)

STATE AND LOCAL EMPLOYMENT  
SECURITY ADVISORY COUNCILS

AN ACT to amend and reenact section 52-02-07 of the North Dakota Century Code, relating to employment security bureau advisory councils.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 52-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-02-07. STATE AND LOCAL ADVISORY COUNCILS APPOINTED BY BUREAU - COMPOSITION - DUTIES - COMPENSATION.) The bureau shall appoint a state advisory council and local advisory councils, composed in each case of an equal number of employer representatives and employee representatives who may be regarded fairly as representative because of their vocation, employment, or affiliations, and of such members representing the general public as the bureau may designate. Such councils shall aid the bureau in formulating policies, and discussing problems related to the administration of the North Dakota employment security bureau and in assuring impartiality and freedom from political influence in the solution of such problems. Such advisory councils shall be reimbursed for any necessary expenses but shall serve without further compensation except such as may be authorized and fixed by the bureau by regulation.

Approved March 3, 1971

## CHAPTER 478

HOUSE BILL NO. 1192  
(Gerl, Gengler, Metzger, Mushik, Stone)

## UNEMPLOYMENT COMPENSATION ELIGIBILITY

AN ACT to create and enact subdivision d of subsection 3 of section 52-06-01 of the North Dakota Century Code relating to unemployment compensation eligibility requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subdivision d of subsection 3 of section 52-06-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

- d. That an unemployed individual shall not be ineligible with respect to any week of unemployment for failure to comply with the provisions of this subsection, if such failure is due to an illness or disability which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work has been offered the claimant which would have been suitable prior to the beginning of such illness and disability;

Approved March 18, 1971

## CHAPTER 479

HOUSE BILL NO. 1430  
(Gengler, Gerl)

## DISQUALIFICATION FOR BENEFITS

AN ACT to repeal subsection 9 of section 52-06-02 of the North Dakota Century Code, relating to disqualification for benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Subsection 9 of section 52-06-02  
of the North Dakota Century Code is hereby repealed.

Approved March 18, 1971

## CHAPTER 480

HOUSE BILL NO. 1220  
(Gengler)

## DISQUALIFICATION PERIOD

AN ACT to amend and reenact subsection 10 of section 52-06-02 of the 1969 Supplement to the North Dakota Century Code, relating to unemployment compensation benefit disqualifications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 10 of section 52-06-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. The period of disqualification set out in section 52-06-02, subsection 1, subdivision a, section 52-06-02, subsection 2, subdivision a, and section 52-06-02, subsection 3, subdivision a shall be overcome if claimant first completes a ten-week disqualification period following the week in which a claim was filed.

Approved March 18, 1971

## CHAPTER 481

SENATE BILL NO. 2231  
(Hernett, Sanstead)

EXTENDED UNEMPLOYMENT COMPENSATION  
BENEFITS

AN ACT to create and enact chapter 52-07.1 of the North Dakota Century Code to provide a program for the payment of extended unemployment compensation benefits to workers who during periods of high unemployment in the State, or in the nation, have exhausted their rights to regular benefits under the North Dakota Unemployment Compensation Law, or under Federal law as administered by the North Dakota employment security bureau; to provide conditions of entitlement to extended benefits; to provide for the administration and carrying out of the program; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 52-07.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

52-07.1-01. EXTENDED BENEFIT PROGRAM - PURPOSE - EFFECTIVE DATE.) Effective January 1, 1972, an unemployment program is hereby established to provide for the payment of extended unemployment compensation benefits to hereinafter qualified workers who during periods of high unemployment in the state, or in the nation, have exhausted their rights to regular benefits under the North Dakota Unemployment Compensation Law, or under Federal law as administered by the North Dakota employment security bureau.

52-07.1-02. ADMINISTRATION.) The North Dakota unemployment compensation division of the employment security bureau hereinafter called the "bureau" shall be vested with the duties, powers, and authority to administer the extended benefits program.

52-07.1-03. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Extended benefit period" means a period which begins with the third week after whichever of the following weeks occurs first: a week for which there is a national "on" indicator, or a week for which there is a State "on" indicator; and ends with either of the

following weeks, whichever occurs later: the third week after the first week for which there is both a national "off" indicator and a State "off" indicator; or the thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a State "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this State.

2. There is a "national 'on' indicator" for a week if the U. S. Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 percent.
3. There is a "national 'off' indicator" for a week if the U. S. Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 percent.
4. There is a "State 'on' indicator" for this State for a week if the bureau determines, in accordance with the regulations of the U. S. Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this Act--
  - a. equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, and
  - b. equaled or exceeded 4 percent.
5. There is a "State 'off' indicator" for this State for a week if the bureau determines, in accordance with the regulations of the U. S. Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this Act--
  - a. was less than 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, or
  - b. was less than 4 percent.
6. "Rate of insured unemployment," for purposes of

subsections 4 and 5 of this section, means the percentage derived by dividing

- a. the average weekly number of individuals filing claims in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the bureau on the basis of its reports to the U. S. Secretary of Labor, by
- b. the average monthly employment covered under the North Dakota Unemployment Compensation Law for the first four of the most recent six completed calendar quarters ending before the end of such 13-week period.

Computations provided for in this subsection shall be made by the bureau in accordance with regulations provided by the U. S. Secretary of Labor.

7. "Regular benefits" means benefits payable to an individual under chapter 52-06 of the North Dakota Century Code or under any other State law (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85), other than extended benefits.
8. "Extended benefits" means benefits (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this chapter for weeks of unemployment in his eligibility period.
9. "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.
10. "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:
  - a. has received, prior to such week, all of the regular benefits that were available to him under chapter 52-06 of the North Dakota Century Code or any other State law (including dependents' allowances and benefits payable to Federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; provided, that for the purposes of this subdivision, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages that were not considered in the

- original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or
- b. his benefit year having expired prior to such week, has no, or insufficient, wages on the basis of which he could establish a new benefit year that would include such week; and
  - c. has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other Federal laws as are specified in regulations issued by the U. S. Secretary of Labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits thereunder he shall be considered an exhaustee.
11. "State law" means the unemployment insurance law of any State, approved by the U. S. Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

52-07.1-04. EFFECT OF NORTH DAKOTA UNEMPLOYMENT COMPENSATION LAW PROVISIONS RELATING TO REGULAR BENEFITS ON CLAIMS FOR, AND THE PAYMENT OF, EXTENDED BENEFITS.) Except when the result would be inconsistent with the other provisions of this chapter, as provided by regulations of the bureau, the provisions of chapter 52-06 of the North Dakota Century Code which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

52-07.1-05. ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the bureau finds that with respect to such week:

1. He is an "exhaustee" as defined in subsection 10 of section 52-07.1-03 of the North Dakota Century Code, and
2. He has satisfied the requirement of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

52-07.1-06. WEEKLY EXTENDED BENEFIT AMOUNT.) The weekly

extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the weekly benefit amount payable to him during his applicable benefit year.

52-07.1-07. TOTAL EXTENDED BENEFIT AMOUNT.) The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the following amounts:

1. Fifty percent of the total amount of regular benefits which were payable to him under chapter 52-06 of the North Dakota Century Code in his applicable benefit year; or
2. Thirteen times his weekly benefit amount which was payable to him under chapter 52-06 of the North Dakota Century Code for a week of total unemployment in the applicable benefit year.

52-07.1-08. BEGINNING AND TERMINATION OF EXTENDED BENEFIT PERIOD.) Whenever an extended benefit period is to become effective in this State (or in all States) as a result of a State or a national "on" indicator, or an extended benefit period is to be terminated in this State as a result of State and national "off" indicators, the bureau shall make an appropriate public announcement.

52-07.1-09. ENFORCEMENT AND CARRYING OUT OF PROGRAM FOR EXTENDED BENEFITS.) The provisions of chapters 52-01, 52-02, 52-03, 52-04, and 52-05 of the North Dakota Century Code in respect to the carrying out of the provisions of this chapter shall be the same as are set forth therein and shall be applicable, insofar as the provisions thereof are consistent with the provisions of this chapter.

Approved March 17, 1971

## CHAPTER 482

HOUSE BILL NO. 1170  
(Dornacker, Haugland)

PRIMARY INSURANCE BENEFIT UNDER  
OLD AGE AND SURVIVOR INSURANCE SYSTEM

AN ACT to amend and reenact section 52-09-09 and subdivision (3) of subsection D of section 52-09-20 of the North Dakota Century Code, relating to contributions and primary insurance benefit under North Dakota old age and survivor insurance system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 52-09-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-09-09. RATE OF CONTRIBUTION.) In addition to all other taxes there is hereby levied upon each employer, as defined in section 52-09-20, and also upon each employee, as defined in section 52-09-20, a tax, equal to one percentum of the wages paid before July 1, 1955, and two percentum of the wages paid after June, 1955, up to July 1, 1957, to be paid by each employer and each employee. The above tax imposed by this chapter shall be collected by the employer from the employee by deducting the amount of the tax from the wages as and when paid. From and after July 1, 1957, and until July 1, 1959, the tax upon each employer shall be equal to four percent of the wages paid to each employee, and after June 30, 1959, up to July 1, 1961 such tax shall be equal to three and one-half percent, and after June 30, 1961, and until July 1, 1963, such tax shall be equal to three percent, and after June 30, 1963 such tax shall be equal to two percent, and after December 31, 1965 such tax shall be equal to one percent. After June 30, 1957, there shall be no tax hereunder upon the employee. Provided, however, if on the first day of October in any year the accumulated contributions under this chapter equals or exceeds an amount two times the annual benefit payments of the twelve months ending on September thirtieth of that year, the tax shall be suspended during the succeeding year, and until such year in which, on the first day of October of the previous year, the accumulated contributions are less than one and one-half times the annual benefit payments for the twelve months ended as of September thirtieth of that year.

SECTION 2. AMENDMENT.) Subdivision (3) of subsection D of section 52-09-20 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (3) From and after April 1, 1971, the term "primary insurance benefit" shall be the total of the sums determined in (1) and (2) of this subsection plus fifty dollars. Where the primary insurance benefit thus computed is less than fifty dollars, such benefit shall be fifty dollars. The provisions herein shall apply to valid claims filed before and after the specified date.

Approved March 18, 1971

## CHAPTER 483

HOUSE BILL NO. 1165  
(Strinden, Haugland, Solberg)

## SALE OF BUREAU REAL ESTATE

AN ACT authorizing the state of North Dakota acting by the North Dakota employment security bureau to sell and convey lots twenty-two, twenty-three, and twenty-four in block fifty-two, original plat of the city of Bismarck, Burleigh County, State of North Dakota, according to the plat thereof on file and of record in the office of the register of deeds of said county and state and recorded in book "A" of plats in Burleigh County, North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) The state of North Dakota acting by the North Dakota employment security bureau is hereby authorized to sell and convey the lots twenty-two, twenty-three, and twenty-four in block fifty-two, original plat of the city of Bismarck, Burleigh County, State of North Dakota, according to the plat thereof on file and of record in the office of register of deeds of said county and state and recorded in book "A" of plats in Burleigh County, North Dakota.

SECTION 2.) The North Dakota employment security bureau may cause the above described land to be sold in the manner prescribed by sections 54-01-05.1 and 54-01-05.2 of the North Dakota Century Code. Proceeds from such sale shall be used as authorized and directed by federal law and regulations thereunder.

Approved February 26, 1971

# SPORTS AND AMUSEMENTS

## CHAPTER 484

SENATE BILL NO. 2078  
(Lips, Morgan, Sanstead)  
(Legislative Council Study)

### STATE ATHLETIC COMMISSIONER

AN ACT to amend and reenact sections 53-01-02, 53-01-03, 53-01-07, 53-01-08, 53-01-09, 53-01-10, 53-01-11, 53-01-12, 53-01-14, 53-01-15, 53-01-16, and 53-01-19 of the North Dakota Century Code, relating to the state athletic commission and to provide that the secretary of state shall serve as state athletic commissioner; and to repeal sections 53-01-01, 53-01-04, 53-01-05, and 53-01-06 of the North Dakota Century Code, relating to the state athletic commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 53-01-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-02. STATE ATHLETIC COMMISSIONER.) The secretary of state shall act as state athletic commissioner.

SECTION 2. AMENDMENT.) Section 53-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-03. RESTRICTIONS.) The secretary of state shall not, directly or indirectly, promote any boxing, sparring, or wrestling exhibition, nor engage in the managing of any boxer or wrestler, nor be interested in any manner in the proceeds from any boxing or wrestling exhibition.

SECTION 3. AMENDMENT.) Section 53-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-07. DUTIES OF STATE ATHLETIC COMMISSIONER.) The secretary of state shall have charge and supervision of all boxing, sparring, and wrestling exhibitions held in the state and may:

1. Make rules and regulations governing the conduct of boxing, sparring, and wrestling exhibitions.

2. Issue licenses to individuals or organizations desiring to promote or conduct such exhibitions and suspend or revoke such licenses at pleasure.
3. Collect five percent of the gross receipts from admissions to boxing, sparring, and wrestling exhibitions held within the state.

The provisions of this chapter shall not apply to any boxing, sparring, or wrestling exhibitions the net proceeds of which are to be devoted to charitable purposes.

SECTION 4. AMENDMENT.) Section 53-01-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-08. BIENNIAL REPORT TO GOVERNOR.) The secretary of state biennially shall make to the governor a full report as prescribed by subsection 6 of section 54-06-04 of his proceedings under this chapter for the preceding two fiscal years, and may submit with such report such recommendations pertaining to his affairs as he shall deem desirable.

SECTION 5. AMENDMENT.) Section 53-01-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-09. MONEYS PAID INTO STATE TREASURY - DISBURSEMENT.) All moneys collected by the secretary of state pursuant to the provisions of this chapter shall be paid into the state treasury and shall be disbursed only as other state funds are disbursed by law. The percentage of admissions collected by the secretary of state, as provided in section 53-01-07, subsection 3, shall be paid into the state treasury at such times and in such manner as the state treasurer may direct.

SECTION 6. AMENDMENT.) Section 53-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-10. APPLICATION FOR LICENSE - TERMS OF LICENSE.) Every application for a license to promote or conduct boxing, sparring, and wrestling exhibitions, shall designate the territory in which the licensee may operate. Unless revoked by the secretary of state, the license granted as provided in this chapter shall authorize the individual or organization receiving the same to conduct boxing, sparring, and wrestling exhibitions in the community designated therein, and no other, for the period of time specified, subject to the rules and regulations of the secretary of state and such restrictions as the secretary of state in his discretion may incorporate therein.

SECTION 7. AMENDMENT.) Section 53-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-11. BOND REQUIRED WITH APPLICATION FOR LICENSE.) Before any license shall be granted to any person or organization to conduct, hold, or give any boxing, sparring, or wrestling exhibition, such applicant shall execute and file with the secretary of state a bond in such sum as the secretary of state may direct, but in no event less than five hundred dollars, conditioned for the payment of five percent of the gross gate receipts and the license fees required under this chapter. Upon the filing and approval of such bond, the secretary of state shall issue a certificate to that effect, which shall be filed by the applicant with his application for license, and no such license shall be issued until such certificate is filed.

SECTION 8. AMENDMENT.) Section 53-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-12. ANNUAL LICENSE FEE FOR EXHIBITIONS.) The secretary of state, at the time of the issuance of the license, shall collect an annual license fee for the holding of boxing, sparring, and wrestling exhibitions, pursuant to the following schedule:

1. Municipalities of ten thousand or more population -----\$35.00
2. Municipalities of from five thousand to ten thousand population ----- 15.00
3. Municipalities of from one thousand to five thousand population ----- 10.00
4. Municipalities of less than one thousand population ----- 5.00

SECTION 9. AMENDMENT.) Section 53-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-14. BOOKS AND RECORDS OF EXHIBITOR OPEN TO INSPECTION - CANCELING LICENSE.) Whenever any individual or organization shall fail to make a report of receipts of any contest at the time prescribed by the secretary of state, or to pay the fee required by this chapter, or whenever a report made is unsatisfactory to the secretary of state, he may cause the books and records of such individual or organization to be examined and may subpoena and examine officers and other persons under oath as witnesses for the purpose of determining the amount due under the provisions of this chapter. Such amount shall be fixed as a result of such examination. In case of default, for a period of twenty days after notice, in the payment of any amount ascertained to be due, together with the expenses incurred in making such examination, such delinquent ipso facto, shall forfeit his license, and thereby shall be disqualified from

receiving any new license or any renewal license, and in addition shall forfeit to the state the sum of five hundred dollars, which may be recovered by the attorney general in the name of the state in the manner in which other penalties are recovered by law.

SECTION 10. AMENDMENT.) Section 53-01-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-15. LICENSING OF BOXERS, WRESTLERS, MANAGERS, AND REFEREES - FEE.) The secretary of state may license all boxers, wrestlers, managers, and referees, and may require them to pay an annual fee not to exceed the sum of five dollars.

SECTION 11. AMENDMENT.) Section 53-01-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-16. AMATEUR AND PROFESSIONAL EXHIBITIONS.) The secretary of state shall make rules and regulations to govern the holding of amateur and professional boxing and wrestling exhibitions within the state. Such rules and regulations shall conform, wherever practicable, to the rules and regulations prescribed by the New York boxing commission. The promoter or holder of any bout for which any charge is made or money collected shall be liable for five percent of the gross receipts as provided in section 53-01-07, subsection 3.

SECTION 12. AMENDMENT.) Section 53-01-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-01-19. HOLDING MATCH OR CONTEST WITHOUT LICENSE A MISDEMEANOR.) Any:

1. Person who, without a license from the secretary of state, shall:
  - a. Send or cause to be sent, published, or otherwise made known, any challenge to fight or engage in any public boxing, sparring, or wrestling exhibition or contest, with or without gloves, for any prize, reward, or compensation, or at which any admission fee is charged, either directly or indirectly; or
  - b. Go into training preparatory for such exhibition or contest; or
  - c. Act as a trainer, aider, arbiter, backer, referee, umpire, second, surgeon, assistant, or attendant at such exhibition or contest, or any preparation for the same; and

2. Owner or lessee of any grounds, building, or structure, permitting the same to be used for such match, exhibition, or contest

shall be guilty of a misdemeanor. This section shall not apply to boxing or sparring or wrestling exhibitions held or to be held under a license issued by the secretary of state in keeping with the rules and regulations prescribed.

SECTION 13. REPEAL.) Sections 53-01-01, 53-01-04, 53-01-05, and 53-01-06 of the North Dakota Century Code are hereby repealed.

Approved February 20, 1971

## CHAPTER 485

HOUSE BILL NO. 1482  
(Gackle, Herman)

## LICENSING AMUSEMENT DEVICES

AN ACT to amend and reenact section 53-04-02; section 53-04-03; section 53-04-04; and section 53-04-06 of the North Dakota Century Code, relating to licensing of amusement games and devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 53-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-04-02. LICENSE OF AMUSEMENT GAMES AND DEVICES REQUIRED.) No person owning any amusement game or device which can be operated legally in this state shall set up for operation, operate, lease or distribute for the purpose of operating, such amusement game or device without first having obtained a license therefor.

SECTION 2. AMENDMENT.) Section 53-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-04-03. ANNUAL LICENSE REQUIRED - FEE.) Any person owning any amusement game or device and who displays such amusement game or device, as defined in this chapter, to the public to be played or operated by the public, shall secure for each game or device an annual license, the fee therefor being due and payable on July first of each year. No license shall be issued for any fractional portion of a year, except that if any game or device is put on display at any time after January first and before July first of any year, the license fee for such period until July first shall be one-half of the amount of the license fee provided for in this chapter.

SECTION 3. AMENDMENT.) Section 53-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-04-04. LICENSE FEE.) Before any such game or amusement device is put on display to the public, to be played and operated by the public, the owner thereof shall pay an annual license fee of fifteen dollars per year for each machine or device.

SECTION 4. AMENDMENT.) Section 53-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

53-04-06. IDENTIFICATION TAG ATTACHED TO MACHINE - LICENSE TO BE DISPLAYED.) Concurrent with the issuance of each license for each machine, the attorney general shall issue an identification tag or other device prescribed by him upon which shall appear the serial number of the license and the manufacturer's serial number or other means of identifying such machine. Such identification tag or other device at all times must be attached firmly to the machine and displayed prominently thereon. The license issued for such machine must at all times be prominently displayed on the premises where such machine is located.

Approved March 15, 1971

# STATE GOVERNMENT

## CHAPTER 486

HOUSE BILL NO. 1305  
(Streibel, Hoffner)

### MAINTENANCE OF LEGISLATIVE ORGANIZATION FOR SPECIAL SESSION

AN ACT to amend and reenact section 54-03-04 of the North Dakota Century Code, relating to the officers of the senate and of the house of representatives, and to the maintenance of legislative organization in the event a special legislative session is called.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-03-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-04. ORGANIZATIONAL SESSIONS CALLED TO ORDER BY SECRETARY AND CHIEF CLERK - PRESIDENT AND SPEAKER - OFFICERS - TERM OF OFFICE - OFFICERS AND CHAIRMEN TO REMAIN IN OFFICE DURING SPECIAL SESSION.) The secretary and officers of the senate and chief clerk and officers of the house serving at the close of a regular session, unless otherwise removed, shall remain in office until the first day of the organizational session of the legislative assembly. On the first day of the organizational session of the legislative assembly, at a time scheduled by the legislative council pursuant to section 54-03.1-02, the president of the senate and the speaker of the house, or in the absence of either, then some member or other person appointed by the members present, shall call the members of their respective houses so enrolled to order. The members of the respective houses then may proceed to the election of the necessary officers. The secretary and officers of the senate and chief clerk and officers of the house of representatives, and the chairmen of all procedural and substantive standing legislative committees shall continue to serve in those positions during any special legislative session which may be called, except in case of the death, resignation, or removal of one of those persons, whereupon the position shall be filled, upon the convening of the special session, in the manner provided by law or legislative rule. Members serving on procedural or substantive standing committees of the senate or house during a regular session shall continue to serve on those committees during any special legislative session which may be called following that regular session.

## CHAPTER 487

HOUSE BILL NO. 1144  
(Streibel, Hoffner, Strinden)

## LEGISLATIVE COMPENSATION

AN ACT to amend and reenact sections 54-03-10, 54-03-20, 54-03-20.1, and 54-35-10 of the North Dakota Century Code, relating to compensation and mileage reimbursement for members and officers of the legislative assembly, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-10. COMPENSATION OF SPEAKER, FLOOR LEADERS, COMMITTEE CHAIRMEN, AND EMPLOYEES.) The speaker of the house, the house majority floor leader, the senate majority floor leader, the house minority floor leader, and the senate minority floor leader shall each receive as compensation, in addition to any other compensation or expense reimbursement provided by law, the sum of five dollars per day for each calendar day during any regular, special, or organizational session. Chairmen of the substantive standing committees shall receive additional compensation of three dollars for each calendar day during any regular, special, or organizational session. The additional compensation provided by this section shall be paid in the manner provided in section 54-03-20. The legislative assembly, by concurrent resolution, shall fix the compensation of the other officers and employees elected or appointed. The provisions of this section shall be retroactive to January 1, 1971.

SECTION 2. AMENDMENT.) Section 54-03-20 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20. ALLOWANCE FOR LIVING AND OTHER EXPENSES OF MEMBERS OF THE LEGISLATIVE ASSEMBLY.) Each member of the legislative assembly of the state of North Dakota shall be entitled to, and shall receive the sum of forty dollars a day, as reimbursement for his living expenses, including meals, lodging, uncompensated travel, and other necessary expenses, for each calendar or natural day during any organizational, special, or regular session. The expense allowance shall be paid immediately following the organizational session in December and at the end of each month during a regular or special session.

A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session shall be included as a calendar or natural day during a legislative session for the purpose of calculation of the expense allowance provided by this section.

In addition, each such member shall receive during the term for which he was elected, for uncompensated expenses incurred in the execution of his public duties during the biennium, the sum of fifty dollars a month, which sum shall be payable every six months. Provided, however, should a member die or resign from office during his term, he shall be paid only the allowances provided for in this section for the period for which he was actually a member.

Attendance at any organizational, special, or regular session of the legislative assembly by any member thereof shall be a conclusive presumption of the expenditure of such expense allowances for the purposes set forth in this section and shall be excluded from gross income for income tax purposes. The provisions of this section shall be retroactive to January 1, 1971.

SECTION 3. AMENDMENT.) Section 54-03-20.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20.1. COMPENSATION FOR ATTENDING LEGISLATORS.) Each member of the legislative assembly shall receive as compensation for his services at any organizational, special, or regular session, five dollars per day and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the legislative assembly by the most usual route. No member of the legislative assembly shall make claim for reimbursement for more than seven trips to and from the place of meeting of the legislative assembly during any regular session. The provisions of this section shall be retroactive to January 1, 1971.

SECTION 4. AMENDMENT.) Section 54-35-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-35-10. COMPENSATION OF MEMBERS AND LEADERSHIP.)

1. The members of the council and the members of any committee of the council shall be compensated for the time spent in attendance at sessions of the council and of its committees at the rate of thirty dollars per day and shall also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.

2. In addition to the compensation provided in subsection 1 of this section, the chairman of the council shall receive an additional five dollars for each day spent in attendance at

sessions of the council and of its committees, and the chairman of each of the council's committees shall receive three dollars for each day spent in attendance at sessions of the council or of the committee which he chairs.

SECTION 5. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 3, 1971

## CHAPTER 488

HOUSE BILL NO. 1306  
(Streibel, Hoffner)

## LEGISLATIVE ENROLLING AND ENROSSING

AN ACT to amend and reenact sections 54-04-01, 54-04-03, and 54-04-04 of the North Dakota Century Code, relating to the enrolling and engrossing of legislative measures and the employment of an enroller and engrosser; and to repeal section 54-04-02 of the North Dakota Century Code, relating to regulations governing enrolling and engrossing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-04-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-04-01. ENROLLING AND ENROSSING BILLS, ARRANGEMENT FOR - ADVERTISEMENTS.) The President of the Senate and the majority leaders of the House and Senate at the organizational meeting shall constitute a negotiating committee and shall make all necessary arrangements for the engrossing and enrolling of bills and resolutions passed by each house of the Legislative Assembly. The negotiating committee may negotiate with any person or persons and may enter into and execute contracts to perform the necessary engrossing and enrolling bills and resolutions. The President of the Senate shall advertise that, on the first day of the legislative organizational meeting in December, the committee will receive written proposals for engrossing and enrolling of bills and resolutions and invite persons who are interested to submit proposals. The advertisement shall be published in a newspaper at the seat of government at least once each week for two successive weeks commencing on the first Wednesday in October of the year preceding the regular session of the Legislative Assembly. The negotiating committee, however, shall not be limited to written proposals received. After examining and reviewing proposals submitted, it may award the contract to any person or persons on a negotiated basis.

SECTION 2. AMENDMENT.) Section 54-04-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-04-03. SURETY FOR PERFORMANCE - CONTRACT MUST BE WITH RESIDENT.) The negotiating committee shall require a surety bond

for the performance of the work in awarding the contract for enrolling and engrossing bills and resolutions of the Legislative Assembly. The amount of the surety bond shall be commensurate with the amount of work to be performed and shall be set by the negotiating committee. Such contract may be awarded only to a bona fide resident of this state.

SECTION 3. AMENDMENT.) Section 54-04-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-04-04. CONTENTS OF CONTRACT - FORM, STYLE, AND MECHANICS OF ENROLLING AND ENGROSSING.) The Legislative Council shall determine the form and style of the engrossed and enrolled bills and resolutions and shall determine the mechanical or other methods by which the engrossing or enrolling is to be done. The negotiating committee shall determine the charges to be made, which shall be set forth in the contract. The negotiating committee may also determine the number of employees to be employed by the person with whom it has contracted or will contract to enroll and engross bills and resolutions. The negotiating committee may also require and provide in the contract for specific provisions which will expedite, improve and facilitate enrolling and engrossing services to the Legislative Assembly.

SECTION 4. REPEAL.) Section 54-04-02 of the North Dakota Century Code is hereby repealed.

Approved March 29, 1971

## CHAPTER 489

SENATE BILL NO. 2039  
(Goldberg, L. Larson, Lowe, Melland, Wenstrom, Wilhite)  
(From Legislative Council Study)

## REPORTS OF AGENCIES CHARGING FEES

AN ACT to require all state agencies, departments, and institutions which charge fees for licensing, inspection, or regulation of private business activities or products to make reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. STATE AGENCIES, DEPARTMENTS, AND INSTITUTIONS CHARGING FEES SHALL MAKE REPORTS.) All state agencies, departments, and institutions which license, inspect, or regulate private business activities or products and charge fees for such services shall prepare and submit to the state auditor's office, before August 31 of each year, a report for the last fiscal year giving information about the costs of providing each service and the fees charged for the granting or providing of such service. The report shall accurately present the costs and revenues in accordance with the various categories of service and such report shall be completed and supported by such accounting records and allocation procedures as are acceptable to the state auditor. The report shall be filed with the committee on budget of the legislative council, in addition to other filings as required by law.

Approved February 20, 1971

## CHAPTER 490

HOUSE BILL NO. 1067  
(Hoffner, Streibel, Strinden)  
(Legislative Council Study)

ISSUANCE AND RETURN  
OF CAPITOL KEYS

AN ACT to create and enact sections 44-08-18, 54-06-15, and 54-21-17.1 of the North Dakota Century Code, relating to keys issued to the state capitol building, and offices therein; providing for retention of a state official's or employee's final wage or salary check upon failure to return an issued key; providing for payment of a fee in lieu of return of a key; providing the procedures for enforcement; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 44-08-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

44-08-18. OFFICIALS AND EMPLOYEES OF AGENCIES LOCATED IN CAPITOL BUILDING RESPONSIBLE FOR KEYS ISSUED TO THEM - RETURN UPON TERMINATION OF EMPLOYMENT - AGENCY HEAD RESPONSIBILITY.) Every elected and appointed state official and all state employees employed by or administering any agency, department, board, commission, or other governmental organization with offices located in the state capitol building shall be responsible for the safekeeping and return of keys allowing entrance to any of such offices or to the capitol building proper which may have been issued to them by the director of institutions. Each official or employee shall, upon or prior to termination of employment in the state capitol, return any and all keys which may have been issued to him by the director of institutions or by the legislative council to the person in charge of such keys in the office or department in which he was employed. The person in charge, or his designee, shall see to the return of the keys to the director of institutions in a manner provided by rules and regulations which shall be promulgated by the director of institutions. Failure to return a key shall be handled as provided in section 54-06-15.

SECTION 2.) Section 54-06-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-06-15. FAILURE OF OFFICIALS AND EMPLOYEES WORKING IN CAPITOL BUILDING TO RETURN KEYS UPON TERMINATION OF EMPLOYMENT - DUTY OF PERSON IN CHARGE OF EMPLOYING UNIT - PAYMENT OF FEE IN LIEU OF RETURN - RETENTION OF FINAL WARRANT FOR SALARY OR WAGE.) Each elective or appointive official or state employee employed by, or in charge of, an employing unit with offices in the state capitol building who fails or is unable to return a key, or keys, issued to him pursuant to section 54-21-17.1 shall have his final warrant-check for payment of salary or wages retained by the person in charge of the employing unit, or his designee, until the key, or keys, issued to him are returned, or until the fee in lieu of return provided in this section has been paid. Each official or employee who fails or is unable to return keys issued to him in the manner provided in section 44-08-18 shall pay a fee of five dollars for each key not returned, which fee shall be in lieu of return of a key. Upon receipt of the in lieu fee, the person in charge of the employing unit, or his designee, shall release the official's or employee's final warrant-check for payment of salary or wages. When an official or employee terminates his employment and fails or is unable to return a key, or keys, issued to him, the person in charge of the employing unit, or his designee, shall retain the final warrant-check for payment of the salary or wages of that official or employee until this section has been complied with. As used in this section the phrase "employing unit" shall mean any agency, department, board, commission, or other governmental unit, including the supreme court, the legislature, and the legislative council, which has offices located in the state capitol building. The phrase "person in charge" shall mean the person who has the overall supervisory and administrative control over the employing unit.

SECTION 3.) Section 54-21-17.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-21-17.1. DIRECTOR OF INSTITUTIONS TO SECURE INTERIOR OF CAPITOL BUILDING - ISSUANCE AND RETURN OF KEYS.) The director of institutions shall see to the security of the state capitol building, and shall have control over the issuance and return of keys allowing entry to the building proper, or any door located therein. Keys to doors in the legislative wing shall be issued and controlled by the legislative council when so requested by the director of institutions. The director of institutions shall promulgate rules and regulations regarding the manner in which keys are to be issued and returned, including the procedure for receiving and recording the payment of fees in lieu of return of keys provided in section 54-06-15.

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

Approved February 20, 1971

## CHAPTER 491

HOUSE BILL NO. 1503  
(Metzger, Halcrow, Olienyk, DeGroot, Lundene)

## MINIMUM WAGE FOR STATE EMPLOYEES

AN ACT setting forth minimum wage standards for employees of the state of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. MINIMUM WAGE STANDARDS FOR EMPLOYEES OF STATE.) To promote efficiency in government, to assure services received for money expended, to be competitive with private industry and labor, and taking into account the cost of living, the following minimum wage standards shall apply to all employees of the state of North Dakota:

1. Employees hired on a full-time monthly basis shall receive a minimum pay of not less than:
  - a. Three hundred dollars per month after June 30, 1971;

Except that students, working as part-time help shall be exempt from these provisions.

Approved March 27, 1971

## CHAPTER 492

HOUSE BILL NO. 1548  
(Opedahl, Jacobson, B. Miller, Anderson)

## GOVERNOR'S APPOINTMENT POWER

AN ACT to provide that the governor shall have authority to appoint a majority of the members of certain boards and commissions within the first six months of his regular term, and providing an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. GOVERNOR TO HAVE POWER TO APPOINT MAJORITY OF MEMBERS OF CERTAIN BOARDS AND COMMISSIONS - LIMITATIONS.) Notwithstanding the provisions of chapters 2-05, 4-13, 4-18.1, 4-27, 6-01, 6-09.1, 12-55, 12-59, 12-60, 15-21, 15-38, 15-39, 15-52, 15-65, 20-02, 23-01, 23-25, 36-01, 37-14, 37-15, 37-18, 50-10, 50-26, 51-10, 53-01, 54-03, 54-34, 54-54, 55-01, 55-05, 55-08, 61-02, 61-28, and 65-02 of the North Dakota Century Code, all members of the following boards and commissions shall, subject to the limitations of this Act, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor: North Dakota aeronautics commission, poultry improvement board, milk stabilization board, dairy products promotion commission, state banking board, state credit union, advisory board of directors of the Bank of North Dakota, board of pardons, parole board, bureau of criminal identification and apprehension, state board of public school education, teachers' professional practices commission, teachers' insurance and retirement fund trustees, medical center advisory council, educational broadcasting council, game and fish department advisory board, state health council, air pollution control advisory council, livestock sanitary board, veterans' aid commission, soldiers' home trustees, advisory committee to department of veterans' affairs, crippled children's commission, governor's council on human resources, North Dakota trade commission, state athletic commission, legislative compensation commission, business and industrial development commission, North Dakota council on the arts and humanities, state historical board, international peace garden, inc., state park advisory council, state water conservation commission, water pollution prevention agency board, and workmen's compensation bureau. The governor shall have the option of reappointing any member to any board or commission to complete the term to which he was appointed, or the governor may appoint a simple majority of any board or commission to complete the terms of those resigned

members who do not receive reappointments. In order to assure continuity, the governor shall reappoint for the completion of their original terms no fewer than one less than a simple majority of the former members of each board or commission.

If the governor has not acknowledged in writing the resignation of any members of any board or commission prior to July first of the first year of the governor's term, such board or commission member shall be considered to have been reappointed to complete the term to which he was originally appointed. All members of boards and commissions shall continue to serve until such time as they are notified of the acceptance of their resignation by the governor, and in all cases the members of boards and commissions shall continue to serve until their successors have been named and qualified.

In those instances where nominations for the filling of vacancies on boards and commissions are submitted to the governor pursuant to state law, the governor shall notify such persons and organizations of his acceptance of the resignation of any board or commission member. Such persons and organizations shall furnish the governor with the number of required nominations to fill such vacancies within sixty days after such notice or the governor may, in his discretion, nominate and appoint such members as are otherwise qualified.

The provisions of this Act shall not apply to those constitutional officers who serve on boards and commissions, except insofar as a governor may count such constitutional officers among those he reappoints in order to conform to the continuity requirements of this Act.

All vacancies created by resignation after July first of the first year of each term of a governor shall be filled as provided by law. If any person refuses an appointment, the governor shall fill such position as otherwise provided by law.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective with the expiration of each regular term of governor beginning on January 1, 1973.

Approved March 30, 1971

## CHAPTER 493

SENATE BILL NO. 2451  
(Holand)

CHARGES FOR AUDITS  
BY STATE AUDITOR

AN ACT to amend and reenact subsection 2 of section 54-10-01, section 54-10-13 and section 54-10-14 of the North Dakota Century Code, relating to charges and actual costs for audits performed by state auditor, and providing an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 54-10-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Be vested with the duties, powers, and responsibilities involved in making a complete examination of the books, records, accounting methods, and internal controls of any and all state agencies, including the occupational and professional boards provided for in title 43 of the North Dakota Century Code and the state bar board, board of examiners for mine foremen, state board of veterinary medical examiners, and all other professional boards created by law. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered plus actual costs incurred by the state auditor to all agencies which receive and expend moneys from other than the general fund, unless for good cause the amounts charged shall be waived by the auditor for a one-year period of time with such waiver being subject to annual renewal after proper application has been filed with the auditor. The governing board of any occupational and professional boards may provide for an audit annually by a certified public accountant, and such audit report shall be in such form and contain such information as the state auditor may require, and in such case the state auditor shall not make the examination provided for in this section;

SECTION 2. AMENDMENT.) Section 54-10-13 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-13. COUNTY AGENCIES - AUDITS - FEES.) The state auditor by his duly appointed deputy auditors or other authorized person or persons shall audit at least once every two years, or at more frequent intervals if the state auditor, in his discretion, deems it advisable, the official financial records, accounts, and proceedings of boards of county commissioners, county auditors, county treasurers, clerks of district court, county judges, registers of deeds, county superintendent of schools, sheriffs, public administrators, governing boards of irrigation districts and flood irrigation districts, clerks or secretaries of said boards and treasurers of said districts. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered plus actual costs incurred by the state auditor to the county agencies in making and otherwise preparing the reports of examinations herein provided for. The fees herein provided shall be paid by the counties and districts examined to the state treasurer, and by him credited to the general fund of the state. Provided, further, that the board of county commissioners may provide for an annual audit by a certified public accountant for any or all of the offices and boards set forth in this section, and such audit report shall be in such form and contain such information as the state auditor may require in addition to other information, and in such case the state auditor shall not be required to make the examination heretofore provided for in this section. Two copies of such audit reports shall be filed with the state auditor and one copy with the state bonding fund by the certified public accountant making such audit at the same time that the report is delivered to the officer or board audited, and the board of county commissioners shall not pay the fee for such audit until evidence of such filing is furnished. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of such officers or boards disclosed by such audit reports, and failure to make such corrections shall result in audits being resumed by the state auditor until such irregularities, procedures, or illegal actions are corrected, and fees for such audits, so resumed, shall be paid in accordance with this section.

SECTION 3. AMENDMENT.) Section 54-10-14 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-14. MUNICIPAL AGENCIES, PARK BOARDS, SCHOOL DISTRICTS - AUDITS - FEES - ALTERNATIVE AUDITS.) The state auditor by his duly appointed deputy auditors or other authorized agents, shall audit, at least once every two years, the official financial records, accounts, and proceedings of the following governing bodies and officials of the following political subdivisions:

1. City councils and commissions;
2. City auditors and treasurers;
3. Park district clerks and treasurers;
4. School boards and boards of education;
5. School districts clerks, treasurers, and secretaries; and
6. Trustees and officials of the firemen's relief association.

Audits may be conducted at more frequent intervals if the state auditor, in his discretion, deems it advisable. The governing board of any such city, park board, or school district may provide for an audit annually by a certified public accountant, and such audit report shall be in such form and contain such information as the state auditor may require in addition to other information, and in such case the state auditor shall not be required to make the examination heretofore provided for in this section. Two copies of such audit reports shall be filed with the state auditor and one copy with the state bonding fund by the certified public accountant making such audit at the same time that the report of audit is delivered to said city, park board, or school district, and the governing board of such subdivision shall not pay the fee for such audit until evidence of such filing is furnished. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing boards and officers of such subdivisions disclosed by such audit reports, and failure to make such corrections shall result in audits being resumed by the state auditor until such irregularities, procedures or illegal actions are corrected and fees for such audits, so resumed, shall be paid in accordance with this section. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered plus actual costs incurred by the state auditor to the political subdivisions in making and otherwise preparing the reports of audits herein provided for. All fees for the audits herein provided shall be paid by the subdivision audited to the state treasurer and by him credited to the general fund of the state.

SECTION 4. EFFECTIVE DATE.) The provisions of this Act shall become effective July 1, 1973.

Approved March 11, 1971

## CHAPTER 494

HOUSE BILL NO. 1459  
(Bunker, Hilleboe)

ATTORNEY GENERAL TO GIVE  
OPINIONS TO CITIES

AN ACT to create and enact subsection 17 of section 54-12-01 of the North Dakota Century Code, relating to duties of the attorney general.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 17 of section 54-12-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

17. Give written opinions, when requested by the governing body or city attorney of a city in the state of North Dakota.

Approved March 8, 1971

## CHAPTER 495

SENATE BILL NO. 2275  
(Litten)

GUARANTEED STUDENT  
LOAN TRUST FUND

AN ACT to create a state trust to hold unpaid guaranteed student loans belonging to the state of North Dakota; to authorize preparation, sale, and issuance of special coupon bonds of the state of North Dakota against such United States government guaranteed student loans so held; and to make such bonds eligible for investment of the funds of banks, savings and loan associations, and public trust funds of this state, and making an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. STATE TRUST CREATED.) The North Dakota industrial commission is hereby authorized and directed to acquire and to hold in trust all unpaid United States government guaranteed student loans belonging to the state of North Dakota or to any of its agencies, departments, or institutions which may be endorsed or assigned to it, such guaranteed student loans a trust as security for special coupon bonds of the state to be issued as and in the manner the commission shall decide. All guaranteed student loans so held in trust and the collections therefrom and the increments thereto shall be held in a special fund as the source of payment of special coupon bonds of North Dakota to be issued, none of which bonds shall constitute indebtedness of the state.

SECTION 2. BONDS AUTHORIZED.) Whenever the North Dakota industrial commission shall decide that it is in the public interest to diminish the investment of state funds in United States government guaranteed student loans, that it will be difficult to divest the state of appreciable amounts of such loans by piecemeal offering to the investing and saving public, that business conditions are favorable to a state sponsored program to consolidate state held student loans, and to enlarge private participation in such loans, then the North Dakota industrial commission may by plenary resolution duly adopted in accordance with the provisions hereof authorize preparation, sale, and issuance of special coupon revenue bonds of North Dakota in such amounts and at such times and in such form as the commission shall determine to be for the public good. Such bonds shall be a paramount charge upon a sufficient designated portion of the resources of the student loan trust, subject only to necessary administrative expenses of the trust duly appropriated out of

the interest earning resources thereof. The bonds may bear such rate or rates of interest as the commission may provide, not exceeding seven percent per annum, may be sold on the basis of par plus accrued interest to date of delivery, average interest cost to maturity not exceeding seven percent per annum. Such bonds shall have all of the qualities and incidents of negotiable paper and shall not be subject to taxation by the state of North Dakota or by any county, municipality, or political subdivision therein. The bonds shall be payable solely out of resources generated from collection of payments on and earnings and proceeds of United States government guaranteed student loans, and shall so recite. They shall not be indebtedness of the state of North Dakota or of any agency, board, department, or officer or agent thereof.

SECTION 3. BONDS ELIGIBLE FOR INVESTMENT.) Special coupon bonds issued under this act may be acquired and held by banks and by savings and loan associations of this state as well as by all public trust funds. They may be issued and sold at public or private sale or by negotiation as the industrial commission may direct.

SECTION 4. APPROPRIATION.) There is hereby appropriated for the expenses of the North Dakota industrial commission government guaranteed student loan trust, including the expenses of preparing, selling, and issuing revenue bonds thereof, the sum of thirty thousand dollars; but only out of the interest earnings of such trust.

Approved March 3, 1971

## CHAPTER 496

HOUSE BILL NO. 1492  
(Dornacker)

VIETNAM VETERANS' BONUS BONDS  
AND SURTAX

AN ACT to provide and appropriate funds for the payment of adjusted compensation payments to North Dakota veterans of the Vietnam conflict and to the industrial commission for the issuance of bonds; providing for the issuance, sale, and delivery of general obligation bonds; creating a sinking fund; and providing for a surtax and fund transfers for the servicing and retirement of such bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DESIGNATION OF BONDS.) Bonds to be issued under the provisions of this Act shall be known as state of North Dakota general obligation bonds, Vietnam conflict adjusted compensation series.

SECTION 2. AUTHORITY FOR ISSUING BONDS OF NORTH DAKOTA VIETNAM CONFLICT ADJUSTED COMPENSATION SERIES - PURPOSE OF ISSUE.) An issue of not to exceed fifteen million dollars general obligation bonds of the state of North Dakota is hereby authorized and directed under the conditions, in the manner, and for the purpose stated in the amendment to the Constitution of North Dakota, adopted by the forty-first legislative assembly of the state of North Dakota as Senate Concurrent Resolution No. 17 and approved by the people at the primary election held in September 1970, and the generally applicable provisions of the Constitution and statutes of the state of North Dakota. The preparation, handling, issuance, sale, and delivery of such issue of bonds shall be under the supervision and control of the industrial commission of North Dakota, which commission is hereby authorized and directed to negotiate a satisfactory sale of such issue of bonds as soon after the effective date of this Act as may be necessary to provide funds for the payment of adjusted compensation to veterans of the Vietnam conflict. Such issue of bonds is authorized for the purpose of providing funds to be used in payment of adjusted compensation to North Dakota veterans of the Vietnam conflict and the administrative expenses resulting therefrom and such funds are hereby appropriated for such purpose.

SECTION 3. PREPARATION OF BONDS.) Bonds issued under this Act shall be executed by the governor and by the state treasurer

under the great seal of the state of North Dakota and shall be attested by the secretary of state. The state auditor and secretary of state shall endorse and sign, on each bond issued, a certificate showing that such bond is issued pursuant to law and is within the state debt limit. The manner and form of execution shall be determined by the industrial commission. The issue of bonds under this Act shall be of serial maturities, and the industrial commission shall fix the maximum rate of interest they shall bear. The first installment of principal of bonds sold at any one time shall fall due not more than two years from the date of the bonds, and the last installment shall fall due not more than fifteen years after the date of first issue. Annual installments of principal shall be such that the increase thereof from year to year approximately shall equal the decrease from year to year of the amount of interest on unpaid bonds, so that the aggregate of principal and interest shall be approximately equal year by year. All bonds issued under this Act shall be in denominations of not more than ten thousand dollars each and shall be fully negotiable with semiannual interest coupons attached, except that the first interest payment shall be one year from and after the date of issuance of the bonds. Bonds issued under this Act from and after the year 1972 until the year 1981, inclusive, shall not be callable prior to maturity. Bonds issued under this Act from and after the year 1982 may be called prior to maturity, in inverse numerical order. All bonds issued under this Act shall contain a provision that interest thereon shall cease at maturity unless the holder thereof shall present the same for payment and payment is refused. The principal and interest of bonds issued under this Act shall be payable at the office of the state treasurer in Bismarck, North Dakota, or at the Bank of North Dakota, or at a bank or trust company in the city of Chicago or New York, as the industrial commission may determine.

SECTION 4. SALE AND DELIVERY OF BONDS BY INDUSTRIAL COMMISSION - DEPOSIT OF PROCEEDS.) The industrial commission shall act as agent of the state for the negotiation, sale, and delivery of all bonds issued under this Act. Such bonds shall be sold in whole or in part from time to time for cash at not less than par and accrued interest to the best advantage of the state. In offering such bonds for sale, the industrial commission shall reserve the right to reject any or all bids therefor. Purchasers and holders of such bonds may have ownership registered in the office of the state treasurer. All of the proceeds of such bonds shall be received by the industrial commission and by it placed in a separate fund in the state treasury in the custody of the state treasurer to be used only for the purpose for which such bonds are issued.

SECTION 5. BONDS TAX EXEMPT.) All bonds issued under the provisions of this Act and interest thereon shall be exempt from all state, county, and municipal taxes.

SECTION 6. BONDS A GENERAL OBLIGATION OF STATE OF NORTH

DAKOTA.) Upon receipt of payment therefor, the industrial commission shall deliver to each purchaser of bonds issued under this Act, the bonds purchased by him, and upon the delivery of such bonds the full faith and credit and unlimited taxing resources of the state of North Dakota shall stand pledged for the punctual payment of each and all of such bonds and the interest thereon to the lawful holder and owner thereof as the same become due and are presented for payment.

SECTION 7. SURTAX ON INCOME.) An additional tax, or surtax, is hereby imposed on the income of every individual, estate, trust, and corporation that is required to file an income tax return pursuant to the provisions of chapter 57-38. This surtax shall be placed on the state income tax return as a separate line item entitled "Vietnam bonus surtax", shall be paid annually by each such taxpayer, and shall be computed as follows:

1. For an individual, estate, or trust the tax shall be computed at the rate of one percent of the taxable income of such individual, estate, or trust as determined pursuant to the provisions of chapter 57-38, but shall not be less than two dollars and fifty cents nor more than twelve dollars and fifty cents.
2. For a corporation the tax shall be computed at the rate of one percent of the taxable income of the corporation as determined pursuant to the provisions of chapter 57-38, provided that the amount of tax shall not be less than ten dollars nor more than twenty-five dollars.

For purposes of administering the provisions of this section, the provisions of chapter 57-38, pertaining to the administration of income tax, including but not limited to the withholding of income taxes, the payment of income taxes and interest and penalties thereon, refunds, attachment of liens for failure to pay such taxes and interest and penalties thereon, and civil and criminal penalties for failure to comply with the provisions of chapter 57-38, shall govern the administration of the surtax levied in this section. All of the proceeds of this surtax, including penalties and interest thereon, collected and received by the tax commissioner shall be paid by him into the sinking fund established for the payment of bonds issued under this Act. When the director of the department of accounts and purchases shall determine, in consultation with the industrial commission, that sufficient funds are available in the sinking fund for the payment of Vietnam veterans' bonus bonds to retire all bonds outstanding with interest thereon, he shall certify the same to the tax commissioner, whereupon the surtax imposed by this section shall terminate and the last taxable year of each taxpayer that ends before such certification shall be the last taxable year for which the tax shall be imposed on and collected from such taxpayer.

The provisions of this section shall be effective for all taxable years beginning on or after January 1, 1972.

SECTION 8. SINKING FUND.) The sinking fund for the payment of bonds issued under this Act and interest thereon shall be established and maintained in the office of the state treasurer who shall be custodian of such fund and shall at all times maintain adequate records thereof. The state treasurer shall make reports of the condition of such sinking fund to the industrial commission on request. All taxes levied and all sums appropriated and transferred for the payment of bonds issued under this Act shall be deposited in the sinking fund therefor and shall be disbursed by the state treasurer in payment of such bonds and interest thereon directly or through a paying agent to be designated by the industrial commission. On request of the industrial commission, the state treasurer shall supply any deficiency of such sinking fund out of any available monies of the state in his custody, provided that all monies so used shall be returned at the earliest practicable opportunity.

SECTION 9. TRANSFER OF BALANCE.) Upon the retirement of all bonds provided for in this Act, together with the interest thereon, any balance remaining in the sinking fund shall be transferred by the treasurer to the general fund.

SECTION 10. INVESTMENT OF SINKING FUND.) Monies in the sinking fund for bonds issued under this Act shall be deposited in the Bank of North Dakota. The Bank of North Dakota shall pay interest thereon as directed by the industrial commission, which interest shall be credited to the sinking fund and shall be used for the payment of the principal of the bonds or interest thereon.

SECTION 11. PROTECTION OF PURCHASER.) The purchaser of any bonds issued under this Act shall not be obliged to see to the application of the purchase price thereof but shall be protected fully in paying for such bonds by the receipt of the industrial commission or of its agent delivering such bonds as herein provided.

SECTION 12. LIMITATION OF ACTION.) No action shall be brought or maintained in any court in this state questioning the validity of any bonds issued under this Act, or of any tax levied under this Act, unless such action shall have been commenced within sixty days after the adoption of the resolution of the industrial commission awarding the sale of such bonds.

SECTION 13. TAXES IRREPEALABLE.) All taxes levied, appropriations, and transfers provided to pay bonds issued under the provisions of this Act and interest thereon shall not be repealed until such bonds and interest are fully paid.

\* SECTION 14. APPROPRIATION.) There is hereby appropriated out of any monies in the general fund in the state treasury, not

\*NOTE: Section 14 was vetoed by the Governor. See chapter 613, 1971 Session Laws.

otherwise appropriated, the sum of \$2 million for transfer upon order of the director of the department of accounts and purchases to the sinking fund for the payment of Vietnam veterans' bonus bonds during the biennium beginning July 1, 1971, and ending June 30, 1973.

SECTION 15. APPROPRIATION TO INDUSTRIAL COMMISSION.) There is hereby appropriated out of any monies in the Vietnam veterans' bonus adjusted compensation fund, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, to the industrial commission for administrative and legal expenses for the issuance of bonds authorized by this Act, for the biennium beginning July 1, 1971, and ending June 30, 1973.

SECTION 16. APPROPRIATION FOR BONDS.) There is hereby appropriated the funds required for the payment of interest and principal of all bonds issued and sold under this Act.

Approved March 31, 1971

## CHAPTER 497

SENATE BILL NO. 2068  
(Doherty, Longmire, Pyle, Schultz, Unruh)  
(From Legislative Council Study)

CONTRACTING FOR INCARCERATION  
IN OTHER STATES

AN ACT to create and enact section 54-21-25 of the North Dakota Century Code, providing the authorization for the director of institutions to contract with other governmental agencies for the custody and treatment of persons lawfully committed to his control.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 54-21-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-21-25. AUTHORITY TO CONTRACT WITH OTHER GOVERNMENTAL AGENCIES FOR PRISONERS.) If the director of institutions determines that suitable state facilities or services are not available for inmates under his control he may contract for same with the proper authorities of the United States, another state, another agency in this state or a political subdivision of this state. The director may also contract, without cost to the state, to provide services or facilities for persons held by any of the jurisdictions mentioned in this paragraph.

Approved February 20, 1971

## CHAPTER 498

SENATE BILL NO. 2511  
(Committee on Delayed Bills)

LAND LEASING BY  
DIRECTOR OF INSTITUTIONS

AN ACT to allow the director of institutions to lease land under his control to others.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DIRECTOR OF INSTITUTIONS MAY LEASE LAND TO OTHERS.) The director of institutions may, when he deems such action to be in the best interest of the state, lease land under his control to other persons if the land is not necessary for the operation of any buildings, institutions, or farming units under the jurisdiction of the state. The lease period shall not exceed three years in duration and shall be upon such terms and conditions as the director of institutions may prescribe.

Approved March 11, 1971

## CHAPTER 499

SENATE BILL NO. 2318  
(Sorlie, Lips)

## UNSAFE PUBLIC BUILDINGS

AN ACT authorizing the removal or sale of a public building when it is obsolete or a fire hazard or is otherwise unsafe and is of no future use to the state where it is located, and setting out the procedures to be followed, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. REMOVAL OR SALE OF UNSAFE PUBLIC BUILDING--PROCEDURE.) The superintendent of the institution, the warden of the institution, the commanding general of the national guard, or the head of an agency, department, bureau, board, or commission, as the case may be, having the responsibility of supervising and maintaining a public building belonging to the state of North Dakota, may sell or remove such building whenever it is found to be obsolete, a fire hazard, in unsafe condition so as to constitute a hazard to life or limb, and is of no future use to the state where it is located, by obtaining the written approval of the state director of institutions if under his supervision or the head of the department having supervision, the state fire marshal, and the state superintendent of construction.

A copy of such findings and approvals shall be filed with and kept in the custody of the state superintendent of construction.

Economics shall dictate whether or not the sale or removal shall be by advertising for public bids and awarding same to the lowest responsible bidder. If the building is to be destroyed, every effort shall be made to salvage and store any material which will be beneficial to the state, or which will have a saleable value.

SECTION 2. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 8, 1971

## CHAPTER 500

HOUSE BILL NO. 1147  
(Boustead, Wagner)

UNIFORM STANDARDS CODE  
FOR MOBILE HOMES

AN ACT to provide for a uniform standard code of construction, for methods of inspection of construction for mobile homes, and for remedies and penalties for violation of the construction code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. SHORT TITLE.) This chapter shall be known and may be cited as the "Uniform Standards Code for Mobile Homes Act".

SECTION 2. DEFINITIONS.) Unless clearly indicated otherwise by the context, the following words when used in this chapter, for the purposes of this chapter only, shall have the following meanings:

1. "Mobile Home" means a portable dwelling over thirty two feet in length and eight feet or more in width, constructed to be moved on its own chassis, and designed without a permanent foundation for year-round occupancy when connected to utilities. It may be a portable dwelling composed of a single unit or it may be one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or it may be two or more units separately towable, but designed to be joined into one integral unit.
2. "Construction Superintendent" means the construction superintendent of the State of North Dakota employed pursuant to section 54-21-17 of the North Dakota Century Code.
3. "Recognized inspection agency" means an inspection agency having inspection services approved by the construction superintendent and designated by him as an inspection agency for the purposes of this chapter. The construction superintendent shall designate as a "recognized inspection agency" the Underwriters Laboratories or similar inspection services.

SECTION 3. STATEMENT OF POLICY.) Mobile homes, because of the manner of their construction and assembly (including heating, plumbing and electrical systems) like other finished products having concealed vital parts, may present hazards to the health, life and safety of persons and to the safety of property unless properly manufactured. Inspections of the construction of mobile homes frequently cannot satisfactorily be performed after the unit has been manufactured and delivered to this state. It is the policy and purpose of this state to provide protection to the public against possible hazards and for that purpose to forbid the manufacture and sale of mobile homes which are not constructed so as to provide reasonable safety and protection to their owners. Further, a mobile home may during the period of its use be situated in several, various, communities of this state. It is the policy of this state to provide one uniform code of construction for the various localities in which the home may be situated from time to time so that it is possible to manufacture at an economic price a mobile home which may be used without modification in all parts of the state.

SECTION 4. RULE MAKING POWER.) The construction superintendent shall prepare a Uniform Standards Code for Mobile Homes, containing standards for plumbing, heating, and electrical systems and for body and frame design and construction requirements of mobile homes. This code shall be in conformity with proper methods of construction for health and safety. On July 1, 1971, the construction superintendent shall adopt the standard now designated as Standard ANSI 119.1 by the American National Standards Institute (ANSI), formerly known as the United States of American Standards Institute (USASI), successor to the American Standards Institution (ASA) as the Uniform Standards Code for Mobile Homes. Following July 1, 1971, the construction superintendent may adopt any changes in, or additions to, the standards of the American National Standards Institute or its successor as changes in, or addition to, the Uniform Standards Code for Mobile Homes. Before adopting any changes or additions to the code, the construction superintendent shall consult the State Electrical Board, the State Plumbing Board, the State Fire Marshall and the North Dakota Mobile Home Association for their recommendations. The Uniform Standards Code for Mobile Homes shall be promulgated as a regulation of the construction superintendent. The code shall have the force and effect of law.

SECTION 5. UNIFORM STATE STANDARD.) No other regulation of any local unit of government shall be in variance with the Uniform Standards Code for Mobile Homes. No regulatory agency or local unit of government shall adopt different or more stringent requirements for mobile homes in regard to any item covered by the Uniform Standards Code for Mobile Homes.

SECTION 6. COMPLIANCE WITH COMMISSIONER'S RULES.)

1. Factory inspection by approved inspection agency: Any mobile home which bears the label or seal of compliance of a recognized inspection agency approved by the construction superintendent and designated by him as an inspection agency, shall be acceptable as meeting the Uniform Standards Code for Mobile Homes without further inspection or fees. A mobile home bearing such a label or seal is subject only to the following local requirements for inspection: zoning, foundations, outside lines, connections and facilities, and alterations and additions made after the mobile home leaves the point of manufacture.

2. Inspection after manufacture: All mobile homes not bearing the label or seal of compliance of a recognized inspection agency approved by the construction superintendent and designated by him as an inspection agency shall be subject to inspection and fees as otherwise authorized or provided by law, to insure that the mobile home has been manufactured in accordance with the Uniform Standards Code for Mobile Homes.

SECTION 7. LIST OF RECOGNIZED INSPECTION AGENCIES; RECIPROCITY WITH OTHER STATES.) The construction superintendent shall have available for the public a list of the recognized inspection services which he has approved. If the construction superintendent determines that standards for mobile homes which have been prescribed in this state's Uniform Standards Code for Mobile Homes are met or exceeded by the statutes or regulations of another state, and further determines that the inspection services for that state are of equal quality with those of this state's recognized inspection agencies, then the construction superintendent shall place such state on a reciprocity list. Any mobile home which bears the appropriate seal of any state which has been placed on the reciprocity list shall be treated the same as a mobile home which bears the seal of the recognized inspections service, provided for by this act, showing compliance with this state's Uniform Standards Code for Mobile Homes.

SECTION 8. NO MANUFACTURE OR SALE OF HOMES NOT COMPLYING CODE.) After January 1, 1972, no persons, firm or corporation may manufacture for sale in North Dakota, or sell in North Dakota, any new mobile home which has been constructed after January 1, 1972, unless such mobile home has been constructed in accordance with the Uniform Standards Code for Mobile Homes. Mobile homes which have been used as living quarters by a consumer shall not be subject to this prohibition against sale.

SECTION 9. ILLEGAL MANUFACTURE OR SALE - ADDITIONAL CIVIL REMEDIES OF PURCHASERS.) If any mobile home is sold in violation of the previous section, then the purchaser, within three years of the date of the sale, at the option of the purchaser, may make written demand on the seller specifying the defect and demanding the defect existing at the time of sale be corrected to conform to the Uniform Standards Code for Mobile Homes. If the seller fails to make such correction within ninety days after receipt of such demand to make such correc-

tions, then the sale may be rescinded, the mobile home returned to the seller, and the seller shall be liable to return to the purchaser the full purchase price paid. The ninety-day period may be extended by the length of time of periods of weather, strikes, civil disturbances, or other acts beyond the control of the seller which prevent correction during such period. Any manufacturer who has sold a mobile home to a licensed mobile home dealer in this state, when such mobile home does not meet the requirements of this chapter, shall be liable to the mobile home dealer for all costs, losses and damages which the dealer may sustain by reason of the manufacturer's failure to comply with this chapter.

SECTION 10. ENFORCEMENT BY GOVERNMENT INSPECTORS.) This chapter shall be enforced by the construction superintendent. In addition: the electrical provisions of the code may be enforced by the State Electrical Board; the plumbing sections of the code may be enforced by the State Plumbing Board; and the heating sections of the code may be enforced by the State Fire Marshall. All building inspectors of local governmental units also may enforce this chapter.

SECTION 11. VIOLATION A MISDEMEANOR.) Any person who shall knowingly manufacture or sell a mobile home contrary to section 8 of this act shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not to exceed one hundred dollars for each offense.

SECTION 12. OTHER REMEDIES OF GOVERNMENT INSPECTORS.) The construction superintendent or any of the others named in section 10 of this chapter may institute any appropriate action or proceeding to restrain violations of this chapter or to prevent the occupancy or use of a mobile home manufactured after January 1, 1972, but not complying with the Uniform Standards Code for Mobile Homes, until such violations are corrected.

Approved March 8, 1971

## CHAPTER 501

SENATE BILL NO. 2123

(Christensen, Litten, Sorlie)

(From Legislative Audit and Fiscal Review Committee Study)

FOOD AND LODGING FOR  
INSTITUTIONAL OFFICERS AND EMPLOYEES

AN ACT providing a declaration of legislative intent relating to the allowance of free meals, lodging, and food supplies to officers and employees of state charitable and penal institutions, and to repeal sections 12-46-08, 12-47-09, and 25-01-09 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that officers and employees of institutions under the supervision of the director of institutions, the state health department, and the board of trustees of the soldiers' home shall not receive lodging or meals at such institutions unless a charge is made therefor, which charge shall be equal to the fair value of the meals and lodging provided. If an officer or employee is required by law to live at the institution, his lodging shall be furnished free of charge. Food supplies, other than meals for which a charge is made, shall not be provided to officers and employees of institutions under the supervision of the director of institutions, the state health department, and the board of trustees of the soldiers' home.

SECTION 2. REPEAL.) Sections 12-46-08, 12-47-09, and 25-01-09 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1971

## CHAPTER 502

SENATE BILL NO. 2220  
(Swedlund, Sorlie)

COUNTY FEES FOR STATEWIDE  
LAW ENFORCEMENT COMMUNICATIONS

AN ACT to amend and reenact section 54-23.1-07 of the North Dakota Century Code, providing for increased fees to counties for law enforcement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-23.1-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23.1-07. COUNTIES TO PAY FOR LAW ENFORCEMENT SYSTEM.) The director of institutions shall be paid by each county for approximately fifty percent of the cost of the law enforcement teletypewriter system, with charges to begin accruing on the first day the system becomes operational. Payments shall be made on the basis of the following schedule of charges:

1. Counties having a population of five thousand or less shall pay thirty dollars per month.
2. Counties having a population more than five thousand but less than ten thousand shall pay sixty dollars per month.
3. Counties having a population more than ten thousand but less than fifteen thousand shall pay ninety dollars per month.
4. Counties having a population more than fifteen thousand but less than twenty-five thousand shall pay one hundred twenty dollars per month.
5. Counties having a population in excess of twenty-five thousand shall pay one hundred sixty dollars per month.

Said payments shall be deposited in the communications account of the office of the director of institutions.

Approved March 3, 1971

## CHAPTER 503

SENATE BILL NO. 2135  
(Goldberg, Sanstead, Christensen)

DISTRIBUTION OF PUBLICATIONS  
BY STATE LIBRARY

AN ACT to amend and reenact section 54-24-09 of the North Dakota Century Code, relating to the state library's distribution of certain publications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-24-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-09. DISTRIBUTION OF CERTAIN STATE PUBLICATIONS FOR CERTAIN LIBRARIES REQUIRED.) All state departments, offices, and agencies shall deposit with the state library commission twelve copies of all publications issued by them, whether printed, mimeographed, or duplicated in any way, which are not issued solely for use within the issuing office. The state library commission shall keep one copy on file in its own library, transmit one copy to the library of congress, and transmit the remaining copies to depository libraries distributed geographically over the state, which libraries shall be those of the state historical society, North Dakota state university, the university of North Dakota, Minot public library, and Dickinson state college, plus five others which the state library commission shall determine.

Approved February 19, 1971

## CHAPTER 504

HOUSE BILL NO. 1410  
(Wagner)

## AVAILABILITY OF APPROPRIATIONS

AN ACT to amend and reenact section 54-27-10 of the North Dakota Century Code, relating to the availability of appropriations and the allocation of same.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-27-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-10. APPROPRIATIONS - WHEN AVAILABLE.) Unless otherwise authorized as provided in this section seventy-five percent of the total of all appropriations and of each separate item thereof made by the legislative assembly for the maintenance of any state institution, department, board, commission, or bureau for the biennium, except institutions under the jurisdiction and supervision of the state board of higher education, shall become available on the first day of July next succeeding the enactment by the legislative assembly. The remaining twenty-five percent of any such appropriation shall be available only at the beginning of the fourth quarter of the biennium. No state institution, department, board, commission, or bureau for which an appropriation is made shall disburse more than seventy-five percent of the appropriation during the first eighteen months of the biennium nor incur any expense or liability which shall be discharged from such appropriation or for which such appropriation shall become available. The term "maintenance" shall not apply to nor include moneys appropriated for the payment of the cost of any buildings or equipment or for making improvements and repairs to buildings and grounds, or any other special appropriations exempted from the operation of this section by the act making such appropriation. Whenever it is made to appear to the emergency commission by a verified petition submitted by a state institution, department, board, commission, or bureau that the percentage of the appropriation allocated for the first three-quarters of the biennium will not be adequate to properly perform its duties and functions, because of seasonal or other unusual circumstances, it may authorize a revision of the allocated percentage in any item, except salaries and wages, provided it will not deprive such state institution, department, board, commission, or bureau from maintaining its office for the fourth quarter of the biennium.

Approved March 22, 1971

## CHAPTER 505

SENATE BILL NO. 2091  
(Butler, Forkner, L. Larson, Rait)  
(From Legislative Council Study)

## ALLOCATION OF HIGHWAY TAX

AN ACT to amend and reenact section 54-27-19 of the North Dakota Century Code, relating to allocating highway tax distribution funds directly to cities and to establish a separate fund for the moneys received from the highway tax distribution fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-27-19 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-19. HIGHWAY TAX DISTRIBUTION FUND - STATE TREASURER TO MAKE ALLOCATION TO COUNTIES.) A highway tax distribution fund is hereby created as a special fund in the state treasury into which shall be deposited the moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. Any moneys in the highway tax distribution fund shall be transferred by the state treasurer, as follows:

1. Sixty-three percent of such moneys shall be transferred monthly to the state highway department and placed in a state highway department fund.
2. Thirty-seven percent of such moneys shall be allocated to the counties of this state in proportion to the number of motor vehicle registrations credited to each county. Each county shall be credited with the certificates of title of all motor vehicles registered by residents of such county. The state treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share. All the moneys received by the counties from the highway tax distribution fund shall be set aside in a separate fund called the "highway tax distribution fund" and shall be appropriated and applied solely for highway purposes in accordance with article 56 of the North Dakota Constitution. The state treasurer shall compute and distribute monthly twenty-seven percent of the sums allocated

to each county to the incorporated cities within such county on the basis of the per capita population of all of the incorporated cities situated within such county as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 of the North Dakota Century Code in case of a city incorporated subsequent to such census. The moneys sent to the incorporated cities by the state treasurer shall be deposited by the cities in a separate fund and shall only be used in accordance with article 56 of the North Dakota Constitution.

Approved March 29, 1971

## CHAPTER 506

HOUSE BILL NO. 1539  
(Solberg, Halcrow, Wagner, Linderman, Reimers)

## INDIAN DEVELOPMENT FUND

AN ACT to create an Indian development fund under the supervision of the North Dakota business and industrial development department, and making an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. INDIAN DEVELOPMENT FUND - ADMINISTRATION.) The business and industrial development department shall administer the Indian development fund as provided in this Act.

SECTION 2. PURPOSE.) It is declared that the Indian people of North Dakota need the assistance of their state to take full advantage of the opportunities they have to improve their economic well-being. It is further declared that increased economic strength and stability among the Indian people of North Dakota are clearly in the best interests of the entire state. Therefore, the Indian development fund is created to provide Indian communities with matching funds for federal economic expansion programs as may be required by the various agencies of the United States government, and thus provide additional opportunities for the Indian people of North Dakota to take full advantage of such programs.

## SECTION 3. DEFINITIONS.)

1. "Indian people" shall mean any people of American Indian ancestry living on the Indian reservations of Fort Berthold, Turtle Mountain, Fort Totten, or Standing Rock, and located within the boundaries of the state of North Dakota.
2. "Federal agency" shall mean and include the president of the United States of America and any department of, or any corporation, agency, or instrumentality heretofore or hereinafter created, designated, or established by the United States of America.
3. "Matching funds" shall mean the portion of state or local funds that may be required as a condition for receiving funds from a federal agency.
4. "Development project" shall mean any business or

industry to be owned and operated by Indian people to provide permanent employment for Indian people and located on a North Dakota Indian reservation.

SECTION 4. DEVELOPMENT PROJECT ELIGIBILITY.) Moneys from the Indian development fund may be used only for state or local matching funds as may be required by a federal agency for participation in federal Indian development projects. Such projects must be carried out by a tribal council or a corporation approved by the tribal council and organized by Indian people for the purpose of improving their economic well-being.

SECTION 5. APPLICATION FOR FUNDS.) The tribal council or corporation organized by Indian people shall make application for funds to the director of the North Dakota business and industrial development department. Such application shall include a description of the projects for which the funds will be used, along with copies of the applications to the federal agencies which are to provide major portions of the funds for the project. The director of the business and industrial development department shall consider each project on its merits and feasibility, and either approve or deny the application. The director of the business and industrial development department shall confer with appropriate state and federal officials and the tribal council as he deems necessary to properly analyze the feasibility of such a project or projects.

SECTION 6. APPROPRIATION.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$10,000.00 to the director of the business and industrial development department for use in carrying out the provisions of this Act. The maximum total of grants to Indian people on any single reservation in North Dakota shall be \$2,500.00. Any amount of this appropriation not spent or committed by June 30, 1973, shall be returned to the state treasury.

Approved March 29, 1971

## CHAPTER 507

HOUSE BILL NO. 1505  
(Raymond, Wilkie, Giffey)

## INDIAN AFFAIRS COMMISSION

AN ACT to amend and reenact sections 54-36-01 and 54-36-03 of the North Dakota Century Code relating to the North Dakota Indian affairs commission and its powers and duties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-36-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-36-01. COMMISSION - MEMBERS - OFFICERS - EXPENSES OF MEMBERS.) The North Dakota Indian affairs commission shall consist of the governor, executive director of the public welfare board of North Dakota, state health officer, director of the North Dakota employment security bureau, and the tribal chairmen of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian Reservations or their designees; and a representative of the North Dakota county commissioners' association who lives on or adjacent to an Indian reservation, a representative of the league of North Dakota cities, and two members at large who shall be at least one-fourth degree of Indian blood and appointed by the governor. The commission may call upon the state director of the business and industrial department for consultation upon business and industrial matters involved in the operation of the commission. The governor or his authorized representative shall act as chairman of the commission and the commission shall select one of its members as secretary. All members of the commission or their designees shall receive the mileage and expenses allowed state officers which shall be paid from the appropriation made to such commission except mileage and expenses of state officials shall be paid from the appropriation for the department they represent.

SECTION 2. AMENDMENT.) Section 54-36-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-36-03. POWERS AND DUTIES.) The commission shall have the power to assist and to mobilize the support of state and federal agencies in assisting Indian individuals and groups in

North Dakota, especially the four tribal councils, as they seek to develop their own goals, project plans for achieving those goals, and implement those plans. The commission's duties shall be:

1. To investigate any phase of Indian affairs and to assemble and make available the facts needed by tribal, state, and federal agencies to work effectively together;
2. To assist tribal, state, and federal agencies in developing programs whereby Indian citizens may achieve more adequate standards of living;
3. To assist tribal groups in developing increasingly effective institutions of self government;
4. To work for greater understanding and improved relationships between Indians and non-Indians;
5. To seek increased participation by Indian citizens in local and state affairs;
6. To confer with and coordinate officials and agencies of other governmental units and congressional committees with regard to Indian needs and goals.

Approved March 4, 1971

## CHAPTER 508

SENATE BILL NO. 2292  
(Lips)

DIVISION OF ALCOHOLISM  
AND DRUG ABUSE

AN ACT to amend and reenact sections 54-38-01, 54-38-02, 54-38-05, 54-38-06, 54-38-07 and 54-38-09 relating to the creation of a division of alcoholism and drug abuse within the State Department of Health and repealing sections 54-38-03, 54-38-04 and 54-38-08 of the North Dakota Century Code, relating to the state commission on alcoholism.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-38-01. DEFINITIONS.) In this chapter unless the context or subject matter otherwise requires:

1. "Alcoholic" shall mean any person who chronically and habitually uses alcoholic beverages to the extent that he has lost the power of self-control with respect to the use of such beverages, or while chronically or habitually under the influence of alcoholic beverages, endangers public morals, health, safety, or welfare;
2. "Department" shall mean the state department of health;
3. "Patients" shall mean persons who are under the supervision or care of the department;
4. "Alcoholism" shall mean the pathological condition attendant upon the excessive and habitual use of alcoholic beverages;
5. "Division" shall mean the division of alcoholism and drug abuse within the state department of health;
6. "Drug abuse" shall mean the use of drugs solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent prescribed in the course of medical treatment or in a program of research operated under the direction of a physician or pharmacologist; and

7. "Drug dependent persons" shall mean any person who has developed a state of psychic or physical dependence, or both, upon a drug following administration of that drug upon a repeated periodic or continuous basis.

SECTION 2. AMENDMENT.) Section 54-38-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-38-02. DIVISION OF ALCOHOLISM AND DRUG ABUSE.) There shall be a division of alcoholism and drug abuse within the department.

SECTION 3. AMENDMENT.) Section 54-38-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-38-05. DUTIES OF DEPARTMENT.) The department shall:

1. Study alcoholism and drug abuse and related problems, including methods and facilities available for the care, custody, detention, treatment, employment, and rehabilitation of resident alcoholics and drug dependent persons;
2. Promote meetings and programs for the discussion of alcoholism and drug abuse or any of their aspects, disseminate information on the subject of alcoholism and drug abuse for the guidance and assistance of individuals, courts, and public or private agencies for the prevention of alcoholism and drug abuse, and inform and educate the general public on problems of alcoholism and drug abuse, their prevention and treatment, to the end that alcoholism and drug abuse may be prevented and that persons suffering from alcoholism or drug dependency may be disposed to seek available treatment;
3. Conduct, promote, and finance, in full or in part, studies, investigations, and research, independently or in cooperation with universities, colleges, scientific organizations, and public or private agencies;
4. Accept for examination, diagnosis, guidance, and treatment, insofar as funds permit, any resident of the state coming to the department of his own volition for advice and guidance;
5. Establish, from time to time, policies governing the acceptance, care, and treatment of alcoholics and drug dependent persons; and
6. Employ such assistants as may be necessary. The present

staff of Chapter 54-38 may be transferred to the newly created Division of Alcoholism and Drug Abuse within the State Department of Health.

SECTION 4. AMENDMENT.) Section 54-38-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-38-06. DEPARTMENT MAY CONTRACT FOR SERVICES OF OTHER AGENCIES - TRAINING OF PERSONNEL.) The department may contract for such educational, research, casework, institutional and medical facilities, personnel and services of public or private agencies as may be necessary to carry out the provisions of this chapter. It may accept for training under its direction such medical, technical, and clinical personnel as may be desirable.

SECTION 5. AMENDMENT.) Section 54-38-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-38-07. FACILITIES FOR TREATMENT OF ALCOHOLISM.) The department may establish facilities for the treatment of alcoholics and drug dependent persons.

SECTION 6. AMENDMENT.) Section 54-38-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-38-09. REIMBURSEMENT FOR TREATMENT - RATES - DISPOSITION OF REVENUE AND AID - EXPENDITURES.) The department, insofar as may be possible, shall seek to be reimbursed by the patient or persons liable for the support of the patient for any or all items of expense incurred by the department in connection with the care, custody, treatment, and rehabilitation and may make such financial arrangements concerning necessary expenses as it deems best. No patient shall be charged at a rate greater than actual cost of the care, treatment, or rehabilitation furnished such patient. The department may accept funds, property, or services from any source, and all revenue received from gifts and grants-in-aid is hereby appropriated and shall be used in carrying out the provisions of this chapter.

SECTION 7. REPEAL.) Sections 54-38-03, 54-38-04 and 54-38-08 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1971

## CHAPTER 509

SENATE BILL NO. 2076  
(Nething)  
(From Legislative Council Study)

## INTERGOVERNMENTAL COOPERATION

AN ACT to amend and reenact section 54-40-08 of the North Dakota Century Code, relating to joint or cooperative action by political subdivisions in carrying out functions or duties which may be assigned to one or more of them.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-40-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40-08. JOINT FUNCTIONS - WHO MAY PARTICIPATE.) Any municipality, county, park district, school district, or other political subdivision of this state upon approval of its respective governing body may enter into agreements with one another for joint or cooperative action, on a cost-sharing basis, or otherwise, to carry out any function or duty which may be authorized by law or assigned to one or more of them, and to expend funds of such municipality, county, park district, school district, or other political subdivision pursuant to such agreement, to use unexpended balances of their respective current funds, to enter into lease-option to buy and contract for deed agreements between themselves and with private parties, and to accumulate funds from year to year for the provision of services and facilities, and to otherwise share or contribute property in accordance with such agreement in jointly and cooperatively carrying out such function or duty.

Approved March 19, 1971

## CHAPTER 510

SENATE BILL NO. 2120  
(Christensen, Litten)

(From Legislative Audit and Fiscal Review Committee Study)

DEPOSIT OF MONEYS OF  
OCCUPATIONAL AND PROFESSIONAL BOARDS

AN ACT to create and enact section 54-44-12; to amend and reenact sections 27-11-17, 27-11-23, 27-12-04, 27-12-06, 43-01-04, 43-04-07, subsections 6 and 8 of section 43-12-07, sections 43-13-07, 43-15-05, 43-19.1-09, 43-23-04, 43-26-05, and subsection 4 of section 43-27-04; and to repeal sections 43-02-07, 43-03-07, 43-04-08, subsection 2 of section 43-05-07, sections 43-06-06, 43-09-08, 43-10-09, 43-11-09, 43-15-11, 43-17-15, 43-18-07, 43-21-07, 43-25-15, 43-28-07, 43-32-15, and 43-34-06, all of the North Dakota Century Code, relating to the deposit and disbursement of the moneys received by all occupational and professional boards, associations, and commissions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 27-11-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-17. FEE PAYABLE BY ALL APPLICANTS FOR ADMISSION TO BAR - DISPOSITION OF FEES.) The state bar board shall receive a fee of twenty dollars from each applicant for admission to the bar of this state who submits to examination by the state bar board and shall receive a fee of one hundred dollars from each applicant for admission to the bar of this state who seeks admission upon motion in accordance with the provisions of sections 27-11-25 and 27-11-26. All such fees received shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 2. AMENDMENT.) Section 27-11-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-23. FEES FROM ANNUAL LICENSES TO BE DEPOSITED IN STATE BAR FUND.) The secretary-treasurer of the state bar board shall deposit and disburse all fees and moneys collected by the board in accordance with section 54-44-12.

SECTION 3. AMENDMENT.) Section 27-12-04 of the 1969

Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-04. MONEYS PAYABLE FROM STATE BAR FUND TO STATE BAR ASSOCIATION.) The state bar association of North Dakota, out of the state bar fund, annually shall receive eighty per cent of the annual license fees paid by licensed members, for the purpose of paying for the printing and distribution of the annual report and proceedings of said association and for the payment of other necessary expenses of the association. Such sum shall be paid quarterly to the association by the state bar board upon vouchers drawn in accordance with section 54-44-12.

SECTION 4. AMENDMENT.) Section 27-12-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-06. METHOD OF EXPENDITURE OF ASSOCIATION'S FUNDS - ANNUAL REPORT OF RECEIPTS AND DISBURSEMENTS.) Expenditures of funds from the state bar association special fund which consists of all moneys or fees collected or received by the association and which is deposited or disbursed in accordance with section 54-44-12, shall be approved by the president and executive director of said association. The secretary-treasurer of said association, in addition to the duties imposed upon him by the constitution, bylaws, and rules of the association, annually shall file in the office of the secretary-treasurer of the state bar board an itemized statement of the receipts and disbursements of said association.

SECTION 5. AMENDMENT.) Section 43-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-04. COMPENSATION.) A member of the board shall receive five dollars for each day he actually is engaged in the performance of the duties of his office and such mileage as is provided for in section 54-06-09. In addition thereto, he shall receive for expenses five dollars a day while absent from home. All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 6. AMENDMENT.) Section 43-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-07. COMPENSATION - MILEAGE - HOW PAID.) Each member of said board shall receive twelve dollars per day for actual services and shall also be paid his actual expenses as provided by law incurred in attending said meetings and in the performance of his official duties. All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 7. AMENDMENT.) Subsections 6 and 8 of section 43-12-07 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

6. Receive all fees and moneys collected under sections 43-12-01 through 43-12-24, and deposit and disburse them in accordance with section 54-44-12;
8. Report all receipts and expenditures of said funds at the close of each fiscal year to the governor and the legislative assembly. Any balance of such fees after payment of such compensation and expenditures is to be used only in administering sections 43-12-01 through 43-12-24.

SECTION 8. AMENDMENT.) Section 43-13-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-07. COMPENSATION AND EXPENSES OF BOARD MEMBERS.) Each member of the board shall receive twenty-five dollars as compensation for each day he actually is engaged in performing the duties of his office, and such mileage and travel expenses as are provided for in section 54-06-09 and additional allowance for other necessary expenses incurred in attending said meeting not to exceed five dollars per day. All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 9. AMENDMENT.) Section 43-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-05. COMPENSATION OF BOARD - DISPOSITION OF FEES.) Each member of the board shall receive a per diem of twenty dollars for attendance at board meetings, and all actual and necessary expenses incurred in attending such meetings and in performing other official duties. The mileage and travel expense allowed shall not exceed the amount provided for in section 54-06-09. All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 10. AMENDMENT.) Section 43-19.1-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-09. RECEIPTS AND DISBURSEMENTS.) The secretary of the board shall receive and account for all moneys derived under the provisions of this chapter, and shall deposit and disburse the same in accordance with section 54-44-12. The secretary shall give a surety bond to the state in such sum as may be required by the laws of this state. The premium on said bond shall be regarded as a proper and necessary expense of the board.

The secretary shall receive such salary as the board shall determine. The board shall employ such clerical or other assistants as are necessary for the proper performance of its work, and shall make expenditures of this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this chapter, including but not limited to the expenses of the board's delegates to meetings of, and membership fees to, the national council of state boards of engineering examiners and any of its subdivisions. Under no circumstances shall the total amount of warrants issued in payment of the expenses and compensation provided for in this chapter exceed the amount of moneys collected.

SECTION 11. AMENDMENT.) Section 43-23-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-04. COMMISSION - COMPENSATION.) The members of the commission shall receive twenty-five dollars for each day actually engaged in the service of the commission and shall be paid actual and necessary traveling expenses to be paid only from the fund derived from fees collected in the administration of this chapter. All moneys or fees collected or received by the commission shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 12. AMENDMENT.) Section 43-26-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-05. OFFICERS - DUTIES - COMPENSATION.) Annually a president, vice president, and secretary shall be elected by the board from its members to serve for one year or until their successors are elected and qualified. The state examining committee shall serve in an advisory capacity to the state board of medical examiners in matters pertaining to physical therapists, and the state board of medical examiners shall have authority to prescribe reasonable rules and regulations relative to the qualification and examination of physical therapist applicants. As to any matters coming under its jurisdiction, the state examining committee may take such testimony as it may deem necessary in the exercise of its powers and the performance of its duties under the provisions of this chapter, and any member of said committee shall have the power to administer oaths in the taking of such testimony.

A simple majority of the committee shall constitute a quorum for the transaction of business. The secretary shall keep a record of all proceedings of said committee. The examining committee shall meet at such time and at such place as the president shall direct, under the direction of the state board of medical examiners, except that the committee shall conduct the examination for the registration of physical therapists at least once each year. The board of medical exam-

iners may appoint and fix the compensation of such employees as may be necessary to assist the examining committee and the board of medical examiners shall have the power to employ such expert assistance as it may deem necessary to carry out the purposes of this chapter. No member of the examining committee shall receive any compensation for time spent in the performance of his duties but shall receive actual expenses and travel expenses payable out of the funds of the board. All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 13. AMENDMENT.) Subsection 4 of section 43-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The secretary shall collect the fees and moneys and deposit and disburse the same in accordance with section 54-44-12.

SECTION 14.) Section 54-44-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-44-12. DEPOSIT AND DISBURSEMENT OF FUNDS OF OCCUPATIONAL AND PROFESSIONAL BOARDS.) All occupational and professional boards, associations, and commissions created by law shall deposit all fees and other moneys received in any bank selected by the majority vote of the governing body of the board, association, or commission. Checks may be drawn against the bank account, opened pursuant to this section, for the authorized expenditures of the board, association, or commission on the signature or signatures of the person or persons authorized to so act by the governing body. All moneys in accounts opened pursuant to this section are hereby appropriated for the use of the occupational or professional board, association, or commission opening the account.

SECTION 15. REPEAL.) Sections 43-03-07, 43-04-08, subsection 2 of section 43-05-07, sections 43-06-06, 43-09-08, 43-10-09, 43-11-09, 43-15-11, 43-17-15, 43-18-07, 43-25-15, and 43-28-07, of the North Dakota Century Code; and sections 43-02-07, 43-21-07, 43-32-15, and 43-34-06 of the 1969 supplement to the North Dakota Century Code are hereby repealed.

Approved February 19, 1971

## CHAPTER 511

SENATE BILL NO. 2232  
(Sanstead, Christensen, Doherty, Lips)

DELINQUENT REPAYMENT OF FEDERAL  
DISASTER MONEY OVERPAYMENT

AN ACT to authorize the state department of accounts and purchases to withhold funds due a political subdivision if the subdivision is delinquent in repaying overpayments made under federal natural disaster laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. FAILURE OF POLITICAL SUBDIVISIONS TO REPAY NATURAL DISASTER OVERPAYMENTS - ACCOUNTS AND PURCHASES AUTHORIZED TO WITHHOLD FUNDS.) Whenever an overpayment made to any state political subdivision under Public Law 91-606, passed by the Ninety-first Congress and entitled the Disaster Relief Act of 1970, and all Acts amendatory and supplemental thereto, is not repaid by the following July first, the state department of accounts and purchases shall:

1. Upon certification from the governor's natural disaster representative that a political subdivision is delinquent in repaying such overpayment, withhold all funds, grants-in-aid, tax shares, and other similar moneys due the subdivision from the state until the subdivision repays either the federal or state government.
2. Cease to withhold funds when the governor's natural disaster representative certifies that the subdivision has repaid the overpayment.

Approved March 3, 1971

## CHAPTER 512

HOUSE BILL NO. 1198

(Hilleboe, Strinden, Bunker, Hentges, W. Erickson, Rivinius)

## DISPOSAL OF PUBLIC RECORDS

AN ACT to amend and reenact section 54-46-08 of the North Dakota Century Code, providing for the disposal of records, and to repeal section 46-04-20 of the North Dakota Century Code, relating to the destruction of public records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-46-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-46-08. DISPOSAL OF RECORDS.) No type or class of record shall be destroyed or otherwise disposed of by any agency of the state, unless it is determined by the administrator, after consultation with the official or department head concerned, the attorney general, and a representative of the historical society, that the type or class of record is unnecessary and has no further administrative, legal, fiscal, research, or historical value. The administrator shall annually survey the state agencies and, if he shall find that any agency has failed to dispose of any records which have been determined to have no further value pursuant to the provisions of this section, he shall order the disposal of such records.

SECTION 2. REPEAL.) Section 46-04-20 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 4, 1971

## CHAPTER 513

HOUSE BILL NO. 1043  
(Bunker, Strinden)  
(From Legislative Council Study)

## CENTRAL MICROFILM UNIT

AN ACT to provide for a central microfilm unit in the office of the secretary of state; to provide for the transfer of certain microfilm equipment to the secretary of state; and providing an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. CENTRAL MICROFILM UNIT.) The secretary of state, in his capacity as state records administrator, shall establish and maintain a central microfilm unit and microfilm any record of any state office, agency, or department in either the executive, legislative, or judicial branch of state government, if he shall determine the cost of such microfilming is reasonable in relation to such record's historical significance or the frequency and type of use of such record. Each office, agency, and department shall reimburse the central microfilm unit for the actual costs incurred in microfilming its records, which collections shall be deposited in a special fund in the state treasury. Expenditures required for the operation of the central microfilm unit shall be made from such fund and limited to such amounts as appropriated by the legislative assembly. The secretary of state shall employ such other professional, technical, and clerical personnel as he may deem necessary to carry out the duties prescribed in this Act and shall, within the limits of the legislative appropriation, fix the salaries of all employees within the central microfilm unit. All personnel within the central microfilm unit shall be allowed their actual and necessary travel expenses at the same rate as for other employees of the state. The central microfilm unit shall be located in the state capitol building.

SECTION 2. TRANSFER OF EQUIPMENT - EXCEPTION - ALTERNATIVE SERVICES.) All microfilming equipment, except microfilm readers and reader-printers, in the state capitol building, the state highway department building, the state office building, and all other buildings on the capitol grounds shall, upon the effective date of this Act, be subject to transfer and control by the secretary of state. The secretary of state shall have the authority to transfer such equipment to the central microfilm unit if, in his judgment, the needs of the central microfilm unit require such transfer and there

are no special circumstances which justify an exception. Where any such equipment so transferred from any office, agency, or department was purchased from a dedicated fund or trust fund, the secretary of state shall credit such office, agency, or department with an amount equal to the fair market value or fair rental value, if leased, of such equipment, and charges thereafter made to such office, agency, or department for services rendered by the central microfilm unit shall be offset against such credit. The secretary of state shall have the authority to authorize an office, agency, or department to make other arrangements for microfilm services if the central microfilm unit is unable to perform the services required or if, in his judgment, the special needs of such office, agency, or department justify such an exception.

SECTION 3. REPRODUCTIONS ADMISSIBLE IN EVIDENCE - PREPARATION OF ENLARGED COPIES.) A photographic, microphotographic, or microfilm copy of any record, or a certified copy thereof, shall be admissible as evidence in any court or proceeding and shall have the same force and effect as though the original record has been produced and proved. It shall be the duty of the custodian of such records to prepare enlarged copies of the records whenever their production is required by law.

SECTION 4. DUPLICATE STORAGE OF MICROFILM RECORDS.) Whenever any record or document is copied or reproduced as provided in this Act, the secretary of state shall provide for duplicate storage of such photographic reproductions. The secretary of state may enter into contracts for duplicate storage services if, in his judgment, such contracts are necessary for the safekeeping of photographic reproductions.

SECTION 5. RESTRICTION ON PURCHASES AND CONTRACTS FOR MICROFILM EQUIPMENT AND SERVICES.) No state office, agency, or department located in the city of Bismarck shall enter into any contract or agreement for the purchase or lease of any microfilm equipment or services without the express approval of the secretary of state.

SECTION 6. PROMULGATION OF RULES AND REGULATIONS.) The secretary of state shall have the authority to issue rules and regulations to establish standard procedures and practices in the development and use of the central microfilm unit.

SECTION 7. SECRECY PROVISION.) The personnel of the central microfilm unit are hereby authorized to receive from the various departments, and the employees of the various departments are hereby authorized to provide for the central microfilm unit, any information from the files and records of the various departments necessary to effect the purposes of this Act without regard to the confidential or secret nature of the information; provided, however, the personnel of the central microfilm unit shall be subject to the same restrictions

and penalties regarding the dissemination of this information as are the personnel of the department involved.

SECTION 8. APPROPRIATION - TRANSFERS.) There is hereby appropriated out of any unappropriated funds in the central microfilm unit special fund in the state treasury derived from transfers, income, and collections, the sum of \$107,200.00, or so much thereof as may be necessary, for the operation of the central microfilm unit for the biennium beginning July 1, 1971, and ending June 30, 1973, to wit:

Salaries and wages	\$ 63,000.00
Fees and services	10,000.00
Supplies and materials	15,000.00
Equipment	19,200.00
Total	<u>\$107,200.00</u>
Less estimated income	<u>77,200.00</u>
Total general fund	<u>\$ 30,000.00</u>

The sum of \$30,000.00 is hereby transferred from the general fund in the state treasury to the central microfilm unit special fund.

Approved March 27, 1971

## CHAPTER 514

SENATE BILL NO. 2426  
(Christensen)

NATURAL RESOURCES AND  
ENVIRONMENTAL MANAGEMENT COUNCIL

AN ACT to amend and reenact section 54-49-01 of the North Dakota Century Code, relating to the name of the Natural Resources Council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-49-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-49-01. SHORT TITLE.) This chapter may be known as the Natural Resources and Environmental Management Council Law. Wherever the terms "natural resources council" or "council" appears in this chapter they shall mean "natural resources and environmental management council".

Approved March 27, 1971

## CHAPTER 515

SENATE BILL NO. 2282  
(Doherty, Morgan)

EMPLOYEES' RETIREMENT SYSTEM  
COVERAGE

AN ACT to amend and reenact subsections 3 and 6 of section 54-52-01 and section 54-52-02 of the North Dakota Century Code, relating to definitions and formulation of plans under the state employees' retirement system, and to provide a legislative intent relating to prior service benefits for District Health Unit qualified employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 3 and 6 of section 54-52-01 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. "Employee" shall mean any person employed by the state of North Dakota, or by a county or city thereof, or the Garrison Conservancy District, or District Health Units, or any noncertified employee of any school district, including all public school districts and the Fargo school district, whose compensation is paid out of state, county, city, or school district funds, or funds controlled or administered by a state department, county, city, or school district, or paid by the federal government through any of its executive or administrative officials; noncertified employees of a school district shall mean those employees not eligible to participate in the teachers' insurance and retirement fund;
6. "Permanent employee" shall mean a state, county, city, Garrison Conservancy District, District Health Units, or noncertified school district employee who has been employed by the state, county, city, or school district for five continuous months, and is employed for more than twenty hours per week and more than five months each year;

SECTION 2. AMENDMENT.) Section 54-52-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-02. FORMULATION OF PLAN - EXCLUSION OF EMPLOYEES

COVERED BY PLANS IN EXISTENCE.) All departments, boards, institutions, commissions, or agencies of the state of North Dakota, the Garrison Conservancy District, and the District Health Units, hereinafter referred to as agency, shall participate in a retirement system which will provide for the payment of benefits to state employees or to their beneficiaries thereby enabling the employees to care for themselves and their dependents and which by its provisions will improve state employment, reduce excessive personnel turnover and offer career employment to high grade men and women. Employees presently covered by a pension plan or retirement plan to which the state has contributed, except social security, shall not be eligible for duplicate coverage.

SECTION 3. LEGISLATIVE INTENT.) It is the intent of the Legislative Assembly that employees coming into the plan by virtue of this Act shall be granted the same prior service benefits which they would have received, had they enrolled under the original State Employee Retirement Act, provided that it is actuarially possible.

Approved March 29, 1971

## CHAPTER 516

SENATE BILL NO. 2148  
(Erdman)

PRIOR SERVICE CREDITS FOR  
POLITICAL SUBDIVISION EMPLOYEES

AN ACT to create and enact subsection 4 of section 54-52-02.1 of the North Dakota Century Code, relating to the authority for city, county, and school district employees to join the public employees' retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 4 of section 54-52-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

4. Notwithstanding the provisions of subsection 3 of this section, any city, county, or school district entering into an agreement for retirement benefits under the provisions of this chapter between the dates of November 1, 1969, and January 1, 1972, shall be eligible for prior service credits for its employees. Such prior service credits shall be calculated in the same manner as in sections 54-52-19 and 54-52-20, except that the dates of January 1, 1969, and December 31, 1963, shall be substituted for the dates set forth in section 54-52-19. Any membership fees and assessments required to be placed in a city, county, or school district administrative expense and benefit fund by this chapter that are received through an agreement entered into under this subsection shall be placed in separate city, county, or school district administrative expense and benefit funds created for this purpose from which the prior service benefits authorized by this subsection shall be paid.

Approved February 19, 1971

## CHAPTER 517

HOUSE BILL NO. 1093  
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)  
(From Legislative Council Study)

## UNIFORM GROUP INSURANCE PROGRAM

AN ACT to provide for a uniform group insurance program for state employees, for its administration, and for a state contribution; to amend and reenact section 54-52-04 of the North Dakota Century Code, relating to powers and duties of the state employees' retirement board; and to repeal chapter 52-12 of the North Dakota Century Code, relating to state employees' medical and life insurance plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) As used in this Act, unless the context otherwise requires:

1. "Eligible employee" shall mean all permanent employees who are employed by the state. Eligible employees shall also include members of the legislative assembly, judges of the supreme court, elective state officers as defined by subsection 1 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workmen's compensation fund. As used in this subsection, "permanent employee" shall mean any person hired with the intent that he shall be employed for more than twenty hours per week for more than five months each year.
2. "Board" shall mean the state employees' retirement board.
3. "Hospital benefits coverage" shall mean a plan which either provides coverage for, or pays, or reimburses expenses for hospital services incurred in accordance with the uniform contract.
4. "Medical benefits coverage" shall mean a plan which either provides coverage for, or pays, or reimburses expenses for medical services in accordance with the uniform contract.
5. "Life insurance benefits coverage" shall mean a plan which provides both term life insurance and accidental death and dismemberment insurance in amounts determined

by the board, with a minimum of one thousand dollars provided for the term life insurance portion of the coverage.

6. "Carrier" shall mean:

- a. For the hospital benefits coverage, an insurance company authorized to do business in the state, or a nonprofit hospital service association, or a prepaid group practice hospital care plan authorized to do business in the state.
- b. For the medical benefits coverage, an insurance company authorized to do business in the state, or a nonprofit medical service association, or a prepaid group practice medical care plan authorized to do business in the state.
- c. For the life insurance benefits coverage, an insurance company authorized to do business in the state.

7. "Department, board, or agency" shall mean the departments, boards, agencies, or associations of this state, and shall include the charitable, penal, and higher educational institutions, the Bank of North Dakota, and the state mill and elevator association.

SECTION 2. UNIFORM GROUP INSURANCE PROGRAM CREATED - FORMATION INTO SUBGROUPS.) In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade men and women to enter and remain in the service of state employment, there is hereby created a uniform group insurance program. The uniform group shall be composed of eligible employees, and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this Act. The uniform group may be divided into subgroups at the discretion of the board.

SECTION 3. EMPLOYEE PARTICIPATION IN PLAN - EMPLOYEE TO FURNISH INFORMATION - BENEFITS TO CONTINUE UPON RETIREMENT OR TERMINATION.) Any eligible employee may be enrolled in the uniform group insurance program created by this Act by requesting enrollment with the employing department. An eligible employee who requests enrollment shall be enrolled with the board by the employing department within five days after the expiration of the payroll period during which enrollment was requested. The employee's insurance coverage shall become effective on the date of his enrollment. Upon the retirement of an eligible employee who is entitled to a retirement allowance from a department, board, or agency, or upon the termination of employment of an eligible employee not of retirement age who, upon retirement, will receive a deferred retirement allowance from a department,

board, or agency, such employee may continue as a member of the uniform group under the provisions of this Act, provided that no state contribution for such employee shall be made, and the employee shall pay the premiums directly to the board. Upon the termination of employment where the employee is not entitled to either retirement benefits or a deferred retirement allowance, such employee shall not continue as a member of the uniform group, but may continue on an individual basis with the carrier, with such coverage to be offered at the lowest possible rate, to be determined by the board. Each eligible employee requesting enrollment shall furnish the appropriate person in the employing department, board, or agency with such information and in such form as prescribed by the board to enable the enrollment of himself, or himself and his dependents, in the uniform group insurance program created by this Act. In the event the participating employee is a teacher in a state charitable, penal, or educational institution who receives a salary or wages on a nine-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include such employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

SECTION 4. BOARD TO CONTRACT FOR INSURANCE.) The board shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage for a specified term, and shall accept the bid of and contract with the carrier that in the judgment of the board shall best serve the interests of the state and its eligible employees. A solicitation for bids shall be made within ninety days of the effective date of this Act. Subsequent solicitations shall be made not later than ninety days prior to the expiration of an existing uniform group insurance contract. Bids shall be solicited by advertisement in such manner as selected by the board that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the board may utilize the services of consultants on a contract basis in order that the bids received can be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the board shall give adequate consideration to the following factors:

1. The economy to be effected.
2. The ease of administration.
3. The adequacy of the coverages.
4. The financial position of the carrier, with special emphasis as to its solvency.
5. The reputation of the carrier and such other information as is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

The board may reject any or all bids and, in the event it does so, shall again solicit bids as provided in this section.

SECTION 5. PROVISIONS OF CONTRACT.) Each uniform group insurance contract entered into by the board shall be consistent with the provisions of this Act, shall be signed for the state of North Dakota by the chairman of the board, and shall include the following:

1. As many optional coverages as deemed feasible and advantageous by the board.
2. A detailed statement of benefits offered, including maximum limitations and exclusions, and such other provisions as the board may deem necessary or desirable.

SECTION 6. STATE CONTRIBUTION - SALARY DEDUCTION FROM EMPLOYEE.) Each department, board, or agency shall pay to the board each month from its funds appropriated for payroll and salary amounts a state contribution in the sum of seven and one-half dollars for each of its eligible employees enrolled in the uniform group insurance program, such amount to be applied towards payment of the uniform group insurance cost for each such employee. In addition, the department, board, or agency shall cause to be withheld from each such employee's salary, wages, or other compensation, such amount as will equal the remainder of the uniform group insurance cost for that individual employee, and shall forward such amount to the board. The board shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount shall be credited at least annually to the uniform group insurance program to reduce the amount of premium amounts paid monthly by enrolled eligible employees. In the event an enrolled eligible employee is not entitled to receive salary, wages, or other compensation for a particular calendar month, he may make direct payment of the required premium to the board to continue his coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of his right to make such payment at the time such right arises.

SECTION 7. OPTIONAL COVERAGE FOR EMPLOYEE'S FAMILY.) Each eligible employee enrolled in the uniform group insurance program may elect to include his spouse and all qualified dependents (as provided for in the plan) within the hospital benefits coverage and medical benefits coverage, the employee to be assessed the entire cost of such coverage. Such assessment shall be deducted and retained out of his salary, wages, or other compensation, in equal monthly installments and forwarded to the board as in section 6 of this Act.

SECTION 8. ADMINISTRATION - BOARD TO PROMULGATE RULES AND REGULATIONS.) It shall be the responsibility of the board to

account for and disburse premium payments, maintain records, prepare reports, and to perform such other functions as may be necessary to carry out the provisions of this Act. The board may promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

SECTION 9. REPORTS.) Each department, board, or agency shall keep such records, make such certifications, and furnish the board or carriers with such information and reports as may be necessary to enable the board or carriers to carry out their functions under the provisions of this Act. Carriers that have entered into a contract with the board shall be required to furnish such reasonable reports as the board determines to be necessary, and to permit the board to examine those records that relate to the uniform group insurance program.

SECTION 10. STATE PREMIUM TAX.) All premiums, consideration for annuities, policy fees, and membership fees collected under the provisions of this Act, shall be exempt from the tax payable pursuant to section 26-01-11 of the North Dakota Century Code.

SECTION 11. AMENDMENT.) Section 54-52-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-04. BOARD AUTHORITY.) The board shall have the following powers and duties:

1. The board shall have the power and duty, subject to the limitations of this chapter, of managing the system. It shall have the powers and privileges of a corporation, including the right to sue and be sued in its own name as such board. The venue of all actions in which the board is a party shall be Burleigh County, North Dakota.
2. The board shall appoint an executive director to serve at its discretion. The executive director shall be bonded by the state bonding fund in the amount required by the board and shall perform such duties as assigned by the board.
3. The board shall authorize the creation of whatever staff it deems necessary for sound and economical administration of the system. The executive director shall hire the staff, subject to the approval of the board.
4. The board shall arrange for actuarial and medical advisors for the system. It shall cause a qualified, competent actuary to be retained on a consulting basis. During the first year of operation of the system and at least once every three years thereafter, the actuary

shall make a general investigation of the stability of the system. The actuary shall also perform such other duties as may be assigned by the board.

5. The board shall be provided by the state with the retirement systems office or offices to be used for the meetings of the board and for the general purposes of the administrative personnel.
6. The board shall select the funding agent or agents and establish an investment agreement contract. The contract shall authorize the funding agent or agents to hold and invest moneys for the system. No moneys of the system shall be invested by the board. Said moneys shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. All securities, agreements, contracts, or instruments of value shall be delivered to the Bank of North Dakota, or its agents. Except for dispensing money to the funding agent or agents, paying prior service benefits, or making withdrawal payments and refunds, the board shall expend money only for administrative purposes by preparing an appropriate voucher and submitting such voucher to the department of accounts and purchases and as limited by the appropriation first made by the legislative assembly.
7. The board shall administer the provisions of the Act providing for a uniform group insurance program for state employees.

SECTION 12. REPEAL.) Chapter 52-12 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved February 26, 1971

## CHAPTER 518

SENATE BILL NO. 2181  
(Ringsak, Morgan, Thoreson)

ESCHEAT OF POSTAL SAVINGS  
SYSTEM ACCOUNTS

AN ACT relating to the escheat of unclaimed accounts of the Postal Savings System held by the United States Treasury Department; providing an appropriation; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DECLARATION OF ESCHEAT.) All Postal Savings System accounts created by the deposits of persons whose last known addresses are in this state which have not been claimed by the persons entitled thereto before May 1, 1971, are presumed to have been abandoned by their owners and are declared to escheat and become the property of the state.

SECTION 2. OBTAINING INFORMATION ON ACCOUNTS.) The treasurer shall request from the Bureau of Accounts of the United States Treasury Department records providing the following information: the names of depositors at the post office of this state whose accounts are unclaimed, their last address as shown by the records of the Post Office Department, and the balance in each account. He shall agree to return to the Bureau of Accounts promptly all account cards showing last addresses in another state.

SECTION 3. PROCEEDING TO ADJUDICATE ESCHEAT.) The state treasurer may bring proceedings in the district court for the county of Burleigh to escheat unclaimed Postal Savings System accounts held by the United States Treasury Department. A single proceeding may be used to escheat as many accounts as may be available for escheat at one time.

SECTION 4. NOTICE.) The state treasurer shall notify depositors whose accounts are to be escheated as follows:

1. A letter advising that a Postal Savings System account in the name of the addressee is about to be escheated and setting forth the procedure by which a deposit may be claimed shall be mailed by first class mail to the named depositor at the last address shown on the account records for each account to be escheated having an unpaid principal balance of more than twenty-five dollars.

2. A general notice of intention to escheat Postal Savings System accounts shall be published once in each of three successive weeks in one or more newspapers which combine to provide general circulation throughout this state.
3. A special notice of intention to escheat the unclaimed Postal Savings System accounts originally deposited in each post office must be published once in each of three successive weeks in a newspaper published in the county in which the post office is located or, if there is none, in a newspaper having general circulation in the county. This notice must list the names of the owners of each unclaimed account to be escheated having a principal balance of three dollars or more.

SECTION 5. COLLECTION AND DEPOSIT OF FUNDS.) The state treasurer shall present a copy of each final judgment of escheat to the United States Treasury Department for payment of the principal due and the interest computed under regulations of the United States Treasury Department. The payment received shall be deposited in the general fund in the state treasury.

SECTION 6. INDEMNIFICATION OF THE UNITED STATES.) This state shall indemnify the United States for any losses suffered as a result of the escheat of unclaimed Postal Savings System accounts. The burden of indemnification falls upon the fund into which the proceeds of the escheated accounts have been paid.

SECTION 7. SHORT TITLE.) This Act may be cited as the Escheat of Postal Savings System Accounts Act.

SECTION 8. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of one thousand dollars, or so much thereof as may be necessary, to the state treasurer for the purpose of administering this Act for the biennium beginning July 1, 1971, and ending June 30, 1973.

SECTION 9. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 27, 1971

## CHAPTER 519

SENATE BILL NO. 2209  
(Kautzmann)

LEASING LAND TO  
NORTHWESTERN BELL TELEPHONE COMPANY

AN ACT to authorize the North Dakota director of institutions to grant to northwestern bell telephone company an easement over certain tracts of state land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AUTHORITY TO GRANT EASEMENT.) Authorization is hereby granted to the North Dakota director of institutions to execute an easement to northwestern bell telephone company for the purpose of construction, operation, maintenance, replacement, and enlargement of buried or underground telephone and communication lines, cables, wires, conduits, manholes, drains and splicing boxes, surface testing materials, markers, and other appurtenances, under, through, across, and upon certain property owned by the state of North Dakota and under the control of the director of institutions, said property described as follows:

1. A tract of land sixteen and one-half feet wide, being eight and one-quarter feet on either side of the first cable placed, situated in section four, township one hundred thirty-eight north, range eighty-one west, in Morton County, North Dakota, and along a line described as follows: Commencing at a point approximately one thousand six hundred feet north and one thousand eight hundred feet west of the southeast section corner, and running south, parallel to and one hundred fifteen feet west of the center line of North Dakota highway number six to the south section line.
2. Three tracts of land sixteen and one-half feet wide, being eight and one-quarter feet on either side of the first cable placed, situated in section nine, township one hundred thirty-eight north, range eighty-one west, in Morton County, North Dakota, and along lines described as follows:
  - a. Commencing at a point on the north section line approximately one thousand two hundred seventy feet west of the northeast section corner, and running southeast, parallel to and one hundred fifteen feet west of the center line of North Dakota highway number six for a distance of approximately one

thousand three hundred ninety feet, hence south, parallel to and six hundred feet west of the east section line to the south section line.

- b. Commencing at a point on the east section line approximately one thousand one hundred seventy-five feet south of the northeast section corner and running southwest for a distance of approximately six hundred twenty feet to a point of intercept with tract A one hundred fifteen feet west of the center line of North Dakota highway number six.
- c. Commencing at a point approximately one thousand two hundred ninety feet west and eighty feet north of the southeast section corner and running east, parallel to and eighty feet north of the south section line to the east section line.

Approved March 3, 1971

## CHAPTER 520

SENATE BILL NO. 2315  
(Litten)

FUNDING OF  
COUNCIL ON ARTS AND HUMANITIES

AN ACT to repeal section 8 of chapter 397 of the 1967 Session Laws of North Dakota, prohibiting the funding of the council on the arts and humanities from the state's general fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 8 of chapter 397 of the 1967 Session Laws of North Dakota is hereby repealed.

Approved March 11, 1971

## CHAPTER 521

SENATE BILL NO. 2401  
(Jones)

SALE OF LAND OF  
SCHOOL FOR THE DEAF

AN ACT to provide for the sale of city lot managed and controlled by the school for the deaf.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. THE DIRECTOR OF INSTITUTIONS MAY SELL CERTAIN LAND OF THE SCHOOL FOR THE DEAF OF NORTH DAKOTA.) The director of institutions is hereby authorized to sell certain state lands under the control and management of the school for the deaf of North Dakota, and to have the land appraised, and may sell the land for not less than its appraised value, and is authorized to negotiate its sale.

The land, consisting of part of a city lot, is described as follows:

The west sixty-seven feet of the south one-half of lot one of Francis T. Richardson Subdivision of a part of the southeast one-fourth of section twenty-seven, in township one hundred fifty-four, north of range sixty-four, west of the fifth principal meridian.

The said real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed.

SECTION 2.) The state shall not be responsible for the payment of any special assessment levied and assessed by any taxing district against property subject to sale and conveyance pursuant to this Act.

Upon the sale of such land, the proceeds shall be deposited in a special fund in the state treasury and the funds so deposited shall be appropriated by the legislature for the use and benefit of the school for the deaf at Devils Lake.

Approved March 3, 1971

## CHAPTER 522

SENATE BILL NO. 2416  
(Jones)

SALE OF LAND TO  
DEVILS LAKE SCHOOL DISTRICT

AN ACT to amend and reenact section 1 of chapter 409 of the 1969 Session Laws of North Dakota, relating to the sale of land belonging to the school for the deaf.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 1 of chapter 409 of the 1969 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 1. DIRECTOR OF INSTITUTIONS MAY SELL CERTAIN LANDS OF THE SCHOOL FOR THE DEAF OF NORTH DAKOTA TO DEVILS LAKE PUBLIC SCHOOL DISTRICT.) The director of institutions is hereby authorized to sell certain state lands under the control and management of the school for the deaf of North Dakota to the Devils Lake public school district number one for the use of the lake region junior college, described as follows:

That portion of the east one-half of the northwest one-quarter of section twenty-seven, township one hundred fifty-four north, range sixty-four west of the fifth principal meridian, county of Ramsey, state of North Dakota, more particularly described as starting at a point one thousand three hundred twenty-one and one-tenth feet north eighty-nine degrees fifty-five minutes east of the northwest corner of said section twenty-seven, thence south zero degrees three minutes west two thousand six hundred forty-three and five tenths feet along the west boundary of the east one-half of the northwest one-quarter of said section twenty-seven thence north eighty-nine degrees fifty-six minutes east one thousand forty-one and seven-tenths feet along the northern boundary of the lake region junior college property, thence north two degrees twelve minutes east two thousand six hundred forty-six feet along the west right-of-way of North Dakota highway number twenty, thence south eighty-nine degrees fifty-five minutes west one thousand one hundred forty and one-tenth feet to the point of beginning, the described tract to contain sixty-six and twenty-one hundredths acres, more or less.

The director of institutions shall cause the above described property to be appraised in accordance with its value for agricultural purpose and set the minimum sale price for said land. The said director of institutions is authorized to negotiate the sale of the aforescribed real estate, but, under no conditions may negotiate for the sale of the land in an amount less than that appraised by the board of university and school lands. Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed. Further, the quitclaim deed shall recite that if the land is ever no longer used for school purposes, then the land shall revert to the state of North Dakota upon the payment to the school district, the same price for which it was purchased.

Upon the sale of such land, the proceeds shall be deposited in a special fund in the state treasury and the funds so deposited shall be appropriated by the legislature for the use and benefit of the school of the deaf at Devils Lake.

The said real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

Approved March 11, 1971

## CHAPTER 523

SENATE BILL NO. 2443  
(Kautzmann)

SALE OF LAND OF  
STATE INDUSTRIAL SCHOOL

AN ACT authorizing the director of institutions to lease certain property now owned by the state and under the control of the state industrial school.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Whereas the board of administration, pursuant to Chapter 366 of the 1963 Session Laws and Chapter 409 of the 1967 Session Laws, was authorized to lease certain property to the Supercrete Industries. The director of institutions may lease, upon terms and conditions deemed equitable to the state, to Supercrete Industries the following described lands and pursuant to the hereinafter mentioned conditions:

A tract of land lying in the southwest quarter of section twenty-eight, township one hundred thirty-nine north, range eighty-one west and the northwest quarter of section thirty-three, township one hundred thirty-nine north, range eighty-one west in Morton County, North Dakota.

Such lease shall be for a term not to exceed seventeen years at an annual rental payable in advance as may be approved by the director of institutions. The lease shall be upon such terms and conditions as the director of institutions shall prescribe, but shall specifically contain provisions that such property shall only be used for the storage of materials and equipment of the Supercrete Industries and that the land shall be filled and leveled by such company as determined by the director.

SECTION 2.) If said property should be offered for sale during the duration of said lease or on termination date, the Supercrete Industries will be given the first right of refusal.

Approved March 4, 1971

## CHAPTER 524

HOUSE BILL NO. 1173  
(Wagner)

## SALE OF PENITENTIARY LAND

AN ACT to amend and reenact sections 1 and 2 of chapter 408 of the 1969 Session Laws of North Dakota, relating to authorization of the sale and transfer of certain real property owned by the state for the benefit of the state penitentiary.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 1 of chapter 408 of the 1969 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 1. THE DIRECTOR OF INSTITUTIONS MAY SELL, TRANSFER, AND CONVEY CERTAIN REAL PROPERTY OWNED BY THE STATE FOR THE BENEFIT OF THE STATE PENITENTIARY.) The director of institutions may sell, transfer, and convey by public bid in accordance with sections 54-01-05.1 and 54-01-05.2 the real property described in this section owned by the state for the use and benefit of the state penitentiary. The director of institutions may sell the property as one unit or as logically divisible units of such size as the director of institutions may determine, each based upon maximum, estimated proceeds from the sale or sales. The director of institutions shall provide an independent appraisal of the property and the total sales price shall equal or exceed said appraised value. The property is described as follows:

A tract of land lying in the north one-half of section two, township one hundred thirty-eight north, range eighty west of the fifth principal meridian, Burleigh County, North Dakota, described as follows: commencing at the northwest corner of said section two; thence in a southerly direction along the west boundary of said section two for a distance of seven hundred seventy-four and six-tenths feet; thence turning at a right angle to the left and traveling due east along a line which is parallel to the north boundary of said section two for a distance of eight hundred eighty-nine and nine-tenths feet to a point which shall be called the point of beginning; thence turning a deflection angle of ninety degrees and twenty-two minutes to the right and traveling in a southerly direction a distance of six hundred eighty-four and twenty-eight hundredths feet to a point which intersects the north edge of the Minneapolis, St. Paul and Sault Ste. Marie Railroad right-of-way boundary, and thence traveling in an easterly and northeasterly direction along said railroad right-of-way

to a point where said railroad right-of-way intersects a line which is parallel to and forty feet south of the north boundary of said section two; thence traveling in a westerly direction along said line forty feet south and parallel to the north boundary of said section two to a point which lies one thousand five hundred seven feet east of the west boundary of said section two; also known as the northeast corner of lot four; thence south along a line which is parallel to the west boundary of said section two for a distance of seven hundred thirty-four and six-tenths feet, to a point which is also known as the southeast corner of lot six; thence turning at a right angle to the right and traveling due west a distance of six hundred seventeen and one-tenth feet to the point of beginning, said tract containing sixty-six and forty-seven hundredths acres of land, more or less, and all that part of the north half of section two, township one hundred thirty-eight north, range eighty west, of the fifth principal meridian, lying within a tract of land located on the easterly side of the Minneapolis, St. Paul and Sault Ste. Marie Railroad Company right-of-way and on the northerly side of present United States highway number ten, excepting all that portion previously acquired for public highway right-of-way and all that portion lying within thirty-three feet of the section lines, said tract containing twenty-seven and five one-hundredths acres, more or less.

SECTION 2. AMENDMENT.) Section 2 of chapter 408 of the 1969 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 2. MINERAL RESERVATIONS - UTILIZATION OF FUNDS - ACQUISITION OF PROPERTY.) The transactions authorized in sections 1 and 2 of this Act shall not be subject to the provisions of section 38-09-01 of the North Dakota Century Code. Only such mineral reservations shall be included in the conveyances executed hereunder as are deemed appropriate by the director of institutions after due consideration of all factors relevant to the situation, including but not limited to, the appraisal of same, prices actually received, and rights and title received in exchange therefor. Upon the sale of the land described in section 1 hereof, or any part of same, the proceeds of sale shall be deposited in a special fund in the state treasury for replacement of same, including but not limited to, purchase price, monetary damages, appraisal fees, and incidental expenses, which said fund is hereby appropriated to be used for such purposes.

Acquisition of full fee simple title to the property described as:

All that part of the southeast quarter of section two, township one hundred thirty-eight range eighty west of the fifth principal meridian, Burleigh County, North Dakota, lying to the north and east of the situs of old highway number ten, which situs is described as a tract

of land in the southeast quarter of section two, township one hundred thirty-eight north range eighty west of the fifth principal meridian, described as beginning with a strip two hundred sixteen feet wide lying thirty-three feet right and one hundred eighty-three feet left of the following described survey line, beginning at a point on the west line of said southeast quarter one thousand four hundred fourteen and two-tenths feet, north of the southwest corner thereof, thence running south fifty-six degrees thirty-seven minutes east eight hundred thirty-nine and six-tenths feet, thence continuing with a strip sixty-six feet wide lying thirty-three feet on each side of said survey line south fifty-six degrees thirty-seven minutes east one thousand one hundred eleven and two-tenths feet, thence along a three-degree curve left one thousand one hundred one and seven-tenths feet, more or less, to the east line of said section two, which situs has heretofore been conveyed to Burleigh County, North Dakota, by instrument dated on the eighteenth day of May in the year 1960,

is essential to the maintenance of adequate security at the North Dakota state penitentiary.

The director of institutions shall proceed to acquire said described premises in the following manner:

- a. Purchase any and all parts of the tracts described in this section for its value as determined by such independent appraisal with such part of the proceeds of the sale of the premises described in section 1 of this Act, as is necessary for same, or
- b. Proceed by the process of eminent domain, as set out in chapter 32-15 of the North Dakota Century Code, as amended to date, to acquire same. The estates and rights to be taken in the above-described property for this purpose is the same as is taken for public buildings and grounds as prescribed in subsection 1 of section 32-15-03 of the North Dakota Century Code, to-wit, a fee simple.

Approved March 3, 1971

## CHAPTER 525

HOUSE BILL NO. 1342  
(Kingsbury, Berg)

SALE OF LAND TO  
GRAFTON PARK DISTRICT

AN ACT authorizing the director of institutions to convey certain land owned by the state of North Dakota to the Grafton park district.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) The director of institutions is hereby authorized to convey certain land owned by the state of North Dakota to the Grafton park district, which land is described and located as follows:

Commencing at a point where at the effective date of this Act the north boundary line of fifth street in the city of Grafton intersects the boundary line between the property owned by the state of North Dakota and the park district of the city of Grafton; thence north along said boundary line a distance of four hundred feet to the point of beginning; thence west ninety degrees a distance of one hundred fifty feet; thence north on a line parallel to said boundary line to the center line of the Park River; thence southeasterly along the center line of the Park River to the intersection of said boundary line; thence south along said boundary line about six hundred thirty-five feet to the place of beginning. Said tract contains two and one-fourth acres, more or less, and is situated in section thirteen, township one hundred fifty-seven north, range fifty-three west, county of Walsh.

SECTION 2.) The director of institutions shall arrange for an appraisal of the property described in section 1 of this Act prior to its sale. This appraisal shall be accomplished by one or more individuals or firms who are deemed competent in the field of appraisal work, by the director of institutions, and are basically familiar with land valuations within the general vicinity. Such appraisal shall be based upon and consistent with current land valuations and recent sale prices of comparable land in this vicinity. No sale shall be consummated at a price less than appraised value.

Conveyance shall be executed in accordance with section 54-01-05.1 of the North Dakota Century Code and the quit claim deed issued shall also be countersigned by the director of institutions. All minerals and mineral substances therein, including but not limited to oil, gas, coal, cement materials, sodium sulphate, sand and gravel, road material, building stone, chemical substances, metallic ores, uranium ores, and colloidal or other clays shall be reserved and excepted to the state of North Dakota.

SECTION 3.) The proceeds of the sale shall be deposited in the state treasury and credited to the Grafton state school operating fund, and are hereby appropriated to be used in maintenance and operation of the said Grafton state school operating fund for the biennium 1971 to 1973. All expenses incurred by the director of institutions in preparation of and consummation of sale shall be paid from the Grafton state school appropriation.

Approved March 22, 1971

## CHAPTER 526

HOUSE BILL NO. 1484  
(Hoffner, Streibel)

## CONSTITUTIONAL CONVENTION

AN ACT to provide that state agencies shall render reasonable assistance to the convention; and that the director of institutions shall provide space for the convention; and to amend and reenact sections 9, 10, and 12 of chapter 462 of the 1969 Session Laws of the state of North Dakota, relating to the periods during which the constitutional convention can meet in plenary session, to provide the procedures for submission of propositions, to provide for the organizational meeting and procedures, to provide for the registration of lobbyists; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 9 of chapter 462 of the 1969 Session Laws is hereby amended and reenacted to read as follows:

SECTION 9.) It shall be the duty of the delegates elected as provided in this Act to assemble at the state capitol building at ten o'clock a.m. on the first Tuesday after the first Monday in April 1971, for an organizational meeting. At that meeting each delegate shall take an oath to support the Constitution of the United States and to faithfully discharge the duties of a convention delegate. This meeting shall be for the purpose of electing permanent convention officers, adopting rules of procedure, and providing for such interim committees and staff members as may be necessary to prepare for the plenary meeting of the convention which shall convene at the state capitol building in the house chamber on the first Monday of the following January. The convention shall then remain in session for not longer than thirty natural days, excluding Sundays, of actual meetings, provided that the convention may recess from time to time as it sees fit, but not for more than a total of ten natural days, and committees of the convention may meet during such recess period or periods. Thereafter, the finished draft of the proposed Constitution shall be certified by the president and secretary of the convention to the secretary of state, and the secretary of state shall thereafter provide for the publication of the full text thereof in the same manner as provided by law for publication of

initiative and referendum measures to be voted upon by the electors of this state. The convention shall expend such funds as may be necessary to publish and distribute a report and related information to the people explaining its proposals.

SECTION 2. AMENDMENT.) Section 10 of chapter 462 of the 1969 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 10.) The governor shall preside at the organizational meeting of the convention until the president of the convention is selected, and the governor may vote in case of a tie vote in the selection of the president. A majority of the total number of delegates shall constitute a quorum, and a majority of the total number of delegates shall be required for approval of any section to be included in a proposed constitution or amendments to the Constitution. The convention shall elect its own officers, and shall be sole judges of the qualifications and election of its own membership. All meetings and records of the convention shall be open to the public. The convention shall keep a journal of its proceedings and shall keep an abstract of the proceedings of its committees, and a record of its debates, and shall provide for the collection, storage, and publication thereof. The convention may also provide for the collection, storage, and publication of any other of its documents and reports. The convention shall employ a qualified historian, archivist, librarian, or a person of similar training, as its chief records clerk. This clerk shall see that the proper journals and records of the convention and its committees are kept. He shall also see to the preservation and collection of all proposals, reports, records, books, correspondence, documents, reference material, and other similar papers of the convention and its committees. The chief records clerk shall see that all of the materials under his care and supervision are deposited with the state library for preservation, cataloging, and safekeeping. The chief records clerk shall also urge all convention delegates and staff, as well as any other state officials, private individuals, or groups that have any type of correspondence or other material pertaining to the convention, to give this material to him for deposit with the state library. Copies of the convention journals and all revisions, alterations, or amendments to the Constitution, agreed to and adopted by the convention, shall also be recorded and filed with the secretary of state. All provisions of chapter 54-05 of the North Dakota Century Code concerning lobbying shall apply to the constitutional convention and its committees.

SECTION 3. AMENDMENT.) Section 12 of chapter 462 of the 1969 Session Laws is hereby amended and reenacted to read as follows:

SECTION 12.) The convention may submit a new Constitution as one proposal to be voted on by the people, and it may submit proposed parts or alternative parts of a new Constitution. The proposals of the convention shall be submitted to the electors of this state for adoption or rejection at a special election held next following adjournment sine die called by the governor not less than sixty days nor more than one hundred fifty days next succeeding the date of adjournment of the constitutional convention. The returns of such issue at such special election shall be made, canvassed, and the results thereof declared in the same manner as provided by law for the initiated and referred measures. If a majority of the electors of the state voting thereon at such special election shall vote for the proposed new Constitution, the same shall become effective on the date and in the manner provided in the proposed Constitution, or if no effective date shall be provided in the proposed new Constitution, the same shall become effective as now provided by law with reference to initiated measures. If a majority of the electors of the state voting thereon at such special election shall vote against the proposed new Constitution, the same shall be deemed rejected by the electors, and the existing Constitution of this state, as amended, shall continue to be the Constitution of this state. If proposed parts or alternative parts of the new Constitution are submitted separately, and the people shall vote against any part, such part shall be deemed rejected and shall be of no force and effect, but any proposed part or alternative part which receives a majority of the votes of the qualified electors voting thereon shall become effective on the date and in the manner provided for in such proposed part, or if no effective date is provided, such proposed part shall become effective as now provided by law with reference to initiated measures.

SECTION 4. STATE AGENCIES TO ASSIST CONSTITUTIONAL CONVENTION.) Each department, office, agency, and institution of the state of North Dakota shall provide such reasonable aid, information, and assistance to the North Dakota constitutional convention as such convention may request, and shall make such reasonable arrangements for the reimbursement of such direct cost as may result from such aid or assistance as may be mutually agreeable. The director of institutions shall make available without cost to the constitutional convention the chamber of the house of representatives and such other space as the convention shall need.

\* SECTION 5. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

\*NOTE: For amount appropriated for the Constitutional Convention, see chapter 33, this volume.

Approved March 27, 1971

# STATE PARKS

## CHAPTER 527

SENATE BILL NO. 2086  
(Lips, Morgan, Sanstead)  
(Legislative Council Study)

### STATE PARK ADVISORY COUNCIL

AN ACT to repeal section 55-08-02 of the North Dakota Century Code, relating to the state park advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 55-08-02 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Approved February 20, 1971

## CHAPTER 528

HOUSE BILL NO. 1187  
(Boustead, Giffey, A. Hausauer)

## STATE PARK VEHICLE PERMITS

AN ACT to amend and reenact section 55-08-06 of the North Dakota Century Code, relating to permits for motor vehicles entering state parks, state recreational areas or certain reserves.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 55-08-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-08-06. PERMITS FOR MOTOR VEHICLES.) No motor vehicle shall enter or be permitted to enter any state park, state recreational area or reserve over fifty acres in area unless it has affixed to its windshield in the lower right corner thereof a permit issued as provided in this section, provided, however, that this shall not apply to any motor vehicles entering any state park for the purpose of parking thereon during the performance of any historic drama. The director of state parks shall procure permits in such form as he shall prescribe for each calendar year which by appropriate language shall grant permission to use any state park, state recreational area or reserve over fifty acres in area. Permits for each calendar year shall be provided and placed on sale before October first next preceding, and may be affixed and used on or at any time after said date until the end of the calendar year for which issued. Such permits in each category shall be numbered consecutively for each year of issue. A fee of four dollars shall be charged for each permit issued, except that permits of appropriate special design may be sold individually at one dollar or in lots of ten or more to any organization at fifty cents per permit covering the use of state parks, state recreational areas or reserves under such conditions as the director may prescribe for a designated period of not more than three days. The fees collected shall be deposited in the state park fund in the state treasury.

Approved February 26, 1971

## CHAPTER 529

HOUSE BILL NO. 1364  
(Boustead, Opedahl, Giffey)

## PARK CONCESSION FUND

AN ACT to provide for a revolving fund for concessions for the state park service, and to make an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. STATE PARK SERVICE CONCESSION FUND - APPROPRIATION.) The director of the state parks shall establish a state parks concession fund to be used for the procurement and maintenance of an inventory of food, non-intoxicating beverages, and other merchandise of a suitable nature for the operation of concession stands at the state parks. There is hereby transferred out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$30,000.00, or so much thereof as may be necessary, to the state parks concession fund to provide the initial working capital, and such sum is hereby appropriated from the state parks concession fund for the purpose provided in this Act as a standing and continuing appropriation. Any surplus in this fund in excess of \$30,000.00 on June thirtieth of each year shall be transferred to the state park operating fund.

Approved March 22, 1971

## CHAPTER 530

SENATE BILL NO. 2278

(Wenstrom, Jones, Ringsak, Sanstead, Van Horn)

ACCEPTANCE OF FEDERAL  
HISTORICAL PRESERVATION LAW

AN ACT to accept on behalf of the state of North Dakota the conditions, purposes, and terms of Public Law 89-665 of the Eighty-ninth Congress, an Act to establish a program for the preservation of additional historic properties throughout the nation, and to designate the state historical society to act on behalf of North Dakota, and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. ACCEPTANCE OF FEDERAL HISTORICAL PRESERVATION LAW.) The state of North Dakota hereby assents to the provisions of Public Law 89-665, approved October 15, 1966, by the Eighty-ninth Congress, an Act to establish a program for the preservation of additional historic properties throughout the nation, and all Acts amendatory and supplementary thereto. The state historical society of North Dakota is hereby authorized, empowered, and directed to perform all such acts as may be necessary on behalf of North Dakota to conduct, coordinate, and carry out the purposes and objectives of this Act of Congress for and within North Dakota. The state historical society shall carry out a comprehensive statewide historic survey in accordance with criteria established by the secretary of the interior for the preservation, acquisition, and development of such property as provided in the Act of Congress. The society may transfer funds made available to the state to other state agencies, local governments, and to other public bodies and private organizations for the acquisition of title or interests in, and for the development of, any district, site, building, structure, or object significant in American history, architecture, archaeology, and culture, or property used in that connection, and for its development to assure the preservation for public benefit of any historic properties, in compliance with this Act of Congress and with rules and regulations promulgated by the secretary of the interior for its administration. For these purposes, the state historical society may inspect the projects and examine the records of those projects eligible for grants and may establish necessary rules and regulations for the projects.

SECTION 2. APPROPRIATION.) All federal funds made available to the state of North Dakota pursuant to the provisions of Public Law 89-665 during the biennium beginning July 1, 1971, and ending June 30, 1973, are hereby appropriated for the purposes defined in this Act. Approval shall first be received from the Legislative Council Committee on Budget before such funds may be expended.

Approved March 19, 1971

## CHAPTER 531

SENATE BILL NO. 2177  
(Roan, Freed)

SALE OF STATE HISTORICAL  
SOCIETY LAND

AN ACT authorizing the State Historical Society of North Dakota to sell a tract of land in Billings County, North Dakota, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) The following described premises are not essential, necessary or appropriate to state historical purposes, will be surplus to the state historical programs, would otherwise require considerable expenditure of state funds for maintenance and operation and are currently not on the tax rolls. The original transfer of same to the state made provision for reversion of these premises, in the event of termination of their state historical use and Gold Seal Company of Bismarck, North Dakota, is currently the owner of the reversional interests. The North Dakota state historical society and North Dakota historical board are therefore hereby authorized to sell and convey the same to said Gold Seal Company in accordance with the provisions of section 54-01-05.1 of the North Dakota Century Code for the market value as appraised by the North Dakota highway department of two thousand four hundred dollars. Said premises are described as:

A tract of land lying in the northeast quarter of section twenty-seven, township one hundred forty north, range one hundred two west, fifth principal meridian and includes all that portion lying westerly of the west shoreline of the Little Missouri River and northeasterly of the north right-of-way line of present U. S. Highway No. 10 and southerly of the north line of said northeast quarter, excepting railway and highway right-of-ways and the site of the gauging station of the Little Missouri River operated by the U. S. Geological Survey, together with all right-of-way, easements, driveways, and pavement, curbs and street front privileges thereunto and together with all the buildings, improvements and equipment thereon or connected therewith. The above and foregoing described premises constitutes 3.75 acres, more or less.

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

Approved March 3, 1971

# TAXATION

## CHAPTER 532

SENATE BILL NO. 2417  
(Butler)

### COLLECTION OF DELINQUENT TAXES

AN ACT to provide for the collection of delinquent sales, use, income and business and corporation privilege taxes from taxpayers not residing in this state; providing for tax commissioner to contract with collection and credit agencies; providing for a bond, and providing for payment of fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. COLLECTION OF DELINQUENT SALES, USE, INCOME AND BUSINESS AND CORPORATION PRIVILEGE TAXES.)

1. Notwithstanding the secrecy and confidential information provisions in chapters 57-38 and 57-39.2 of the North Dakota Century Code, the tax commissioner may, for the purpose of collecting delinquent North Dakota sales, use, income or business and corporation privilege taxes due from a taxpayer not residing or domiciled in this state, contract with any collection or credit agency, within or without the state, for the collection of such delinquent sales, use, income or business and corporation privilege taxes, including penalties and interest thereon. For purposes of this section a delinquent tax shall be defined as a tax liability that is due and owing for a period longer than six months and for which the taxpayer has been given at least three notices requesting payment, one of which shall have been sent by certified or registered mail.

2. a. Fees for services, reimbursement or any other remuneration to such collection or credit agency shall be based on the amount of tax, penalty and interest actually collected. Each contract entered into between the tax commissioner and the collection or credit agency shall provide for the payment of fees for such services, reimbursements or other remunerations not in excess of fifty percent of the amount of delinquent sales, use, income or business and corporation privilege tax, including penalties and interest actually collected.

- b. All funds collected, less the fees for collection services, as provided in the contract, must be remitted to the tax commissioner within ten days from the date of collection from a taxpayer. Forms to be used for such remittances shall be prescribed by the tax commissioner.
- c. Before entering into such a contract, the tax commissioner shall require a bond from the collection or credit agency not in excess of ten thousand dollars, guaranteeing compliance with the terms of the contract.

3. A collection or credit agency entering into a contract with the tax commissioner for the collection of delinquent taxes pursuant to this Act thereby agrees that it is doing business in this state for the purposes of the North Dakota income tax and business and corporation privilege tax laws.

Approved March 11, 1971

## CHAPTER 533

HOUSE BILL NO. 1057  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(From Legislative Council Study)

DEFINITION OF FARM  
FOR EXEMPTION PURPOSES

AN ACT to amend and reenact subsection 10 of section 57-02-01 and subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the definition of a farm, and to exceptions to the property tax exemption for farm structures and improvements on agricultural lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 10 of section 57-02-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. There shall be a presumption that a unit of land is not a farm unless such unit contains a minimum of ten acres, and the taxing authority, in determining whether such presumption shall apply, shall consider such things as the present use, the adaptability to use, and how similar type properties in the immediate area are classified for tax purposes.

SECTION 2. AMENDMENT.) Subsection 15 of section 57-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. All farm structures, and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence. Any structure or structures used in connection with a retail or wholesale business other than farming, even though situated on agricultural land, shall not be exempt under this subsection;

Approved March 27, 1971

## CHAPTER 534

SENATE BILL NO. 2045  
(Butler, Jacobson, Rait, Wilhite)  
(From Legislative Council Study)

DEFINITIONS OF  
REAL AND PERSONAL PROPERTY

AN ACT to create and enact section 57-02-05.1 of the North Dakota Century Code, relating to the definition of personal property; to amend and reenact section 57-02-04 of the North Dakota Century Code, relating to the definition of real property; to amend and reenact subsection 25 of section 57-02-08 of the North Dakota Century Code, relating to the exemption of personal property from taxation; and to repeal section 57-02-05 of the North Dakota Century Code, relating to the definition of personal property, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-02-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-04. "REAL PROPERTY" DEFINED.) Real property, for the purpose of taxation, includes:

1. The land itself, whether laid out in town lots or otherwise, and improvements to the land, such as ditching, surfacing, and leveling, except plowing and trees, and all rights and privileges thereto belonging or in anywise appertaining, and all mines, minerals, and quarries in and under the same and shall expressly include all such improvements made by persons to lands held by them under the laws of the United States, all such improvements to land the title to which still is vested in any railroad company and which is not used exclusively for railroad purposes, and improvements to land belonging to any other corporation whose property is not subject to the same mode and rule of taxation as other property.
2. All structures and buildings, including systems for the heating, air conditioning, ventilating, sanitation, lighting, and plumbing of such structures and buildings, and all rights and privileges thereto belonging or in anywise appertaining, but shall not include items

which pertain to the use of such structures and buildings, such as machinery or equipment used for trade or manufacture which are not constructed as an integral part of and are not essential for the support of such structures or buildings, and which are removable without materially limiting or restricting the use of such structures or buildings.

3. Machinery and equipment, but not including small tools and office equipment, used or intended for use in any process of refining products from -
  - a. oil or gas extracted from the earth, but not including such equipment or appurtenances located on leased oil and gas production sites,
  - b. sugar beets.

SECTION 2.) Section 57-02-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-02-05.1. "PERSONAL PROPERTY" DEFINED.) Personal property, for the purpose of taxation, shall include all property that is not included within the definition of real property.

SECTION 3. AMENDMENT.) Subsection 25 of section 57-02-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* 25. All personal property not required by section 179 of the constitution of North Dakota to be assessed by the state board of equalization shall become exempt from assessment and taxation in the year 1970 and such property shall not be assessed or taxed for that year or for any year thereafter; provided that this provision shall not apply to any property that is either subjected to a tax which is imposed in lieu of ad valorem taxes or to any particular kind or class of personal property, including mobile homes or house trailers, that is subjected to a tax imposed pursuant to any other provision of law except as specifically provided in this subsection. In addition, this subsection shall not exempt from taxation the personal property of any corporation organized pursuant to the nonprofit laws of any jurisdiction which is not exempt from personal property taxation under any other statute.

SECTION 4. REPEAL.) Section 57-02-05 of the North Dakota Century Code is hereby repealed.

SECTION 5. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 29, 1971

\*NOTE: Subsection 25 of section 57-02-08 was also amended by section 1 of House Bill No. 1185, chapter 536.

## CHAPTER 535

SENATE BILL NO. 2149  
(Litten, Lips)

TAX EXEMPTION FOR  
PARKING FACILITIES

AN ACT to amend and reenact subsection 23 of section 57-02-08 of the North Dakota Century Code, relating to property exempt from taxation as pertains to parking structures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 23 of section 57-02-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23. All, or any portion of structural improvements other than paving and surfacing to land used exclusively for the business of operating an automobile parking lot within a city open for general public patronage. Where a portion of the structure is exempt from taxation as being open for general public patronage, the amount of such exemption shall be computed by determining the value of the public parking area in proportion to the total value of the structure.

Approved March 3, 1971

## CHAPTER 536

HOUSE BILL NO. 1185  
(Dornacker)

## TAX PROCEDURES AND DEFINITIONS

AN ACT to amend and reenact subsection 25 of section 57-02-08 of the North Dakota Century Code, relating to personal property tax exemptions; subsection 3 of section 57-37-02 and subsection 2 of section 57-37-07 of the North Dakota Century Code, relating to the gross estate for estate tax purposes, adoption of internal revenue definition of powers of appointment for estate tax purposes and declaring an emergency; subsection 2 of section 57-39.2-18 of the North Dakota Century Code, relating to penalties for sales tax purposes; section 57-39.2-23 of the North Dakota Century Code, relating to confidential information for sales tax purposes; section 57-46-01.1 of the North Dakota Century Code, relating to extension of time for filing income tax returns and payment of income tax by certain members of the armed forces and merchant marine; section 57-52-10 of the North Dakota Century Code, relating to special fuels tax returns; subsection 8 of section 57-54.1-03 of the North Dakota Century Code, relating to the definition of "Importer for use" for importers for use tax purposes and section 57-54.1-15 of the North Dakota Century Code, relating to refunds of importers for use tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 25 of section 57-02-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* 25. All personal property not required by section 179 of the constitution of North Dakota to be assessed by the state board of equalization shall become exempt from assessment and taxation in the year 1970 and such property shall not be assessed or taxed for that year or for any year thereafter; provided that this provision shall not apply to any property that is either subjected to a tax which is imposed in lieu of ad valorem taxes or to any particular kind or class of personal property, including mobile homes or house trailers, that is subjected to a tax imposed pursuant to any other provision of law except as specifically provided in this subsection. In addition, this

\*NOTE: Subsection 25 of section 57-02-08 was also amended by section 3 of Senate Bill No. 2045, chapter 534.

subsection shall not exempt from taxation the personal property of any corporation organized pursuant to the North Dakota Nonprofit Corporation Act or the personal property of any corporation organized pursuant to the nonprofit corporation laws of any other state which is not exempt from personal property taxation under any other statute nor shall it exempt from assessment and taxation fixtures, buildings, and improvements upon land which are now assessed as real estate.

SECTION 2. AMENDMENT.) Subsection 3 of section 57-37-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. All intangible personal property wherever located, except that the value of an annuity or other payment receivable by any beneficiary by reason of surviving the decedent under any form of contract or agreement other than as insurance under policies on the life of the decedent shall be included in the gross estate of any decedent dying after June 30, 1967, only to the extent that it is or would be includable for federal estate tax purposes pursuant to the provisions of section 2039 of the United States Internal Revenue Code of 1954, as amended, through December 31, 1970, effective for a decedent dying on or after January 1, 1971;

SECTION 3. AMENDMENT.) Subsection 2 of section 57-37-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For the purposes of this section, the term "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended to and including December 31, 1970, effective for a decedent dying on or after January 1, 1971.

SECTION 4. AMENDMENT.) Subsection 2 of section 57-39.2-18 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Any person who shall sell tangible personal property, tickets or admissions to places of amusement, and athletic events, or steam, gas, water, electricity, and communication service at retail in this state after his permit shall have been revoked, or without procuring a permit within sixty days after the effective date of this chapter, as provided in section 57-39.2-14, or who shall violate the provisions of section 57-39.2-09, and the officers of any corporation who shall so act, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or

imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the court.

SECTION 5. AMENDMENT.) Section 57-39.2-23 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-23. INFORMATION DEEMED CONFIDENTIAL - PENALTY.) It shall be unlawful for the commissioner, or any person having an administrative duty under this chapter, to divulge, or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the federal government. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not to exceed one thousand dollars.

The commissioner is hereby authorized to furnish to the workmen's compensation bureau or to the unemployment compensation division of the employment security bureau upon request of either a list or lists of holders of permits issued pursuant to the provisions of this chapter or chapter 57-40.2, together with the addresses and tax department file identification numbers of such permit holders, provided that any such list shall be used by the bureau to which it is furnished only for the purpose of administering the duties of such bureau. The commissioner, or any person having an administrative duty under this chapter, is hereby authorized to announce that a permit has been revoked.

SECTION 6. AMENDMENT.) Section 57-46-01.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-46-01.1. EXTENSION OF TIME FOR FILING INCOME TAX RETURNS AND PAYMENT OF INCOME TAX.) A taxpayer actively serving in the armed forces or merchant marine, outside the boundaries of the United States, may defer the filing of an income tax return and the payment of income tax until:

1. The fifteenth day of the third month after his return to the United States; or
2. The fifteenth day of the third month after his discharge from the military service or the United States merchant marine, if he remains,

after discharge, outside the boundaries of the United States; or

3. The fifteenth day of the third month after an administrator or executor has been appointed for the estate of the taxpayer; or
4. December 31, 1974, whichever of said dates shall first occur.

SECTION 7. AMENDMENT.) Section 57-52-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-10. MONTHLY RETURNS AND PAYMENTS.) For the purpose of determining the amount of his liability for the tax herein imposed each special fuel dealer shall file with the state tax commissioner on forms prescribed by the tax commissioner, a monthly tax return. Such returns shall contain a written declaration that they are made and subscribed under the penalties of perjury. The return shall show, with reference to each location at which special fuel is sold, delivered or placed by such dealer, such information as the state tax commissioner may reasonably require for the proper administration and enforcement of this chapter. The special fuel dealer shall file such return on or before the twenty-fifth day of the next succeeding calendar month following the monthly period to which it relates. Such reports shall be considered filed on time if mailed in an envelope properly addressed to the state tax commissioner and postmarked before midnight of the final filing date. The state tax commissioner may, for good cause, grant a taxpayer a reasonable extension of time for filing such returns. The tax imposed by this chapter shall be computed by each special fuel dealer by multiplying the rate of tax per gallon provided in this chapter by the number of gallons of special fuel sold or delivered by him to special fuel users. The monthly tax return shall be accompanied by remittance covering the tax due hereunder on special fuels sold or delivered to special fuel users during the preceding month.

SECTION 8. AMENDMENT.) Subsection 8 of section 57-54.1-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Importer for use" means any person importing motor fuel into this state in the fuel supply tank or tanks of any motor vehicle. In the case of motor vehicles that are leased or rented, the importer for use means the lessee or renter unless the commissioner has designated the lessor, renter or some other person as the importer for use.

SECTION 9. AMENDMENT.) Section 57-54.1-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-15. ADMINISTRATION, RECORDS, REFUNDS, PENALTIES AND DISPOSITION OF FUNDS.) Importer for use tax shall be reported, paid, collected, refunded, and administered and importers for use shall be subject to the same penal provisions, and importer for use tax collection shall be distributed all as provided in the fuels tax chapter, sections 57-52-09 to 57-52-20, inclusive, and refund motor fuel tax and motor vehicle fuel tax chapters, sections 57-50-02, 57-50-03, 57-50-04 and 57-54-11 to 57-54-23.

SECTION 10. EMERGENCY.) The amendments to subsection 3 of section 57-37-02 and subsection 2 of section 57-37-07 of the 1969 Supplement to the North Dakota Century Code, are hereby declared to be emergency measures and shall be in full force and effect from and after their passage and approval.

Approved March 31, 1971

## CHAPTER 537

SENATE BILL NO. 2154  
(Lips, Rait)

ANNUAL ASSESSMENT OF  
REAL PROPERTY

AN ACT to amend and reenact section 57-02-11 of the North Dakota Century Code, to permit an annual assessment of real property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-02-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-11. LISTING OF PROPERTY - ASSESSMENT THEREOF.)  
Property shall be listed and assessed as follows:

1. Except as provided in subsection 6 of this section, all real property subject to taxation shall be listed and assessed every odd-numbered year with reference to its value, on April first of that year, and shall not be reassessed in the following year, except by order of the board of county commissioners or tax commissioner. Property assessed in odd-numbered years shall be taxed upon the assessed valuation as equalized by the state board of equalization in such year and in the following year, except as otherwise provided in this chapter. All real property becoming taxable in any intervening year shall be listed and assessed with reference to its value on April first in that year.
2. All taxable personal property, except stocks of merchandise, shall be listed and assessed annually with reference to its value on April first of each year. For the purpose of assessment for taxation, each stock of merchandise shall be valued according to the average value for the twelve-month period preceding April first. Each owner shall keep in his place of business a copy of all inventories taken during the preceding year, and all other records and data pertaining to the cost price of such merchandise, and such inventories and other cost data shall be available, at all times, for examination by the assessor or other taxing officers.
3. In every even-numbered year, at the time of assessing personal property, the assessor also shall assess all

real property that may have become subject to taxation since the last previous assessment, and all buildings or other structures of any kind, whether completed or in process of completion, and improvements on any structures of over one hundred dollars in value, the value of which has not been previously added to nor included in the valuation of the land or lots on which they have been erected, except farm buildings now exempt from taxation.

4. Whenever after the first day of April and before the first day of June in any year, it is made to appear to the assessor by the oath of the owner that any building, structure, or other improvement, or tangible personal property, which is listed for taxation for the current year has been destroyed or injured by fire, flood, or tornado, he shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property an amount which in his judgment fairly represents such deduction as should be made. No deduction shall be made on account of damages covered by insurance or damages amounting to less than one hundred dollars.
5. In case of an abatement by the board of county commissioners and tax commissioner, or by the judgment of a court of competent jurisdiction, of the valuation of any parcel of real estate as assessed in any odd-numbered year, the valuation after such abatement shall be the assessed valuation in the even-numbered year next following, except as herein otherwise provided.
6. Notwithstanding the other provisions of this section, the governing body of any city may by resolution provide that all real property within the city shall be listed and assessed annually with reference to its value on April first of each year. The assessments of real property assessed annually shall be equalized and corrected annually in the manner and subject to the same requirements as are provided for equalizing the assessments of real property that is listed and assessed every odd-numbered year.

Approved March 30, 1971

## CHAPTER 538

HOUSE BILL NO. 1312  
(Jenkins)

ASSESSMENT AND TAXATION  
OF LIVESTOCK

AN ACT to repeal sections 57-02-18, 57-02-18.1, 57-02-18.2, 57-02-18.3, 57-02-18.4, 57-02-18.5, 57-02-18.6, and 57-02-18.7 of the North Dakota Century Code, relating to the assessment and taxation of livestock.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Sections 57-02-18, 57-02-18.1, 57-02-18.2, 57-02-18.3, 57-02-18.4, 57-02-18.5, 57-02-18.6, and 57-02-18.7 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1971

## CHAPTER 539

SENATE BILL NO. 2291  
(Rait, Lips)

## TIME OF ASSESSMENT

AN ACT to amend and reenact section 57-02-34 of the North Dakota Century Code to change the time for the assessor to make the assessment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-02-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-34. WHEN AND HOW ASSESSMENT MADE.) The assessor shall perform the duties required of him during the twelve month period prior to June first and in the following manner:

1. He shall determine the true and full value of each tract or lot of real property listed for taxation, and shall enter the value thereof in one column, and the value of all improvements and structures taxable thereon in another column, opposite such description of property, and in another column shall show the total value of the property by adding the totals of the two previous columns.

Approved March 3, 1971

## CHAPTER 540

SENATE BILL NO. 2386  
(Morgan, Just)

FARM TO MARKET ROAD  
TAX LEVY

AN ACT to amend and reenact section 57-15-06.3 of the North Dakota Century Code relating to farm to market roads.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-15-06.3 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.3. COUNTY ROAD PROGRAM INCLUDING FARM TO MARKET AND FEDERAL AID - TAX LEVY.) The board of county commissioners of any county in this state may prepare a proposed county construction program of farm to market and federal aid roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction. After approval of such program by the department and the bureau of public roads, the board may submit such program to the electors of the county with the question of levying a tax of not to exceed ten mills upon the net taxable assessed valuation of all property in the county for the completion of such program by matching, from the proceeds of such tax, federal funds available for federal aid, secondary and feeder roads, farm to market roads, and all roads as provided for under Public Law 769, 81st Congress, or future federal aid highway acts of a similar character. If the majority of the electors voting on the question approved such program and levy, annually thereafter until such program is completed the board shall levy a tax not in excess of ten mills, which levy shall not be subject to the county mill levy limitations, and the proceeds of such tax shall be used, except as herein provided, only for matching federal aid available for such program which shall be the official county road program. If the board of county commissioners determines that a substantial change is necessary in the details of the program of farm to market and federal aid roads previously approved by the electors of the county, the board, after approval of the amendment by the department and the bureau of public roads, may submit an amendment to such program to the electors of the county. If the majority of the electors voting on the question approve

such amendment to the program, such program, as amended, shall become the official county road program. Any proceeds of a tax levy in excess of the amount needed to match federal funds in any year may be used by the county, at any time such proceeds may become available, for providing paved or any other type of road surfacing on roads included within the county road program for which the tax levy was originally made. Such paved or other type road surfacing may be used only after the question has been submitted to the electors of the county at a special election called for that purpose by the county commissioners. The use of such excess funds shall be approved by a majority of the electors voting at such special election.

Approved March 18, 1971

## CHAPTER 541

SENATE BILL NO. 2477  
(Longmire)

## PARK DISTRICT EXCESS LEVY

AN ACT to amend and reenact subsection 3 of section 57-15-12 of the North Dakota Century Code relating to excess levies in park districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 57-15-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Whenever the board of park commissioners deem it advisable to raise moneys by taxes in excess of the levy herein provided, for any purpose for which the park district is authorized to expend moneys raised by taxes, such board of park commissioners shall submit to the voters of the district the question of increasing the levy by a certain number of mills, but not to exceed ten mills, on the dollar of the net taxable assessed valuation of the district and when authorized by a majority of the qualified electors of the park district voting on the question at an election in which the question has been submitted, may increase the levy in the amount so authorized. Such excess levy may be continued from year to year by action of the park board except that if a petition containing the signatures of not less than ten percent of the electors of the park district, as determined by the city auditor of the municipality in which the park district is situated, is presented to the park board requesting an election on the question of continuing the excess levy, such question shall be submitted to the electors of the park district at the next regular park district election. If the majority of the voters at such election determine not to continue the excess levy, no further excess levy shall be made except that such election shall not affect the tax levy in the calendar year in which the election is held.

Approved March 18, 1971

## CHAPTER 542

SENATE BILL NO. 2324  
(Freed)

## TAX LEVIES IN SCHOOL DISTRICTS

AN ACT to amend and reenact subsection 3 of section 57-15-14 of the North Dakota Century Code, as contained in section 23 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, relating to tax levy limitations in school districts, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 57-15-14 of the 1969 Supplement to the North Dakota Century Code, as contained in section 23 of House Bill No. 1045, as approved by the Forty-second Legislative Assembly, is hereby amended and reenacted to read as follows:

3. Any school district giving four years of standard high school work may levy taxes not to exceed thirty-four mills; except that in any school district having a total population in excess of four thousand according to the last federal decennial census:
  - a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the electors voting upon the question at any regular or special school district election.
  - b. There shall be no limitation upon the taxes which may be levied by any school district having a total population in excess of four thousand according to the last federal decennial census if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted and approved by a majority of the electors voting at any regular or special election upon such question.

In the event either such election is held in a reorganized district, it shall be conducted and approved or disapproved

in the same manner and subject to the same conditions as provided in section 15-53.1-22 for elections for approval of school district reorganization plans. The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of not less than ten percent of the electors of the district as determined by the county superintendent for such county in which such school is located; provided, however, that the approval of discontinuing either such authority shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy;

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

Approved March 12, 1971

## CHAPTER 543

HOUSE BILL NO. 1353  
(Weber)

## TOWNSHIP EXCESS LEVY

AN ACT relating to excess mill levies in townships.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF  
NORTH DAKOTA:

SECTION 1. EXCESS LEVIES IN TOWNSHIPS - AUTHORIZATION FOR MORE THAN ONE YEAR.) The board of township supervisors may submit the question of authorizing an excess levy for not to exceed a total of five years, provided the notice of election and the ballot upon which the authorization for the excess levy is submitted both contain the specific years for which such authorization is sought. Upon approval by the voters as provided in section 57-17-05, such excess levy may be levied for the years specified in the ballot.

Approved March 18, 1971

## CHAPTER 544

HOUSE BILL NO. 1391  
(Opedahl, Jacobson, McGeehan)

## COUNTY EMERGENCY FUND

AN ACT to amend and reenact section 57-15-28 of the North Dakota Century Code, relating to county emergency funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-15-28 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-28. EMERGENCY FUND - COUNTY.) The governing body of any county may levy a tax for emergency purposes which shall not exceed the amount produced by the levy of one mill on the dollar of the net taxable valuation of the county. Such emergency fund and the sums therein shall not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes, but shall be shown in such budget as an "emergency fund" and shall not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, shall be covered into such emergency fund, and shall be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund shall not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding such determination to expend emergency funds, or for the purchase of road equipment. Any unexpended balance, remaining in the emergency fund at the end of any fiscal year, shall be kept in such fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, shall equal the amount produced by a levy of five mills on the taxable valuation, the levy of one mill for emergency purposes shall be discontinued, and no further levy shall be made for this purpose until another levy of one mill or less is required to replenish the emergency fund.

Approved March 22, 1971

## CHAPTER 545

SENATE BILL NO. 2481  
(Nething, Pyle, Melland)

## TAX LEVY FOR TOWNSHIP DEBT

AN ACT to provide for the levy of taxes by counties for the payment of indebtedness of townships to counties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. TAX LEVY FOR TOWNSHIP DEBT - DUTY OF COUNTY AUDITOR - DUTY OF COUNTY TREASURER.) Whenever any township is indebted to the county in which such township is located, and such debt is more than one year past due, the county auditor, upon resolution of the board of county commissioners, shall levy a tax on the property within the township in an amount sufficient to pay the indebtedness, but in no case shall the amount of the levy cause the total levy for such township to exceed the maximum levy limitations, including excess levy limitations, provided by law. The county treasurer shall place the taxes collected to the credit of the county in payment or partial payment of the township's indebtedness.

Approved March 27, 1971

## CHAPTER 546

SENATE BILL NO. 2100  
(Melland)

## TAX LEVY FOR OLDER PERSONS' PROGRAMS

AN ACT to authorize a levy by counties and cities for programs and activities for older persons, to provide elections for authorizing or removing the levy, and to require contracts with the governing bodies of such counties and cities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AUTHORIZATION OF MILL LEVY FOR PROGRAMS AND ACTIVITIES FOR OLDER PERSONS - ELECTIONS TO AUTHORIZE OR REMOVE THE LEVY - CONTRACT WITH GOVERNING BODY.)

1. The board of county commissioners of any county is hereby authorized to levy a tax, or in the event no levy is made by the board of county commissioners, the governing body of any city is authorized to levy a tax, in addition to all levies now authorized by law, for the purpose of establishing or maintaining programs and activities for older persons, including the expansion of existing senior citizen centers which will provide recreational and other leisure-time activities, informational, health, welfare, counseling, and referral services for older persons, and assisting such persons in providing volunteer community or civic services. Such tax shall not exceed the amount produced by the levy of one mill on a dollar of the net taxable valuation of the county. The proceeds of such tax shall be kept in a separate fund and shall be used exclusively for the public purposes provided for in this Act, but in no event shall the accumulated fund exceed the amount produced by a one-mill annual levy.
2. The levy authorized by this Act shall not be used to defray any expenses of any organization or agency until such organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the board of county commissioners or the governing body of the city in regard to the manner in which such funds will be expended and the services to be provided. An organization or agency and its program which receives funds under the provisions of this Act shall be reviewed or approved annually by the

board of county commissioners or the governing body of the city to determine its eligibility to receive funds under the provisions of this Act.

3. The levy authorized by this Act shall be imposed or removed only by a vote of at least sixty percent of the electorate of the county or city directing the governing body to do so. The governing body shall put the issue before the people either on its own motion or when a petition in writing, signed by qualified electors of the county or city equal in number to at least ten percent of the total vote cast in the county or city for the office of governor of the state at the last general election is presented to said governing body.

Approved March 29, 1971

## CHAPTER 547

HOUSE BILL NO. 1048  
(Bier, Knudson, G. Larson,  
R. Peterson, Stoltenow, Stone, Wagner)  
(From Legislative Council Study)

SCHOOL DISTRICT EXCESS  
LEVY ELECTIONS

AN ACT to amend and reenact sections 57-16-03 and 57-16-06 of the North Dakota Century Code, relating to the requirements for notice and the form of ballots for excess mill levy elections, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-16-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-16-03. ELECTION TO BE HELD - NOTICE.) The governing board of the school district thereupon shall have the power to call a special election for the purpose of voting upon the question of authorizing an excess levy. Such election shall be held not later than October first of the year in which the tax is to be levied and shall be conducted as other elections of such school district except as otherwise provided in this chapter. The notice of election, in addition to the usual requirements, shall contain a statement of the question to be voted upon pursuant to the terms of this chapter, and also shall show:

1. The total amount of budgeted income and expenditures of such school district for the current fiscal year.
2. The estimated expenditures for the year for which the taxes are to be levied.
3. The amount of tax dollars under the legal mill levy limit that such school district is permitted to levy by virtue of section 57-15-14.
4. The amount of tax dollars currently being levied by such school district.
5. The amount in dollars of the tax levy that such school district seeks authority to make.
6. The increase that will result in the amount of tax dollars levied if authorization for the levy requested is given.

SECTION 2. AMENDMENT.) Section 57-16-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-16-06. FORM OF BALLOT.) The ballot whereby a levy increase shall be requested shall be substantially in the form as provided in subsection 1 if the school district is requesting authorization to raise the mill levy from the legal limit to a levy in excess of that amount, or as provided in subsection 2 if the school district is requesting authorization to increase the amount of a levy which is already in excess of the legal limit:

1. Shall \_\_\_\_\_ school district levy taxes for the year (or years) \_\_\_\_\_, which shall exceed the legal limit by \_\_\_\_\_ percent, so that the taxes levied for this current year instead of being \_\_\_\_\_ dollars, which is the limit authorized by law, shall be \_\_\_\_\_ dollars:

Yes

No

2. Shall \_\_\_\_\_ school district, which is permitted to levy taxes of \_\_\_\_\_ dollars without excess levy authorization, and which is presently levying taxes of \_\_\_\_\_ dollars through an approved excess levy of \_\_\_\_\_ percent authorized in 19\_\_, be permitted to levy taxes for the current year, 19\_\_, of \_\_\_\_\_ dollars, exceeding the normal levy by \_\_\_\_\_ percent:

Yes

No

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

Approved March 27, 1971

## CHAPTER 548

HOUSE BILL NO. 1537  
(Henning, Boyum, Lee)

## EXCESS LEVY ELECTIONS

AN ACT to amend and reenact sections 57-17-01, 57-17-02, 57-17-03, and 57-17-04 of the North Dakota Century Code, relating to excess levies in counties, cities, and townships, to notice of election, and to the form of election ballots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-17-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-17-01. GOVERNING BODY MAY DECLARE TAX INSUFFICIENT.) The governing body of any county, city, or township, by a two-thirds vote of all the members of said governing body, may declare by resolution that the amount of taxes which may be raised at the maximum rate authorized by chapter 57-15 will be insufficient to provide an amount adequate for the necessary requirements of the municipality, county, or township in question, and that it is necessary to levy taxes in excess of said limitations for the purpose of meeting the current expenses of the municipality, county, or township.

SECTION 2. AMENDMENT.) Section 57-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-17-02. ELECTION TO AUTHORIZE EXCESS LEVY OF TAXES.) Upon the passage of the resolution authorized in section 57-17-01, the governing body of any political subdivision mentioned in such section may call a special election for the purpose of voting upon the question of authorizing an excess levy for the current year and not to exceed one succeeding year, or may submit the question to the voters at the regular primary election. If a special election is called such election shall be held not later than September first of the year in which the tax is to be levied, and, except as otherwise provided in this chapter, the election shall be conducted as other elections of such political subdivision are conducted.

SECTION 3. AMENDMENT.) Section 57-17-03 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

57-17-03. NOTICE OF ELECTION.) The notice of election, in addition to the usual requirements of a notice of election, shall contain a statement of the question to be voted upon pursuant to the terms of this chapter, and also shall show the total amount of income and expenditures of the taxing district for the fiscal year immediately preceding, the year or years for which the taxes are to be levied, the estimated expenditures for the year or years for which the taxes are to be levied, the aggregate amount of the tax levy which the tax levying board seeks authority to make for each year, the aggregate amount of the tax levy permissible without special authority from the electors for each year, and the amount of tax levy in excess of the statutory limit which the board seeks authority to make for each year. A copy of the notice of election shall be mailed by the auditor or clerk of the taxing district to the state tax commissioner on or before the date of the posting or first publication of the notice, and shall be open for public inspection in his office. In case the question is submitted by the board of county commissioners at the regular primary election, the county auditor shall publish a notice of the submission of such question with the information above indicated, or shall embody such information in the usual notice of such primary election.

SECTION 4. AMENDMENT.) Section 57-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-17-04. FORM OF BALLOT.) The form of the ballot on election on the question of authorizing an excess levy shall be substantially in the following form:

Shall           (naming the taxing district)           levy taxes for the years           (naming the year or years)          , which shall exceed the legal limit by                                  dollars, so that the taxes levied instead of being                                  dollars, which is the limit authorized by law, shall be                                  dollars?

Yes

No

Approved March 30, 1971

## CHAPTER 549

HOUSE BILL NO. 1316  
(Weber)

DISCOUNT FOR EARLY  
PROPERTY TAX PAYMENT

AN ACT to amend and reenact section 57-20-09 of the North Dakota Century Code, relating to the discount for early payment of property taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-20-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-09. DISCOUNT FOR EARLY PAYMENT OF TAX.) The county treasurer shall allow a five percent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency. Such discount shall apply to all general real estate taxes levied for state, county, city, township, school district, fire district, park district, and any other taxing districts, but shall not apply to personal property taxes, special assessment installments, or hail indemnity taxes. Whenever the county commissioners, by resolution, determine that an emergency exists in any county by virtue of weather or other catastrophe they may extend the discount period for an additional thirty days.

Approved March 15, 1971

## CHAPTER 550

HOUSE BILL NO. 1418  
(Dornacker)

## ABATEMENT PROCEEDINGS

AN ACT to amend and reenact section 57-23-04 of the North Dakota Century Code, relating to the abatement or refund of property taxes; section 57-23-06 of the North Dakota Century Code, relating to the hearing on abatement applications; section 57-23-07 of the North Dakota Century Code, relating to the compromise of a property tax, and section 57-23-08 of the North Dakota Century Code, relating to the effective date of abatement actions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-23-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-04. COUNTY COMMISSIONERS MAY ABATE OR REFUND TAXES.) Upon application filed in the office of the county auditor on or before November first of the year following the year in which the tax becomes delinquent, as in this chapter provided, the board of county commissioners, subject to the approval of the state tax commissioner, may abate or refund, in whole or in part, any assessment or tax upon real or personal property, in the following cases:

1. When an error has been made in any identifying entry or description of the property, in entering the valuation thereof, or in the extension of the tax, to the injury of the complainant.
2. When improvements on any real property were considered or included in the valuation thereof which did not exist thereon at the time fixed by law for making the assessment.
3. When the complainant, or the property, is exempt from the tax.
4. When the complainant had no taxable interest in the property assessed against him at the time fixed by law for making the assessment.
5. When taxes have been erroneously paid, or errors made

in noting payment, or in issuing receipts therefor.

6. When the same property has been assessed against the complainant more than once in the same year, and the complainant produces satisfactory evidence that the tax thereon for such year has been paid.
7. When any building, structure, or other improvement or tangible personal property has been destroyed or injured by fire, flood, or tornado; provided that proper adjustment has not been made by the assessor pursuant to subsection 4 of section 57-02-11. No abatement or refund shall be made under this subsection on account of damages covered by insurance or damages amounting to less than one hundred dollars, and the abatement or refund shall be granted only for that part of the year remaining after the property was damaged or destroyed.
8. When the assessment on the complainant's property is invalid, inequitable or unjust.

SECTION 2. AMENDMENT.) Section 57-23-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-06. HEARING ON APPLICATION.) At the next regular meeting of the board of county commissioners following the filing of an application for abatement, the applicant may appear, in person or by his representative or attorney, and may present such evidence as may bear on the application. He shall furnish any additional information or evidence requested by the board of county commissioners. Any abatement or refund of any special assessment must be approved by the governing body of the municipality in which the special assessment was made and such abatement or refund shall be effective when approved by the board of county commissioners. The recommendations of the governing body of the municipality in which such assessed property is located shall be endorsed upon or attached to every application for an abatement or refund, and the board of county commissioners shall give consideration to such recommendations. The board of county commissioners, by a majority vote, either shall approve or reject the application, in whole or in part. If rejected, a statement of the reasons for such rejection, signed by the chairman of the board, shall be attached to the application, and a copy thereof shall be mailed by the county auditor to the applicant at the post-office address specified in the application.

SECTION 3. AMENDMENT.) Section 57-23-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-07. COUNTY COMMISSIONERS MAY COMPROMISE TAX.) Whenever taxes on any real estate remain unpaid and such property

has not been sold to any purchaser other than the county, or when any personal property taxes remain unpaid, the board of county commissioners, subject to the approval of the state tax commissioner, by reason of depreciation in the value of such property or for other valid cause, may compromise with the owner of such property by abating a portion of such delinquent taxes, together with any penalty and interest on such portion, on payment of the remainder.

SECTION 4. AMENDMENT.) Section 57-23-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 57-23-08. WHEN ACTION EFFECTIVE.) Except as hereinafter provided the granting of any application for abatement or refund shall be effective when approved by the state tax commissioner, and when so approved the county auditor shall correct all tax lists in accordance with the order of abatement, and the applicant shall be relieved of further liability for the tax abated. If the tax commissioner disapproves any application for abatement or refund, in whole or in part, he shall state the basis for disapproval thereon and, the applicant may appeal the rejection of the application for abatement or refund to the district court within thirty days from the date of the mailing of the notice of rejection or, in lieu thereof, the appellant, pursuant to chapter 28-32 of the North Dakota Century Code, shall have a right to a hearing before the tax commissioner as an administrative agency on such application for abatement or refund, provided that a hearing thereon is demanded by the applicant within thirty days from the date of the mailing of the notice of the rejection of the application for abatement or refund. All of the provisions of chapter 28-32 relating to proceedings before an administrative agency, including the right to appeal to the district court, shall be applicable to and shall govern the hearing. The following applications for abatement or refund, however, need not be approved by the tax commissioner and they shall become effective when approved by the board of county commissioners:

1. An abatement or refund of any special assessment;
2. An abatement or refund with respect to a reduction of not more than one thousand dollars of net assessed valuation.

With respect to any application for abatement that is not required to be submitted for approval to the state tax commissioner, as provided in this section, the county auditor at the close of each calendar year shall certify to the director of the state department of accounts and purchases the amount of state taxes canceled by such action of the board of county commissioners and the same shall be credited to the county.

\*NOTE: Section 57-23-08 was also amended by section 1 of Senate Bill No. 2207, chapter 552.

Approved March 27, 1971

## CHAPTER 551

HOUSE BILL NO. 1183  
(Gackle, Boyum, Ulvedal)

APPRAISAL OF PROPERTY IN  
ABATEMENT PROCEEDINGS

AN ACT to create and enact a new section to chapter 57-23 of the North Dakota Century Code, relating to the abatement and refund of property taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 57-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

APPRAISAL OF PROPERTY - PREMISES OPEN TO INSPECTION.) The applicant by filing an application for an abatement, refund or compromise of a tax with the county auditor, consents to inspection of the premises involved in the application by the board of county commissioners, the governing body of the city or township, or the state tax commissioner or the duly authorized agents thereof for the purpose of making an appraisal of said property. The premises shall be open to inspection to the person having authorization to make the appraisal upon giving reasonable notice to the applicant.

Approved March 22, 1971

## CHAPTER 552

SENATE BILL NO. 2207  
(Unruh)

## APPEAL IN ABATEMENT PROCEEDINGS

AN ACT to amend and reenact section 57-23-08 of the North Dakota Century Code, relating to property tax abatements and to repeal section 57-23-10 of the North Dakota Century Code, relating to appeals from decision of the board of county commissioners abating, refunding or compromising property taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-23-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*57-23-08. WHEN ACTION EFFECTIVE.) Except as hereinafter provided the granting of any application for abatement or refund or compromise of any tax shall be effective when approved by the state tax commissioner, and when so approved the county auditor shall correct all tax lists in accordance with the order of abatement or compromise, and the applicant shall be relieved of further liability for the tax abated or compromised. If the board of county commissioners or if the tax commissioner disapproves any application for abatement or refund or compromise, in whole or in part, the reasons for disapproval shall be stated thereon and, the applicant may appeal the rejection of the application for abatement or refund or compromise to the district court within thirty days from the date of the mailing of the notice of rejection. If an appeal is taken from the decision of the board of county commissioners abating, refunding, or compromising any tax, or refusing so to do, the appeal shall be taken in the manner provided for other appeals from the decisions of the board of county commissioners; the state tax commissioner and any taxing district which has levied a tax which will be affected by the abatement, refund or compromise, shall be made a party in said appeal. In lieu of appealing to the district court, the appellant, pursuant to chapter 28-32 of the North Dakota Century Code, shall have a right to a hearing before the tax commissioner as an administrative agency on such application for abatement or refund, provided that a hearing thereon is demanded by the applicant within thirty days from the date of the mailing of the notice of the rejection of the application for abatement or refund. All of the provisions of chapter 28-32 relating to proceedings before an administrative agency, including the right to appeal to the district court, shall be applicable

\*NOTE: Section 57-23-08 was also amended by section 4 of House Bill No. 1418, chapter 550.

to and shall govern the hearing. The following applications for abatement or refund, however, need not be approved by the tax commissioner and they shall become effective when approved by the board of county commissioners:

1. An abatement or refund of any special assessment;
2. An abatement or refund with respect to a reduction of not more than one thousand dollars of net assessed valuation.

With respect to any application for abatement that is not required to be submitted for approval to the state tax commissioner, as provided in this section, the county auditor at the close of each calendar year shall certify to the director of the state department of accounts and purchases the amount of state taxes canceled by such action of the board of county commissioners and the same shall be credited to the county.

SECTION 2. REPEAL.) Section 57-23-10 of the North Dakota Century Code is hereby repealed.

Approved March 30, 1971

## CHAPTER 553

SENATE BILL NO. 2297  
(Barth, Just)

## NOTICE OF TAX SALE

AN ACT to amend and reenact section 57-24-02, and to repeal section 57-24-06 of the North Dakota Century Code, relating to the posting of delinquent real estate taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-24-02. COUNTY AUDITOR TO GIVE NOTICE OF TAX SALE BY POSTING NOTICE.) 1. At least twenty days before the second Tuesday in December of each year the county auditor of each county shall prepare a list of all delinquent real estate taxes, and shall post or cause to be posted one copy thereof in a conspicuous place in his office, and shall retain a copy of such list which at all times shall be on file and open to public inspection in his office, and also, upon a resolution of the county commissioners, extra copies of the list of delinquent real estate taxes may be placed in banks and such other places as designated by the county commissioners.

SECTION 2. REPEAL.) Section 57-24-06 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1971

## CHAPTER 554

SENATE BILL NO. 2379  
(Doherty)

COLLECTION OF PROPERTY TAXES  
FROM TRANSPORTATION COMPANIES

AN ACT to amend and reenact section 57-32-05 of the North Dakota Century Code, relating to the collection of property taxes from car line, express, and air transportation companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-32-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-32-05. COLLECTION OF TAX.) If any tax required to be paid by any company under the provisions of this chapter shall not be paid on or before October first following delinquency, the state treasurer shall seize personal property belonging to such company found within this state, sufficient to pay the amount of such tax with penalty and interest. The state treasurer, immediately after seizing said property, shall proceed to advertise the same for sale by publishing a notice at least two times in a newspaper published in Burleigh County. Such notice shall describe the property seized, the amount of the tax and penalty for which the property has been seized, and the day and hour when and the place where said property will be sold. If the tax and penalty, with interest due thereon, shall not be paid before the time appointed for sale, which shall not be less than ten days after the first publication of such notice, the state treasurer shall proceed to sell such property, or so much thereof as may be necessary, to pay such tax, penalty, interest, and the costs of such seizure and sale, at public auction to the highest bidder.

If any tax required to be paid by any car line company under the provisions of this chapter shall not be paid on or before October first following delinquency, the state treasurer may collect the tax due by using the following alternative procedure.

The state treasurer shall give notice of the amount of the delinquent tax by registered mail to the chief accounting officer of any railroad company over whose line or lines in this state the cars of said delinquent have been transported, or are being transported, and which said railroad company has in its possession or under its control any credits belonging to the delinquent or

owes any debts to the delinquent.

After receiving the notice the railroad company so notified shall neither transfer nor make other disposition of the credits, or debts until the state treasurer consents to a transfer or disposition or until 60 days elapse after receipt of the notice. All railroad companies so notified shall advise the state treasurer within ten days after receipt of the notice of all such credits or debts in their possession, under their control, or owing by them.

Whenever any railroad company advises the state treasurer that it has within its possession or under its control any credits belonging to the delinquent, or owes any debt to the delinquent, and the amount thereof, the state treasurer may thereupon issue a notice of distraint and have the same served upon any such railroad company. Service of said notice upon the registered agent of such railroad company within this state shall constitute valid service. Any railroad company so served shall pay over to the state treasurer the sum of any credits belonging to the delinquent, or any debts owing to the delinquent, whenever such credits, or debts are less than the delinquent tax and penalty, or shall pay over to the state treasurer the amount of the delinquent tax and penalty, whenever such credits or debts are greater, and shall deduct the sum so paid over from the credits or debts due the delinquent.

Approved March 22, 1971

## CHAPTER 555

SENATE BILL NO. 2049  
(Butler, Jacobson, Rait, Wilhite)  
(From Legislative Council Study)

IMPOSITION OF SALES TAX  
ON BANKS

AN ACT to amend and reenact sections 57-35-06 and 57-35.1-02 of the North Dakota Century Code, relating to the taxation of banks, trust companies, and building and loan associations, and to repeal subsection 19 of section 57-39.2-04 of the North Dakota Century Code, to remove the exemption from the sales tax for banks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-35-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35-06. LIEU TAX.) The tax provided in this chapter shall be in lieu of all other taxes or impositions, state, county, and local, except sales and use taxes, including motor vehicle excise taxes, and taxes upon the real property of each such bank and trust company.

SECTION 2. AMENDMENT.) Section 57-35.1-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-02. IMPOSITION AND BASIS OF TAX.) An annual tax is hereby imposed upon each building and loan association, for the grant to it of the privilege of transacting, or for the actual transacting by it, of business within this state during any part of each tax year, commencing January 1, 1961. This tax is in lieu of all other taxes or impositions, state, county, and local, except sales and use taxes, including motor vehicle excise taxes, and taxes upon the real property of any association, and shall be based upon and measured by the net income of each association for the preceding calendar year. The amount of the tax shall be computed by the tax commissioner at the rate of five percent of such net income. Regardless of such computation, the minimum tax assessable hereunder to any association shall be fifty dollars. The liability for the tax imposed by this chapter shall arise upon the first day of each calendar year following the year for which the net income is used as the base for measuring the tax.

SECTION 3. REPEAL.) Subsection 19 of section 57-39.2-04 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 556

HOUSE BILL NO. 1102  
(Bunker)

SURVIVING SPOUSE'S  
ESTATE TAX EXEMPTION

AN ACT to amend subdivision h of subsection 2 of section 57-37-11 of the North Dakota Century Code, relating to the computation of the adjusted gross estate for purposes of determining the exemption to a surviving spouse for estate tax purposes, and providing an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subdivision h of subsection 2 of section 57-37-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- h. The aggregate amount of the deductions allowed under this subsection, computed without regard to this subdivision, shall not exceed fifty per centum of the value of the adjusted gross estate or twenty thousand dollars, whichever is the larger. The adjusted gross estate shall, for the purposes of this subdivision, be computed by subtracting from the entire value of the gross estate the aggregate amount of the deductions allowed by subsections four, five, six, seven, eight, nine, eleven, twelve, thirteen, and fourteen of this section.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall apply to the estate of any decedent who died on or after July 1, 1971.

Approved March 30, 1971

## CHAPTER 557

HOUSE BILL NO. 1216  
(Atkinson)

## ESTATE TAX REPORTS AND INVENTORIES

AN ACT to amend and reenact section 57-37-22 of the North Dakota Century Code, relating to estate tax reports, inventories, applications and supplements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-37-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-22. REPORTS, INVENTORIES, ESTATE TAX APPLICATIONS AND SUPPLEMENTS.) It shall be the duty of the executor, administrator, trustee or other interested person of competent legal capacity to file an estate tax return and, before the final settlement of an estate, to furnish a supplemental or amended inventory and amended estate tax return listing all property and taxable transfers or other events that have come to his knowledge since the first inventory or estate tax return was made which would result in a change in either the amount of the estate tax initially determined or the statements made by the affiant therein. He also shall furnish copies of any documents or records, and any other information pertaining to the estate, or the value thereof, upon request of the county court.

It shall be the further duty of the executor, administrator, trustee or other interested person of competent legal capacity, to file an amended estate tax return within ninety days after any amended estate tax return is filed pursuant to the provisions of the United States Internal Revenue Code. If no amended federal estate tax return is filed but the federal estate tax return is changed or corrected, such change or correction shall be reported to the county court and to the state tax commissioner within ninety days after the final determination of such change or correction is made and the court shall reassess the estate tax thereon. Upon receipt of an amended estate tax return or, upon notification of any change or correction made on the federal estate tax return, the county court, having jurisdiction over the estate, shall reassess the estate tax.

Approved March 3, 1971

## CHAPTER 558

HOUSE BILL NO. 1469  
(Boustead)

## TRANSFER OF DECEDENT'S ASSETS

AN ACT to amend and reenact section 57-37-29 of the North Dakota Century Code, relating to depositories and retention, transfer or release of a decedent's assets.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-37-29 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37-29. DEPOSITORIES - NOTICE OF TRANSFER OF DECEDENT'S ASSETS.)

1. Any safe deposit company, trust company, corporation, bank, or other institution or person having possession, control, custody, or partial control or custody of any securities, deposits, or other assets, including shares of the capital stock of, or other interest in, such safe deposit company, trust company, corporation, bank, or other institution, standing in the name of a resident or nonresident decedent, or belonging to or standing in the joint name of such decedent and one or more other persons, who delivers or transfers the same to the executor, administrator, or other legal representative, agent, deputy, attorney, trustee, legatee, heir, surviving joint owner, or any other successor in interest of such decedent, shall give the tax commissioner notice of the amount paid and the name or names and addresses of the transferees, which notice shall be on a form prescribed by the tax commissioner. Such notice shall be filed with the tax commissioner within thirty days from the date of payment. If no notice is given by the transferor, as prescribed herein, the transferor shall be liable for any estate tax which is unpaid on the asset which was transferred.
2. In the case of an insurer paying proceeds of a life insurance contract in which the decedent had an incident of ownership, determined pursuant to the provisions of section 57-37-02 of this chapter,

the insurer may pay the proceeds of the life insurance contract to the stated beneficiary in the contract immediately, however, the insurer shall give the tax commissioner notice of the amount paid pursuant to the contract and any other information required by the tax commissioner regardless of the amount of the contract. Such notice shall be filed with the tax commissioner within thirty days from the date of payment.

3. The provisions of subsection 1 of this section shall not apply when a request for the transfer of securities has been made by any trust company acting as an executor or administrator of an estate, provided that the trust company is qualified to do business under the laws of the state of North Dakota.

Approved March 31, 1971

## CHAPTER 559

HOUSE BILL NO. 1468  
(Giffey)

TAX RETURNS OF  
TAX EXEMPT ORGANIZATIONS

AN ACT to amend and reenact sections 57-38-09.1 and 57-38-34 of the North Dakota Century Code, relating to the due date for filing tax returns by tax exempt organizations and cooperatives and providing for an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-38-09.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-09.1. ORGANIZATIONS EXEMPT FROM INCOME TAX - FILE AFFIDAVIT.) Any organization exempt from taxation pursuant to section 57-38-09 must file an affidavit with the tax commissioner in such form and manner as may be prescribed by the tax commissioner containing such information as is necessary to enable him to determine the exempt status of the organization. Affidavits made on the basis of the calendar year shall be filed on or before the fifteenth day of May following the close of the calendar year and affidavits made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fifth month following the close of the fiscal year.

SECTION 2. AMENDMENT.) Section 57-38-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-34. TIME AND PLACE OF FILING RETURNS - INTEREST ON TAX WHEN TIME FOR FILING IS EXTENDED.) Returns shall be in such form as the tax commissioner from time to time may prescribe, and shall be filed with the tax commissioner at his office in Bismarck, North Dakota. Returns made on the basis of the calendar year shall be filed on or before the fifteenth day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year. Returns for cooperatives, however, made on the basis of the calendar year shall be filed on or before the fifteenth day of September following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the ninth month following the close of the fiscal year. The tax commissioner may

grant a reasonable extension of time for filing a return when, in his judgment, good cause exists. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest on the tax at the rate of six percent per annum from the date the tax would have been due if the extension had not been granted to the date the tax is paid. The tax commissioner shall prepare blank forms for use in making returns and shall cause them to be distributed throughout this state, but failure to receive or secure a form shall not relieve a taxpayer from making a return.

SECTION 3. EFFECTIVE DATE.) The provisions of this Act to be effective for all returns filed or to be filed after December 31, 1970.

Approved March 15, 1971

## CHAPTER 560

HOUSE BILL NO. 1164  
(Dornacker)

## NEW INDUSTRY CORPORATE TAX CREDIT

AN ACT to amend and reenact section 57-38-30.1 of the North Dakota Century Code, relating to corporate tax credit for new industry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-38-30.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-30.1. CORPORATE TAX CREDIT FOR NEW INDUSTRY.) For the purpose of providing a tax incentive to new industry in this state, any domestic corporation that has been incorporated for the first time in this state after January 1, 1969, and which is not the result of a business reorganization or acquisition, or any foreign corporation that has received a certificate of authority to transact business in this state for the first time after January 1, 1969, shall be entitled to receive the corporate tax credit allowed by this section by complying with the provisions herein, provided that corporations organized under and receiving the tax credit allowed by chapter 40-57 or chapter 40-57.1 of the North Dakota Century Code, or reorganized corporations that were in existence prior to January 1, 1969, shall not be allowed the credit. The credit shall consist of a deduction from the net tax as computed under section 57-38-30 of one percent of the annual gross amount expended by the corporation for salaries and wages within the state of North Dakota for each of the first three taxable years, and a deduction from the net tax as computed under section 57-38-30 of one-half of one percent of the annual gross amount expended by the corporation for salaries and wages within the state of North Dakota for each of the fourth and fifth taxable years. After the fifth taxable year, no further deduction shall be allowed, and the corporation shall be taxed in accordance with the schedule provided in section 57-38-30 without credit. For the purpose of this section new industry shall be defined as a corporate enterprise engaged in assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products or any combination thereof.

Approved March 27, 1971

## CHAPTER 561

SENATE BILL NO. 2418  
(Butler)

## AUDITING CORPORATE TAX RETURNS

AN ACT to amend and reenact subsection 1 of section 57-38-38 of the North Dakota Century Code, relating to the time for auditing corporate income tax returns.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-38 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as otherwise provided in this subsection and subsections 2, 3, 4, 5, 6 and 7 of this section, the tax commissioner shall proceed to audit the returns of taxpayers and, not later than three years after the due date of the return, or three years after the return was filed, whichever period expires later, assess the tax and, if any additional tax is found due, shall notify the taxpayer in detail as to the reason for the increase; provided, that as to any corporation whose principal place for managing or directing its business is outside North Dakota the tax commissioner shall have six years after the due date of the return or six years after the return was filed, whichever period expires later, to audit the return of such corporation and assess any additional tax found due and to notify such corporation in detail as to the reason for the assessment of the additional tax;

Approved March 18, 1971

## CHAPTER 562

SENATE BILL NO. 2420  
(Butler)

## REVISION OF INCOME TAX ASSESSED

AN ACT to amend and reenact subsection 1 of section 57-38-40 of the North Dakota Century Code, relating to income tax revisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-40 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as provided in subsection 2 of this section, a taxpayer may apply to the tax commissioner for revision of the tax assessed at any time within three years after the due date of the return or within three years after the return was filed, whichever period expires latest. The tax commissioner shall grant a hearing thereon, and if upon such hearing he shall determine that the tax is excessive or incorrect, he shall resettle the same according to the law and the facts and shall adjust the computation of the tax accordingly. The tax commissioner shall notify the taxpayer of his determination and shall cause to be refunded to the taxpayer the amount, if any, paid in excess of the tax found by him to be due. If the taxpayer has failed, without good cause, to file a return within the time prescribed by law, or has filed a fraudulent return within the time prescribed by law, or has failed, after notice, to file a proper return, the tax commissioner shall not reduce the tax below double the amount for which the taxpayer is found to be properly assessed. Refund claims properly verified and approved by the tax commissioner shall be audited and paid as are other claims against the state.

Approved March 18, 1971

## CHAPTER 563

HOUSE BILL NO. 1049  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(Legislative Council Study)

## RESERVE FOR INCOME TAX REFUNDS

AN ACT to create and enact section 57-38-40.1 of the North Dakota Century Code, to provide for a reserve for income tax refunds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 57-38-40.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-38-40.1. INCOME TAX REFUND RESERVE.) A reserve for income tax refunds is hereby created as a special fund in the state treasury. The state tax commissioner shall deposit in such fund such amounts from income tax collections as he may deem necessary to pay refunds to which taxpayers may be entitled under the provisions of this chapter and appropriated pursuant to section 186 of the Constitution of North Dakota.

Approved February 19, 1971

## CHAPTER 564

HOUSE BILL NO. 1166  
(Dornacker)

## INCOME TAX INTEREST AND PENALTIES

AN ACT to amend and reenact subsection 1 of section 57-38-45 of the North Dakota Century Code, relating to income tax interest and penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-45 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. If any taxpayer, without intent to evade any tax imposed by this chapter, shall fail to file a return of income or pay a tax if one is due at the time required by or under the provisions of this chapter, but voluntarily shall file a correct return of income or pay the tax due within sixty days thereafter, or if upon audit, an additional tax is found to be due, there shall be added to the tax a penalty of five percent thereof, or one dollar whichever is greater, plus interest of one percent of such tax for each month or fraction of a month during which the tax remains unpaid, excepting the first month after such return was required to be filed or such tax became due;

Approved March 15, 1971

## CHAPTER 565

SENATE BILL NO. 2413  
(Butler)

## BUSINESS PRIVILEGE TAX

AN ACT to amend and reenact subsection 1 of section 57-38-66 of the North Dakota Century Code, relating to the tax on individuals, estates and trusts for the privilege of doing business in this state; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 57-38-66 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Each individual, estate, or trust required to file an income tax return pursuant to chapter 57-38 and who derives income from the operation of a business, trade, or profession, other than as an employee, shall pay a tax for the privilege of doing business in this state of one percent of the net income derived from the operation of such business, trade, or profession, but the minimum tax assessable to any one taxpayer shall be twenty dollars, which tax shall be a separate tax that is levied in addition to the taxes provided for in chapter 57-38. For the purposes of this subsection, the term "net income" means the gross income derived from such business, trade, or profession less the expenses of carrying on such business, trade, or profession, as computed for federal income tax purposes pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended; provided that in computing gross income and net income there shall not be taken into account any gain or loss from the sale or exchange of property used in the operation of a business, trade, or profession but not held for sale in the regular course thereof.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1970.

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

Approved March 30, 1971

## CHAPTER 566

SENATE BILL NO. 2212  
(Thoreson, Butler)

## DEFINITION OF "RETAIL SALE"

AN ACT to amend and reenact subsection 3 of section 57-39.2-01 of the North Dakota Century Code, relating to the definition of a "retail sale" for sales tax purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 57-39.2-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, compounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit shall not be considered a taxable sale. As used in this subsection the word "consumer" shall include any hospital, infirmary, sanatorium, nursing home, home for the aged or similar institution that furnishes services to any patient or occupant.

Approved March 17, 1971

## CHAPTER 567

HOUSE BILL NO. 1051  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(Legislative Council Study)

EXEMPTION FOR EXCHANGE  
OF AGRICULTURAL PRODUCTS

AN ACT to repeal subsection 3 of section 57-39.2-04 of the North Dakota Century Code, relating to the exemption from the sales tax of agricultural products when sold in exchange for like agricultural products produced by the purchaser and is for the purchaser and his family.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Subsection 3 of section 57-39.2-04 of the North Dakota Century Code is hereby repealed.

Approved February 19, 1971

## CHAPTER 568

SENATE BILL NO. 2309  
(Sanstead, Coughlin)

## SALES TAX EXEMPTION FOR TEXTBOOKS

AN ACT to amend and reenact subsection 5 of section 57-39.2-04 of the North Dakota Century Code, relating to the exemption of textbooks from sales tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 5 of section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary and secondary school conducting courses of study similar to those conducted by public schools in this state.

Approved March 27, 1971

## CHAPTER 569

SENATE BILL NO. 2267  
(Goldberg, Nasset, Robinson, Jacobson)

SALES TAX EXEMPTION FOR  
SALE OF FEED

AN ACT to amend and reenact subsection 11 of section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions of certain feed sales.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 11 of section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, milk, meat, fibers, or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur-bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a feed ration, and other generally recognized animal feeds. The term "feed" does not include drugs not used as part of a feed ration, medicants, disinfectants, wormers, tonics, and like items.

Approved March 17, 1971

## CHAPTER 570

SENATE BILL NO. 2353  
(Butler, Thoreson, Page, Ringsak)

SALES TAX EXEMPTIONS  
FOR FOREIGN PURCHASERS

AN ACT to amend and reenact subsection 12 of section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 12 of section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. Gross receipts from all sales otherwise taxable under this chapter when made to persons who are residents of adjoining states which do not impose or levy a retail sales tax or are residents of Canada; provided that such persons are in the state of North Dakota for the express purpose of making such purchases, and not as tourists; and provided further that any such person furnish to the North Dakota retailer a certificate signed by him in such form as the tax commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless such certificate is furnished it shall be presumed, until the contrary is shown, that such person was not in the state of North Dakota for the express purpose of making such purchases; provided further that this exemption shall not apply to any sale to any person who is a resident of another state if the sales price is ten dollars or less or to any person who is a resident of Canada if the sales price is five hundred dollars or less. The deduction for this exemption shall not exceed one and one-half of the amount of the deduction for exempt sales in interstate or foreign commerce which the retailer was legally entitled to deduct on his sales tax returns for the calendar year 1969. If no deduction was taken for interstate or foreign commerce sales on returns filed for the calendar year 1969 or if no returns were required to be filed for the calendar year 1969, the deduction for this exemption shall not exceed the average interstate or foreign commerce deduction legally allowed by retailers conducting similar business, as determined by the tax commissioner.

Approved March 11, 1971

## CHAPTER 571

SENATE BILL NO. 2294  
(Freed)

EXEMPTION FOR LEASING OR RENTING  
RESIDENTIAL HOUSING

AN ACT to create and enact subsection 22 of section 57-39.2-04 and subsection 10 of section 57-40.2-04 of the North Dakota Century Code, relating to exemption from sales and use tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 22 of section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

22. Gross receipts from the leasing, or renting, for residential housing for periods of more than 30 consecutive days, of factory manufactured homes, including mobile homes, modular living units, or sectional homes, whether or not placed on a permanent foundation.

SECTION 2.) Subsection 10 of section 57-40.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

10. Gross receipts from the leasing, or renting, for residential housing, for periods of more than 30 consecutive days, of factory manufactured homes, including mobile homes, modular living units, or sectional homes, whether or not placed on a permanent foundation.

Approved March 11, 1971

## CHAPTER 572

HOUSE BILL NO. 1053  
(Backes, Dornacker, L. Larson, Weber)  
(From Legislative Council Study)

EXEMPTING FOOD PURCHASED  
UNDER STUDENT BOARDING CONTRACT

AN ACT to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to the exemption of food purchased by a student from a college, university, fraternity or sorority.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) A new subsection to section 57-39.2-04 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Food purchased by a student under a boarding contract with a college, university, fraternity or sorority.

Approved March 27, 1971

## CHAPTER 573

HOUSE BILL NO. 1105  
(Boustead, Atkinson, Bunker)

LIMITATIONS ON COLLECTION  
OF SALES AND USE TAXES

AN ACT to amend and reenact subsection 1 of section 57-39.2-10, subsection 2 of section 57-39.2-17, and section 57-40.2-09 of the North Dakota Century Code, to provide that proceedings for the collection of sales and use taxes must be brought within three years after the due date of such taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 57-39.2-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-10. RECORDS REQUIRED - SALES FOR RESALE EXEMPT.)

1. Every retailer required to make a report and pay any tax under this chapter shall preserve such records of the gross proceeds of sale as the commissioner may require and every retailer shall preserve for a period of three years all invoices and other records of goods, wares, or merchandise purchased for resale. All such books, invoices, and other records shall be open to examination at any time by the commissioner or any of his duly authorized agents.

SECTION 2. AMENDMENT.) Subsection 2 of section 57-39.2-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If any tax imposed by this chapter remains unpaid, a proceeding in court for the collection of such tax may be begun at any time within three years after the due date of such tax or at any time within three years after the date the tax liability became finally and irrevocably fixed pursuant to section 57-39.2-15, whichever occurs later in point of time; provided that no limitation of time to collect such tax shall apply if the failure to pay such tax was due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax. The limitations provided by this chapter in regard to a commencement of court proceedings shall not apply

to any assessment of tax made by the tax commissioner prior to July 1, 1971.

SECTION 3. AMENDMENT.) Section 57-40.2-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-40.2-09. RECORDS REQUIRED.) Each retailer required or authorized to collect the tax imposed by this chapter, and each person using in this state tangible personal property purchased shall keep such records, receipts, invoices, and other pertinent papers as the tax commissioner shall require and each such retailer or person shall preserve for a period of three years all invoices and other records of such tangible personal property purchased for resale or for use. The commissioner, or any duly authorized agent, may examine the books, papers, records, and equipment of any person who sells tangible personal property or who is liable for such tax, and may investigate the character of the business of any such person to verify the accuracy of any return made, or if no return was made, to ascertain and determine the amount due. Any such books, papers, and records shall be made available within this state for such examination upon reasonable notice if the tax commissioner shall make an order to that effect.

Approved March 15, 1971

## CHAPTER 574

SENATE BILL NO. 2208  
(Erdman)

## MOTOR FUEL TAX REFUND

AN ACT to amend and reenact section 57-50-02 of the North Dakota Century Code, relating to the form of claim for refund of motor fuel tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-50-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-02. FORM OF CLAIM FOR REFUND.) Such claim shall be in a form furnished by the tax commissioner and shall have a written declaration by the claimant that it is made under the penalties of perjury. It shall have attached thereto the original invoice or invoices showing the purchase of the motor vehicle fuel on which a refund is claimed, shall state the name of the person from whom the motor vehicle fuel was purchased, the date of purchase, the total amount of such motor vehicle fuel, that the purchase price thereof has been paid and that in said price was included the motor vehicle fuel tax payable to the state of North Dakota under chapter 57-54, relating to the tax on motor vehicle fuels, that such motor vehicle fuel was used or is to be used by the claimant otherwise than in motor vehicles operated or intended to be operated upon the public highways of this state, the manner in which said motor vehicle fuel was used or is to be used, the equipment in which such motor vehicle fuel was used, or in which it will be used, and such other information as the tax commissioner shall require. In the event the original invoice or invoices are lost, the claimant may furnish, in lieu thereof, duplicate invoices together with a separate affidavit on forms prescribed by the tax commissioner.

Approved March 22, 1971

## CHAPTER 575

HOUSE BILL NO. 1174  
(Wilkie)

## CLAIM FOR MOTOR FUEL TAX REFUND

AN ACT to amend and reenact section 57-50-03 of the North Dakota Century Code, relating to claim for refund of motor fuel tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-50-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-03. CLAIM FOR REFUND - LIMITATION ON FILING.) Such claim for refund must be filed for all purchases during a calendar year of such motor vehicle fuel from January first and before March thirty-first of the year next following, or the claim for refund shall be barred. However, any claim for refund may be filed in the calendar year of motor vehicle fuel purchase when:

1. The business is being discontinued;
2. No further purchases subject to fuel tax refund will be made in the remainder of the calendar year; or
3. The claim for refund exceeds one thousand dollars.

No claim for refund shall be made or approved unless the amount of the claim is in excess of ten dollars.

Approved March 22, 1971

## CHAPTER 576

HOUSE BILL NO. 1281  
(Boyum)ASSIGNMENT OF MOTOR FUEL  
TAX REFUND

AN ACT to amend and reenact section 57-50-11.1 of the North Dakota Century Code, relating to assignment of motor fuel tax by persons holding designated permits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-50-11.1 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-11.1. PERMIT REQUIRED DURING CERTAIN PERIOD - REVOCATION THEREOF.) Refund claims on motor fuel tax resulting from sale of motor fuel occurring during the period from the first day of April through the thirtieth day of September may be assigned to the seller of the fuel when any sales receipt for the purchase of motor fuel on which a tax refund is owing under this chapter becomes thirty days or more old. The purchaser may assign to the seller his claim for refund by acknowledging the assignment agreement in writing on forms prescribed by the tax commissioner. Before any person shall be allowed to assign his motor fuel tax refund to the seller during this period, he must have an unrevoked permit issued by the state tax commissioner authorizing such assignment. The permit herein shall be issued to every applicant upon completion and forwarding to the state tax commissioner an application form prescribed and furnished by the state tax commissioner. Such application shall contain the sworn statement of the applicant that he is engaged in the business of agriculture and intends to use any fuel so assigned for agricultural purposes only. Such permit shall not be transferable and shall be valid for the person in whose name it is issued only. Permits issued under the provisions of this section shall be valid and effective until revoked by the state tax commissioner. Where such assignment is made the seller may forward it to the state tax commissioner for credit on his fuel tax return in the amount of the refund owing on the assigned sales receipt. Any purchaser who shall assign his claim for refund under the provisions of this section and each assignee must file an annual report with the state tax commissioner within the time limitation set forth in section 57-50-03. If any purchaser or assignee shall fail to file such report within the period of time designated herein, the state tax commissioner shall revoke such permit authorizing such assignment in the same manner as provided for in section 57-54-11. Such report forms shall be furnished by the state tax commissioner in substantially the same form as is prescribed in section 57-50-02.

Approved March 15, 1971

## CHAPTER 577

HOUSE BILL NO. 1104  
(L. Larson)

## MOBILE HOME TAX ADMINISTRATION

AN ACT to create and enact section 57-55-01.1 of the North Dakota Century Code, and to amend and reenact sections 57-55-01, 57-55-02, 57-55-03, 57-55-04, 57-55-05, 57-55-06, 57-55-07, 57-55-08, 57-55-10, 57-55-11, and 57-55-12 of the North Dakota Century Code, relating to the taxation of mobile homes, providing that county directors of tax equalization shall administer such tax, and providing penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-55-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-01. MOBILE HOME DEFINED.) For the purposes of this chapter, "mobile home" shall mean any nonself-propelled vehicular structure built on a chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, and used as the residence or place of business of the owner or occupant.

SECTION 2. Section 57-55-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-55-01.1. TAXATION OF MOBILE HOMES.) The owner of each mobile home shall file an application for a mobile home tax decal with the director of tax equalization in the county in which the mobile home is located on or before January tenth of each year or within ten days after such mobile home is purchased or first moved into this state. Upon payment of the tax to the county treasurer, a mobile home tax decal shall be issued to the owner of the mobile home. The tax decal shall be valid in any county of this state for such mobile home during the period for which it was issued.

SECTION 3. AMENDMENT.) Section 57-55-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-02. APPLICATION FOR TAXING - FORM - CONTENTS.) No mobile home tax decal shall be issued unless the owner files an

application with the director of tax equalization and pays the tax and any penalties in full to the county treasurer. Application shall be made on forms prescribed by the state tax commissioner, furnished by the county director of tax equalization, and shall contain the necessary information to carry out the provisions of this chapter.

SECTION 4. AMENDMENT.) Section 57-55-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 57-55-03. WHEN TAXES BECOME DUE AND DELINQUENT - PENALTY.) The tax imposed in this chapter shall become due and payable on January tenth of each year or ten days after such mobile home is purchased or first moved into this state. If the tax due for the entire year is paid in full on or before February fifteenth, the county treasurer shall allow a five percent discount. A five percent discount shall also be allowed by the county treasurer if a mobile home is purchased or moved into this state after January tenth of each year if the tax imposed thereon by this chapter is paid in full within ten days after it is purchased or moved into this state. The tax imposed by this chapter may be payable in two equal installments if the amount of the tax due is forty dollars or more. The first installment shall become due on January tenth and shall become delinquent on the first day of March following and, if not paid on or before said date, shall be subject to a penalty of two percent, and on April first following, an additional penalty at the rate of two percent, and on May first following, an additional penalty of two percent, and an additional penalty of two percent on June first following. The second installment shall become due on or before June first and shall become delinquent on the first day of July following and, if the second installment is not paid on or before that date, it shall be subject to a penalty of two percent, and on August first following, an additional penalty of two percent, and on September first following, an additional two percent, and on October first following, an additional two percent.

SECTION 5. AMENDMENT.) Section 57-55-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 57-55-04. TAXES - HOW DETERMINED - DISBURSEMENT.) The tax for each mobile home shall be determined by the director of tax equalization by placing an evaluation on such mobile home pursuant to standards and guides as determined by the state tax commissioner and applying such evaluation to the preceding year's total mill levies applying to property within the taxing district wherein the mobile home is located. If a mobile home is acquired or moved into this state during the calendar year, and a tax decal has not been previously issued on such mobile home in this state for such year, the tax shall be determined by computing the remaining number of months of the current year to the nearest full month and multiplying such number by one-twelfth of the amount

\*NOTE: Section 57-55-03 was also amended by section 26 of House Bill No. 1045, chapter 158.

\*NOTE: Section 57-55-04 was also amended by section 27 of House Bill No. 1045, chapter 158.

which would be due for the full year. The taxes collected pursuant to the provisions of this chapter shall be disbursed in the same manner as real estate taxes are disbursed.

SECTION 6. AMENDMENT.) Section 57-55-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-05. TAXES IN LIEU OF OTHER PROPERTY TAXES.) The taxes provided for in this chapter shall be in lieu of all property taxes upon such mobile homes for the calendar year for which the tax decal is valid. However, such taxes shall in no way be construed as exempting any mobile home owner from the requirements of registering such mobile home with the motor vehicle registrar or securing license plates entitling such mobile home to be hauled upon the state's highways pursuant to section 39-18-03.

SECTION 7. AMENDMENT.) Section 57-55-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-06. TAX DECALS - FORM - DISPLAY.) The tax decal shall be decal type and of a size and design specified by the state tax commissioner. The director of tax equalization shall order sufficient decals for his county, and the costs of such decals shall be paid by the county. The tax decal shall be attached to the mobile home in a conspicuous place where it is visible from the nearest street or common driveway.

SECTION 8. AMENDMENT.) Section 57-55-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-07. FAILURE TO MAKE APPLICATION OR TO DISPLAY DECAL - ILLEGAL USE OF DECAL - PENALTY.) Any person who fails to make application pursuant to the provisions of this chapter, or who shall use or allow to be used a tax decal of any mobile home taxed pursuant to the provisions of this chapter for any purpose other than the purpose for which it was issued, or who fails to attach such decal pursuant to the provisions of this chapter, shall be guilty of a misdemeanor and punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

SECTION 9. AMENDMENT.) Section 57-55-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-08. DUTY OF MOBILE HOME PARK OPERATORS AND LICENSED MOBILE HOME DEALERS - PENALTY.) It shall be the duty of the owner, operator, or manager of each mobile home park or lot, or any mobile home dealer to display in his office, in a conspicuous place, a notice listing the provisions and requirements of this chapter. Such notice shall be subscribed by the state tax

commissioner and shall be furnished by the director of tax equalization of the county in which the owner, operator, or manager of the mobile home park or lot, or mobile home dealer, resides. It shall be the duty of the owner, operator, or manager of each mobile home park or lot to make an annual written report on or before December first of each year to the director of tax equalization of such county. Such report shall list the number of mobile homes and the name of the owner of each mobile home which is located within each such mobile home park or lot. In addition, it shall be the duty of such owner, operator, or manager to furnish a quarterly report providing the name and date of arrival of each mobile home owner who was not listed on the last annual report. Any person who refuses to make a report as required by this section shall, after the first offense, be guilty of a misdemeanor and punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

SECTION 10. AMENDMENT.) Section 57-55-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-10. EXCEPTIONS.) The provisions of this chapter shall not apply to mobile homes which:

1. Are used only for the temporary living quarters of the owners or other occupants while such persons are engaged in recreational or vacation activities, provided that such units display current travel trailer licenses.
2. Qualify as a farm residence provided such mobile homes are permanently attached to the ground and the owners of such mobile homes own the land on which such mobile homes are located.
3. Are owned and used as the living quarters of military personnel on active military duty in this state who are residents of another state.
4. Are owned and occupied by welfare recipients who meet the requirements of section 57-02-21, provided such mobile homes are not permanently attached to the land and classified as real property.
5. Are permanently attached to a foundation and are assessed as real property, provided the owners of such mobile homes also own the land on which such mobile homes are located.
6. Are owned by licensed mobile home dealers who hold such mobile homes solely for the purpose of resale, and provided that such mobile homes are not used as living quarters or as the places for the conducting of any business.

7. Are owned and used as the living quarters for disabled veterans who meet the requirements of subsection 20 of section 57-02-08.

SECTION 11. AMENDMENT.) Section 57-55-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-11. COLLECTION - ENFORCEMENT.) The director of tax equalization shall make an inspection of each mobile home park, lot, or other place in which mobile homes are located, for the purpose of determining whether the provisions of this chapter are being complied with. If he shall determine that any person is not complying with the provisions of this chapter, he shall give such person a warning that if such person fails to comply within ten days after the issuance of such warning, the director of tax equalization will begin civil action against such person. In the event the director of tax equalization shall determine that there are mobile homes in his county belonging to transients or non-residents who have failed to comply with the provisions of this chapter, and in his opinion the taxes will be uncollectable if immediate action is not taken, he shall notify the county sheriff. The county sheriff shall immediately, and in no event later than five days after receiving such notification, commence proceedings as provided by law to collect the taxes and penalties, if any, which are due.

SECTION 12. AMENDMENT.) Section 57-55-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-12. REFUNDS.)

1. If the owner of any mobile home has paid the full amount of tax due under this chapter and thereafter during the current year permanently removes it from this state to a state in which he is required to pay a tax or fee on it that is substantially the same as that imposed by this chapter, upon written proof that he has paid another tax or fee, he shall be granted a refund of a part of the tax paid under this chapter, but not including any penalty paid, which refund shall be computed by dividing the amount of tax paid by the number of months of the year for which it was paid and multiplying the quotient by the number of calendar months remaining in the year during which the mobile home was permanently situated outside of this state. The owner shall file an application for refund, together with proof that a similar tax has been paid, with the director of tax equalization. Upon approval of the director of tax equalization, the county treasurer shall refund the amount approved and the county auditor and treasurer shall charge the refund against the taxing districts to which the collection was credited.

2. If the owner of any mobile home has paid, through mistake or otherwise, a greater amount of tax or penalty than was justly due, upon written application he shall be granted a refund of the unjust portion paid after approval by the director of tax equalization. The county auditor and treasurer shall charge all refunds against the taxing districts to which the collection was credited.
3. If the owner of a mobile home has paid the full amount of taxes due under this chapter, and thereafter during the current year such mobile home has been demolished or destroyed beyond repair by fire, windstorm, or flood, the owner shall be entitled to a refund as set forth in subsection 1 of this section.
4. Application for refunds under the provisions of this chapter shall not be subject to the provisions of chapter 57-23.

Approved March 30, 1971

## CHAPTER 578

HOUSE BILL NO. 1177  
(Streibel)

DISTRIBUTING PERSONAL PROPERTY  
REPLACEMENT FUNDS

AN ACT to amend and reenact section 57-58-01 of the North Dakota Century Code, relating to the dates and the formula for the distribution of personal property tax replacement moneys to political subdivisions, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 57-58-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-58-01. DISTRIBUTION TO COUNTIES AND LOCAL SUBDIVISIONS.) It is hereby provided that any political subdivision which has an existing bonded indebtedness for which a tax levy must be made in 1970 or any year thereafter, shall reduce its levy in each such year for current operating purposes by the amount which its tax levy on taxable property in that year for retirement of the bonded indebtedness is increased because of the exemption of personal property by subsection 25 of section 57-02-08. On or before February 1, 1971, the county auditor of each county shall certify to the state tax commissioner the total amount of taxes levied in the year 1968 for the state, county, cities, park boards, school districts, airport authorities, townships, and all other units of government having the authority to levy taxes, and levies voted by the people, new or present levies increased by legislative action of such county on those items of personal property exempt under the provisions of section 57-02-08, and, in addition, the total valuation of real estate and taxes levied on real estate for the year 1968. On or before March 1, 1971, and each year thereafter, the state tax commissioner shall certify for payment to the state treasurer an amount for payment by the state treasurer to each county equal to fifty percent of the amount determined to be due such county based upon the personal property taxes levied in the year 1968 for the political subdivisions herein mentioned on the items of personal property exempt from the personal property tax under the provisions of section 57-02-08, the per capita school tax under the provisions of section 57-15-23, and the grain tax under the provisions of chapter 57-03, together with any adjustments to be made according to the manner hereinafter provided. The remaining fifty percent due each county shall be paid on or before June 1, 1971,

and each year thereafter. Within sixty days after the receipt of the revenue as provided by this section, the county treasurer shall allocate and remit to the county, cities, park boards, school districts, airport authorities, townships, and all other units of government having the authority to levy taxes that amount of revenue which is received from the state in the same ratio as he would have distributed the revenue from the personal property tax, adjusting such amount by any increase or decrease in real property taxes as levied by each taxing authority according to the formula hereinafter provided. Any amount that would be apportioned and credited to the retirement of a bonded indebtedness existing in 1970 for which a tax levy was made in 1970 and in any year thereafter, shall be credited to the general fund of the political subdivision. In the years after 1971, payments to the counties under this section shall be made based upon ninety-five percent of such payment for 1971 together with a growth factor which shall be based upon the dollar amount of increase or decrease in real property taxes levied within each county. For each seven-dollar increase in real property taxation within a county, the state shall contribute an additional one dollar over that amount which equals ninety-five percent of such payment in the base year. For each seven-dollar decrease in real property taxation within a county, the state shall contribute one dollar less than that amount which equals ninety-five percent of such payment in the base year.

On or before March 1, 1971, and each year thereafter, the state tax commissioner shall certify to the state treasurer the amount determined to be due to the state based upon the personal property taxes levied in the year 1968 for the North Dakota state medical center. In the years after 1971 the amount so certified shall be computed in accordance with the formula provided in this section for computing the amounts to be certified and paid to the counties. The state treasurer upon receiving the certification from the tax commissioner shall transfer from the general fund to the credit of the North Dakota state medical center the amount so certified.

Any political subdivision which levied taxes on taxable property in the year 1970 for a specific fund or purpose for which a levy was not made by it in the year 1968 shall be entitled to a distribution of revenue from the state in the year 1971 for any such levy. The amount of such distribution shall be determined as follows: the county auditor shall certify to the state tax commissioner as soon as possible after the effective date of this Act the amount of each such levy made by and spread for each political subdivision on taxable real property in the county in the year 1970; the tax commissioner shall forthwith determine the correctness of such amounts and certify to the state treasurer for immediate payment to the county an amount that is determined by dividing the total of such levies made and spread in 1970 on taxable real property in the county by the growth factor that is provided in the first paragraph of this section; the county treasurer within fifteen days after

the receipt of such revenue from the state treasurer shall allocate and remit to each political subdivision its proportionate amount of that revenue.

If the classification of any property for taxation purposes is changed from real to personal property or from personal to real property because of legislative or judicial action, the county auditor of the county in which the property is located shall forthwith certify to the tax commissioner the amount of real estate taxes or personal property taxes that was levied on all such property by each taxing district in the year 1968 and in any other year thereafter that the tax commissioner may request. The tax commissioner, in determining the amount to be certified to the state treasurer for payment to the county pursuant to this section, shall adjust the amounts of taxes certified by the county auditor as levied on real property and on personal property in 1968 and in any other year as may be necessary by adding to or subtracting from each such amount the taxes on the reclassified property so that the distribution by the state to the county will be determined as though such property had been taxed in 1968 and all later years in the classification into which it was reclassified.

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

Approved March 30, 1971

## CHAPTER 579

HOUSE BILL NO. 1521  
(Dornacker)

## REDUCTION OF CERTAIN TAX LEVIES

AN ACT to provide that county auditors shall reduce certain levies for political subdivisions for monies received for personal property tax replacement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. COUNTY AUDITORS TO REDUCE CERTAIN LEVIES.)  
If any political subdivision which has an existing bonded indebtedness for which a tax levy must be made does not reduce its levy for current operating purposes as provided in section 57-58-01, the county auditor of the county in which the political subdivision is located shall, after receiving the budget for such political subdivision, reduce the levy for current operating purposes by the amount which such political subdivision's tax levy on taxable property for the retirement of bonded indebtedness is increased because of the exemption of personal property from taxation.

Approved March 17, 1971

# TOWNSHIPS

## CHAPTER 580

SENATE BILL NO. 2466  
(Morgan, Thane)

### OPTIONAL ELECTION OF TOWNSHIP ASSESSOR

AN ACT to amend and reenact section 58-05-02 of the North Dakota Century Code, relating to township officers and providing an option to not elect a township assessor, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 58-05-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-05-02. OFFICERS OF A TOWNSHIP - TERMS OF OFFICE.) The elected officers of a civil township shall be:

1. Three supervisors;
2. One township clerk;
3. One assessor except as herein provided;
4. One treasurer; and
5. Two constables.

One supervisor shall be elected at each annual township meeting and shall hold his office for a term of three years. The other elective officers shall be elected every two years and shall hold their respective offices for a term of two years. Each officer shall serve until his successor is elected and qualified. The same person may hold the offices of township clerk and treasurer if a majority of the electors present vote in favor of the merging of such offices at the annual township meeting. The person elected to fill the merged office shall perform all of the duties required of both the township clerk and treasurer except as otherwise specifically provided by law. If a majority of the electors present and voting at an annual township meeting vote in favor of abolishing the office of assessor, such office shall thereby be abolished. If the office of assessor is abolished, the township clerk shall within five days of such election certify that result to the county auditor and to the county director of tax equalization. The county director of tax equalization, or county assessor shall then succeed to all of the powers and duties of the assessor that pertain to the assessment of property for taxation purposes.

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

Approved March 10, 1971

# TRUSTS, USES, AND POWERS

## CHAPTER 581

HOUSE BILL NO. 1392  
(Atkinson)

### PRIVATE FOUNDATIONS AND CHARITABLE TRUSTS

AN ACT to create and enact section 59-02-22 of the North Dakota Century Code, relating to the activities of private foundations, charitable trusts, and split-interest trusts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 59-02-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

59-02-22. PRIVATE FOUNDATIONS - CHARITABLE TRUSTS - SPLIT-INTEREST TRUSTS.)

1. Any will or trust instrument creating a trust which is a "private foundation", as defined in section 509 (a) of the Internal Revenue Code of 1954, or a "charitable trust", as defined in section 4947 (a) (1) of the Internal Revenue Code of 1954, or a "split-interest trust", as defined in section 4947 (a) (2) of the Internal Revenue Code of 1954, and any other instrument governing the trustee of any such trust, or the use, retention, or disposition of any of the income or property of such trust, shall be deemed to have incorporated within such will, trust instrument, or other governing instrument, with the same effect as though such language were set forth verbatim in such will, trust instrument, or other governing instrument, the following provisions with respect to such trust and the trustee thereof, and, except as the contrary is provided in subsection 2 of this section, such provisions shall govern the administration and distribution of any such trust, irrespective of any provisions of any applicable will, trust instrument, or other governing instrument, statute, or law of this state to the contrary:

- a. The trustee shall distribute for each taxable year of the trust amounts at least sufficient to avoid liability for the tax imposed by section 4942 (a) of the Internal Revenue Code of 1954, as now enacted or as hereafter amended.
  - b. The trustee shall not engage in any act of "self-dealing", as defined in section 4941 (d) of the Internal Revenue Code of 1954, which would give rise to any liability for the tax imposed by section 4941 (a) of the Internal Revenue Code of 1954.
  - c. The trustee shall not retain any "excess business holdings", as defined in section 4943 (c) of the Internal Revenue Code of 1954, which would give rise to any liability for the tax imposed by section 4943 (a) of the Internal Revenue Code of 1954.
  - d. The trustee shall not make any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the Internal Revenue Code of 1954, so as to give rise to any liability for the tax imposed by section 4944 (a) of the Internal Revenue Code of 1954.
  - e. The trustee shall not make any "taxable expenditure", as defined in section 4945 (d) of the Internal Revenue Code of 1954, which would give rise to any liability for the tax imposed by section 4945 (a) of the Internal Revenue Code of 1954.
2. Subsection 1 shall not apply to the extent that a court of competent jurisdiction shall determine that such application would be contrary to the terms of the will, trust instrument, or other governing instrument described in subsection 1 and that such will, trust instrument, or other governing instrument may not be changed to conform to subsection 1.
  3. As used in this section, "trustee" means a corporation, individual, or other legal entity acting as an original, added, or successor trustee of a testamentary or inter vivos trust estate. Any reference to a particular section of the Internal Revenue Code of 1954 herein shall mean and include, as now enacted or as hereafter amended, such section and any provision of federal law as is or may hereafter be applicable, cognate to such section.
  4. Nothing in this section shall impair the rights and powers of the attorney general or the courts of this state with respect to any trust.

Approved March 27, 1971

## CHAPTER 582

HOUSE BILL NO. 1235  
(R. Peterson)

## POWERS OF ATTORNEY

AN ACT to authorize a person to execute a power of attorney to provide for the care of his person or property while under disability, to provide for the manner of execution of the power, for its termination, and for the appointment of a successor, and prescribing the duties and liabilities of the attorney in fact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

## SECTION 1. EXECUTION - PURPOSE - APPROVAL.)

1. A power of attorney may be executed by any person having capacity to contract as a means of providing for the care of his person or property, or both, while under disability resulting from injury, old age, senility, disease, or other related or similar cause, if signed by the principal in the presence of and approved by a judge of the county court of the county in which the power is executed. The power is not invalidated by reason of any subsequent change in the mental or physical condition of the principal, including but not restricted to incompetency.
2. The approval of the judge may be given only if (1) the principal requests approval, (2) the attorney in fact consents to serve, (3) the judge is satisfied, after any examination and investigation he deems appropriate, that the principal is a person covered by this Act and reasonably understands the nature and purpose of the power, and that the attorney in fact is a suitable person to carry out the obligations imposed upon him, and (4) the provisions of this Act have been observed. Approval may be given informally in chambers or other convenient place without the necessity of service of summons or other notice and shall be endorsed upon the face of the original of the instrument. The power remains valid until terminated as provided in this Act.

## SECTION 2. SCOPE AND APPLICABILITY OF THE POWER.)

1. The power of attorney shall show or state (a) the fact of execution under the provisions of this Act, (b) the

time and the conditions under which the power is to become effective, (c) the extent and scope of the power conferred, (d) who is to exercise the power, (e) the annual income covered by the instrument and the nature or description and estimated value of the property, if any, to be affected; and may state the conditions and circumstances under which the power terminates.

2. The power may be restricted or it may grant complete authority to provide for the care of the principal's person and property. Except to the extent limited by the instrument creating the power or to the extent that the court approval is required by the instrument, the attorney in fact without prior court approval may endorse checks and other instruments made payable to the principal; may sell, encumber, lease or otherwise manage the principal's property; and may execute and deliver deeds, conveyances, stock and bond transfers, contracts, and other instruments necessary to carry out the power.

SECTION 3. ATTORNEY IN FACT - FILING OF POWER.)

1. The attorney in fact may be an individual, a corporation authorized by law to act in a fiduciary capacity, an agency of government, a Community Fund or United Fund participating agency, or the American National Red Cross.
2. The original power of attorney shall be filed in the office of the clerk of the court whose judge approves the power. A certified copy shall be filed or recorded in the office of the register of deeds of the county of the principal's residence and of each county in which real property to be affected by an exercise of the power is located.

SECTION 4. POWER UNAFFECTED BY VALUE OR INCOME - WHEN PERFORMANCE BOND REQUIRED.) Unless limited by its provisions, a power of attorney executed under authority of this Act which grants powers concerning property or income may be approved without limit as to the value of the property or amount of income involved. A performance bond shall not be required unless required by a provision of the power.

SECTION 5. REMOVAL OF ATTORNEY IN FACT - APPOINTMENT OF SUCCESSOR.) If the attorney in fact, or any successor, dies, ceases to act, refuses or is unable to serve, resigns, fails to maintain or replace a bond, or is removed for cause by a court, a successor attorney in fact may be appointed by the principal. If the principal, without having revoked the power of attorney, fails or is unable to appoint a successor within a reasonable time, a judge of the court which approved the power may appoint a successor, unless

precluded from doing so by provisions of the original power of attorney. The appointment of a successor attorney in fact shall be in writing. If the appointment is by the principal, it is subject to approval by a judge of the court which approved the original power. The original and certified copies of the appointment of the successor shall be filed or recorded as required for an original power of attorney.

SECTION 6. TERMINATION OF POWER - FILING - PROTECTION OF THIRD PERSONS - ACTS DONE AFTER TERMINATION.)

1. A power of attorney terminates on (a) written revocation executed by the principal while competent, (b) death of the principal, (c) order of a court appointing a guardian or conservator of person or property or both of the principal, unless the order otherwise provides, (d) expiration or termination as specified in the power of attorney, or (e) a determination by a judge of the approving court that the value of the property or the amount of the annual money income covered by the instrument has so far increased that this Act is no longer appropriately applicable.
2. The original resignation of an attorney in fact or written revocation of the power of attorney by a principal, a certified copy of the death certificate of the principal or of the attorney in fact or of any court judgment or order terminating the power of attorney or removing the attorney in fact for cause, shall be filed promptly in the office of the clerk of the court whose judge approved the power, and certified copies shall be filed or recorded promptly in all offices in which a certified copy of the original power of attorney is filed or recorded. A notation of the terminating event shall be made by the clerk on the face of the original power of attorney.
3. A person dealing with the attorney in fact is not required to inquire into the validity or adequacy of proceedings involving an approval, filing or recording of the power of attorney to determine if the principal or attorney in fact is qualified or to determine whether the power may have been terminated if not yet shown by filing or recordation provided for in subsection 2. He is not required to inquire into the validity or propriety of any act of an attorney in fact apparently authorized by his approved power, or to assure the proper application by the attorney in fact of any money or property paid or delivered to him.
4. The attorney in fact is liable to the principal and the principal's estate for all damage and loss the principal suffers because of the attorney's acts done

after the attorney receives notice of the termination of his authority or after termination by provision of the power itself. After the power is terminated, other than by death of the principal, he may perform such ministerial acts as may be reasonably necessary to complete and conclude his duties.

SECTION 7. LIABILITY OF ATTORNEY IN FACT.) Unless otherwise provided in the power of attorney, an attorney in fact not compensated for his services is not liable for losses to the principal's property unless they result from intentional wrongdoing, gross negligence or fraud. If he is compensated for his services, he is bound by standards of conduct and liability applicable to other fiduciaries.

SECTION 8. EXPENSES - COMPENSATION FOR SERVICES.) An attorney in fact is entitled to reimbursement for his reasonable expenses incurred in the performance of his duties and, unless precluded by the power of attorney, to reasonable compensation for his services, payable out of the income and assets subject to the power. The amount of compensation and time of payment may be fixed in the power.

SECTION 9. DUTY TO ACCOUNT.) An attorney in fact shall account to the principal or his legal representative at times specified in the power of attorney, at any time directed by a judge of the approving court and upon termination of the power or his authority, and shall promptly deliver to the principal, his legal representative or a successor attorney in fact all property held by him as attorney in fact upon termination of the power or his authority.

SECTION 10. ACT LIMITED TO POWERS EXECUTED UNDER IT.) This Act governs only powers of attorney executed under it. It does not affect powers of attorney executed under other statutes or the common law of this state.

SECTION 11. SEVERABILITY.) If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Approved March 18, 1971

# WAREHOUSING AND DEPOSITS

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## CHAPTER 583

HOUSE BILL NO. 1241  
(Ganser, Giffey)

### TRACK BUYERS' AND WAREHOUSEMEN'S BONDS

AN ACT to create and enact subsection 7 of section 60-02-09 of the North Dakota Century Code relating to track buyers and public warehousemen's bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 7 of section 60-02-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

7. Said bond shall not accrue to the benefit of any person entering into deferred payments contracts or other credit arrangements with a track buyer or public warehouseman.

Approved March 4, 1971

## CHAPTER 584

SENATE BILL NO. 2339  
(Goldberg, Thoreson)

## CONTENTS OF SCALE TICKETS

AN ACT to amend and reenact section 60-02-11 of the North Dakota Century Code, relating to contents of scale tickets.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 60-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-02-11. SCALE TICKET - CONTENTS.) Every public warehouseman of this state, upon receiving grain into his warehouse, shall issue a uniform scale ticket for each load of grain so received. Such tickets shall be bound in books of convenient size, shall be numbered consecutively, and provision shall be made in said books for at least one carbon copy of each ticket. One carbon copy of each ticket shall be retained in said book and shall remain as a permanent record. The original ticket shall be delivered to the person from whom the grain is received, upon receipt of each load of grain. All such tickets shall be signed by the warehouseman, his agent, or manager. All scale tickets shall be converted into cash or storage tickets within a period of twenty days after first load of grain is delivered to the elevator and no longer than five days after final load is delivered to the elevator. A reasonable amount of grain may remain on open storage at the end of each month in any licensed and bonded warehouse. The office copy of each scale ticket shall show the number of the cash ticket or storage ticket issued in lieu thereof.

Approved March 18, 1971

## CHAPTER 585

SENATE BILL NO. 2491  
(Thane, Page, Morgan, Ringsak)

## ROVING GRAIN OR HAY BUYERS

AN ACT to amend and reenact sections 60-03-01 and 60-03-04 of the North Dakota Century Code, relating to the definition of roving grain or hay buyers and the amount of the bond required thereof.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 60-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-03-01. ROVING GRAIN OR HAY BUYER - DEFINITION.) The term "roving grain or hay buyer", when used in this chapter, unless the context thereof otherwise requires, shall mean any person, copartnership, association, agent, or corporation, other than licensed warehousemen and track buyers, who shall buy grain or hay from the owner for resale and delivery within or without the state or for resale in the local markets. Nothing contained in this chapter shall apply to public warehouses or public warehousemen and track buyers as defined in chapter 60-02.

SECTION 2. AMENDMENT.) Section 60-03-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-03-04. BOND FILING BY ROVING GRAIN OR HAY BUYER - COMPLAINT PROCEDURE - ORDERS.) Before any license is issued to any roving grain or hay buyer, the applicant shall file with the commission a bond in such sum as the commission shall prescribe, but not less than fifteen thousand dollars for each license. Such bond shall:

1. Cover the period of the license;
2. Run to the state of North Dakota for the use and benefit of all persons selling grain or hay to the licensee;
3. Be conditioned for the faithful performance of the duties of the licensee as a roving grain or hay buyer, and be for the specific purpose of protecting persons dealing with the licensee or

his or their agent or agents within the state of North Dakota from loss or damage by reason of any violation of this chapter;

4. Not cover transactions wherein it appears to the commission that the sale was made upon any other terms except than for cash; and
5. Be governed by all of the provisions of law applicable to the business of a roving grain or hay buyer and the rules and regulations of the commission relating thereto.

Any person claiming to be injured or damaged by a breach of the conditions of the bond given by a licensee under the provisions of this chapter may file a complaint with the commission within six months from the date of the breach of the conditions of the bond. After a hearing, held upon notice to the respondent and to the bonding company, the commission shall be empowered to order the respondent or the bonding company, or both, to pay to the complainant any loss or damage suffered by reason of the breach of the conditions of the bond. If more than one person has been damaged, and the bond is insufficient to pay the entire liability, the penalty of the bond as against the surety shall be ordered to be apportioned among the damaged persons.

Approved March 27, 1971

## CHAPTER 586

SENATE BILL NO. 2345  
(Thane, Barth)

## LICENSING GRAIN OR HAY BUYERS

AN ACT to amend and reenact section 60-03-02 of the North Dakota Century Code, providing for a fee for a grain or hay buyer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 60-03-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-03-02. LICENSE - HOW OBTAINED - FEE.) Each roving grain or hay buyer operating within this state must obtain a license through the commission to expire at midnight on July thirty-first of each year. Each license so issued shall designate the business address of the licensee, and each licensee shall have and maintain an agent for process within this state. The license fee which must accompany the application for license shall be thirty dollars. The commission may require a separate license for each truck or tractor-trailer unit used in such grain or hay buying.

Approved March 26, 1971

# WATERS

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## CHAPTER 587

SENATE BILL NO. 2427  
(Christensen)

### DISPOSITION OF CERTAIN WATER COMMISSION FUNDS

AN ACT to repeal section 61-02-74 of the North Dakota Century Code, relating to the disposition of certain monies received by the State Water Commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 61-02-74 of the North Dakota Century Code is hereby repealed.

Approved March 11, 1971

## CHAPTER 588

HOUSE BILL NO. 1300  
(Henry, Sandness, Haugland, Boyum, Hoffner)

## IRRIGATION DISTRICTS

AN ACT to create and enact subsection 4 of section 61-05-01 of the North Dakota Century Code, and to amend and reenact sections 61-05-13, 61-06-01, 61-06-10, 61-06-17, 61-06-18, 61-07-24, 61-07-31, 61-08-02, 61-08-03, 61-09-01, 61-09-06, 61-10-25, 61-10-28, 61-10-29, 61-10-31, 61-10-33, 61-10-36, 61-10-38, 61-11-02, and 61-11-04 of the North Dakota Century Code, relating to irrigation district procedures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 4 of section 61-05-01 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

4. "Irrigable acres" or "irrigable lands" shall mean those lands which can or will be served by the district's works, as determined by the state engineer before the district is organized, or as determined from time to time by the district's board of directors. Whenever land or acreage is described as being "susceptible of irrigation" or "subject to assessment", it shall be interpreted to mean the same as irrigable acres.

SECTION 2. AMENDMENT.) Section 61-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-05-13. STATE ENGINEER TO MAKE ORDER ESTABLISHING IRRIGATION DISTRICT - CALLING ELECTION - DIVIDING DISTRICT - CONTENTS OF ORDER.) If the state engineer shall have found and determined that the establishment of the proposed irrigation district is advisable, and that the plan proposed for irrigating the lands therein is practicable and economically sound, he shall make an order establishing such irrigation district, subject to the approval of the electors of the district at an election called by the state engineer for that purpose. If the district embraces more than ten thousand irrigable acres of land, the state engineer by such order shall divide the district into three, five, or seven divisions or precincts as he shall deem necessary for the convenience of

the electors of the district. Such divisions or precincts shall be as nearly equal in size as may be deemed practicable, such divisions shall be numbered, and one director shall be elected from, and by the electors of, each division. If an elector owns land in more than one division, he shall cast all his votes for director and be eligible for election as a director in the division in which the majority of his land subject to assessment lies. Such order shall set forth:

1. The time and place of holding such election.
2. The boundaries of the district.
3. That a petition sufficient in form and substance was filed with the state engineer.
4. That due and reasonable notice of time and place of hearing on petition was given to the qualified electors of the proposed irrigation district.

A copy of such order shall be filed with the county auditor of each county in which the irrigation district is situated. Such order shall be prima facie evidence of the matter and facts therein stated.

SECTION 3. AMENDMENT.) Section 61-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-01. BOARD OF DIRECTORS OF IRRIGATION DISTRICT - TERMS - VACANCIES.) If an irrigation district contains less than ten thousand irrigable acres of land and is not divided into precincts or divisions, the board of directors thereof shall consist of three directors who shall be residents and electors of the district and shall be elected at large. One director elected at the election for the organization of the district shall serve until the first Tuesday in April following the first regular district election, one director shall serve until the first Tuesday in April following the second regular election, and one director shall serve until the first Tuesday in April following the third regular election.

If an irrigation district contains ten thousand irrigable acres or more and is divided into three, five, or seven divisions or precincts, as the case may be, one director shall be elected from and by the electors of each division or precinct.

If an irrigation district contains ten thousand irrigable acres or more and is divided into five divisions or precincts, the board of directors of such irrigation district shall consist of five directors. Two directors elected at the election for the organization of the district shall serve until the first Tuesday in April following the first regular district election, two directors shall serve until the first Tuesday in April

following the second regular district election, and one director shall serve until the first Tuesday in April following the third regular district election.

If an irrigation district contains ten thousand irrigable acres or more and is divided into seven divisions or precincts, the board of directors of such irrigation district shall consist of seven directors. Three directors elected at the election for the organization of the district shall serve until the first Tuesday in April following the first regular district election, two directors shall serve until the first Tuesday in April following the second regular district election, and two directors shall serve until the first Tuesday in April following the third regular election.

The terms of office of the directors elected at such first election for the organization of the district shall be determined by lot at their first meeting. Directors elected at subsequent elections shall serve for three years and until their successors are duly elected and qualified. In case the office of any director shall become vacant, the remaining members of the board shall fill the vacancy by appointment. A director appointed to fill a vacancy shall serve the unexpired term of the director whose office he has been appointed to fill. In the event that vacancies shall occur in the offices of a majority of the directors of an irrigation district, the remaining members and the state engineer shall fill the vacancies; and in the event that the offices of all the directors shall become vacant, the state engineer shall appoint the members of the board and they shall serve until the next regular election of the district. Their successors in office shall then be elected to serve the unexpired term of the directors whose offices became vacant. The unexpired term of office which each director thus elected shall fill shall be determined by lot.

SECTION 4. AMENDMENT.) Section 61-06-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-10. NOTICE OF ELECTION AFTER DISTRICT IS ORGANIZED - CONTENTS - FORM.) Within thirty days of, but at least fifteen days prior to, any regular or special election held in an irrigation district, the secretary of the board of directors shall cause a notice of the election to be published in the official newspaper of each county in which the district is located. The notice shall specify the matters to be voted upon, the location of the polling place or places, and the time of their opening and closing. Such notice shall be in substantially the following form:

"NOTICE hereby is given that on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, an election will be held at \_\_\_\_\_ (here designate the polling place) for the purpose of electing \_\_\_\_\_ members of the

board of directors and for the purpose of voting upon such questions as shall be submitted by the directors of the district. Polls will be opened at one o'clock p.m. and will be closed at five o'clock p.m. of that day."

SECTION 5. AMENDMENT.) Section 61-06-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-17. COMPENSATION OF MEMBERS OF ELECTION BOARD.) Each member of the election board for an irrigation district election shall receive the sum of ten dollars for his services.

SECTION 6. AMENDMENT.) Section 61-06-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-18. RETURN AND CANVASS OF VOTES BY BOARD OF DIRECTORS.) The board of directors of the district shall meet at its usual place of meeting within thirty days after each election and canvass the returns. If all the returns have not been received, the canvass shall be postponed from day to day until all the returns have been received. The canvass shall be made in public and by opening the returns and ascertaining the vote for each person voted for, and declaring the result thereof, and also ascertaining the vote for and against each and every question or proposition voted upon, and declaring the result thereof.

SECTION 7. AMENDMENT.) Section 61-07-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-07-24. HEARING OF PETITION - NOTICE OF FILING AND HEARING.) The court shall fix the time for the hearing of the petition provided for in section 61-07-23 and shall order the clerk of court to give and publish a notice of the filing of the petition, stating the time when and the place where the court will hear the petition, and stating further that any person interested in the organization of the district, or in the proceedings for the issuance of bonds or improvement warrants, or in the assessments levied, or in the special action taken by the board, as the case may be, on or before the day fixed for hearing of the petition, may answer the petition. The petition may be referred to and described in the notice as the petition of \_\_\_\_\_ (name of petitioner) praying that the proceedings set forth therein be examined, approved, and confirmed by the court. Such notice shall be given by publishing the same in the official paper of the county in which the petition is filed, once each week for two consecutive weeks. Such hearing shall be held, in the discretion of the court, not less than fifteen days nor more than sixty days after the last publication of such notice.

SECTION 8. AMENDMENT.) Section 61-07-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-07-31. CONTRACT FOR SUPPLY OF WATER EXTENDING OVER ONE YEAR APPROVED AT ELECTION - REGULATIONS GOVERNING ELECTION.) If a contract for the supplying of water provides for a payment to be made extending for a period of more than one year from the date of making such contract, the board of such irrigation district shall submit such contract to the legal voters of such district at any general election, or at a special election called for the approval or disapproval of the contract. If a special election is called for such purpose, the notice of election, the conduct of said election, and the canvass of the votes, so far as practicable, shall be the same as in a regular election of the district. The notice of such election need not give the entire contract, but shall be sufficient if it shall state in a general way the substance of the proposed contract. The ballot at such election shall be in substantially the following form:

- For approval of contract for water supply
- Against approval of contract for water supply

If a majority of the electors voting on said proposition vote for approval of such contract, the board shall enter into such contract and thereafter at the time the other taxes of the district are levied, shall levy a tax on the taxable property of the district sufficient to pay the amount due on said contract and to become due on said contract before the next annual levy in said district.

SECTION 9. AMENDMENT.) Section 61-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-02. ADOPTING INITIAL RESOLUTIONS BY BOARD - DATE OF ELECTION - CONTENTS OF RESOLUTION - CONDUCT OF ELECTION.) After the adoption of an initial resolution as provided in section 61-08-01, the board, by a resolution, shall provide for submitting to the electors of the district the question whether the initial resolution providing for the issuance of bonds shall be approved. The date of such election shall not be less than twenty days after the adoption of such initial resolution by the board. The board, in such resolution, shall designate the date of such election, the polling hours, and polling place thereof. Such election shall be conducted and the returns made and canvassed as in the case of a regular election of the district.

SECTION 10. AMENDMENT.) Section 61-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-03. NOTICE OF ELECTION - CONTENTS.) A notice of the election containing a complete copy of the initial resolution provided for in section 61-08-01, shall be given in the manner provided for a regular election of the district.

SECTION 11. AMENDMENT.) Section 61-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-09-01. DISTRICT ASSESSOR TO EXAMINE TRACTS OF LAND TO FIX ANNUAL ASSESSMENTS LEVIED THEREON.) Between the first Monday in March and the first Monday in June of each year, the district assessor shall examine each tract of land or legal subdivision of land in the district, including entered and unentered public lands of the United States, subject thereto under any act of Congress, and all other lands publicly or privately owned. For each of such tracts or subdivisions, he shall first ascertain the number of irrigable acres determined by the board of directors and this shall form the basis for determining the benefits accruing on account of the construction, acquisition, or operation of irrigation works. Thereafter, the amount of benefits so apportioned or distributed to each tract of land as finally equalized shall be and remain the basis for fixing the annual assessments levied during that year against such tracts or subdivisions in carrying out the provisions of this chapter.

SECTION 12. AMENDMENT.) Section 61-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows

61-09-06. WHEN ASSESSMENT ROLL COMPLETED - WHEN BOARD TO EQUALIZE ASSESSMENTS.) On or before the fifteenth day of June in each year, the assessor shall complete his assessment roll and deliver it to the secretary of the district. The board of directors thereupon at its regular meeting in July shall proceed to equalize such assessments. At least ten days before the board meets, the secretary shall give notice of such meeting by publishing notice thereof in the manner required for a regular election of the district. Until such meeting is held, the assessment roll shall remain in the office of the secretary for the inspection of all persons interested.

SECTION 13. AMENDMENT.) Section 61-10-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-25. NOTICE OF FILING OF PETITION AND HEARING THEREOF - COST OF PROCEEDINGS.) The secretary of the board of directors shall cause notice of the filing of a petition for the inclusion of land in an irrigation district to be published in the manner provided for a regular election of the district. The notice shall state the name or names of petitioners, a description of lands mentioned in the petition, and the prayer

of the petition. It shall notify all persons interested in or affected by the proposed inclusion of lands in the district, to appear at the time and place specified in the notice and to show cause in writing, if any they have, why the lands described in the petition, or any part thereof, should not be included in the irrigation district. The board may require the petitioners to advance to the secretary of the district sufficient money to pay the estimated cost incurred in the proceedings of the proposed inclusion of land.

SECTION 14. AMENDMENT.) Section 61-10-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-28. ELECTORS MAY OBJECT TO INCLUSION OF LANDS - BOARD MAY CALL AN ELECTION.) If electors who together own or hold ten percent or more of the whole number of acres in the district, subject to assessments for irrigation costs, at the hearing on the petition, object in writing to the inclusion of the lands therein mentioned, the board shall, by resolution, order an election to submit to the electors of the district the question whether or not the lands mentioned in the petition or any part thereof shall be included.

SECTION 15. AMENDMENT.) Section 61-10-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-29. ORDERING OF ELECTION - NOTICE - CONDUCT.) The board shall fix the time when such election shall be held. Notice of such election, describing the lands proposed for inclusion in the district, shall be given in the manner provided for a regular election of the district. Such election shall be held and conducted, the ballots counted, and the results of the election determined and declared in the same manner as a regular election of the district. The ballots at such election shall contain substantially the following words: "For inclusion of lands in the district" and the words "against inclusion of lands in the district." In case a contract obligating the district has been entered into between the district and the United States, or with any department or agency thereof, or with the state, or any department or political division thereof, no change shall be made in the area embraced within the district unless a duly authorized agent of the holder of any such contract has consented thereto in writing and until such consent has been filed with the board of directors.

SECTION 16. AMENDMENT.) Section 61-10-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-31. REDIVISION OF DISTRICT INTO DIVISIONS.) When lands are included in an irrigation district by means of the procedure described in this chapter, and if the district will

contain after inclusion of such lands ten thousand irrigable acres or more, at least thirty days prior to the next general election, the board shall make an order dividing or redividing such district into divisions in conformity with section 61-05-13. Such divisions shall be as nearly equal in size as may be practicable and they shall be numbered, with one director thereafter elected by and from each division.

SECTION 17. AMENDMENT.) Section 61-10-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-33. NOTICE OF HEARING OF PETITION.) The secretary of the board of directors shall cause notice of the filing and hearing of a petition for exclusion of lands from an irrigation district to be published in the manner provided for a regular election of the district. The notice shall state (1) the names of petitioners, (2) the description of each tract of land mentioned in the petition, and (3) the prayer of the petition. The notice shall notify all persons interested in or affected by the proposed exclusion of lands from the district, to appear at the time and place specified therein and show cause in writing, if any they have, why the lands described in the petition should not be excluded.

SECTION 18. AMENDMENT.) Section 61-10-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-36. ELECTION TO DETERMINE EXCLUSION OF LAND - NOTICE OF ELECTION - FORM OF BALLOT - CONDUCT OF ELECTION.) If electors who together own at least ten percent of the whole number of irrigable acres in the district object in writing to the exclusion of such land, the board shall by resolution order an election to submit to the electors of the district the question whether or not the lands mentioned in the petition, or any part thereof, shall be excluded. Notice of such election, describing the lands proposed for exclusion from the district, shall be given in the manner provided for a regular election of the district. The ballot at such election shall be substantially in the following form:

"Shall the tracts of land described in the notice of this election be excluded from the irrigation district?

Yes (for exclusion of lands)

No (against exclusion of lands)

The election shall be conducted substantially as a general election of an irrigation district is conducted.

SECTION 19. AMENDMENT.) Section 61-10-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-38. REDIVISION OF DISTRICT.) When lands are excluded from an irrigation district by means of the procedure described in this chapter, and if the district will contain ten thousand irrigable acres or more after the exclusion of such lands, the board of directors thereof shall issue an order dividing the district into divisions in conformity with section 61-05-13. Such divisions shall be as nearly equal in size as may be practicable, and they shall be numbered, with one director thereafter elected by and from each division. This same order, with the attendant requirements specified in this section, shall be issued if the board of directors formally declares a change in land classification that significantly alters the number or location of irrigable acres within the district.

SECTION 20. AMENDMENT.) Section 61-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-11-02. NOTICE OF ELECTION FOR DISSOLUTION OF DISTRICT - PUBLICATION - POSTING - ELECTION - WHEN TO BE HELD.) Notice that the question of the dissolution of the district and the sale of the district property as provided in section 61-11-01 will be submitted to the vote of the electors at a special election or at the next general district election, as the case may be, shall be given in the manner provided for a regular election of the district.

SECTION 21. AMENDMENT.) Section 61-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-11-04. CONDUCT OF ELECTION - CANVASSING AND REPORTING RESULT OF ELECTION.) An election on the question of dissolution in all respects shall be conducted, and the votes therefrom canvassed, in the same manner as provided for a regular election of the district. A certified copy of the statement of the election result by the district's board of directors and all ballots, lists, tally sheets, and other documents pertaining to the election shall be forwarded to the state engineer by registered or certified mail or express.

Approved March 4, 1971

## CHAPTER 589

HOUSE BILL NO. 1271  
(Bunker)

## WATER MANAGEMENT DISTRICTS

AN ACT to create and enact subsection 20 of section 61-16-11, and to amend and reenact subsection 4 of section 61-16-01, and sections 61-16-12, 61-16-21, 61-16-22, 61-16-23, 61-16-28, 61-16-32, 61-16-33, 61-16-34, and 61-16-35 of the North Dakota Century Code, relating to water management districts, and authorizing such districts to engage in water supply and sewage system projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 61-16-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The term "project", as used in this chapter, shall mean, and include, any undertaking for water conservation, flood control, water supply, watershed improvement and drainage of surface waters, or collection, processing, and treatment of sewage, or any combination thereof, including incidental features of any such undertaking.

SECTION 2.) Subsection 20 of section 61-16-11 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

20. To plan, locate, relocate, construct, reconstruct, modify, extend, improve, operate, maintain, and repair sanitary and storm sewer systems and water supply systems, or combinations thereof, including sewage and water treatment plants; and to contract with the United States government, or any department or agency thereof, or any private or public corporation, the government of this state, or any department, agency, or political subdivision thereof, or any municipality or person with respect to any such systems.

SECTION 3. AMENDMENT.) Section 61-16-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-12. DISTRICT BUDGET - TAX LEVY - FINANCING BY SPECIAL ASSESSMENT.) When a water management district has been created and the board of commissioners thereof has been organized, the board shall estimate the expenses of the district from the date of its establishment until the end of the ensuing fiscal year and before July first in each year thereafter shall estimate district expenses for the fiscal year ensuing. Estimates of district expenses may include costs of rights-of-way, easements, or other interest in property deemed necessary for the construction, operation, and maintenance of any projects therein. Upon completion and adoption of a budget covering necessary expenses, the board of commissioners shall send a copy of such budget or apportionment thereof to the county auditor of each county in the district. If a district is situated in more than one county, the estimates shall be apportioned to counties affected. Such county auditor shall transmit the same to the board of county commissioners of his county. The board of county commissioners of each county in which the district is situated shall either disapprove the entire budget, amend and approve the budget as amended, or approve the budget as submitted and, if approved as amended or as submitted, by resolution levy, authorize, and direct their county auditor to extend and spread upon the tax roll of his county a tax of not to exceed three mills on each dollar of taxable valuation in the district or part of district situated in the county in the same manner, and with the same effect, as general property taxes are extended and spread. Funds produced each year by such tax levy shall be available until expended, and if such tax levy in any year will not produce sufficient revenue to cover district expenses, a fund sufficient to pay the same may be accumulated. The acquisition of rights-of-way, easements, and the construction, operation, and maintenance of a project in a district may, in the discretion of the board of commissioners, be financed in whole or in part by special assessments against property benefited by such project, or from revenues realized from tax collections, or from net revenues to be derived from service charges to be imposed and collected for the services of the project, or any combination of such sources.

If the project is one involving the maintenance of a drain, and it is desired to finance such project in whole or in part by means of special assessments, the levy in any year for such maintenance shall not exceed fifty cents per acre on any agricultural lands benefited by the drain. Agricultural lands which carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of fifty cents per acre. The assessment of other agricultural lands in the district shall be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the benefits of the agricultural land assessed the full fifty cents per acre. Nonagricultural property shall be assessed such sum in any one year as the ratio of the benefits under the original assessments or any reassessment bears to the assessment of agricultural lands bearing the highest

assessment. In case the maximum levy of fifty cents per acre for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing such drain, the board of commissioners may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for two years. In the event the water conservation and flood control district is dissolved, all unexpended assessments collected for the maintenance of the drain shall be returned to the owners of the assessed property by the board of commissioners on a pro rata basis in proportion with the amount originally assessed.

SECTION 4. AMENDMENT.) Section 61-16-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-21. FINANCING PROJECT THROUGH SPECIAL ASSESSMENTS OR PARTLY THROUGH GENERAL TAXES AND PARTLY THROUGH SPECIAL ASSESSMENTS - APPORTIONMENT OF BENEFITS.) The board of commissioners may acquire needed interests in property and provide for the cost of construction, alteration, repair, operation, and maintenance of a project through issuance of improvement warrants or with funds raised by special assessments or a general tax or by a combination of a general property tax and special assessments. Whenever a board of commissioners shall decide to acquire property or interests in property in order to construct, operate, alter, repair, or maintain a project with funds raised in whole or in part through special assessments, such assessments shall be apportioned to and spread upon lands or premises benefited by the project in proportion to and in accordance with benefits accruing thereto. The board shall assess the proportion of the cost of the project, or the part of the cost to be financed with funds raised through levy and collection of special assessment taxes which any lot, piece, or parcel of land shall bear in proportion to the benefits accruing thereto and any county, city, or township which is benefited thereby.

SECTION 5. AMENDMENT.) Section 61-16-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-22. FINANCING OF SPECIAL IMPROVEMENTS - PROCEDURE.) When it is proposed to finance in whole or in part the construction of a project by issuance of warrants or with funds raised through the collection of special assessment taxes levied against lands and premises benefited by construction and maintenance of such project, and after such project is approved by the commission as provided herein and by the board of county commissioners of each of the counties wherein the district lies, the board, by resolution, shall declare that it is necessary to construct and maintain such project therein. Such resolution shall state briefly the nature and purpose of the proposed project, and shall state the time and place within said district where the board will meet to consider any protests to the proposed project, and, under the conditions specified in section 61-16-23, shall include provision for

protesting the levy of the general tax provided in section 61-16-35 to be made by the board of county commissioners. Such resolution shall be given by publication thereof once each week for two successive weeks in a newspaper of general circulation in the district. The hearing shall be held not less than twenty days after the first publication of such resolution. If within twenty days after the first publication of such resolution, the owners of property liable to be specially assessed for the proposed improvement shall file written protests with the secretary of the board, protesting against the improvement, the board at the time set for such hearing shall determine the sufficiency thereof. If the board finds the protests to contain the names of the owners of a majority by taxable value of the land subject to assessment for construction of the proposed project, then the protests shall be a bar against proceeding further with such improvement. If the protests are found to be insufficient or invalid, the board may proceed to determine damages, if any, which will be sustained by owners of affected property and the board may proceed to contract or provide for the construction or maintenance of the project in substantially the manner and according to the forms and procedure provided in title 40 of this Code, and acts amendatory thereof, and supplemental thereto, for the construction of sewers within municipalities. When any district has entered into an agreement pursuant to the provisions of this chapter, under the terms of which the contract for such work is to be let by the United States government or by the state of North Dakota, or by both jointly, the board, after hearing protests and determining to proceed with the improvement, may dispense with the balance of the requirements of this chapter relating to plans for, bids upon, contracts for, construction of, and any other steps leading up to the construction of an improvement by the special assessment method, and the board may proceed to cause assessments to be made as in other cases provided.

SECTION 6. AMENDMENT.) Section 61-16-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-23. RESOLUTION OF BOARD TO INCLUDE PROVISION FOR PROTESTING AND REFUSING AUTHORITY TO MAKE GENERAL TAX LEVY IN CERTAIN CASES - ELECTION TO BE HELD.) In any case in which that part of the cost of a project allocated to a county shall exceed fifty thousand dollars, the resolution of the board of commissioners provided for in section 61-16-22 shall state that any deficiency or probable deficiency in the special fund for the payment of project warrants of the district shall be forestalled and the ability of the fund to pay principal and interest punctually shall be restored by a general tax levy upon the taxable property in the counties wherein the district lies, as provided in section 61-16-35 unless ten percent of the electors voting for governor in the last general election in that county, by written protest filed with the board of commissioners within twenty days after the first publication of such resolution, object to the payment of any deficiency or probable deficiency in such special fund by such

general tax levy.

If such written protests are found by the board of commissioners to carry a sufficient number of signatures, the board by resolution shall thereupon call a special election in the county or counties from which such protests were received for the purpose of having the electors of the county vote upon the question of whether such general tax levy shall be permitted. The date of such election shall be not less than twenty days from the date of the resolution calling for the election. The board shall cause notice of such election to be published once each week for at least two weeks prior to the date thereof in the official newspaper of the county. Such notice shall specify the date, polling hours, and the polling places of such election which shall be the same as for general elections and shall contain a copy of the resolution calling the special election and a statement of the question to be voted upon as it shall appear upon the ballot. The board shall appoint an inspector, two judges, and two clerks of election for each polling place.

The ballot for such election shall be separate from other ballots used on the same day for other elections, and shall be printed, and shall state the question in substantially the following form:

Shall the board of county commissioners be permitted to levy a general tax on all taxable property in the county to pay any deficiency or probable deficiency that might occur in the project warrant fund of \_\_\_\_\_ District, (here insert the name of the water management district) which fund was established by resolution of the commissioners of said district on \_\_\_\_\_, (here insert date of such resolution.)

Yes \_ \_ \_ \_ \_

No \_ \_ \_ \_ \_

Spoiled or blank ballots cast at such election shall not be counted for or against the question voted upon.

If a majority of the votes cast at such election are "Yes" votes, authority to make such a general tax levy shall be deemed approved.

If a majority of the votes cast at such election are "No" votes, authority to make such a general tax levy shall be denied.

The election officials shall be compensated in the manner provided by law for general elections, and the costs of such election shall be borne by the district concerned.

SECTION 7. AMENDMENT.) Section 61-16-28 of the 1969 Supplement to the North Dakota Century Code is hereby amended and

reenacted to read as follows:

\* 61-16-28. CERTIFICATION OF ASSESSMENTS TO COUNTY AUDITOR.) When a district board of commissioners has by resolution levied, or caused to be levied, special assessments to cover the cost of constructing a project, the board shall determine the rate of interest unpaid special assessments shall bear, which rate shall not exceed seven percent per annum and shall not be less than the warrant rate. Interest on unpaid special assessments shall commence on the date the assessments are finally confirmed by the board. Special assessments may be certified and made payable in equal annual installments, the last of which shall be due and payable not more than thirty years after date of the warrants to be paid. The secretary of the district shall certify to the county auditor of the county in which the district is situated, or if the district embraces lands situated in more than one county, to the county auditor of each county in which district lands subject to such special assessments are situated, the total amount levied against such lands in his county and the proportion or percentage of such amount assessed against each piece, parcel, lot, or tract of land. The secretary of the district shall also file with the county auditor of each county in which district lands lie a statement showing the cost of the project, the part thereof, if any, which will be paid out of general taxes and the part to be financed by special assessments. Funds needed to pay the cost of maintaining a project may be raised in the same manner as funds were raised to meet construction costs. If the project was financed in whole or in part through the use of special assessments, the board of commissioners shall prorate the costs of maintaining projects in the same proportion as were the original costs of construction or, in the event a reassessment of benefits has been adopted, the costs shall be prorated in accordance with the reassessment of benefits as authorized by section 61-16-26.1.

SECTION 8. AMENDMENT.) Section 61-16-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 61-16-32. WARRANTS - ISSUANCE - WHEN PAYABLE - AMOUNTS - INTEREST - INTEREST COUPONS.) A water management district may, at any time after entering into a contract for a project to be financed in whole or in part by special assessments, issue temporary and definitive warrants on the project fund, created for that purpose, in the manner and subject to the limitations prescribed in section 40-24-19, and may pledge to the payment of warrants issued to finance a sewer or water project the net revenues derived from the imposition of service charges to be imposed and collected with respect thereto as provided in section 40-22-16 payable at specified times, except that the first maturity date of any such warrant shall not be less than two years from the date of issuance. The warrants shall be issued in such amounts as in the judgment of the district's board of commissioners will be necessary for such project. Such warrants shall bear interest at a rate of not to exceed eight percent per annum, payable annually

\*NOTE: Section 61-16-28 was also amended by section 33 of Senate Bill No. 2063, chapter 249.

\*NOTE: Section 61-16-32 was also amended by section 34 of Senate Bill No. 2063, chapter 249.

or semiannually. Coupons evidencing the interest for each year or half year, as the case may be, may be attached to the warrants. The warrants shall state upon the face thereof the purpose for which issued and the project fund from which they are payable and shall be signed by the chairman of the board of commissioners and countersigned by the secretary of the district. Such warrants shall be payable serially in such amounts as the board shall determine, extending over a period of not more than thirty years.

SECTION 9. AMENDMENT.) Section 61-16-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-33. WARRANTS MAY BE USED IN MAKING PAYMENTS ON CONTRACT - WARRANTS PAYABLE OUT OF FUND ON WHICH DRAWN - MAY BE USED TO PAY SPECIAL ASSESSMENTS.) Improvement warrants may be used in making payments on contracts for construction of the project for which the special assessment fund was created, or may be sold for cash at not less than ninety-eight percent of par and accrued interest, and the proceeds thereof, less accrued interest, shall be credited to the construction account of such fund and shall be used exclusively to pay such contracts and construction costs. Any balance remaining in any construction account after completion of a project shall be transferred to the sinking fund account of the assessment fund. The treasurer of the district shall pay special assessment warrants and any interest coupons attached thereto as they mature and are presented for payment out of the fund on which they are drawn and shall cancel the warrants and any coupons when paid.

SECTION 10. AMENDMENT.) Section 61-16-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-34. REFUNDING SPECIAL ASSESSMENT WARRANTS - PURPOSES FOR WHICH SUCH WARRANTS MAY BE ISSUED - PAYMENT OF WARRANTS.) Any district having outstanding special assessment warrants, payable in whole or in part out of collections from special assessments, which are past due or which are redeemable, either at the option of the district or with the consent of the warrant holders, may issue refunding special assessment warrants or bonds if there is not sufficient money in the project fund against which such warrants are drawn to pay the same. The issuance of refunding warrants or bonds shall be authorized by resolution of the board of commissioners. Such resolution shall describe the warrants to be refunded and the amount and maturity thereof. Such refunding warrants may be issued for any of the following purposes:

1. To extend the maturities of warrants payable in whole or in part by special assessments.
2. To reduce the interest on such warrants.
3. To equalize the general property tax which the county

or counties may be, or may become obligated to levy in order to cover deficiencies in the fund against which warrants were issued.

Refunding warrants or bonds shall bear such date, be in such denominations, and shall mature serially within such time, not exceeding thirty years from date of issue, as the board of commissioners shall determine. The average rate of interest on such warrants shall not exceed the average rate of interest on refunded warrants.

The treasurer of the district shall pay special assessment warrants, and the interest coupons attached thereto, as they mature and are presented for payment out of the fund against which they are drawn and shall cancel the warrants when paid.

Any deficiency in any fund created for the payment of district warrants payable in whole or in part out of collections of special assessment taxes shall be the obligation of the district.

SECTION 11. AMENDMENT.) Section 61-16-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-35. FINANCIAL REPORTS - LIABILITY FOR DEFICIENCIES.) On the first Monday of each month the district treasurer shall report to the board of commissioners in writing the amount of money in the treasury, the receipts, if any, in the preceding month and the amount and items of expenditure during that month. Such report shall be verified and filed with the secretary of the district. A verified copy of such report shall also be filed in the office of the county auditor of each county in which the district lies and shall be open to public inspection.

During the month of June of each year the board of commissioners shall prepare a complete statement of the condition of the finances of each district and shall cause the same to be filed with the county auditor of each county in which the district lies on or before July first next following. Such statement shall show separately and in detail the condition and resources of each and every assessment fund for the payment of project warrants of the district, including the amount of any anticipated deficit and the apportionment thereof. At its July meeting next following the filing of such statement of condition of any district, the county board shall examine such statement and make inquiry regarding same to determine whether or not the district has defaulted or may soon default on payment of its financial obligations as the same become due.

Whenever all special assessments, taxes, or other receipts, if any, appropriated and theretofore collected for a project are insufficient to pay the special assessment warrants issued against such project, with interest, the board of county

commissioners of each of the counties wherein the district lies shall advance to the district project warrant fund an amount sufficient to pay the deficiency attributable to benefited property in each such county. If it appears to the county board at any time that a deficiency exists or is likely to occur within one year in such project warrant fund for the payment of principal or interest due or to become due on such warrants, the board of county commissioners of each of the counties wherein the district lies in order to forestall imminent deficiency in such fund or to promptly restore the ability of such fund to pay principal and interest punctually as the same become due shall advance to such project fund the amount necessary to cover the anticipated deficiency attributable to benefited property in such county. In order to make such advances, the board of county commissioners of each of the counties shall levy a general tax upon the taxable property in the county, and may issue certificates of indebtedness against levies so made, or shall pay such advances from its general fund. Advances made by the county or counties shall be obligations of the district to be met out of any surplus in the district project warrant fund, and future district budgets and tax levies for the district after provision has been made for necessary current expenses. No tax limitation provided by any statute of this state shall apply to tax levies made by any county for the purpose of making any advances in accordance with the provisions of this section provided that a board of county commissioners shall not levy the general tax herein provided if the electors in any county wherein the district lies have refused, pursuant to the election provided for in section 61-16-23, to permit such levy to be made.

Approved March 27, 1971

## CHAPTER 590

HOUSE BILL NO. 1069  
(Jenkins, Metzger, Olienyk, Sandness)  
(From Legislative Council Study)

## REPEAL OF TRI-STATE WATER COMPACT

AN ACT to repeal chapter 61-17 of the North Dakota Century Code, which contains the tri-state water compact and provides for a tri-state waters commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Chapter 61-17 of the North Dakota Century Code is hereby repealed.

Approved February 20, 1971

## CHAPTER 591

SENATE BILL NO. 2184  
(Longmire, Christensen, Redlin, Robinson, Morgan)

COMPENSATION OF DIRECTORS OF  
GARRISON CONSERVANCY DISTRICT

AN ACT to amend and reenact section 61-24-04 of the North Dakota Century Code, providing that the board of directors of the Garrison Diversion Conservancy District receive the same compensation as legislative council members, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 61-24-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-24-04. COMPENSATION OF DIRECTORS.) Each member of the board of directors of the district shall receive from the district the same compensation per day and shall be reimbursed for his expenses in the same amounts as provided for in section 54-35-10 for members of the legislative council while attending meetings of the board or otherwise engaged in the official business of the district.

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

Approved March 3, 1971

## CHAPTER 592

SENATE BILL NO. 2343  
(Stroup)

## DIVERSION OF MISSOURI RIVER

AN ACT making an appropriation to the North Dakota state water commission for the purposes of conducting a feasibility study of diverting Missouri River waters into western North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000.00, or so much thereof as may be necessary, to the state water commission for the biennium beginning July 1, 1971, and ending June 30, 1973.

SECTION 2. PURPOSE.) The moneys herein appropriated shall be used by the state water commission for the purpose of conducting a study to determine the future water requirements of North Dakota rivers and streams located west and south of the Missouri River and the feasibility of diverting waters of the Missouri River into such rivers and streams for all uses including, but not limited to, domestic, municipal, livestock, irrigation, industrial, mining, recreational, fish and wildlife, and pollution abatement uses in order to plan development of the rivers and streams to provide for the best use of such waters and related land resources.

SECTION 3. MATCHING FEDERAL FUNDS.) The state water commission may use all or any part of the moneys herein appropriated to match any federal funds available for such purposes.

Approved March 27, 1971

# WEEDS

## CHAPTER 594

SENATE BILL NO. 2180  
(Morgan, Melland, Thoreson, Christensen)

### CONTROL OF NOXIOUS WEEDS

AN ACT to create and enact chapter 63-01.1 of the North Dakota Century Code, relating to the control and eradication of noxious weeds, the authority and duties of the commissioner of agriculture and the governing bodies of the political subdivisions in regard to noxious weed control, and creating the office of county weed control officer; to repeal subsection 71 of section 40-05-01 and chapters 63-01, 63-02, 63-03, and 63-04 of the North Dakota Century Code, relating to weed eradication and control; and providing penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 63-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

63-01.1-01. CONTROL AND ERADICATION OF NOXIOUS WEEDS.)  
It shall be the duty of every person to eradicate or to control the spread of noxious weeds on lands owned or controlled by him in the state of North Dakota.

63-01.1-02. DEFINITIONS.) As used in this chapter:

1. "Person" means any individual, partnership, firm, corporation, company, society, association, the state or any department, agency, or subdivision thereof, or any other entity which occupies or controls land or which causes noxious weed seeds or propagating parts to be disseminated or transported in North Dakota.
2. "Control", "controlled", or "controlling" includes being in charge of or being in possession of land, whether as owner, lessee, renter, tenant, under statutory authority, or otherwise.
3. "Commissioner" herein referred to means the duly elected North Dakota state commissioner of agriculture.
4. "Noxious weed" means any plant propagated by either seed or vegetative parts which is determined by the commissioner after consulting with the state cooperative extension service, to be injurious to public health,

crops, livestock, land, or other property.

5. "Control authority" means the commissioner and those he may designate to act in his behalf, the governing body of each county in North Dakota and the governing body of each irrigation district, city, soil conservation district, or other political subdivision with a noxious weed control program organized under this chapter.
6. "Control" as applied to weed control means to prevent the spread of any noxious weed, designated by the commissioner, by seed or any other propagating part thereof.

63-01.1-03. STATE WEED CONTROL AUTHORITY - COMMISSIONER OF AGRICULTURE - POWERS AND DUTIES.)

1. The duty of enforcing this chapter and carrying out its provisions and intent is vested in the commissioner who may designate employees of his department and local weed control officers to act in his behalf, but under his supervision and direction.
2. The commissioner shall determine which weeds are noxious for the purposes of this chapter after consulting with the state cooperative extension service, and shall compile and keep current a list of such noxious weeds.
3. The commissioner shall outline procedures, prepare and supply official notices, posters, report forms, and such other documents as are needed in carrying out the provisions of this chapter. Such documents shall be supplied to weed control officers, county and special control authorities, and others as needed to carry out an effective weed control program. Official notices or posters such as the noxious weed list, rules and regulations, dates for controlling, and other compliance requirements shall be prepared by the commissioner ready for printing in official newspapers, or for posting at least annually.
4. The commissioner shall cooperate with the county and special control authorities, local weed control officers, highway patrol officers, county sheriffs, the truck regulatory division, and others in carrying out his duties under this chapter. He shall also encourage the state cooperative extension service to disseminate information and to conduct educational campaigns with respect to eradication and control of noxious weeds.
5. The commissioner upon receiving complaints in writing

- from persons shall immediately refer the complaint to the proper weed control officer, and county or special control authority.
6. The commissioner shall encourage the cooperation of program agencies of both the federal and state governments in furtherance of the purposes of this chapter.
  7. The commissioner shall prescribe, in accordance with chapter 28-32 of the North Dakota Century Code, and cause to be published, such rules, regulations, and procedures as he deems necessary to carry out the intent of this chapter.
  8. The commissioner shall require a minimum number of operational or program reports from weed control authorities or weed control officers as deemed necessary to keep posted on weed control progress and activity in the state.
  9. The commissioner shall call an annual meeting of all weed control officers, either statewide or by areas, to review the intent, operation, procedures, and accomplishments under this chapter and may also request the extension service or others to present educational information on weed control practices. Weed control authority members shall be invited to attend meetings called pursuant to this subsection.

63-01.1-04. COUNTY CONTROL AUTHORITY - POWERS AND DUTIES.)

1. The board of county commissioners of each county in the state shall be the control authority for that county.
2. The board of county commissioners shall appoint or designate a county weed control officer who shall cooperate with the commissioner and be responsible for operation and enforcement of this chapter within the county. Such officer may be a member of the board of county commissioners or may be any other interested and able person. The same person may serve as weed control officer for more than one county. Employment may be for such tenure, and at such rates of compensation and reimbursement for travel expenses as the county commissioners may prescribe and shall be without regard to any provisions of law relating to age or dual compensation. Compensation for the weed control officer and other necessary expenses shall be paid out of the general funds of the county as provided in section 63-01.1-06. The appointment or designation of a weed control officer shall be certified by the control authority to the commissioner.

63-01.1-05. DUTIES OF WEED CONTROL OFFICER.) The weed control officer shall:

1. Cooperate with the control authority, the county extension agent, township supervisors, county land users, the commissioner, and others in furtherance of the provisions of this chapter.
2. Become acquainted with the location of noxious weeds on all land within the county.
3. Through personal contact, by letter, telephone, or other means, encourage noxious weed control or eradication by all landowners or occupants within the control authority area.
4. Investigate all complaints received by himself, the control authority, or the commissioner. If the control officer determines that the complaint is justified, he shall issue written notice to the person controlling the land, which notice shall require that person to control or eradicate noxious weeds on his land within five days, unless additional time is requested from and granted by the control authority, or be subject to the penalties provided in section 63-01.1-15. Complaints, subject to the approval of the control authority, may be initiated by the control officer, and notice served in accordance with this subsection.
5. Cause to be posted or inserted in official newspapers such official notices as the commissioner may deem necessary in the furtherance of this chapter.
6. Prepare reports as requested by the commissioner.
7. Attend area or statewide meetings called by the commissioner for the purpose of assisting in the effective execution of this chapter.

63-01.1-06. FUNDING COUNTY PROGRAMS.)

1. The board of county commissioners may pay from the general fund expenses in any one year in furtherance of this weed control chapter, including weed control along county highways.
2. The board of county commissioners of any county, when it deems it necessary or when petitioned by at least five percent of the voters voting in the last general election, may submit the question of whether to levy a tax, not to exceed two mills on the assessed valuation of all taxable property therein, to the electorate of the county. The levy may be made to cover the salary and expenses of the county weed control officer,

the expense of weed control along county highways, and other expenses incurred in the operation of an effective weed control program in the county. Upon approval of sixty percent of the voters of the county voting on the question, the tax may be levied in excess of the mill levy limit prescribed by law for general purposes.

63-01.1-07. SPECIAL WEED CONTROL AUTHORITIES.) The governing body of any township, city, irrigation district, soil conservation district, or any other political subdivision, individually or collectively, may establish a weed control authority for the purpose of cooperating under this chapter and to carry on such other weed control activities within the authority as it may deem necessary. The governing body shall act as the special weed control authority, except that in the case of creation of a collective special weed control authority, the membership of the authority shall be limited to six persons as designated by the respective governing bodies.

Such special weed control authority may appoint one of its own number or another person as weed control officer. The control authority and weed control officer shall be financed with funds already available. If a special tax levy is needed to finance a program pursuant to this section, it must be approved by a majority of the electors within the area included in such authority. Special weed control authorities may join together in employing a weed control officer whose duties shall be as described under section 63-01.1-05.

63-01.1-08. ENTRY UPON LAND FOR WEED CONTROL PURPOSES.) The commissioner, any control authority, weed control officer, or anyone authorized thereby, may enter upon all land under their jurisdiction for the purpose of performing their duties and exercising their powers under this chapter, including the taking of specimens of weeds or other materials, without the consent of the person owning or controlling such land, and without being subject to any action for trespass or damages, including damages for destruction of growing crops, if reasonable care is exercised.

63-01.1-09. COUNTY COMMISSIONERS TO DESTROY NOXIOUS WEEDS ALONG COUNTY HIGHWAYS.) The county commissioners shall eradicate or control noxious weeds as defined in this law along all county highways within the county and the expense thereof shall be paid from funds as provided in section 63-01.1-06.

63-01.1-10. TOWNSHIPS TO CONTROL NOXIOUS WEEDS ALONG TOWNSHIP ROADS.) The townships' supervisors in organized townships and the county commissioners in unorganized townships shall eradicate or control noxious weeds as defined in this law along all township roads and highways. The expense incurred in carrying out the provisions of this section shall be paid out of any funds raised by tax levy in organized or unorganized townships, including money in the road and bridge fund.

63-01.1-11. LANDOWNERS OR OPERATORS ALONG COUNTY AND TOWNSHIP HIGHWAYS TO DESTROY WEEDS AND GRASSES.)

1. It is the duty of landowners or operators with land adjoining regularly traveled county and township highways, as designated by the township board of supervisors in organized townships, the board of county commissioners in unorganized townships, and the board of county commissioners in the case of county highways, to cut all weeds and grasses along such regularly traveled highways adjoining their lands, including weeds and grasses growing within the public right-of-way bordering such highways and their lands. Such cutting shall be completed not later than September fifteenth or October first, as shall be prescribed by the board of county commissioners.
2. The board of county commissioners of each county shall prescribe the time of cutting of such weeds and grasses, designate the county highways to be cut, and request the board of township supervisors to designate township roads to be cut. Notice of such action shall be published in the official county newspaper at least twice, and the last such publication shall appear not less than two weeks prior to the deadline date. If no official newspaper is published in the county, written notice shall be given by posting, in the same manner as election notices are posted.
3. If the landowner or operator fails to cut the weeds and grasses along the designated highways or roads as provided in this section, the board of township supervisors or the board of county commissioners, as the case may be, may cause such weeds and grasses to be cut and the actual expense of cutting shall be certified to the county auditor, and all of such expenses shall be charged against the land of the landowner and shall become a part of the taxes to be levied against the land for the ensuing year and shall be collected in the same manner as other real estate taxes are collected, and placed to the credit of the respective subdivisions entitled thereto.
4. As used in this section, the word "operator" shall mean the person chiefly responsible for the farming or other operations being performed on the land, whether for his own benefit, or for the benefit of the landowner or another.

63-01.1-12. PREVENTING DISSEMINATION OF NOXIOUS WEEDS.)

1. To prevent the dissemination of noxious weeds by

machinery, trucks, harvesting, or other farm equipment, or during transportation of plants, forage, screenings, dirt, and other articles which may be transported by any means, the commissioner shall, from time to time, publish a list of the possible methods of disseminating the propagating parts of such weeds.

2. Custom or commercial operators of tillage, seeding, and harvesting equipment shall be required to clean such equipment to prevent the spread of noxious weeds by seed or other propagating parts prior to moving such equipment on public highways, airways, waterways, or by any other means of conveyance, public or otherwise. Trucks or trailers transporting grain screenings shall be constructed and covered so as to prevent weed seed dissemination. Scattering and dumping on land or in water of any material containing noxious weed seeds or propagating parts is prohibited unless such material has been processed or treated, or is buried sufficiently deep to destroy seeds and other propagating parts.

63-01.1-13. PUBLICLY OWNED LAND - WEED CONTROL.) The commissioner shall make every effort possible to arrange a satisfactory noxious weed eradication or control program with all state and federal agencies owning, controlling, or having jurisdiction over land within the state. Weed control officers shall make every effort possible to arrange a satisfactory noxious weed eradication or control program with cities, park boards, cemeteries, school boards, counties, and other local entities owning or controlling public land within the control authority. State agencies controlling or having jurisdiction over lands within the state shall provide for eradication or control of noxious weeds on such lands.

63-01.1-14. WEED CONTROL ENFORCEMENT RESPONSIBILITIES OF OTHER AGENCIES.) The state highway patrol, county sheriffs, and the truck regulatory division shall, when requested to do so by a local weed control officer or a weed control authority, cooperate with local weed control officers and the commissioner, and shall have the authority to enforce subsection 2 of section 63-01.1-12 where machinery, commodities, or articles are being moved on state and federal highways or on county or township roads and may be contributing to the dissemination of noxious weeds.

63-01.1-15. PENALTIES.)

1. Any person who violates the provisions of subsection 2 of section 63-01.1-12 shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed one hundred dollars, plus costs, for the first offense, and a fine of five hundred dollars, plus costs, for

any subsequent offense. The weed control officers or control authorities shall institute necessary criminal actions under this subsection.

2. Persons failing to comply with the rules, regulations, and notices promulgated pursuant to the provisions of this chapter shall be subject to a civil penalty not to exceed five hundred dollars. Necessary court action may be pursued by the weed control officer or authority.

63-01.1-16. ALLEGATIONS OF NONCOMPLIANCE.) Any landowner or occupant may call attention to noncompliance with this chapter, or the rules, regulations, or notices promulgated thereunder, by filing his complaint in writing with the local weed control officer who shall take necessary action.

63-01.1-17. JUDICIAL REVIEW.) The validity or applicability of rulemaking or regulatory action taken, or civil penalties assessed pursuant to this chapter, by the commissioner, or anyone acting under his authority, may be determined by an appeal to a district court in accordance with sections 28-32-15 through 28-32-21.

SECTION 2. REPEAL.) Subsection 71 of section 40-05-01 and chapter 63-01, 63-02, 63-03, and 63-04 of the North Dakota Century Code are hereby repealed.

Approved March 27, 1971

# WEAPONS

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## CHAPTER 593

HOUSE BILL NO. 1074  
(Jenkins, Metzger, Olienyk, Sandness, Solberg)  
(Legislative Council Study)

### RECORDS OF PISTOL SALES

AN ACT to amend and reenact subsection 4 of section 62-01-14 of the North Dakota Century Code, relating to distribution of records of pistols sold.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 62-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A true record, in triplicate, shall be made of every pistol sold, said record to be made in a book kept for such purpose. Such book shall be signed personally by the purchaser and by the person effecting the sale, each in the presence of the other, and shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, and the name, address, and occupation of the purchaser. One copy of said record, within seven days, shall be forwarded by certified mail to the superintendent of criminal identification, one copy shall be forwarded to the chief of police of the city or the sheriff of the county of which the seller is a resident, and the other copy shall be retained for six years; and

Approved February 20, 1971

# WEIGHTS, MEASURES, AND GRADES

## CHAPTER 595

HOUSE BILL NO. 1244  
(Dotzenrod, Austin)

### WEIGHING AND MEASURING DEVICE INSPECTION FEE

AN ACT to amend and reenact subsections 3, 4, 5, 6, 7, 8, 9, 10 and 20 of section 64-02-10 of the North Dakota Century Code, relating to the fees to be charged for inspecting weighing and measuring devices, including devices for measuring liquid fertilizer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 3, 4, 5, 6, 7, 8, 9, 10 and 20 of section 64-02-10 of the 1969 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- 3. For inspecting vehicle scales and livestock scales twenty thousand and one pounds capacity and over ----- 35.00
- 4. For inspecting livestock scales under the jurisdiction of Packers and Stockers Act of the federal department of agriculture ----- 35.00
- 5. For inspecting livestock scales under the jurisdiction of Packers and Stockers Act of the federal department of agriculture, where in the discretion of the chief inspector or his employee, the sales ring or buying station scale owner transports to the scale and furnishes all test weights and manpower needed to properly test the scale ----- 20.00
- 6. For inspecting road construction truck scales ---- 40.00

7.	For inspecting hopper scales, six thousand and one pounds capacity and over -----	20.00
8.	For inspecting overhead track scales, hopper scales six thousand pounds capacity and under, dormant scales six thousand and one pounds capacity and over, hanging scales six thousand and one pounds capacity and over --- 14.00; dormant and hanging scales six thousand pounds and less capacity, each ---	8.00
9.	For inspecting movable platform scales -----	3.00
10.	For inspecting all counter and computing scales -----	3.00
20.	For inspecting propane and liquid fertilizer meters --	15.00

Approved March 12, 1971

## CHAPTER 596

HOUSE BILL NO. 1223  
(K. Erickson, Dotzenrod, Herman, Linderman)

## DIRECTOR OF WEIGHTS AND MEASURES

AN ACT to create and enact section 64-02-05.1 of the North Dakota Century Code, relating to changing the title of the chief inspector of the department of weights and measures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 64-02-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

64-02-05.1. DIRECTOR OF WEIGHTS AND MEASURES.) The chief inspector of the department of weights and measures of the public service commission shall henceforth be designated as the director of weights and measures.

Approved March 3, 1971

# WORKMEN'S COMPENSATION

## CHAPTER 597

HOUSE BILL NO. 1272

(Bunker, Haugland, G. Larson, Weber)

### FIREMAN COMPENSATED FOR LUNG DISEASE

AN ACT to amend and reenact subdivision d of subsection 9 of section 65-01-02 of the North Dakota Century Code, relating to firemen's compensation and death payments under workmen's compensation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subdivision d of subsection 9 of section 65-01-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* d. Provided, any condition or impairment of health of a full-time paid fireman caused by lung or respiratory disease, hypertension, or heart disease resulting in total or partial disability or death shall be presumed to have been suffered in line of duty and shall not be attributed to any disease existing prior to such total or partial disability or death unless the contrary be shown by competent evidence, provided, further, that such a full-time paid fireman shall have completed two years of continuous service and have successfully passed a physical examination which examination fails to reveal any evidence of such condition;

\*NOTE: Subdivision d of subsection 9 of section 65-01-02 was also amended by section 1 of House Bill No. 1358, chapter 598.

Approved March 12, 1971

## CHAPTER 598

HOUSE BILL NO. 1358  
(R. Peterson, Boustead)

## COVERAGE FOR LAW ENFORCEMENT OFFICERS

AN ACT to amend and reenact subdivision (d) of subsection (9) of section 65-01-02 of the North Dakota Century Code, relating to Workmen's Compensation Coverage for Law Enforcement Officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subdivision (d) of subsection (9) of section 65-01-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* d. Provided, any condition or impairment of health of a full-time paid fireman or law enforcement officer caused by respiratory diseases, hypertension or heart disease resulting in total or partial disability or death shall be presumed to have been suffered in the line of duty and shall not be attributed to any disease existing prior to such total or partial disability or death unless the contrary be shown by competent evidence, provided, further, that such full-time paid fireman or law enforcement officer shall have completed two years of continuous service and have successfully passed a physical examination which examination fails to reveal any evidence of such condition.

\*NOTE: Subdivision d of subsection 9 of section 65-01-02 was also amended by section 1 of House Bill No. 1272, chapter 597.

Approved March 15, 1971

# VETOED MEASURES

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## CHAPTER 599

SENATE BILL NO. 2042  
(Coughlin, Stroup, Wenstrom)  
(From Legislative Council Study)

### HIGHER EDUCATION COMPUTER OFFICE

AN ACT to establish an office of higher education computer services under the control of the state board of higher education.

VETO

March 30, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 2042 was introduced originally as an effort to coordinate electronic data processing in institutions under the Board of Higher Education. It provided an appropriation of approximately \$800,000 for that purpose.

Two studies preceded the introduction of Senate Bill 2042. An original study by Arthur Andersen Company in 1967-68 indicated that electronic data processing could be centralized and coordinated among our institutions of higher education. Naturally there was dissatisfaction among those institutions which were not recommended as the location of major equipment.

A second study was undertaken in 1969-70 which resulted in another recommendation that institutions of higher education should coordinate electronic data processing.

The Legislature, apparently feeling it must say something but do nothing, passed Senate Bill 2042. This bill was stripped of all of its effectiveness when its total \$800,000 appropriation was removed so that there are no funds to implement any action. The bill was further stripped of any value when it states that the office of higher education computer services shall arrange for computer service to all institutions under the control of the Board of Higher Education except those institutions with computer installations at the time of the passage of this Act which choose not to request such services.

Obviously, with this exemption there would be no centralized data processing, nor would there be any data processing coordination unless

the institutions now using data processing chose to coordinate their activities with such a coordination effort.

North Dakota State University, the University of North Dakota, and Wahpeton School of Science now have computer installations. This bill would permit them to exempt themselves, leaving only the state institutions not now having computer installations to be coordinated under the Act.

It is obvious to me that there was no intent by the Legislature to implement coordination of data processing at all institutions of higher education. I believe such coordination is desirable, but it will require a much more positive approach with funds for implementation in order to make such coordination effective.

I believe the state institutions would be far better off to establish a track record of need and usage of electronic data processing equipment before a law is written setting forth the process of coordination to be followed. Further, it is my belief that all of the coordination that is required in electronic data processing at our institutions of higher education can be accomplished at the present time by Board of Higher Education directive.

Therefore, I veto Senate Bill 2042.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. OFFICE OF HIGHER EDUCATION COMPUTER SERVICES - CREATION.) The office of higher education computer services is hereby established under the control of the state board of higher education, hereinafter referred to as the board. The board may designate a data processing coordinator who shall be designated upon the basis of education, experience, and other qualifications in data processing and administration, without reference to partisan politics, and who shall be responsible to the commissioner of higher education and serve at the pleasure of the board. The coordinator of the office of higher education computer services may, in conformity with the provisions of this Act, supervise, regulate, and provide electronic data processing services to the institutions under the control of the board and may employ such professional, technical, and clerical personnel as may be deemed necessary to carry out the duties prescribed for the office of higher education computer services. He may, within the limits of legislative appropriations and with the approval of the board, set the salaries of all employees under his control.

SECTION 2. ADVISORY BOARD.) The board shall appoint an advisory board to advise the office of higher education computer services of the electronic data processing needs of the institutions under the control of the board. The advisory board shall consist of representatives of the institutions using computer

services. The number of advisory board members, terms of office, and qualifications and duties shall be determined by the board.

SECTION 3. OFFICE OF HIGHER EDUCATION COMPUTER SERVICES - POWERS AND DUTIES.) The office of higher education computer services shall have the following powers and duties:

1. To arrange for computer services to all institutions under the control of the board, except those institutions with computer installations at the time of the passage of this Act which choose not to request such services. Computer services shall include access to electronic computers, terminals, communications equipment, systems design, programming, and other electronic data processing services.
2. To plan, justify, and supervise all electronic data processing systems within and between the institutions under the control of the board.
3. To plan and supervise the development of all programs and procedures for the effective use of staff, computer services, and support equipment at the institutions under the control of the board.
4. To supervise and require the establishment of billing systems for use at each institution to charge users of electronic data processing services the cost of providing such services.
5. To develop an information system in order to improve the administration and management of the institutions under the control of the board.

SECTION 4. ACQUISITION OF COMPUTER EQUIPMENT.) The office of higher education computer services, upon approval of the board, is authorized within the limits of legislative appropriation and available federal and private funds to purchase and lease such electronic data processing equipment or services as may be determined necessary to conform with the provisions of this Act. All electronic data processing equipment at the institutions under the control of the board shall be subject to the control of the office of higher education computer services and no electronic data processing equipment may be purchased, leased, or otherwise used or disposed of at the institutions under the control of the board without the approval of the board.

SECTION 5. TO CHARGE FOR SERVICES.) The office of higher education computer services shall have the authority to request payment from each user of electronic data processing services for the costs incurred in providing such services, except when the computer service is located at the college or university receiving the service. All moneys received from the providing of electronic data processing services shall be deposited in a special fund in the state treasury, entitled the higher education computer services fund, and the moneys in such fund are hereby appropriated and may be expended in accordance with this Act.

SECTION 6. SERVICES TO OTHER GOVERNMENTAL UNITS AND NONPROFIT ORGANIZATIONS.) The board is authorized to enter into contracts to provide electronic data processing services to state and federal agencies, charitable or educational nonprofit agencies and institutions, and nongovernmental organizations sponsoring research through grants and contracts. Such contracts shall be supported by information which upon review indicates that the providing of such services is in the public interest and will not be provided for fees which are less in amount than the fair value of the service to be provided.

Disapproved March 30, 1971

Filed March 30, 1971

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## CHAPTER 600

SENATE BILL NO. 2066  
(Anderson, Freed, Ringsak, Roen, Thoreson)  
(From Legislative Council Study)

### CAMPAIGN CORRUPT PRACTICES TESTIMONIAL IMMUNITY

AN ACT to repeal section 16-20-10 of the North Dakota Century Code, relating to immunity from prosecution for persons testifying to campaign contributions by corporations.

VETO

March 12, 1971

The Honorable Richard F. Larsen  
President of the Senate  
North Dakota State Senate  
State Capitol  
Bismarck, North Dakota

Dear Mr. President:

Senate Bill 2066 seeks to strengthen the Corrupt Practices Act by eliminating immunity from prosecution for persons testifying about political campaign contributions by corporations. I am sure that the sponsors of this legislation believe that by so doing they are strengthening the Corrupt Practices Act.

In my judgment, Senate Bill 2066 would virtually eliminate grand jury investigations under the Corrupt Practices Act. The elimination of immunity for witnesses who must testify before such a grand jury without the presence of legal counsel would force many witnesses to avail themselves of their constitutional rights under the Fifth Amendment. The end result would be a complete breakdown of the information-seeking mission of a grand jury inquiring into corrupt practices.

I join the sponsors of Senate Bill 2066 in believing that we must make the Corrupt Practices Act not only stronger but also far more equitable and effective than it is now.

All who are close to politics are well aware of the election law abuses that have been winked at or shrugged off by law enforcement officials for too many years. The escalating costs of political campaigns from the hundreds of dollars spent in legislative races to the thirty or forty million dollars spent in a Presidential contest all cry out for stronger controls.

Our present state laws seeking to prevent corrupt practices in elections are good as far as they go. But we must examine them not in theory but in the cold light of how they actually work. Most unbiased observers would agree that they are not strong enough, nor far reaching enough, nor equitable enough between political parties and candidates to adequately serve the public interest.

The Corrupt Practices Act was designed to prevent political parties or candidates from corrupting our democratic system of government through the selling of influence. It was also designed to prevent one political party or its candidates from illegally raising campaign funds, and thus taking unfair advantage of the other to the detriment of our elective system in government.

The paramount purpose of this law, however, is to protect the public interest rather than the interest of any one political party or candidate.

The repeal of Section 16-20-10 of the North Dakota Century Code is sought by those who seek to eliminate the immunity from prosecution now protecting persons before a grand jury inquiring about alleged campaign contributions by corporations.

We must examine carefully what we would be doing by repealing Section 16-20-10, to see if we are really strengthening the Corrupt Practices Act as it applies to all political parties and all candidates.

Law enforcement, including the enforcement of the Corrupt Practices Act, must be totally nonpartisan to serve the public interest and to be fair to all candidates and political parties in the elective process.

However, it is never possible to make the law enforcement apparatus completely nonpartisan. Law enforcement personnel, like candidates, are recruited from the human race. We find that everybody involved in law enforcement has some political bias and many individuals in law enforcement have a strong record of organizational political activity.

Since it is impossible, in the enforcement of the Corrupt Practices Act, to obtain State's Attorneys, Attorneys General, Judges, and grand jurors who are totally without political bias, it is in the public interest that the enforcement of the Corrupt Practices Act be made bipartisan rather than partisan as it is at present.

The repeal of Section 16-20-10 would do nothing to inject a fair, bipartisan enforcement of the Corrupt Practices Act. As a matter of fact, this repeal serves to amplify rather than diminish the obvious partisan enforcement of the Act.

Candidates or political parties who are openly investigated by partisan law enforcement officials or who are subpoenaed before the secret proceedings of a grand jury are damaged and demeaned by such action, whether there is any substance to the inquiry or not.

The Corrupt Practices Act then should make it possible for either political party to be represented by counsel before any grand jury investigating alleged violations of the Corrupt Practices Act. This is not possible under the present law, nor does Senate Bill 2066 bring about this necessary equity of treatment under the law for all political parties and candidates.

There is ample evidence that the law enforcement apparatus controlled by one political party can harass and demean its political opposition by concealing its ulterior motives behind the respectable front of a grand jury investigation.

There are mountains of evidence that State's Attorney or Attorney General conduct of grand jury inquiries under the Corrupt Practices Act have amounted to fishing expeditions to cover up incompetent State's Attorney or Attorney General investigations.

There is also ample evidence that officials within the law enforcement system are reckless with the good reputations and political careers of their political opposition, but tend to be overly protective of the reputations and careers of people within their own political party.

This situation is not in the public interest, nor does it serve to protect or strengthen our democratic system of government.

We find, under the enforcement of the Corrupt Practices Act, that the political party controlling the law enforcement apparatus can harass at will at taxpayers' expense, whereas the harassed individual or political party is not able to have the same questions or investigation directed toward their political opponents.

A political party or candidate being investigated under the Corrupt Practices Act should have the power to name an Assistant State's Attorney to be paid from public funds to balance the investigative powers of a partisan State's Attorney or Attorney General. In this way, the public interest would be served with the assurance that both political parties and all candidates could be subject to any corrupt practices investigation, and no grand jury would be swayed by a one-sided politically motivated line of questioning of a carefully selected and restricted list of witnesses.

Senate Bill 2066 does not go to the core of the weakness of the Corrupt Practices Act. Rather than strengthen the Act as should be done, it further weakens it. It destroys the effectiveness of grand jury investigation under the Corrupt Practices Act.

Therefore, I veto Senate Bill 2066.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF  
NORTH DAKOTA:

SECTION 1. REPEAL.) Section 16-20-10 of the North  
Dakota Century Code is hereby repealed.

Disapproved March 12, 1971

Filed March 19, 1971

## CHAPTER 601

SENATE BILL NO. 2437  
(Melland)

## DELIVERY OF ABSENTEE VOTERS' BALLOTS

AN ACT to amend and reenact section 16-18-09 of the North Dakota Century Code, relating to delivery of absent voters' ballots and notification of date when ballot must be returned to be canvassed.

VETO

March 30, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 2437 would make it a little more difficult for absentee voters to vote without providing an offsetting benefit. It states that the "county auditor, auditor of the city, or clerk of the school district, as the case may be, shall send to such absent voter by mail, postage prepaid, one official ballot, or personally deliver such ballot to the applicant."

We know from experience that very few if any ballots will be delivered personally by these officials except in their offices. Restricting delivery of a ballot to an applicant to mail service or personal delivery by the county auditor, city auditor, or school district clerk would hamper absentee voters from securing ballots.

We live in an age in which we are experiencing ever greater mobility of our voting public. People who travel in sales work, construction, research and even on vacations in this day and age find it very difficult to maintain a mailing address where they can be located at all times, and are often at distances far beyond the ability or inclination of a local official to hand-deliver a ballot.

We should be seeking ways to make it easier for people to vote by absentee ballot rather than making it more difficult.

Because there is no evidence that this legislation remedies any problem which exists, and because the right to vote must always be respected, and because Senate Bill 2437 would further restrict the present very restrictive absentee voter ballot laws, I veto Senate Bill 2437.

Sincerely yours,  
WILLIAM L. GUY

Governor



## CHAPTER 602

HOUSE BILL NO. 1054  
(Backes, Dornacker, Gackle, L. Larson, Weber)  
(From Legislative Council Study)

## TAX EXEMPT NONPROFIT CORPORATIONS

AN ACT to amend and reenact subsection 16 of section 57-02-08 of the North Dakota Century Code, to provide that property owned by nonprofit corporations organized to promote athletic and educational needs and uses at any state educational institution shall be exempt from taxation only if used exclusively for athletic or educational purposes.

VETO

March 19, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1054 would eliminate the non-profit corporations that have been formed to give limited assistance to universities and colleges in acquiring land which would later become available for ownership or use by our institutions of higher education.

I am unable to find any abuse of the tax exempt privilege of any non-profit corporation acting in behalf of an institution of higher education. I do, however, have substantial evidence of the benefits that have accrued to higher education institutions through the acquisition and temporary holding of property that has later been made available to the higher education institutions.

I believe the benefits to the taxpayers statewide from these tax exempt non-profit corporations outweigh any disadvantages to local taxpayers in a community occupied by an institution of higher education.

Therefore, I veto House Bill 1054.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 16 of section 57-02-08  
of the North Dakota Century Code is hereby amended and reenacted  
to read as follows:

16. Real and personal property now owned, or hereafter  
acquired, by a corporation organized, or hereafter  
created, under the laws of this state for the purpose  
of promoting athletic and educational needs and uses  
at any state educational institution in this state,  
and not organized for profit, provided that such  
property is used exclusively for athletic or educa-  
tional purposes;

Disapproved March 19, 1971

Filed March 19, 1971

## CHAPTER 603

HOUSE BILL NO. 1081  
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)  
(From Legislative Council Study)

## MEMBERSHIP OF AUDITING BOARD

AN ACT to amend and reenact sections 54-14-01 and 54-14-02 of the North Dakota Century Code, relating to the state auditing board.

VETO

February 27, 1971

The Honorable Howard F. Bier  
Speaker of the House  
North Dakota House of Representatives  
State Capitol  
Bismarck, North Dakota

Dear Mr. Speaker:

In any large business organization or in large government organization, such as we have at the state level, there needs to be a clearly defined flow of responsibility to the chief executive. With that clearly defined flow of responsibility must also be clearly defined authority. House Bill 1081 disrupts the flow of responsibility and the flow of authority to and from the office of the chief executive.

It removes from the State Auditing Board the director of Accounts and Purchases who represents the Governor. It then retains other state officials who may act on the State Auditing Board or designate others to act for them. The director of Accounts and Purchases is maintained as secretary of the Auditing Board and his clearly defined responsibility under present law then becomes vague and undefined in House Bill 1081.

House Bill 1081 was originally submitted to abolish the State Auditing Board functions except in appeals. Such a proposal would have had considerable merit. However, the original intent of the bill was entirely eliminated and the resulting product weakens rather than strengthens the executive branch of government.

Therefore, I veto House Bill 1081.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF  
NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-01. STATE AUDITING BOARD - MEMBERS - SECRETARY - DUTIES - QUORUM.) The secretary of state, attorney general, and the state treasurer shall constitute the state auditing board. The director of the department of accounts and purchases shall act as secretary for the board, and shall receive and file for the consideration of the board, all accounts, claims, or demands against the state, except those of state-owned utilities, enterprises, and business projects, and such others as are specifically exempt by law. Any two members of the board shall constitute a quorum for the transaction of business.

SECTION 2. AMENDMENT.) Section 54-14-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-02. MEETINGS OF BOARD.) The state auditing board shall hold its meetings at the office of the director of the department of accounts and purchases or at such other place as the board may decide. Meetings shall be called at least monthly or at such other time as the secretary or two members of the board may deem necessary or advisable. Each member and secretary of the auditing board may appoint a deputy or substitute to serve in his stead at such meetings as he may be unable to attend.

Disapproved February 27, 1971

Filed March 30, 1971

## CHAPTER 604

HOUSE BILL NO. 1085  
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)  
(From Legislative Council Study)

## EMERGENCY COMMISSION MEMBERSHIP

AN ACT to amend and reenact section 54-16-01 of the North Dakota Century Code, relating to the emergency commission.

VETO

March 29, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1136 would have changed the makeup of the membership on the Emergency Commission without any resulting benefit to the conduct of its affairs. House Bill 1136 was vetoed by me on February 27.

House Bill 1085 is a rehash of vetoed House Bill 1136 and again is designed only to accommodate personalities in state government at this moment. It does not propose any logical improvement in the responsibilities of state officials and certainly would not improve the operation of the Emergency Commission.

I do not know why House Bill 1085 was passed after House Bill 1136 was vetoed because it contains the same objectionable provisions.

I therefore veto House Bill 1085.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF  
NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-16-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-01. EMERGENCY COMMISSION - MEMBERS - ORGANIZATION - MEETINGS - DUTIES.) The emergency commission shall consist of the governor, the state treasurer, and the secretary of state. Whenever an allocation or allocations out of the state contingency fund in excess of ten thousand dollars, during the biennium, is to be made to any institution or department of government, the chairman of the senate appropriations committee and the chairman of the house of representatives appropriations committee shall be members of the emergency commission. The governor shall be chairman of the commission, and the secretary of state, the secretary. The emergency commission shall meet upon the call of the chairman. The commission shall exercise the powers and perform the duties imposed upon it by law.

Disapproved February 27, 1971

Filed March 29, 1971

## CHAPTER 605

HOUSE BILL NO. 1115

(Giffey, Hilleboe, Opedahl)

(From Legislative Audit and Fiscal Review Committee Study)

## BANK ADVISORY BOARD

AN ACT providing for a bank advisory board consisting of seven members appointed by the industrial commission to act in an advisory capacity to the Bank of North Dakota, and to repeal chapter 6-09.1 of the North Dakota Century Code.

VETO

March 15, 1971

The Honorable Howard F. Bier  
Speaker of the House  
North Dakota House of Representatives  
Bismarck, North Dakota

Dear Mr. Speaker:

The 1969 Legislature created the five-member Advisory Board to the Bank of North Dakota. The members of the Board are appointed by the Governor for terms of from one to four years. The Governor appoints a chairman, vice chairman, and secretary of the board.

The present law gives the Advisory Board the duty of formulating recommendations to the Industrial Commission relative to the operation of the Bank of North Dakota.

The Advisory Board to the Bank of North Dakota is made up of highly qualified and prestigious people in several fields of finance. It has been a very productive board and its influence is reflected in many policies now followed by the Industrial Commission as that Commission directs the activities of the Bank of North Dakota.

There may have been some advantages to be gained in amending the legal responsibility of the Advisory Board as the law relates it to the creation of a \$100 million capital pool. This directive in the law was pursued by the Advisory Board in the past year and it was not found feasible to create such a capital pool.

House Bill 1115 does nothing to improve the operation of the Advisory Board to the Bank of North Dakota. In fact, it weakens the activity of the Advisory Board and is another case of diluting the necessary line of responsibility and authority between the Governor and departments and agencies in his Administration.

House Bill 1115 unnecessarily enlarges the membership on the Advisory Board to the Bank of North Dakota from five to seven.

In the process, it includes the President of the Bank of North Dakota as an ex officio member and the Board's secretary.

Since the Advisory Board, in its studies, must remain independent from influence by the management of the Bank of North Dakota, the inclusion of the President as an ex officio Board member weakens the ability of the Advisory Board to approach bank policy, practices and personnel in a candid and frank manner.

The President of the Bank of North Dakota is further instructed by this legislation to furnish personal services and information if the majority of the Board so request. The term "personal service" is very vague and questionable, but even more serious the law permits the Bank of North Dakota President to vote and thereby contribute to a majority decision as to whether or not he should furnish "personal services" and information. This is a ponderous arrangement which further underlines the inadvisability of the President of the Bank of North Dakota's being a member of the Advisory Board.

House Bill 1115 takes away the authority of the Governor to appoint Advisory Board members and places this authority in the three-member Industrial Commission.

There seems to be a constant effort by the Legislature to erode the authority of the Chief Executive of our state. Sometimes I believe laws regarding the Chief Executive are considered on the basis of the person holding the position rather than on the basis of long-range effect on state government.

The authority of the Chief Executive and his Administration should be made stronger and not weaker, and this authority should not be diluted or completely eliminated by spreading it over other elected or appointed officials.

It should be obvious to those who observe the operation of partisan politics within the Legislature that the same condition exists in the Executive Branch of government when some elected officials may differ in their political party and governmental philosophy from that of the Governor.

A Governor is expected to form an Administration and assume the responsibility and authority for that Administration. To dilute or diminish his authority is not in the public interest, nor is it consistent with responsible state government.

Of a minor nature, but still significant, is the requirement in HB 1115 that the Advisory Board meet once a month. This requirement presupposes that there will be enough work to warrant meeting once a month, and that the members have the time to devote to a meeting once a month. Neither of these suppositions is necessarily valid, and to include what should be administrative decision as a requirement fixed in law is not good legislation.

Because this legislation does nothing to strengthen an already productive Advisory Board to the Bank of North Dakota, I veto House Bill 1115.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF  
NORTH DAKOTA:

SECTION 1. DECLARATION OF INTENT.) The legislative assembly of the state of North Dakota hereby creates a board composed of citizens who are knowledgeable in the field of agriculture, commerce, and industry to act in an advisory capacity to the administration of the Bank of North Dakota. The board shall advise on matters including, but not limited to, investment policies, administrative procedures, and general operational activities.

SECTION 2. BANK ADVISORY BOARD - MEMBERS - APPOINTMENT.) The bank advisory board shall consist of seven members, six of whom shall be appointed by the industrial commission. The president of the Bank of North Dakota shall serve as an ex officio member and shall act as the board's secretary. Board members shall choose its own chairman from among the members of the board.

SECTION 3. TERMS OF OFFICE OF MEMBERS.) Each member of the bank advisory board, except the secretary, shall be appointed to a four-year term with the first appointment arranged in order that three members shall serve two years and three members shall serve four years. New members shall be appointed on July 1 and shall take office on the date of the expiration of the term of the incumbent.

When a vacancy occurs, a new member shall be appointed by the industrial commission. Any persons appointed to fill a vacancy on the board shall serve only during the unexpired term in the position in which the vacancy occurred. There shall be no limitation on the number of terms which a member may serve, but any member may be removed at the pleasure of the industrial commission.

SECTION 4. DUTIES AND POWERS OF THE BOARD - COMPENSATION.) The bank advisory board shall meet at least once a month and complete such study and examination and hear such testimony as may be necessary to properly advise the industrial commission and the president of the Bank of North Dakota as provided in this Act. The board upon motion approved by a majority of the board members shall have authority to request such personal services and information from the president of the Bank as it may determine necessary to carry out the intent of this Act. The appointed members of the board shall be compensated and reimbursed for their expenses at the rate provided by law for members of the legislative assembly for attendance at interim committee meetings.

SECTION 5. REPEAL.) Chapter 6-09.1 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Disapproved March 15, 1971

Filed March 30, 1971

## CHAPTER 606

HOUSE BILL NO. 1136  
(Committee on Appropriations)

## EMERGENCY COMMISSION MEMBERSHIP

AN ACT to amend and reenact section 54-16-01 of the North Dakota Century Code, relating to membership on the emergency commission.

VETO

The Honorable Howard F. Bier  
Speaker of the House  
North Dakota House of Representatives  
State Capitol  
Bismarck, North Dakota

February 27, 1971

Dear Mr. Speaker:

House Bill 1136 was introduced in order to provide a method of replacing legislative Emergency Commission members in case of death or resignation. This is desirable legislation.

However, the bill unnecessarily changes the make-up of the membership on the Emergency Commission without any resulting benefit to the conduct of its affairs.

I therefore veto House Bill 1136 in hopes that it can be reintroduced to carry out the intent of the original legislation without changing the membership on the Commission.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 54-16-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-01. EMERGENCY COMMISSION - MEMBERS - ORGANIZATION - MEETINGS - DUTIES.) The emergency commission shall consist of the governor, the state treasurer, and the secretary of state. Whenever an allocation or allocations out of the state contingency fund in excess of ten thousand dollars, during the biennium, is to be made to any institution or department of government, the chairman of the senate appropriations committee and the chairman of the house of representatives appropriations committee or the vice chairmen of such committees upon death or resignation from the legislative assembly of the committee chairmen shall be members of the emergency commission. The governor shall be chairman of the commission, and the secretary of state, the secretary. The emergency commission shall meet upon the call of the chairman. The commission shall exercise the powers and perform the duties imposed upon it by law.

Disapproved February 27, 1971

Filed March 30, 1971

## CHAPTER 607

HOUSE BILL NO. 1159  
(Raymond)AUDITOR'S OFFICE TO REMAIN  
OPEN ON ELECTION NIGHT

AN ACT to amend and reenact section 16-13-03 of the North Dakota Century Code, relating to keeping the county auditor's office open on election nights.

VETO

March 19, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1159 requires County Auditors to remain open on election night until the precinct inspectors have telephoned in informal election results. The Auditor then is required to make these results available to the news media as soon as they are received.

This bill creates additional precinct and county expense with no measurable benefit to the taxpayer.

Many news gatherers now have an efficient means of obtaining early returns without forcing the expenditure of county taxpayer funds to obtain them. A system that has worked relatively well in the past can be continued without working a hardship on anyone.

Therefore, in the interest of holding down unnecessary government expenditure, even though small in amount, I veto House Bill 1159.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

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

16-13-03. MANNER OF CANVASSING ELECTION.) The canvass  
provided for in section 16-13-02 shall be conducted in the fol-  
lowing manner: as each ballot is counted, the inspector of  
elections and the judges of election shall examine the ballot to  
ascertain the persons voted for, and one of the members of the  
board shall announce the votes disclosed by the ballot, which  
shall be marked in the tally books by the clerks of election.  
After all of the votes are counted, the election board shall  
compare the count as disclosed by the clerks' books with the  
total number of ballots cast, and if there are any mistakes in  
the books kept by the clerks, they shall be corrected so as to  
conform exactly to the number of ballots cast. As soon as the  
count is completed, the inspector shall announce publicly the  
result thereof, specifying the whole number of votes cast for  
each office and for each candidate, and the number of votes cast  
for and against each proposition voted upon at such election.  
The inspector shall see that these results are immediately de-  
livered or furnished by telephone to the county auditor's office.  
The auditor's office shall remain open on election night until  
all of these results are received, and shall make these results  
available to the public and news media as soon as they are  
received.

Disapproved March 19, 1971

Filed March 19, 1971

## CHAPTER 608

HOUSE BILL NO. 1299  
(Bunker, Hoffner, Streibel, Strinden, Weber)

## UNIFORM CONSUMER CREDIT CODE

AN ACT to create and enact title 17 of the North Dakota Century Code, relating to certain consumer and other credit transactions and constituting the uniform consumer credit code; consolidating and revising certain aspects of the law relating to consumer and other loans, consumer and other sales of goods, services and interests in land, and consumer leases; revising the law relating to usury; regulating certain practices relating to insurance in consumer credit transactions; providing for administrative regulation of certain consumer credit transactions; making uniform the law with respect thereto; and repealing inconsistent legislation; to amend and reenact sections 6-01-01, relating to the authority of the commissioner of banking and financial institutions; 6-03-62, relating to interest on loans of a state banking association; 7-04-17, relating to the repayment of loans of a building and loan association; 28-22-14, relating to the exemption of property from execution; 28-25-11, relating to the exemption of earnings from execution; 32-09-01, relating to the right of a creditor to proceed by garnishment; 32-09-02, relating to the exemption of wages from garnishment; 32-09-03, relating to notice before garnishment of wages; 41-09-16, relating to the priority of statutes in case of conflict; 47-14-01, relating to the definition of a loan of money; 47-14-05, relating to the rate of interest on legal indebtedness in the absence of contract; 47-14-06, relating to an annual rate when period not specified; and 47-14-08, relating to the deduction of interest in advance on a loan; to repeal sections 6-06-18, 7-02-04, 47-14-09, 47-14-10, and 47-14-11, and chapters 13-04, 51-13, and 51-14, of the North Dakota Century Code; providing a penalty; and providing for an appropriation.

NOTE: The text of House Bill No. 1299, chapter 608 (Uniform Consumer Credit Code), is not printed herein, due to its extreme length, and due to the fact that the UCCC is a readily available document.

Disapproved March 12, 1971

Filed March 30, 1971

## VETO

March 12, 1971

The Honorable Howard F. Bier  
Speaker of the House  
North Dakota House of Representatives  
State Capitol  
Bismarck, North Dakota

Dear Mr. Speaker:

House Bill 1299 seeks to bring uniformity between our state and some other states in the application of consumer credit rates and practices. Generally speaking, it is advantageous for states to adopt uniform codes so that the complexity of the burgeoning volume of law can be minimized.

We must voice our gratitude to the National Conference of Commissioners on Uniform State Laws for the substantial progress they are making to strengthen state government in the federal system by strengthening, through uniformity, the laws of the various states.

In my Message to the Legislature, I asked you to give serious consideration to the Uniform Consumer Credit Code. I recommended to its sponsors that it be introduced in this session, but with an adjustment in the Code's interest rates to existing North Dakota legal interest rate ceilings. There was an understandable reluctance to tamper with the Code, for in so doing its major feature, that of uniformity, would be breached.

House Bill 1299 is easily the most discussed piece of legislation in this session. It has generated by far the most communications to my office. The overwhelming reaction as reflected by communications to my office has been in opposition to the Uniform Consumer Credit Code. I do not believe all of the opposition is justified, for there seems to be misunderstanding and suspicion of what the Code would do.

There is a defensible point of view that the Code should be enacted and given a trial period to see if it would have beneficial application in North Dakota.

I called Governor Calvin Rampton of Utah to have his appraisal of the operation of the Uniform Consumer Credit Code in that state these past two years. Governor Rampton reported that the Code was implemented smoothly and that he knew of no problems or adverse reactions in its use.

The Code has been defended on the one hand and challenged on the other hand by many deep thinking individuals whose judgment I respect.

It has been very difficult to arrive at a decision in this legislation. I am, however, mindful that the North Dakota Attorney General's Office has advised the Speaker of the House that there is a strong legal possibility that the present North Dakota Small Loans Act was not repealed by the passage of House Bill 1299 because the Small Loans Act was enacted in 1960 by a vote of the people and would require a two-thirds vote of the Legislature to amend or repeal. A two-thirds vote was not obtained on House Bill 1299.

This leaves grave confusion as to the application of the interest rate section of House Bill 1299 as it applies to small loans and as it conflicts with the present North Dakota Small Loans Act. The interest rate section appears to be an all important part of House Bill 1299 and was of sufficient importance to the entire bill that its sponsors refused to amend it.

If House Bill 1299 had been in effect two years ago instead of the North Dakota Small Loans Act, it probably would have had a significant impact in higher interest rates for people in an income bracket who can least afford higher interest rates.

In the last fiscal year, there were 25,408 small loans made in North Dakota, for a total of \$15,725,212.66. The dollar interest cost of these loans in that year was \$2,358,786.88. Had the Uniform Consumer Credit Code been in effect in that year and had interest rates been at the ceiling as is usual under this Code, the interest rates paid by low income borrowers would have been \$2,692,168.24. This would have been an increase in interest costs for that year to low income borrowers of \$333,381.36.

It is obvious to me that the interest rates on small loans in the Uniform Consumer Credit Code, if implemented by legal opinion or decision, would work a substantial hardship on small loan borrowers, and while possibly justified in other areas, they do not appear to be justified in North Dakota.

But of even more importance in terms of total dollars involved is the increase in the maximum interest rates permissible on revolving charge accounts from 1½% per month under present North Dakota law to 2% per month under the Uniform Consumer Credit Code.

There is no source to which we can turn in this state or in the nation to accurately judge the volume of revolving charge accounts or the cost of revolving charge account interest payments, but all indications are that the amount of money is very, very substantial.

Since thousands of retailers would be making the interest rate decision on revolving charge accounts under the Uniform Consumer Credit Code, it would be fair to assume that many, if not all, would move their interest charges to the maximum permissible. There are indications that many major retailers already regard the 1½% per month ceiling on revolving charge accounts as a lucrative source of income which has caused them to encourage wherever possible the use of deferred payment rather than cash purchase. Revolving charge account interest rates under the Code could be exorbitant to thousands of North Dakotans if allowed to rise to the 2% per month ceiling.

Aside from interest rates, there may be some very defensible provisions of House Bill 1299 which have to do with consumer protection. However, North Dakota is not as deficient in consumer protection as are some other states.

I have been informed that the National Conference of Commissioners on Uniform State Laws will submit a Uniform Consumer Protection Code to state legislatures within a year or two. It would appear to me that it would be advisable to wait until such consumer protection legislation is available as a companion measure to consider with the Uniform Consumer Credit Code.

I believe this state would benefit by observing the experiences in the next two years of such states as Utah and Indiana as they conduct credit business under the UCCC.

I, therefore, believe it is in the best interest of the public not to approve this legislation. Therefore, I veto House Bill 1299.

Sincerely yours,  
WILLIAM L. GUY

Governor

## CHAPTER 609

HOUSE BILL NO. 1324  
(K. Johnson, Stoltenow, Dotzenrod)

## NORTH DAKOTA BEEF COMMISSION

AN ACT to promote the sale of North Dakota beef products; to create a North Dakota beef commission; to prescribe its purposes, powers, and duties; to provide for the assessment of cattle sold in or from the state of North Dakota; to provide refunds of such assessments; and to provide penalties.

VETO

March 29, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1324 creates a North Dakota Beef Commission whose purpose is to promote the sale of North Dakota beef products with funds accumulated from a ten cent per head check-off on all cattle sold in the state.

The sponsors of this legislation are to be commended for their sincere effort to devise a means of increasing the sale of beef nationwide and thereby strengthening the demand for cattle.

There has arisen, however, a storm of protest across this state in opposition to HB 1324 as it is written. Protests range from those who object to the principle of check-offs without permission, to those who believe the act is too loosely drawn to enforce properly.

There is substantial concern that the small beef cattle producer would be carrying the burden of finance for the Beef Commission because the small numbers of cattle he would sell would not generate enough check-off to warrant his asking for a refund; whereas the large operator who sold great numbers of cattle would have a substantial amount checked off his sales and it would pay him to ask for a refund.

It is pointed out that this check-off would be one additional burden as well as expense in every transaction involving the sale of cattle, and a single head of cattle sold several times in North Dakota would accumulate a check-off cost in proportion to the number of times it changed hands.

There is objection that the board of directors of the Beef Commission would not be representative enough of the cattle producing industry, and in fact would contain members who do not produce beef and would not contribute to the check-off financing of the commission.

There is objection to the provision which appears to permit the commission to accept contributions from sources other than the cattle producer and to enter into agreements with such contributors.

This bill has the support of the North Dakota Stockmen's Association and the North Dakota Farm Bureau, as well as many individuals and officers of other organizations.

However, because the objections are so widespread among many cattle producers and some of their organizations such as the National Farmers Organization, Farmers Union local and county cooperatives, and livestock grazing associations, I believe this legislation should be rewritten to obtain more general support before it is enacted into law.

I therefore veto House Bill 1324.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TITLE.) This Act shall be known as the North Dakota Beef Promotion Act.

SECTION 2. PURPOSES.) The purposes of this Act are:

1. To provide programs to increase the consumption of beef and to maintain present markets, and to create new or larger markets for beef through such means as advertising and local and national sales promotion and education, but at no time shall false or unwarranted claims be made on behalf of the beef industry.
2. To support research and educational activities of the national livestock and meat board and its beef industry council with not more than fifty percent of the assessments collected.
3. To support local research efforts toward solving problems, primarily health, involved in the production of beef cattle with no less than twenty-five percent of assessments collected.
4. To enhance the sale of North Dakota cattle.

SECTION 3. DEFINITIONS.) Unless the context otherwise requires:

1. "Commission" shall mean the North Dakota beef commission.
2. "Person" shall include individuals, corporations, partnerships, trusts, associations, cooperatives, and any and all other business units.

3. "Cattle" shall be defined to include both beef and dairy cattle.
4. "Beef producer" shall mean any person or firm engaged in the production of feeder cattle.
5. "Cattle feeder" shall mean any person or firm engaged in the fattening of cattle for slaughter.
6. "Dairy producer" shall mean any person or firm engaged in the production and sale of milk from cows.
7. "Livestock auction markets" shall have the same definition as contained in subsection 2 of section 36-05-01.
8. "Livestock terminal markets" shall mean the public livestock market located at West Fargo and known as the West Fargo stockyards.
9. "Selling agency" shall mean any person engaged in the business of buying or selling in commerce livestock on a commission basis.
10. "Livestock dealer" shall have the same definition as contained in section 36-04-01.
11. "Local brand inspector" shall mean a person appointed and authorized by the North Dakota stockmen's association acting as agent for the North Dakota livestock sanitary board.

SECTION 4. NORTH DAKOTA BEEF COMMISSION - APPOINTMENTS - VACANCIES- QUALIFICATIONS.) There is hereby created a North Dakota beef commission consisting of nine members who shall be appointed by the governor. The commission shall be composed of three beef producers, one cattle feeder, one dairy producer, one livestock auction market operator, one terminal market representative, one representative of the North Dakota cowbellies, and one representative at large.

Three initial members shall be appointed for one year; three members shall be appointed for two years; and three members shall be appointed for three years. All subsequent members shall be appointed for three years unless the appointment is to fill a vacancy in which case such appointment shall be for the unexpired term. No member shall serve more than two successive three-year terms. In the event a position on the commission becomes vacant for any reason, the unexpired term of such position shall be filled by the governor.

Each member shall be a citizen and a resident of this state, shall be over the age of twenty-five years, shall be and have been actually engaged in that phase of the cattle industry he represents for a period of five years, and shall have during that period derived a substantial portion of his income therefrom, or have a substantial investment in cattle as an owner, lessee, or partner.

SECTION 5. NOMINATION OF MEMBERS.) With the exception of the representative at large, who shall be of the governor's own choosing, the members of the commission shall be appointed by the governor from nominations made to him by the following organizations: to represent beef producers, by the North Dakota stockmen's association; to represent cattle feeders, by the North Dakota cattle feeders association; to represent dairy producers, by the North Dakota state milk producers association; to represent livestock auction market operators, by the North Dakota livestock auction markets association; to represent the terminal market, by the board of governors at the West Fargo stockyards; and to represent North Dakota cowbells, by the North Dakota cowbells.

Not less than two nominations shall be submitted for each office to be filled. Upon the expiration of the initial appointments, only those organizations which have the authorization to nominate candidates representing the specific classification for which an opening or openings exist shall be eligible to submit nominations. The initial appointments shall be made immediately after the effective date of this Act.

SECTION 6. POWERS AND DUTIES OF COMMISSION.)

1. The commission shall administer and enforce the provisions of this Act and do all things reasonably necessary to effectuate the purposes of this Act.
2. The commission shall elect a chairman and such other officers as it deems advisable.
3. The commission shall employ and discharge at its discretion such personnel as the commission determines are necessary to carry out the purposes of this Act, and to prescribe their duties and powers and to fix their compensation.
4. The commission is empowered to adopt, rescind, and amend reasonable rules, regulations, and orders for the exercise of its powers hereunder. The provisions of chapter 28-32, the Administrative Agencies Practices Act, shall apply to this Act.
5. The commission is authorized to establish by resolution, a headquarters which shall continue until so changed by the commission.
6. The commission may require that the person or persons who receive and disburse the moneys of the commission shall be bonded, by and in the amount to be determined by the commission. The premium for such bond or bonds shall be paid by the commission from assessments collected.
7. The commission shall deposit its funds in a special account in the state treasury.
8. The commission may incur expenses and enter into contracts and create such liabilities as may be reasonably necessary for the enforcement of this Act.

9. The commission may borrow money, not in excess of its estimate of revenue from the current year's assessments.
10. The commission shall keep or cause to be kept accurate records of all assessments, expenditures, moneys, and other financial transactions performed pursuant to this Act. Such records, books, and accounts shall be audited annually in accordance with established auditing and accounting procedures.
11. The commission may sue and be sued as a commission without individual liability for acts of the commission within the scope and powers conferred upon it by this Act.
12. The commission is empowered to cooperate with any local, state, or national commission, organization, or agency, whether voluntary or established by state or federal law, including recognized livestock groups, engaged in activities similar to the work of the commission and to make contracts and agreements for carrying out joint programs beneficial to the beef industry, including those of adjoining states.
13. The commission may accept donations, grants, contributions, or gifts from any governmental or private sources for expenditures consistent with the provisions of this Act.

SECTION 7. MEETINGS.) The commission shall hold an annual meeting at which time an annual report and proposed budget shall be presented. The commission shall hold at least three other regular meetings each year at the call of the chair. The chairman shall establish the time, manner, and place of all meetings and shall give reasonable notice to the members. A majority of voting members shall constitute a quorum for the transaction of any business.

SECTION 8. COMPENSATION - EXPENSES.) Commission members shall receive the sum of fifteen dollars per meeting attended and shall receive necessary expenses for meals, lodging, and travel in the same amount and in the same manner as permitted by law for state officials and employees. The members of the commission shall receive no other salary or compensation for their service on the commission.

SECTION 9. ASSESSMENT FOR SALE OF CATTLE.) There is hereby levied on each person selling cattle within the state or from the state, an assessment of ten cents per head for each animal sold. The moneys collected pursuant to the provisions of this Act shall be paid to the North Dakota beef commission as provided by this Act and shall be expended by such commission only as authorized by the provisions of this Act.

SECTION 10. MANNER OF DEDUCTIONS - PAYMENT OF ASSESSMENTS TO BEEF COMMISSION - COLLECTIONS BY BRAND INSPECTORS.) The assessments provided in this Act shall be collected by selling agency at livestock terminal markets, livestock auction markets, and by all livestock dealers licensed by the state of North

Dakota by deducting such assessments from any credit given or payment made to the person selling the cattle at the time such credit is given or payment is made. Persons who sell cattle from the state of North Dakota outside of the state or to an out-of-state buyer shall remit the assessments directly to the commission within thirty days of such sale, unless such assessment has been paid to a brand inspector.

In order to facilitate the collection of assessments on cattle sold to buyers other than at terminal markets and auction markets, local brand inspectors may serve as collectors for the commission at the time of inspection of the cattle, provided that a satisfactory receipt evidencing such payment is given. The brand inspectors shall immediately notify the commission if any person refuses to pay any assessment required of him.

SECTION 11. REMITTANCE OF ASSESSMENTS COLLECTED - PENALTIES.) All assessments collected by licensed dealers, selling agencies at terminal markets, auction markets, or local brand inspectors shall be remitted to the North Dakota beef commission within thirty days following the month during which the assessments were received. The assessments shall be accompanied by remittance forms as prescribed and furnished by the commission. All moneys shall be remitted by the commission to the state treasurer and deposited by him in the North Dakota beef commission fund and are hereby appropriated to the commission and shall be disbursed by the commission in accordance with the provisions of this chapter. Any licensed dealer, selling agency at terminal markets, auction markets, or any local brand inspector who collects assessments but who fails to remit the same within sixty days after the time provided in this section shall be guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Any licensed dealer, or any owner or operator of a livestock selling agency at a terminal market, or any livestock auction market operator failing to collect assessments as provided in this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Any person who sells cattle from the state of North Dakota outside of the state or to an out-of-state buyer who fails to remit the assessments within sixty days as required by this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Assessments unpaid on the date on which they are due and payable shall be increased by a ten percent nonrefundable penalty on the amount of the assessment.

SECTION 12. REFUND OF ASSESSMENTS.) Any person who has made payment of assessments under the provisions of this Act or who has had payment made on his behalf of such assessments may request and receive a refund, provided that a request for such refund is made within sixty days after the remittance of such assessments. Applications for refunds shall be made by the seller himself in such form as shall be reasonably required by the commission, and shall provide the commission with sufficient information to identify such assessments.

Disapproved March 29, 1971

Filed March 29, 1971

## CHAPTER 610

HOUSE BILL NO. 1445  
(Bunker)

PROXY VOTING AT MUTUAL  
INSURANCE COMPANY MEETINGS

AN ACT to amend and reenact section 26-14-10 of the North Dakota Century Code, relating to the right of members of a mutual insurance company to vote by proxy.

VETO

March 26, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1445 amends the present law relative to proxy voting in mutual insurance company meetings. The present law permits the use of a proxy dated and executed within three months prior to the date of the meeting. House Bill 1445 eliminates any time limitation, and proxies could be used no matter how far in the past they have been dated and executed.

Under present law, no person can vote more than fifty proxy votes, and no officer may ask for, receive, procure, or use a proxy vote. House Bill 1445 deletes these restrictions.

In my judgment, this bill would permit the board of directors and the management of a mutual insurance company to garner perpetual control and would protect incumbent officers, but would diminish the rights of the members of the mutual insurance company.

Mutual insurance companies must permit free democratic action by all members if they are to function properly. This bill would permit a few to dominate the entire mutual insurance company membership.

I therefore veto House Bill 1445.

Sincerely yours,  
WILLIAM L. GUY

Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 26-14-10 of the North  
Dakota Century Code is hereby amended and reenacted to read  
as follows:

26-14-10. VOTE BY PROXY PERMITTED.) Members of a mutual  
insurance company may vote by proxy dated and executed when  
returned and recorded on the books of the company three days  
or more before the meeting at which the same is to be used.  
This section shall not apply to state mutual hail insurance  
companies.

Disapproved March 27, 1971

Filed March 29, 1971

## CHAPTER 611

HOUSE BILL NO. 1446  
(Strinden, Backes)

## WATER CONDITIONER INSTALLERS

AN ACT to create and enact chapter 43-18.1 of the North Dakota Century Code, relating to the regulation of the installation of water conditioning equipment; and imposing a penalty.

VETO

March 30, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

Because proper water and sewage systems are critical in maintaining everyday personal health in every home and public building in the state, we have written stringent laws to be followed by those who do plumbing work. The present laws of North Dakota are designed to protect public health by requiring those individuals or firms who do plumbing or sewage work to be licensed and qualified.

House Bill 1446 would exempt those who install and repair water conditioning appliances, appurtenances, and fixtures from the present laws safeguarding the public health which require a licensed plumber to do the work. The implication of this proposed law seems to be that a water softener or water conditioning equipment in a water system is not as important as other parts of a water system such as a dishwasher, garbage disposal, or toilet.

I fail to see why water conditioners should be set aside as of lesser importance to health in a complete water and sewage system, to the extent that their installation and repair would come under separate and relaxed provisions of the Code.

I note that House Bill 1446 defines water conditioning equipment to include appliances, appurtenances, and fixtures designed to treat water so as to alter, modify, add, or remove mineral, chemical, or bacterial content. I strongly believe that anyone handling equipment designed to eliminate bacterial content in water specifically and mineral content generally should be an expert, or individual health and public health would be in jeopardy.

Is there some reason why our Code protecting public health should require a licensed plumber to install a sink, or bathtub, or toilet, but then exempt the water softener or other water conditioning equipment from the plumbing system governed by the Code?

I am convinced that House Bill 1446 seeks to exempt water conditioning equipment such as water softeners on a basis other than public health. I do not believe the justification for House Bill 1446 is sufficient to overcome the hazards it creates.

Therefore, I veto House Bill 1446.

Sincerely yours,  
WILLIAM L. GUY  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 43-18.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-18.1-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Water conditioning installation and repair" shall mean the installation of appliances, appurtenances, and fixtures designed to treat water so as to alter, modify, add or remove mineral, chemical or bacterial content, and the repair of such equipment, to a water distribution system. "Water conditioning installation and repair" shall not mean the exchange of such appliances, appurtenances, and fixtures when the plumbing system has previously been installed or adapted to or for such appliances, appurtenances, and fixtures, and no substantial change in such plumbing system is required.
2. "Water conditioning contractor" shall mean a person who plans and manages the installation and repair of water conditioning equipment, and in conjunction therewith sells or leases such equipment.
3. "Water conditioning installer" shall mean any person who is engaged in the practical installation and repair of water conditioning equipment.
4. "Board" shall mean the state board of plumbing.

43-18.1-02. ADMINISTRATION.) All fees and money obtained by the board through the administration of this chapter shall be used for the regulation of the business of water conditioning installation and repair, through the board, and all such fees and money are appropriated to the board for such purpose. This appropriation shall be a continuing appropriation of all such sums. The handling and administration of such fees

and money shall otherwise be in accordance with section 43-18-07.

43-18.1-03. DUTIES OF THE BOARD.) The board shall:

1. Enforce the provisions of this chapter.
2. Prescribe rules and regulations not inconsistent with the provisions of this chapter for the examination, regulation, and licensing of water conditioning contractors and water conditioning installers.

43-18.1-04. LICENSES - EXAMINATION - FEES - APPRENTICES.)

1. No person, firm, or corporation, except plumbers holding valid licenses pursuant to chapter 43-18, shall engage in the business of water conditioning contractor or water conditioning installer in any incorporated city of this state having a system of waterworks or sewage unless registered and licensed to do so by the board. Installation and repair of water conditioning equipment shall be done by the person holding a water conditioning installer license.
2. The board shall hold not less than one public meeting per year for the purpose of examination of persons who may desire to become registered and licensed in the water conditioning business pursuant to this chapter. Notice and time of such examination shall otherwise be in accordance with section 43-18-12 and the examination provided for herein may be held in conjunction with the examination provided for in chapter 43-18.
3. Examination for licenses and registration shall be upon application as prescribed by the board and payment of the examination fee. Such fee shall be forty dollars and twenty dollars for registration and licensure as a water conditioning contractor and water conditioning installer, respectively. In cases where the holder of the installer license is also a contractor, the fee shall be forty dollars. The examination shall be as prescribed by the board but shall be limited to the installation and repair of water conditioning equipment as such relates to plumbing. The issuance of licenses and registrations hereunder shall be as prescribed by the board which shall be guided in such actions by the provisions of section 43-18-13.
4. An apprentice may be employed by any licensee under this chapter. When so employed such apprentice shall perform his employment under the direct supervision of such licensee and when engaged in installation or repair pursuant to this chapter such apprentice shall be under the direct

supervision of a licensed installer. Upon employment, the name of the apprentice and his employer shall be submitted to the board and upon termination of employment the board shall be so notified.

43-18.1-05. TEMPORARY LICENSES - ISSUANCE.) The board, upon payment of the fees provided in this chapter, shall issue special temporary permits to engage in the water conditioning business as provided in this chapter to those applicants who furnish sufficient proof that they were engaged in such business on January 1, 1971. Such special temporary permits shall be retroactive to January 1, 1971, and shall expire thirty days after the date the second examination as provided under 43-18.1-04 is given, but no later than July 1, 1972. The board may prescribe rules and regulations under which regular temporary permits may be issued generally in accordance with section 43-18-15.

43-18.1-06. RENEWAL OF LICENSE AND REGISTRATION - FFE.) Except for special temporary licenses as provided in this chapter, a license issued under this chapter shall be valid for only one year and shall expire on December 31 of the year in which it was issued. The license shall be renewed by the board upon application made within thirty days after the expiration thereof and on the payment of the fees as provided in section 43-18.1-04.

43-18.1-07. REVOCATION OF LICENSES.) The board may revoke any license issued under the provisions of this chapter if the licensee has:

1. Committed a felony;
2. Committed a fraud in obtaining his certificate;
3. Permitted the use of his license in violation of this chapter; or
4. Performed his work or business in an incompetent manner.

43-18.1-08. REVOCATION - HEARING - REINSTATEMENT.) A license issued under the provisions of this chapter may be revoked only after a hearing of the charges by the board. Such hearing shall be conducted in accordance with the procedures set forth in section 43-18-19. Reinstatement of a license revoked under this chapter may be made in accordance with section 43-18-20.

43-18.1-09. VIOLATIONS - PENALTY.) Any person who willfully violates any of the provisions of this chapter shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not more than one hundred dollars, or by both such fine and imprisonment.

Disapproved March 30, 1971

Filed March 30, 1971

## CHAPTER 612

HOUSE BILL NO. 1063  
(Austin, Bunker, Halcrow, Henning, Hentges)  
(From Legislative Council Study)

## MORTGAGE INSURANCE FUND BOARD

AN ACT to create an industrial building mortgage program under the supervision of the Bank of North Dakota, providing for the administration of such program and for the transfer of certain moneys from the accumulated and undivided profits of the Bank of North Dakota to the mortgage insurance fund, and making an appropriation.

VETO

March 29, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1063 establishes an industrial building mortgage program under the supervision of the Bank of North Dakota. This is good legislation and it was recommended in my Message to the Legislature.

I find, however, an irregularity in the bill as it establishes the administration of the program. Section 11 states, "The advisory board of the Bank of North Dakota shall constitute the mortgage insurance fund board. The mortgage insurance fund board shall approve all loans made pursuant to the provisions of this Act."

This provision violates the line of responsibility necessary in state government. It is not uncommon for legislators to fail to recognize the difference between advisory boards and administrative boards. The Bank of North Dakota Advisory Board was established in the 1969 Legislative Session and has functioned very well, but its mission is purely advisory and not administrative. The Bank of North Dakota administrative board responsibility lies, as it should, completely with the Industrial Commission.

Earlier this session, there was talk of making the Advisory Board to the Bank of North Dakota an administrative board replacing the Industrial Commission. However, this action was recognized as inappropriate and nothing was done.

Since it should be very obvious to any observer that no department or institution can be effectively served by two boards who have administrative power, the weakness of Section 11 becomes apparent.

Using the authority given me in the North Dakota Constitution under Section 80, and as substantiated by a New Mexico Supreme Court decision in 1957, I veto that part identified as Section 11 contained in this appropriation, House Bill 1063.

Sincerely yours,  
WILLIAM L. GUY

Governor

NOTE: For the full text of House Bill No. 1063 containing Section 11, see chapter 112, this volume.

Disapproved March 27, 1971

Filed March 29, 1971

## CHAPTER 613

HOUSE BILL NO. 1492  
(Dornacker)VIETNAM BONUS APPROPRIATION  
FROM GENERAL FUND

AN ACT to provide and appropriate funds for the payment of adjusted compensation payments to North Dakota veterans of the Vietnam conflict and to the industrial commission for the issuance of bonds; providing for the issuance, sale, and delivery of general obligation bonds; creating a sinking fund; and providing for a surtax and fund transfers for the servicing and retirement of such bonds.

VETO

March 31, 1971

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

In the Primary Election of 1970, the voting public of North Dakota rightfully and overwhelmingly voted to pay our Vietnam War veterans a bonus similar to that paid to veterans of the Korean War and World War II. Obviously, when people vote to pay a veterans' bonus, they are in effect stating that they are willing to have such finance demands of a bonus payment program added to the other services of a state and local government for which they tax themselves.

The 42nd Legislative Assembly worked long and diligently to prepare a Vietnam veteran bonus payment program. House Bill 1492 is the legislation finally passed in the closing hours of the session after weeks of wrangling over a method of repayment of bond interest and principal.

In my Message to the Legislature, I recommended that the bonus be paid by a surtax applied to the personal and corporate state income taxes levied each year until the bonds were paid off. This recommendation would not disturb the methods of financing such other essential state services as education, welfare, law enforcement, health, and many others. A surtax would not be self-perpetuating, but would expire at the last bond payment.

The material incorporated in House Bill 1492 was originally written in consultation with financial experts and bond attorneys to provide for a bond issue sufficient to pay the bonus which would be paid back by a surtax on the state personal and corporate income tax payments.

In the closing hours, in the disagreement between the House and Senate over a means of financing the initial repayment of the Vietnam bonus bonds interest and principal, a provision was tacked onto the bill by the Senate that the first \$2 million in repayment should come from the General Fund, and then in 1973 revenue from the surtax would begin to repay the balance of the bonds' principal and interest.

To unnecessarily tack this \$2 million drain on the General Fund is a very serious financial miscalculation. It is not necessary to repay the Vietnam bonus bonds by means other than the surtax contained in this bill.

It was pointed out by some legislators that the Executive Budget did not balance recommended appropriations with expected revenues for the coming biennium and that the imbalance would be made up by an \$8 million drawdown in the General Fund balance.

I readily acknowledged this imbalance and predicted that the Legislative Session meeting in 1973 would be even more hard pressed to balance the state's budget without going to increased taxes.

The same legislative critics of the imbalance in the Executive Budget were the ones who spearheaded the drive to imbalance it further by withdrawing \$1 million from the State Mill and Elevator reserves, and then finally another \$2 million from the General Fund reserves for Vietnam veteran bonus bond repayment. In my judgment, this amounts to fiscal irresponsibility and should not be tolerated if it can be avoided.

Since the material in House Bill 1492 was originally set up, after long and careful study, to repay the Vietnam bonus principal and interest over a stated period of years, and because the \$2 million drain on the General Fund was tacked on in the closing hours of the session and was not part of the original bill, I am forced to examine this legislation very closely.

It is contemplated that veteran applications will be received sometime after the bill goes into effect on July 1 of this year. It is hoped that the first payment to veterans can be made on or before December 1 of 1971. As of December 1 of 1971, the total known eligible North Dakota veterans will require a commitment of \$10.5 million to pay the bonus. An additional \$1 million should pay all eligible veterans who apply or become eligible in the calendar year of 1972. From this total \$11.5 million Vietnam bonus requirement, we must subtract at least \$540,000 which will have been paid out in veteran education assistance by July 1 of 1971.

The first interest payment shall be made one year after the date of issue of the bonds. This means that in the closing months of 1972, the state will be obligated to its first interest payment of about \$450,000 from the State Treasury.

Following the first year, interest payments will be due each six months and the first principal payments will come due in the closing months of 1973 on a date exactly two years from the date of bond issue.

By reverting to the original intent of the material in House Bill 1492, the Industrial Commission, as written into this law, is required to request "the State Treasurer to supply any deficiency of

such sinking fund out of any available monies of the state in his custody, provided that all monies so used shall be returned at the earliest practicable opportunity."

This means that for a temporary period of time, there would be a drawdown on the General Fund of somewhere between \$200,000 and \$450,000 in interest payments depending upon the interest recovery from bond money not yet disbursed in the bonus payments. This deficiency would be replaced immediately upon the receipt of the surtax revenues in 1973.

When the surtax takes effect in 1972, it is estimated to raise approximately \$1.9 million in 1973 and each year it remains in effect thereafter. This money will be used to pay the principal and interest on the Vietnam bonus bonds which amount will be less than \$1.5 million annually.

It is expected that the surtax will make it possible for the state to call all remaining Vietnam bonus bonds for early and complete redemption by 1983 or 1984.

Because the last minute inclusion of the \$2 million drain on the General Fund in order to begin payment on the Vietnam veterans' bonus bonds and interest would simply transfer the problem of balancing the state budget to the next Legislative Session and would amplify it, and because the inclusion of this \$2 million drain on the General Fund could have adverse effects on the present law which requires a \$15 million balance in the General Fund in order to trigger appropriations already made for desperately needed replacement of some college buildings, I veto that part of House Bill 1492 identified as Section 14 "Appropriation" which transfers \$2 million from the General Fund. I do this under the authority given me in the North Dakota Constitution in Section 80, and as substantiated by a New Mexico Supreme Court decision in 1957.

In so doing, I do nothing to jeopardize the validity of the remaining House Bill 1492, nor is anything done to affect the salability of bonds or the date of payment of the bonus to our veterans.

Sincerely yours,  
WILLIAM L. GUY

Governor

NOTE: For the full text of House Bill No. 1492 containing Section 14, see chapter 496, this volume.

Disapproved March 31, 1971

Filed March 31, 1971

# INITIATED MEASURES, DISAPPROVED

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## CHAPTER 614

### COMBINED LAW ENFORCEMENT COUNCIL

Disapproval of an initiated measure to repeal chapter 12-61 of the North Dakota Century Code which authorizes the existence of the Combined Law Enforcement Council.

Disapproved November 3, 1970.

73,819 to 101,990

NOTE: This was initiated measure No. 1 on the general election ballot.

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# REFERRED MEASURES, DISAPPROVED

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## CHAPTER 615

### MULTIPURPOSE BUILDING

Disapproval and repeal by referendum of Senate Bill No. 410 of the Forty-first Legislative Assembly, which would have provided for the construction of a multipurpose office building on the Capitol Grounds in Bismarck, and which would have created section 54-21-18.1 of the North Dakota Century Code relating to custody of the multipurpose building. See chapter 413 of the 1969 Session Laws.

Disapproved September 1, 1970.

24,035 to 71,719

NOTE: This was referred measure No. 1 on the primary election ballot.

# CONSTITUTIONAL AMENDMENTS, APPROVED

## CHAPTER 616

### VIETNAM VETERANS BONUS

Senate Concurrent Resolution No. 17, chapter 592, 1969 Session Laws, proposed by the Forty-first Legislative Assembly of the State of North Dakota, providing an amendment to the Constitution of the State of North Dakota, relating to the issuance of bonds to fund the payment of adjusted compensation for veterans of the Vietnam conflict at rates equal to the rates provided by law for adjusted compensation paid to veterans of World War II and the Korean conflict, to read as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) The Constitution of the state of North Dakota shall be amended by adding thereto the following article:

The legislative assembly of the state of North Dakota is hereby authorized and empowered to provide by legislation for the issuance, sale, and delivery of bonds of the state of North Dakota in such principal amounts as determined by the legislative assembly to be necessary for the payment of adjusted compensation to North Dakota veterans of the Vietnam conflict. Such adjusted compensation shall be paid from the proceeds of the bonds at rates equal to the rates provided by law for adjusted compensation paid by the state of North Dakota to veterans of World War II and the Korean conflict on the basis of terms of service and such other terms and conditions as the legislative assembly may provide. Grants or stipends paid pursuant to law by the state of North Dakota to any veteran for educational assistance shall be deducted from the adjusted compensation otherwise payable to such veteran.

Approved September 1, 1970.

75,294 to 25,199

NOTE: This was constitutional measure No. 1 on the primary election ballot.

## CHAPTER 617

## CONSTITUTIONAL CONVENTION

House Concurrent Resolution No. 16, chapter 595, 1969 Session Laws, proposed by the Forty-first Legislative Assembly of the State of North Dakota, providing an amendment to the Constitution of the State of North Dakota, relating to the calling of a Constitutional Convention in the manner provided by law, to read as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1.) A constitutional convention shall be called for the purpose of proposing a new Constitution, or revision or amendment of the existing Constitution. Such convention shall be called and conducted, and delegates thereto shall be chosen in the manner provided by law.

A constitutional convention called by a majority affirmative vote on this question shall be called and conducted as provided by law, and the proposed revision or amendment of the Constitution resulting from such shall be submitted by such convention directly to the people of North Dakota for approval or disapproval at the statewide special election called by the governor as provided by law.

SECTION 2. QUESTION FOR THE ELECTORS OF NORTH DAKOTA.) The question of adoption of the constitutional amendment proposed in section 1 and the calling of the convention shall be stated on the primary election ballot as follows:

Shall the Constitutional Amendment Proposed in Section 1 Be Adopted and Shall a Constitutional Convention Be Called for the Purpose of Revising the Constitution of the State of North Dakota and Submission of the Revised Constitution to the People of North Dakota for Approval or Disapproval?

Yes ( )                      No ( )

Approved September 1, 1970.

56,734 to 40,094

NOTE: This was constitutional measure No. 2 on the primary election ballot.

## CHAPTER 618

## INVESTMENT OF INSTITUTIONAL TRUST FUNDS

Senate Concurrent Resolution No. 62, chapter 594, 1969 Session Laws, proposed by the Forty-first Legislative Assembly of the State of North Dakota, providing for the amendment of section 153 of the Constitution of the State of North Dakota, relating to lands granted by the United States for the support of the common schools of this State; to amend section 156 of the Constitution of the State of North Dakota, relating to the membership and powers of the Board of University and School Lands; to repeal section 159 of the Constitution of the State of North Dakota, relating to the disposition of land, money, or property granted by the United States for certain named educational or charitable institutions; and to repeal section 162 of the Constitution of the State of North Dakota, relating to investment of monies in the permanent school funds and other educational permanent funds; all to read as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 153 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Section 153. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the state by escheat; all gifts, donations, or the proceeds thereof that come to the state for support of the common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual trust fund for the maintenance of the common schools of the state. Only the interest and income of the fund may be expended and the principal shall be retained and devoted to the trust purpose. All property, real or personal, received by the state from whatever source, for any specific educational or charitable institution, unless otherwise designated by the donor, shall be and remain a perpetual trust fund for the creation and maintenance of such institution, and may be commingled only with similar funds for the same institution. Should a gift be made to an institution for a specific purpose, without designating a trustee, such gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide.

The interest and income of each institutional trust fund held by the state shall, unless otherwise specified by the donor, be appropriated by the legislative assembly to the exclusive use of the institution for which the funds were given.

SECTION 2. AMENDMENT.) Section 156 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Section 156. The superintendent of public instruction, governor, attorney general, secretary of state and state auditor shall constitute a board of commissioners, which shall be denominated the "Board of University and School Lands," and, subject to the provisions of this article and any law that may be passed by the legislative assembly, said board shall have control of the appraisement, sale, rental, and disposal of all school and university lands, and the proceeds from the sale of such lands shall be invested as provided by law.

SECTION 3. REPEAL.) Sections 159 and 162 of the North Dakota State Constitution are hereby repealed.

Approved September 1, 1970.

48,552 to 43,435

NOTE: This was constitutional measure No. 3 on the primary election ballot.

# CONSTITUTIONAL AMENDMENTS, DISAPPROVED

## CHAPTER 619

### LEGISLATIVE COMPENSATION COMMISSION

Senate Concurrent Resolution No. 7, chapter 590, 1969 Session Laws, proposed by the Forty-first Legislative Assembly of the state of North Dakota for an amendment to section 45 of the Constitution of the state of North Dakota, providing for creation of a Legislative Compensation Commission to establish compensation for members of the Legislative Assembly.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 45 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Section 45. There is hereby established a Legislative Compensation Commission to establish salaries and expense allowances for the members of the Legislative Assembly.

The Compensation Commission shall consist of five members appointed by the governor for terms, and with powers, duties, and functions as prescribed by law.

Disapproved November 3, 1970.

82,145 to 99,402

NOTE: This was constitutional measure No. 1 on the general election ballot.

## CHAPTER 620

REMOVAL OF TERM LIMITATION  
ON STATE TREASURER

Senate Concurrent Resolution No. 24, chapter 593, 1969 Session Laws, proposed by the Forty-first Legislative Assembly of the state of North Dakota, to provide for the amendment of section 82 of the Constitution of the state of North Dakota, relating to removal of the limitation of the number of terms which may be served by the State Treasurer.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 82 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Section 82. There shall be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, an attorney general, a commission of agriculture and labor, and a tax commissioner, who shall have attained the age of twenty-five years and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government for the term of four years, and until their successors are elected and duly qualified.

The tax commissioner shall be elected on a no-party ballot and he shall be nominated and elected in the manner now provided for the nomination and election of the superintendent of public instruction.

The board of railroad commissioners shall hereafter be known as the public service commission and the members of the board of railroad commissioners as public service commissioners and the powers and duties now or hereafter granted to and conferred upon the board of railroad commissioners are hereby transferred to the public service commission. The public service commissioners shall have the qualifications of state electors, have attained the age of twenty-five years, be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, hold office at the seat of government and until their successors are elected and duly qualified. As each of the three public service commissioners now holding office completes his term, his successor shall be elected for a term of six years.

The legislative assembly may by law provide for a department of labor, which, if provided for, shall be separate and distinct from the department of agriculture, and shall be administered by a public official who may be either elected or appointed, whichever the legislative assembly shall declare; and if such a department is established the commissioner of agriculture and labor provided for above shall become the commissioner of agriculture.

Disapproved November 3, 1970.

85,763 to 96,712

NOTE: This was constitutional measure No. 2 on the general election ballot.

# CONSTITUTIONAL AMENDMENTS, PROPOSED

## CHAPTER 621

SENATE CONCURRENT RESOLUTION NO. 4016  
(Stroup, Nasset, Freed, Thane, Roen)

### DEBT LIMITS OF POLITICAL SUBDIVISIONS

A concurrent resolution for the amendment of section 183 of the Constitution of the state of North Dakota, relating to the debt limits of political subdivisions.

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA,  
THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendment to section 183 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota at the primary election to be held in 1972, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended, provided, however, that this proposed amendment shall not be submitted to the electorate if the people of the state of North Dakota shall prior thereto approve a revision of the Constitution of the state of North Dakota, as submitted by the Constitutional Convention, which provides for increased debt limitations for political subdivisions. The question of whether increased debt limitations have been provided for by an adopted revision shall be determined by the attorney general.

SECTION 1. AMENDMENT.) Section 183 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Section 183. The debt of any county, township, city, school district or any other political subdivision, shall never exceed eight per centum upon the assessed value of the taxable property therein; provided that any incorporated city, may by a sixty percent vote, increase such indebtedness two per centum on such assessed value beyond said eight per centum limit, and a school district, by a majority vote may increase such indebtedness four percent on such assessed value beyond said eight per centum limit; provided also that any county or city by a majority vote may issue bonds upon any revenue producing utility owned by such county or city, or for the purchasing or acquiring the same or building or establishment thereof, in amounts not exceeding the physical value of such utility, industry, or enterprise.

In estimating the indebtedness which a city, county, township, school district, or any other political subdivision may incur, the entire amount, exclusive of the bonds upon said revenue producing utilities, whether contracted prior or subsequent to the adoption of this Constitution, shall be included; provided further that any incorporated city may become indebted in any amount not exceeding five per centum of such assessed value without regard to the existing indebtedness of such city for the purpose of constructing or purchasing waterworks for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purposes whatever. All bonds and obligations in excess of the amount of indebtedness permitted by this Constitution, given by any city, county, township, school district, or any other political subdivision shall be void.

4  
Filed March 31, 1971

## CHAPTER 622

HOUSE CONCURRENT RESOLUTION NO. 3020  
(Hickle, Bunker, Fleming, Patrick)

## EIGHTEEN-YEAR-OLD VOTING

A concurrent resolution for the amendment of section 121 of the Constitution of the state of North Dakota, relating to lowering of the voting age from twenty-one to eighteen.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES  
OF THE STATE OF NORTH DAKOTA, THE SENATE  
CONCURRING THEREIN:

That the following proposed amendment to section 121 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors at the first statewide election that is held following the special election called to consider the proposals of the Constitutional Convention, provided, however, that this amendment shall not be submitted to the electorate if the attorney general shall determine that the Constitutional Convention has proposed an amendment or revision to the Constitution which would allow persons eighteen years of age and upwards to vote in all elections.

SECTION 1. AMENDMENT.) Section 121 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Section 121. Every person of the age of eighteen or upwards who is a citizen of the United States, and who shall have resided in the state one year, and in the county ninety days, and in the precinct thirty days next preceding any election shall be a qualified elector at such election, provided that where a qualified elector moves from one precinct to another within the state, he shall be entitled to vote in the precinct from which he moves until he establishes his residence in the precinct to which he moves.

Filed March 31, 1971

## CHAPTER 623

HOUSE CONCURRENT RESOLUTION NO. 3045  
(Committee on Appropriations)

CONSTITUTIONAL STATUS OF  
UND-ELLENDALE BRANCH

A concurrent resolution for the amendment of section 216 of the Constitution of the state of North Dakota, and subsection 1 of article 54 of the amendments to the Constitution of the state of North Dakota, relating to the removal of the constitutional status of the Ellendale Branch of the University of North Dakota.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES  
OF THE STATE OF NORTH DAKOTA, THE SENATE  
CONCURRING THEREIN:

That the following proposed amendments to section 216 of the Constitution of the state of North Dakota, and subsection 1 of article 54 of the amendments to the Constitution of the state of North Dakota are agreed to and shall be submitted to the qualified electors of the state of North Dakota at the primary election to be held in 1972, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended, provided that these proposed amendments shall not be submitted to the electorate if, prior to the time for submission, the Attorney General shall have determined that the Constitutional Convention shall have proposed and the electorate shall have accepted a revision or amendment to the Constitution of the state of North Dakota providing for removal of the constitutional status of the Ellendale Branch of the University of North Dakota.

SECTION 1. AMENDMENT.) Section 216 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

Section 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred seventy thousand acres of land made by the United States for "other educational and charitable institutions" as is allotted by law, namely:

First: A soldiers' home, when located, or such other charitable institution as the legislative assembly may determine, at Lisbon, in the county of Ransom, with a grant of forty thousand acres of land.

Second: The blind asylum shall be known as the North Dakota school for the blind and may be removed from the county of Pembina to such other location as may be determined by the board of administration to be in the best interests of the students of such institution and the state of North Dakota.

Third: A school of forestry, or such other institution as the legislative assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau, or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the legislative assembly.

Fourth: A scientific school or such other educational or charitable institution as the legislative assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres.

Fifth: A state normal school at the city of Minot in the county of Ward.

Sixth: (a) A state normal school at the city of Dickinson, in the county of Stark. (b) A state hospital for the insane at such place within this state as shall be selected by the legislative assembly, provided, that no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this Constitution.

SECTION 2. AMENDMENT.) Subsection 1 of article 54 of the amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

1. A board of higher education, to be officially known as the State Board of Higher Education, is hereby created for the control and administration of the following state educational institutions, to-wit:

(1) The State University and School of Mines, at Grand Forks, with their substations.

(2) The State Agricultural College and Experiment Station, at Fargo, with their substations.

(3) The School of Science, at Wahpeton.

(4) The State Normal Schools and Teachers Colleges, at Valley City, Mayville, Minot, and Dickinson.

(5) The School of Forestry, at Bottineau.

(6) And such other State institutions of higher education as may hereafter be established.

# HOUSE RESOLUTIONS

HOUSE RESOLUTION NO. 1  
(Hoffner, Streibel, Strinden)

## HOUSE EMPLOYMENT POLICIES

A resolution relating to the employment practices of the House, the duties and responsibilities of the House Employment Committee, the duties and responsibilities of the Legislative Council regarding House employees, and establishing the use of a uniform employment application form.

WHEREAS, the Legislative Assembly has need of uniform and efficient procedures and policies in regard to the interviewing, hiring, and supervision of legislative employees in order to ensure that the assembly is fully ready for business on the first day of the regular session; and

WHEREAS, the required qualifications of prospective legislative employees are such that in many instances a person having those qualifications would be useful as either a Senate or House employee, and use of a uniform employment application blank would aid in determining whether such qualifications exist; and

WHEREAS, the legislative employment process could be more expeditiously carried out if the Employment Committees of the two Houses would meet jointly during the Organizational Session of the Legislature to coordinate their employment practices;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA:

That the House Employment Committee, following appointment of the members thereof at the Organizational Session, be prepared to meet jointly with the Senate Employment Committee during the Organizational Session, and at such meeting, to prepare uniform legislative employment application forms for use by the Employment Committees of both Houses. Further, the House Employment Committee, at that meeting, should be prepared to consider employment applications already received, and to discuss and formulate a joint policy statement regarding the duties and responsibilities of the Employment Committees of both Houses in the hiring, supervision, and discharge of legislative employees; and

BE IT FURTHER RESOLVED, that the House hereby states its intention that the policy statement referred to above provide that the Employment Committees shall have jurisdiction to hear all charges of misconduct against an employee of their respective House, and shall report with their recommendations thereon to their respective House for appropriate action; and

BE IT FURTHER RESOLVED, that the Legislative Council shall receive employment applications from prospective legislative employees for a reasonable amount of time prior to the Organizational Session to be held in December 1972, in order that the Employment Committees formed at that session may more readily carry out the requirements of this resolution.

Filed February 18, 1971

HOUSE RESOLUTION NO. 2  
(Reimers)DEVELOPMENT OF JAMES RIVER  
NAVIGATION

A resolution urging a study of the feasibility of the development of the James River to provide river navigation to points in North Dakota and South Dakota.

WHEREAS, the James River will be utilized to convey water that will be diverted from the Missouri River by the Garrison Diversion Unit to various areas in southern North Dakota for irrigation and other purposes; and

WHEREAS, the utilization of the James River for the Garrison Diversion Unit will require substantial improvement of that river to accommodate the additional flows that will accrue thereto both in North Dakota and South Dakota; and

WHEREAS, the lower freight costs which would be possible as the result of the development of the James River would stimulate the economic and industrial development of the areas which would be served; and

WHEREAS, the Board of Directors of the Garrison Diversion Conservancy District has gone on record in favor of a study of the feasibility of providing waterborne transportation on the James River;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA:

That the United States Secretary of the Interior and the Chief of the Army Corps of Engineers are urged and requested to initiate such action as may be necessary for a study of the feasibility and the potential benefits of the development of the James River as a waterway to provide river navigation to points in North Dakota and South Dakota; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the United States Secretary of the Interior, the Chief of the Army Corps of Engineers, and to each member of the North Dakota Congressional Delegation.

Filed February 18, 1971

HOUSE RESOLUTION NO. 3  
(Streibel, Hoffner)

BESTOWING AWARD ON GOVERNOR GUY

A resolution awarding Governor William L. Guy the North Dakota National Leadership Award of Excellence.

WHEREAS, North Dakota has less than one-half of one percent of the Nation's population and yet has over the years provided a number of men and women who have served in positions of national leadership and prominence; and

WHEREAS, to make our State's citizens and others aware of the contributions of these distinguished North Dakotans on the national scene, and to honor and pay suitable tribute to these leaders, Governor William L. Guy established the North Dakota National Leadership Award of Excellence; and

WHEREAS, the award consists of a certificate suitable for framing, and the presidential rocking chair, a symbol of national leadership and an identical replica purchased from the furniture manufacturing company that made the original two rocking chairs used by President John F. Kennedy in the White House; and

WHEREAS, eleven such awards have been made by the Governor to date, to: Brooks Keogh, Keene, President, American National Cattlemen's Association, 1964-66; Raymond C. Dobson, Minot, Grand Exalted Ruler, National Benevolent and Protective Order of Elks, 1966-67; Francis J. Beaton, Fargo, National Commander, Disabled American Veterans, 1967-68; Mrs. Elizabeth Bodine, Velva, United States Mother of the Year, 1968; John E. Davis, Bismarck, National Commander, American Legion, 1966-67; M.F. Peterson, Bismarck, President, Council of Chief State School Officials, 1967-68; Dr. Leonard W. Larson, Bismarck, President, American Medical Association, 1961-62; Mrs. James (Amelia) Morris, Bismarck, National President, American Legion Auxiliary, 1938-39; Ben Meier, Bismarck, President, National Association of Secretaries of State, 1966-67; Larry Iverson, Valley City, President, National Association of County Agricultural Agents, 1970-71; and Edwin C. Becker, Bismarck, Chairman, Council of State Governments, 1969-70; and

WHEREAS, Governor William L. Guy served as Chairman of the National Governors Conference during 1966-67, a position of national leadership that brought great honor and distinction to North Dakota;

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NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA:

That the House of Representatives takes great pleasure in bestowing upon Governor William L. Guy the North Dakota National Leadership Award of Excellence for his services to our State and Nation; and

BE IT FURTHER RESOLVED, that the Secretary of State deliver an enrolled copy of this resolution to Governor William L. Guy.

Filed February 18, 1971

HOUSE RESOLUTION NO. 4  
(Committee on Photography)

APPOINTING OFFICIAL PHOTOGRAPHER

A resolution to appoint an official photographer for the House of Representatives of the Forty-second Legislative Assembly of the State of North Dakota.

WHEREAS, for historical purposes it has been the custom of all North Dakota Legislative Assemblies to have composite group pictures made of all members of such assemblies; and

WHEREAS, L.W. Naegle's Studio of Bismarck, North Dakota, offers to make a composite group picture of the members of the 1971 North Dakota House of Representatives, size thirty-eight inches by forty-nine inches, said picture to be framed and ready to hang; and one hundred and two, fourteen inches by eleven inches, copies of said picture for each member and desk force of the House of Representatives; and two, five inches by seven inches, prints of each representative, one for the state historical society and one for each member of the House of Representatives, at a cost of one thousand five hundred and seventy-five dollars;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA:

That L.W. Naegle's Studio of Bismarck, North Dakota, be, and is hereby appointed official photographer for the North Dakota House of Representatives of the Forty-second Legislative Assembly;

BE IT FURTHER RESOLVED, that L.W. Naegle's Studio of Bismarck, North Dakota, be, and is hereby awarded the sole privilege of photographing members of the House of Representatives of the Forty-Second Legislative Assembly, at a cost of one thousand five hundred and seventy-five dollars to be taken out of legislative expenses;

BE IT FURTHER RESOLVED, that delivery of the photographs shall be within ninety days after the adjournment of the legislative session.

Filed February 18, 1971

HOUSE RESOLUTION NO. 7  
(Fleming)

## CONGRATULATING MISS NORTH DAKOTA

A resolution commending and congratulating Miss North Dakota.

WHEREAS, the State's oldest and most respected beauty pageant, the Miss North Dakota Pageant, has since 1949 selected some of North Dakota's finest and loveliest young ladies to represent the State in the annual Miss America Pageant; and

WHEREAS, the present Miss North Dakota, and those who have held the title previously, have reflected great credit upon North Dakota and its citizens; and

WHEREAS, the Forty-second Legislative Assembly was honored on January 28, 1971, with the presence and the singing of the current Miss North Dakota, Miss Nancy Tangen; and

WHEREAS, it is the custom of the Legislative Assembly to recognize and honor North Dakota citizens for their accomplishments;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA:

That the House of Representatives takes great pleasure in commending the current Miss North Dakota, Miss Nancy Tangen of Northwood, and expresses congratulations and best wishes during the remainder of her reign as Miss North Dakota; and

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to Miss Nancy Tangen, Northwood, North Dakota.

Filed February 25, 1971

HOUSE RESOLUTION NO. 8  
(Olienyk, Patrick)

## CONCERN OVER CRISIS IN GRAIN FARMING

A resolution asking federal officials to take note of the rising crisis in grain farming.

WHEREAS, 1968 figures indicate that United States farmers were then more than fifty billion dollars in debt, and were constantly going deeper into debt at an alarming rate; and

WHEREAS, since 1939 inflation has cut the purchasing power of the dollar by sixty-three cents; and

WHEREAS, based on 1939 values, grain farmers in North Dakota are getting the following prices: wheat, seventy-four cents; barley, twenty-six cents; oats, eighteen cents; rye, thirty-two cents; and flax, ninety-two cents; and

WHEREAS, at these rockbottom prices the grain farmer is required to sacrifice forty-eight percent of his wheat acreage and to endure constantly rising costs; and

WHEREAS, as a consequence, the economic position of the North Dakota grain farmer trails that of virtually all other segments of the economy, including ranchers, dairymen, and others engaged in agriculture; and

WHEREAS, this situation has forced many grain farmers to leave the farm or leave North Dakota; and

WHEREAS, federal officials, particularly the United States Department of Agriculture, have failed to recognize the special problems of the grain farmer and to note his urgent needs;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA:

That the Forty-second Legislative Assembly expresses its deep concern over the plight of the grain farmer and urges the Nixon Administration, the Congress, the United States Department of Agriculture, and other concerned federal officials to recognize the problems facing the grain farmer and to take the necessary steps to assure that the grain farmer is accorded his fair share of the income and economic growth of the country; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President, the Chairmen of the House and Senate Agriculture Committees, the Secretary of Agriculture, and the North Dakota Congressional Delegation.

Filed February 25, 1971

HOUSE RESOLUTION NO. 9  
(Streibel, Strinden, Hoffner, Reimers, Weber)

## COMMENDING MISS VEE ANN STEEN

A resolution to honor and commend Miss Vee Ann Steen, the 1971 North Dakota Easter Seal Poster Child, and to make her an honorary member of the North Dakota House of Representatives.

WHEREAS, Miss Vee Ann Steen, the eight-year-old daughter of Mr. and Mrs. Walter Steen of rural Minot, has been selected as the 1971 North Dakota Easter Seal Poster Child; and

WHEREAS, Miss Steen attends the second grade in Burlington, is an enthusiastic participant in school activities despite her handicap, and enjoys swimming and snowmobiling; and

WHEREAS, this outgoing and pretty little blonde will be one of the State's smallest ambassadors of good will as she represents the State Easter Seal Society and all other physically handicapped North Dakotans;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA:

That Miss Vee Ann Steen be heartily commended for her many activities and congratulated for her selection as the State's Easter Seal Poster Child, and that in all of her activities she carry with her the very warmest admiration and best wishes of the North Dakota House of Representatives; and

BE IT FURTHER RESOLVED, that Miss Vee Ann Steen is hereby designated an honorary member of the North Dakota House of Representatives of the Forty-second Legislative Assembly; and

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the North Dakota Easter Seal Society and to Miss Vee Ann Steen.

Filed March 31, 1971

HOUSE RESOLUTION NO. 10  
(Delayed Bills Committee)

COMMENDING LEGISLATIVE INTERNS

A resolution recognizing the value of the Legislative Internship Program and commending its participants.

WHEREAS, the Forty-second Legislative Assembly currently participates in an academic program whereby eight outstanding young undergraduate, graduate, and law students enrolled at the University of North Dakota and North Dakota State University are selected by their parent institution to serve the majority and minority caucuses, several of the standing committees of the House and Senate, and the Legislative Assembly in the capacity of Legislative Interns; and

WHEREAS, during the course of the session, the House of Representatives of the Forty-second Legislative Assembly has recognized the academic value of the Legislative Internship Program and the opportunity it affords to these young undergraduate, graduate, and law students to observe the legislative process, as well as the opportunity for the majority and minority caucuses, several of the standing committees of the House and Senate, and the Legislative Assembly to avail themselves of the energy, talents, enthusiasm, and ability of the Interns; and

WHEREAS, the House of Representatives of the Forty-second Legislative Assembly is cognizant of the meritorious contribution and abilities of the Legislative Interns and the way in which they have conducted themselves, especially their courteous and respectful manner and ability to refrain from entering into the policymaking role in their association with the majority and minority caucuses and the several standing committees of the Legislative Assembly;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA:

That the service performed by the eight Legislative Interns for the House of Representatives of the Forty-second Legislative Assembly is hereby recognized, and that they be commended for the outstanding diligence, ability, talent, enthusiasm, and courteousness they have exhibited throughout all their associations with the House; and

BE IT FURTHER RESOLVED, that the Chief Clerk of the House of Representatives of the Forty-second Legislative Assembly forward a copy of this resolution to each of the eight Legislative Interns.

Filed March 31, 1971

# HOUSE CONCURRENT RESOLUTIONS

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HOUSE CONCURRENT RESOLUTION NO. 3001  
(K. Johnson, J. Peterson, Reimers, Solberg, Tweten)  
(From Legislative Council Study)

## ISSUANCE OF HIGHER EDUCATION REVENUE BONDS

A concurrent resolution advising the Board of Higher Education to exercise caution in issuing bonds for revenue producing buildings and other campus improvements.

WHEREAS, the Board of Higher Education has issued in excess of forty million dollars in revenue bonds for projects at the institutions under its control; and

WHEREAS, in excess of thirty-four million dollars of such amount remains unpaid as of June 30, 1969; and

WHEREAS, enrollments may not increase at the rate experienced in the past; and

WHEREAS, fewer students may wish to live in dormitory facilities because of a change in student attitudes, or because of the availability of improved off-campus housing; and

WHEREAS, situations similar to that experienced at the University of North Dakota-Ellendale Branch may occur where reduced enrollments present a potential loss of revenue for bond payments;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly urges the Board of Higher Education to exercise caution approving the issuance of additional revenue bonds for facilities on the campuses of the institutions under its control.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3002  
(K. Johnson, J. Peterson, Reimers, Solberg, Tweten)  
(From Legislative Council Study)

## ESTABLISHMENT OF STATE AIRCRAFT POOL

A concurrent resolution directing the State Highway Department, the Aeronautics Commission, and the Game and Fish Department to establish an Aircraft Pool.

WHEREAS, the Committee on Budget of the Legislative Council has completed a study on the feasibility of a Central Aircraft Pool; and

WHEREAS, such study indicated that use of aircraft for travel can increase the efficiency of state government and reduce governmental spending; and

WHEREAS, such study indicates that the cost per hour of operating presently owned aircraft could be reduced by greater utilization of such aircraft; and

WHEREAS, the committee was presented with information indicating that state officials and other executives of state government would utilize aircraft travel if it were available to them;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That all state departments, institutions, and agencies be encouraged to use aircraft travel when such travel is more economical than automobile or other means of transportation; and

BE IT FURTHER RESOLVED, that the Highway Department, the Aeronautics Commission, and the Game and Fish Department make their aircraft available for use by other state agencies, departments, and institutions and that the Highway Department assume the responsibility for administrative arrangements in the scheduling of the use of such aircraft, provided, however, that pilot selection is the responsibility of the agency of ownership; and

BE IT FURTHER RESOLVED, that the Highway Department provide services in obtaining charter aircraft for state agencies and institutions when neither its aircraft nor aircraft of the Aeronautics Commission or the Game and Fish Department are available; and

BE IT FURTHER RESOLVED, that the Highway Department on a regular basis inform state departments, institutions, and agencies of the availability of aircraft and the procedures to follow to obtain the use of such aircraft; and

BE IT FURTHER RESOLVED, that the Aeronautics Commission and the Game and Fish Department render full cooperation to the Highway Department in the operation of the Aircraft Pool; and

BE IT FURTHER RESOLVED, that after June 30, 1972, the Department of Accounts and Purchases with the cooperation of the Highway Department, the Aeronautics Commission, and the Game and Fish Department, shall appraise the desirability of continuing the Aircraft Pool by determining whether or not the experience of the pool indicates better utilization of aircraft because of Aircraft Pool usage, and whether or not the state agencies, institutions, and departments use of the pool is of sufficient volume to warrant the continued existence of the pool; and

BE IT FURTHER RESOLVED, that if the Department of Accounts and Purchases finds that the aircraft used by the pool are more fully utilized and that the state agencies, institutions, and departments are requesting the services of the Aircraft Pool at a substantial level, it shall be the intent of the legislature that the Aircraft Pool be continued on a permanent basis.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3006  
(Bunker)URGING CONGRESS TO REINSTATE  
INVESTMENT CREDIT

A concurrent resolution urging the United States Congress to reinstate the investment credit.

WHEREAS, the investment tax credit for small businesses and farmers, first adopted as part of the Revenue Act of 1962, has been suspended; and

WHEREAS, this credit allowed a deduction from the final, net federal tax bill of an amount equal to seven percent of the funds invested in machinery and equipment up to twenty thousand dollars for small businesses and farmers; and

WHEREAS, the average farm income is steadily declining in comparison to the average nonfarm income; and

WHEREAS, the costs of farm machinery such as combines and tractors, and of equipment used by small businesses, are steadily rising; and

WHEREAS, the cost and the shortage of skilled farm labor makes it essential that these heavy investments in time-saving, labor-saving machines be made; and

WHEREAS, the repeal of the investment credit, coupled with higher and continually climbing interest rates, has practically ruled out much needed small business expansion; and

WHEREAS, the farmer and the small businessman are the backbone of North Dakota's economy;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly strongly urge the United States Congress to reinstate the investment credit; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Secretary of the United States Treasury, to the Committee on Ways and Means of the United States House of Representatives, to the Committee on Finance of the United States Senate, to the Director of the United States Executive Office of Management and Budget, and to each member of the North Dakota congressional delegation.

Filed February 19, 1971

HOUSE CONCURRENT RESOLUTION NO. 3007  
(Johnson, Rundle, Olienyk)

## STRIP MINING OF FEDERAL GRASSLANDS

A concurrent resolution urging Congress and the United States Forest Service to declare the national grasslands in western North Dakota ineligible for lease for strip mining of coal.

WHEREAS, western North Dakota, which claims the famed Badlands and Theodore Roosevelt National Memorial Park, is one of the most scenic and unspoiled outdoor areas in the United States; and

WHEREAS, some of the most beautiful portions of the rugged and natural scenic Badlands surround the unique burning coal vein area, with its rare columnar junipers and ponderosa pines; and

WHEREAS, the Federal Government owns about one and one-tenth million acres of the land in this area, much of it, including the burning coal vein area, designated national grasslands and controlled by the United States Forest Service; and

WHEREAS, only one percent of North Dakota's land area is timberland; and

WHEREAS, there are now applications pending before the United States Forest Service to lease for the strip mining of lignite coal at least twelve thousand acres of the land surrounding the burning coal vein area which contain the columnar junipers and ponderosa pines; and

WHEREAS, the environmental disturbances of mining operations in this area would destroy its natural scenic attributes; and

WHEREAS, there are thousands of acres of privately owned land in this same general vicinity, much of which has been or can be leased for mining purposes, which can provide sufficient coal supplies for the foreseeable future and which would not disturb one of the outdoor wonders of the United States; and

WHEREAS, several of the applications for coal mining leases in this scenic area come from out-of-state mining operations which are not concerned with the environment and ecology of North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly of the State of North Dakota urge Congress and the United States Forest Service to take such action as may be necessary to declare that portion of the national grasslands containing the columnar junipers and ponderosa pines located in western Slope County in western North Dakota not eligible for the strip mining of coal so that the few thousand acres that are known nationwide for their scenic beauty and splendor will not be destroyed; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the President of the United States, the North Dakota Congresssional Delegation, the Secretary of the Interior, the Governor of North Dakota, the Chief of the United States Forest Service, and the Forest Service Regional Headquarters in Missoula, Montana.

Filed February 19, 1971

HOUSE CONCURRENT RESOLUTION NO. 3008  
(Halcrow)

## COMMENDING MR. IVER KVAL

A concurrent resolution commending Mr. Iver Kval for his many years of service to the Legislative Assembly of the State of North Dakota.

WHEREAS, Mr. Iver Kval of Lisbon served the State of North Dakota and its Legislative Assembly as a legislative employee from 1957 through 1969; and

WHEREAS, during this period he was of great assistance to the members of the Legislative Assembly, and all the members in turn appreciated his services and friendship; and

WHEREAS, illness has prevented Mr. Kval from serving the Forty-second Legislative Assembly; and

WHEREAS, his absence from the ranks of the employees of the Forty-second Legislative Assembly has been noted with regret by its members;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly extends to Mr. Iver Kval its very sincere best wishes and commends him for his many years of efficient and outstanding service to the Legislative Assembly and to the State of North Dakota.

BE IT FURTHER RESOLVED, that a duly enrolled copy of this resolution be sent by the Secretary of State to Mr. Iver Kval.

Filed February 19, 1971

HOUSE CONCURRENT RESOLUTION NO. 3012  
(Gengler, Haugland, Stone, Gerl, DeGroot)

## RETENTION OF EXISTING RAIL PASSENGER SERVICE

A concurrent resolution to retain existing rail passenger service.

WHEREAS, the Ninety-first Congress has passed Public Law 91-518 to provide for the establishment of a national rail passenger system; and

WHEREAS, under the provisions of said Act, the federal Secretary of Transportation was authorized and has filed his preliminary report which outlines a basic national rail passenger system; and

WHEREAS, the preliminary report does not provide for continuance of any rail passenger transportation for the citizens of this State; and

WHEREAS, the Rail Pax Plan appears to provide only a crash program to provide rail passenger transportation between end points of population congestion and completely ignores the need to contribute to opportunity in noncongested areas so that a growing United States population will not be forced by the Rail Pax Plan to further add to the problems of population congestion; and

WHEREAS, it is necessary and essential to ensure the continuation of adequate and safe rail passenger service to North Dakota if this underpopulated area is to be capable of absorbing its share of the increasing national population; and

WHEREAS, North Dakota utilizes its railroad passenger trains now, as evidenced by one hundred sixty-eight thousand boardings during 1969; and

WHEREAS, North Dakota railroad passenger service is essential because of:

1. Severe weather conditions;
2. A present need for reasonably priced, efficient, fast railroad passenger transportation;
3. The necessity to encourage a national population distribution policy; and

WHEREAS, North Dakota citizens have a minimum of railroad passenger train service at present;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the North Dakota House of Representatives does support Governor William L. Guy and the North Dakota Public Service Commission in their efforts to retain existing rail passenger service; and

BE IT FURTHER RESOLVED, that the North Dakota House of Representatives does adopt as its own the evidence and facts submitted to the Secretary of Transportation by the North Dakota Public Service Commission on December 23, 1970; and

BE IT FURTHER RESOLVED, that the North Dakota House of Representatives does specifically request and urge the Secretary of Transportation to designate Minneapolis-St. Paul as an end point city to ensure continued rail passenger routes through North Dakota; and

BE IT FURTHER RESOLVED, that no rail passenger service be allowed to be discontinued completely for at least a period of eighteen months following the approved Rail Pax Plan so that the plan can be tested and most easily adjusted; and

BE IT FURTHER RESOLVED, that the President of the United States, the Secretary of Transportation, the Interstate and Foreign Commerce Committee of the United States Congress, the Interstate Commerce Commission, and the North Dakota Congressional Delegation herewith be notified of the need for continued and improved rail passenger service for North Dakota and the Upper Midwest.

Filed February 19, 1971

HOUSE CONCURRENT RESOLUTION NO. 3013  
(Gerl, Mushik)

## MEMORIALIZING HISTORY OF SEVENTH CAVALRY

A concurrent resolution recognizing the efforts and objectives of those individuals and organizations who are memorializing the history of the U.S. 7th Cavalry during its territorial days' service in North Dakota, and to encourage the activities of those individuals and organizations, and to encourage various state departments, institutions, and agencies to give assistance.

WHEREAS, the history of the State of North Dakota is in part made up of the activities and events of the U.S. 7th Cavalry during its service in territorial days; and

WHEREAS, many historical sites related to the service of the U.S. 7th Cavalry in territorial days are in existence in the State of North Dakota and are being preserved and developed as recreational areas and points of interest for tourists; and

WHEREAS, the preservation of this history is a responsibility of everyone and is of interest to many, and is also of value in the fields of education, recreation, business, and tourism; and

WHEREAS, there are a number of individuals and organizations in the State of North Dakota who are presently actively engaged in the formation of Troops of Cavalry to participate in local events that are of interest to many; and

WHEREAS, the individuals and organizations now actively engaged in these activities are financed by private sources and individual means; and

WHEREAS, the objective of these newly formed Troops of Cavalry is to stimulate interest in the history of North Dakota and to participate in local events and encourage tourism and forms of recreation in the area, as well as to collect information and data relating to the original U.S. 7th Cavalry, and collect, use, and preserve uniforms and equipment for educational and historical purposes; and

WHEREAS, the further objective of these newly formed Troops of Cavalry is to focus attention on the fact that it was one hundred years ago that the original U.S. 7th Cavalry rode in

North Dakota, and to stimulate events and celebrations of interest calling attention to that fact;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the efforts and objectives of those individuals and organizations promoting and participating in the formation of such Troops of Cavalry, and who are engaged in the collection of data and property of both historical value and of public interest are hereby recognized as an aid to the preservation of the history of North Dakota and the development of tourism in North Dakota; and

BE IT FURTHER RESOLVED, that those individuals and organizations so involved are hereby commended for their activities and participation and are hereby encouraged to continue and further their activities and participation; and

BE IT FURTHER RESOLVED, that the various state departments, institutions, and agencies are hereby encouraged and directed to assist these individuals and organizations in their efforts and objectives; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this resolution to the Governor, Park Service, Historical Society, Highway Commissioner, Travel Bureau, Outdoor Recreation, Library Commission, National Guard, and Highway Patrol.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3015  
(Eagles, Miedema)

PROVIDING ENVIRONMENTAL  
EDUCATION CURRICULUM

A concurrent resolution urging all state educational leaders, boards, institutions, and teachers to provide the curricula necessary for environmental education.

WHEREAS, the present decade has been publicly referred to by many of our leaders as the Environmental Decade; and

WHEREAS, the Federal Government has passed the Environmental Quality Act and is implementing it through an interdisciplinary and interdepartmental approach to all natural resource proposals, projects, and problems; and

WHEREAS, the International Biological Program now in progress promises an explosion in the knowledge of man's ecological relationship to our planet at least equal to that we have experienced in the physical sciences since the International Geophysical Year of 1957; and

WHEREAS, 1972 has been designated as the World Ecological Year by the United Nations; and

WHEREAS, polls conducted among the citizenry generally indicate that concern over environmental deterioration heads the list of top issues presented in such polls; and

WHEREAS, the solutions to environmental problems require an awareness of and appreciation for the principles and concepts upon which the science of ecology is based; and

WHEREAS, decisionmaking in all areas of human experience must be made in terms of those systems which support life on earth; and

WHEREAS, man's survival will be determined by our understanding the interrelationships which bind all living and nonliving matter together in a unified whole; and by our success in making the concepts and principles involved an integral part of the process of formal education;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly urges its educational leaders, boards, institutions, and teachers to provide the curricula and programs necessary in environmental education to develop an understanding of and appreciation for the attitudes and concepts exemplified by the statement of the National Council of Environmental Quality that "Each generation is a trustee for the environment of succeeding generations".

BE IT FURTHER RESOLVED, that the implementation of environmental education based on ecological principles and concepts be instituted as soon as possible due to the accelerating deterioration of our environment, and that official state boards of education report to the Forty-third Legislative Assembly on achievements leading to the realization of the goals sought under this resolution.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3018  
(Hoffner, Streibel)

AMERICAN REVOLUTION BICENTENNIAL  
COMMEMORATION

A concurrent resolution supporting North Dakota's efforts to commemorate the two-hundredth anniversary of the American Revolution.

WHEREAS, the year of 1976 will be the two-hundredth anniversary of the American Revolution; and

WHEREAS, Congress has established the American Revolution Bicentennial Commission to "plan, encourage, develop and coordinate the commemoration of the American Revolution bicentennial"; and

WHEREAS, President Nixon, in appointing the membership of the National Commission, said: "The bicentennial celebrates more than the events of the Revolution. It belongs not only to the thirteen original States, but equally to the newest and the farthest from those 18th century battlefields. It is a national celebration; a national anniversary; it challenges each of the fifty States, and every community, to look to its heritage and its hopes"; and

WHEREAS, the National Commission has solicited the cooperation of every State in the Union in planning for 1976; and

WHEREAS, Governor Guy has appointed a North Dakota American Revolution Bicentennial Commission as recommended by the President and the National Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly of the State of North Dakota does hereby endorse the concept and purpose of the North Dakota American Revolution Bicentennial Commission; and

BE IT FURTHER RESOLVED, that the Forty-second Legislative Assembly of the State of North Dakota does hereby urge and encourage all local political subdivisions, cities and communities, civic clubs and private organizations, church groups, schools and colleges, private citizens, and all others to cooperate in every way possible with the North Dakota American Revolution Bicentennial Commission to make the year 1976 meaningful and worthy of the great history and heritage that has preceded us.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3019  
(Lundene)

STUDY OF STATE COURT SYSTEM

A concurrent resolution requesting a Legislative Council study of the North Dakota court system to determine if the citizens and taxpayers of the state would be benefited by changes in administration and procedures followed by the North Dakota judicial system.

WHEREAS, Chief Justice Burger of the United States Supreme Court has been carrying out a campaign to bring about judicial reform at all levels of government; and

WHEREAS, it is well known that many courts could increase their work capacity at lower costs if modern business practices were instituted; and

WHEREAS, it is obvious that our district court districts are in need of boundary revisions; and

WHEREAS, the cost of dispensing justice has been rising faster than the increase in productivity of the courts;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council be requested to conduct an intensive study of the entire court system in the state of North Dakota and that the judicial officers of that court system be requested to cooperate fully in such a study.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3021  
(Henry, Livingston)

STUDY OF AGRICULTURAL FINANCING

A concurrent resolution requesting a Legislative Council study of the adequacy of various forms of agricultural finance that will be required during the implementation period of the individual farm unit irrigation projects and associated intensive farming in the Garrison Diversion Irrigation Project and in the years thereafter.

WHEREAS, the Garrison Diversion Irrigation Project will, in a few years, be bringing land in North Dakota under irrigation; and

WHEREAS, irrigation farming requires heavy capital outlay for land preparation and equipment; and

WHEREAS, intensive farming under irrigation requires high operational costs in machinery, manpower, and supplies; and

WHEREAS, the agricultural credit system, like other service systems, is in a period of transition; and

WHEREAS, there are many sources of credit that contribute to agricultural financing such as banks, insurance companies, Production Credit Association, the Farmers Home Administration, the Federal Land Bank, credit unions, and others; and

WHEREAS, there is concern that North Dakota's farm finance system be carefully planned so that individual institutions in the system may be aware of their responsibilities and limitations; and

WHEREAS, some legislation to facilitate adequate farm credit under irrigation conditions may be required.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council be directed to conduct an intensive study of the adequacy of agricultural finance under the impending increase of irrigation farming in North Dakota, and that state agencies and institutions of higher education be directed to cooperate fully in such study.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3022  
(Gackle)URGING APPOINTMENT OF COUNTY DIRECTORS  
OF TAX EQUALIZATION

A concurrent resolution calling to the attention of the county commissioners of certain counties the statutory deadline relating to the appointment of county directors of tax equalization.

WHEREAS, the Forty-first Legislative Assembly of North Dakota enacted section 11-10.1-01 of the 1969 Supplement to the North Dakota Century Code, providing that prior to October first of 1970, the board of county commissioners of each county of the State shall appoint a county director of tax equalization; and

WHEREAS, the counties of Bowman, Cavalier, Dunn, Emmons, LaMoure, McHenry, McKenzie, McLean, Mercer, Oliver, Stutsman, Traill, and Wells have not appointed a county director of tax equalization as required by law;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly strongly urges the counties to comply with section 11-10.1-01 of the 1969 Supplement to the North Dakota Century Code, and make the appointments required thereby; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Chairmen of the Boards of County Commissioners of the Counties of Bowman, Cavalier, Dunn, Emmons, LaMoure, McHenry, McKenzie, McLean, Mercer, Oliver, Stutsman, Traill, and Wells.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3023  
(Hoffner, Streibel)

MORE FUNDING FOR FHA LOAN PROGRAM

A concurrent resolution urging the United States Congress and the Administration to make more funds available for Farmers Home Administration loans.

WHEREAS, it is in the best interest of all the citizens of our State and Nation that more of our people remain in rural communities, both from the standpoint of stabilizing the social and economic life of the rural areas and of alleviating some of the problems caused by population pressure in urban centers; and

WHEREAS, if the family size farm is to remain in existence, it is necessary that adequate financing be available to enable young farmers to become established and, once established, to remain competitive; and

WHEREAS, the Farmers Home Administration is one of the principal sources of credit for the family farmer in North Dakota; and

WHEREAS, the demand for credit for both real estate and operating purposes far exceeds the funds the Farmers Home Administration has available for these purposes; and

WHEREAS, the size of the family farm has increased and the investment necessary in both real estate and equipment to remain competitive has greatly increased, thereby creating more demand for farm credit; and

WHEREAS, the funding for the Farm Ownership Loan Program of the Farmers Home Administration has been cut back by over twenty-two percent in the past two years, thereby reducing sharply the amount of credit available to the family farmer for farm ownership purposes; and

WHEREAS, the Operating Loan Program of the Farmers Home Administration has been funded at the same level for the past several years, which has not taken into account the increased costs and investment necessary in modern farming operations;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the United States Office of Management and Budget is urged to increase the insured loan authorization for Farm Ownership loans by one hundred million dollars for the remainder of the 1971 fiscal year and that an increase of at least that amount be included in the budget proposal for the 1972 fiscal year; and

BE IT FURTHER RESOLVED, that the Congress of the United States is urged to provide seventy-five million dollars in additional operating loan funds for the balance of the 1971 fiscal year and to provide one hundred million dollars in additional funds for the 1972 fiscal year; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Secretary of Agriculture, the Administrator of the Farmers Home Administration, the Director of the Office of Management and Budget, the Chairmen of the Agriculture Appropriations Subcommittees in the United States House of Representatives and the United States Senate, and to each member of the North Dakota Congressional Delegation.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3025  
(Winge)

CREATING NATIONAL GOAL  
ON DISTRIBUTION OF OPPORTUNITY

A concurrent resolution asking for a national goal and policy on distribution of opportunity and, hence, population in the United States in order to successfully absorb the projected 100 million new Americans who will be seeking jobs and homes by the year 2000.

WHEREAS, there is great need to distribute opportunity for profitable investment, new jobs, educational facilities, health services, and recreation across the United States in order to encourage voluntary population distribution; and

WHEREAS, it is a well known and documented fact that our nation is now suffering from overcongestion causing high incidence of crime, water and air pollution, air and surface transportation congestion, racial tension, rioting and frustration, along the coastal areas; and

WHEREAS, it is equally true that the shift of population to already congested areas has drained much of the heartland, including North Dakota, of many of its most productive young people, leaving the social problems of reduced tax base and insufficient people to support such necessary institutions as schools, churches, hospitals, and so forth; and

WHEREAS, the federal government is the greatest factor in maldistribution of population through such federal programs as research grants to institutions of higher education, defense contracts, Interstate Commerce Commission-sanctioned transportation rates, farm programming, and many other federal activities; and

WHEREAS, there is precedent for the federal government to seek wholesome distribution of population through such devices as the Homestead Act, the Railroad Land Grant Act, the Bureau of Reclamation limitation on irrigated acres per farm, and land grants to schools; and

WHEREAS, North Dakota has been suffering a slight decrease in population and will continue to do so unless there are changes on the national level;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the President of the United States and the members of Congress be requested to set forth clearly a national goal and policy of distribution of opportunity that would encourage voluntary distribution of population in order to maintain a high quality of life as we seek to absorb a growing population of Americans.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3026  
(Gackle, Atkinson, Lundene, DeGroot, Metzger)

## INSURANCE COMMISSIONER TO STUDY BLUE CROSS-BLUE SHIELD

A concurrent resolution directing the Commissioner of Insurance to conduct a study of the field of nonprofit hospital and medical service plan corporations.

WHEREAS, there is a widespread public concern in North Dakota over the steadily escalating costs of hospital care, administration, and related items resulting in rapidly increasing costs to subscribers of nonprofit hospital service plan corporations (Blue Cross) and nonprofit medical service plan corporations (Blue Shield); and

WHEREAS, more than fifty percent of all residents of North Dakota are covered under these nonprofit hospital and medical service plan corporations organized under the laws of North Dakota; and

WHEREAS, the North Dakota Insurance Department is the primary regulatory agency involved in the regulation of insurance systems, including segments of health care insurance; and

WHEREAS, the nonprofit hospital and medical service plan corporations are subject only to very limited regulation by the Insurance Department; and

WHEREAS, in the public interest, it is extremely important that the overall subscriber premium charges needed to meet the contractual charges made by the various purveyors of medical care be equitably, credibly, and scientifically assessed against the respective categories of groups and individuals covered;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the professional staffs of the nonprofit hospital service plan corporations and the nonprofit medical service plan corporations and the Insurance Department be utilized in a united effort to attain the utmost efficiency in the operation of health care service, and that careful consideration be given to large expenditures by the service plan corporations, whether they be operational or of a capital nature; and

BE IT FURTHER RESOLVED, that the Commissioner of Insurance be directed to cause to have conducted a thorough study

of the following areas of concern, which shall include, but not be limited to, the statistical experience of recent years, the equitability of the current rating formulas and rating systems, and recommend desirable improvements in such formulas and systems; and

BE IT FURTHER RESOLVED, that the Commissioner of Insurance is hereby directed to cause to have developed, for possible introduction to the Forty-third Legislative Assembly, appropriate revisions to the statutes relative to the operation of the various nonprofit hospital and medical service plan corporations in North Dakota; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Commissioner of Insurance and the nonprofit hospital and medical service plan corporations included.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3027  
(Giffey, Opedahl)

URGING CONGRESS TO STUDY  
HIGHWAY WEIGHT RESTRICTIONS

A concurrent resolution urging the Congress of the United States to correct the inequalities and inadequacies in the limitations now imposed by section 127 of title 23 of the United States Code, relating to restrictions upon weights of vehicles operated upon state highways that are a part of the federal aid systems.

WHEREAS, the Forty-second Legislative Assembly of the State of North Dakota finds that it cannot solve some of the problems of highway transportation without incurring the penalty of loss of federal aid highway funds by reason of the limitations imposed by section 127 of title 23 of the United States Code; and

WHEREAS, the limitations in section 127 of title 23 are unnecessarily restrictive, preventing the States from utilizing upgraded highways to the maximum degree that they are capable of efficiently serving;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Congress of the United States is urged to amend section 127 of title 23 of the United States Code to make it uniform in application among the States, to more appropriately relate allowable weights to the standards to which highways are constructed, and to allow the States the freedom, without penalty, to work towards solution of transportation problems; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Chairmen of Public Works Committees of the United States Senate and House of Representatives, to the Secretary of the Department of Transportation, and to each member of the North Dakota Congressional Delegation.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3028  
(Eagles, Raymond, Mushik)

## TRANSPORTATION OF NONPUBLIC SCHOOL CHILDREN

A concurrent resolution urging the public school boards of this State to cooperate in the transportation of nonpublic school children.

WHEREAS, the necessity in these times for an adequate and comprehensive education is amply demonstrated by the many technological advances of our modern-day world; and

WHEREAS, the public schools are continually engaged in the process of imparting to students the educational foundation necessary for such students to participate in and contribute to our society; and

WHEREAS, the public schools are not alone in preparing students for this purpose, as much is contributed by the nonpublic schools in this regard; and

WHEREAS, at the present time no direct financial aid is given to such nonpublic schools; and

WHEREAS, the law does now provide that students attending nonpublic schools may be transported on public school buses on such days as the buses normally operate, provided that room is available, that the transportation be to and from a point or points on an established public school bus route, and that the school board of the public school district permits such transportation; and

WHEREAS, some public school districts are not now permitting the transportation of nonpublic school students, even though such transportation would be an invaluable service to these students and would not add any cost to the transportation program currently carried on by the public school district;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly hereby urges each public school district in this State to cooperate in providing transportation to nonpublic school students in accordance with the applicable provisions of North Dakota law in order to strengthen and broaden public and private educational opportunities within this State; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Department of Public Instruction and by the Department of Public Instruction to the governing board of each school district in this State.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3031  
(Giffey)

STUDY OF RURAL REHABILITATION  
CORPORATION

A concurrent resolution requesting the Legislative Council to examine the need for the continuation of the North Dakota Rural Rehabilitation Corporation and to make such recommendations for its continuance or dissolution as are deemed appropriate.

WHEREAS, the North Dakota Rural Rehabilitation Corporation was formed in 1934 as a nonprofit charitable corporation recognized by the Legislature in 1935 in the enactment of House Bill 347 (S.L. 1935, Chapter 224); and

WHEREAS, the Act exempted from taxation monies and/or credits coming into the possession of or belonging to the North Dakota Rural Rehabilitation Corporation as a result of any federal grant or gift for relief or rehabilitation purposes; and

WHEREAS, the State Treasurer, in the event of dissolution of the North Dakota Rural Rehabilitation Corporation, was authorized to accept funds and property on hand or belonging to the Corporation at the time of dissolution; and

WHEREAS, the Federal Emergency Relief Administration, which made the original federal grant to the North Dakota Rural Rehabilitation Corporation, was phased out of existence on November 30, 1935; and

WHEREAS, the North Dakota law was amended to provide that the Industrial Commission rather than the State Treasurer was the agency designated to receive the assets of the North Dakota Rural Rehabilitation Corporation in the event such Corporation was dissolved, including all properties returned or to be returned to the North Dakota Rural Rehabilitation Corporation by the Secretary of Agriculture upon the application of the Corporation pursuant to the provisions of Public Law 499 of the 81st Congress dated April 3, 1950; and

WHEREAS, the Farmers Home Administration is planning to carry out, under the orders of the Secretary of Agriculture, the above referred to provision under which funds will be returned to the North Dakota Rural Rehabilitation Corporation; and

WHEREAS, a determination should be made as to the relevance of the Corporation's program to present day rehabilitation demands;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council is requested to study the history and present mission of the North Dakota Rural Rehabilitation Corporation and to make such recommendations as are deemed advisable as to its role in the credit structure of North Dakota.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3032  
(Halcrow)

## CONGRATULATING SACHEL PAIGE

A concurrent resolution congratulating Satchel Paige on his election to the Baseball Hall of Fame.

WHEREAS, the ageless Satchel Paige, one of baseball's truly great right-handed pitchers, has been elected to that sport's Hall of Fame; and

WHEREAS, selection to the Hall of Fame is considered the highest honor baseball can bestow upon its own; and

WHEREAS, Satchel Paige's remarkable baseball career has stretched from 1926, when he broke into organized baseball with the Chattanooga, Tennessee, Black Lookouts, to the Kansas City Athletics, where he pitched his last major league curve in 1965, to the Atlanta Braves, where he is currently a coach; and

WHEREAS, a portion of his early career was spent in North Dakota where, in 1934 and 1935, he played for the Corwin-Churchill Motors semiprofessional baseball team in Bismarck; and

WHEREAS, during his time with the Corwin-Churchill team he won 84 games, once pitching 29 games on 29 consecutive days and winning 28 of those games, and led the Bismarck team to the championship of the first National Semi-Pro Baseball Tourney in 1935 in Wichita, Kansas; and

WHEREAS, over his long career he pitched in approximately 3,000 games, won approximately 2,500 games, and tossed, in his own words, "a hatful" of no-hitters, to far outdistance in these categories even the legendary Cy Young who set the major league record for career victories with 511 and who appeared in 906 major league games; and

WHEREAS, he has made numerous appearances in the State since that time, giving baseball exhibitions and earning the respect and admiration of countless North Dakotans; and

WHEREAS, his strong character, optimistic outlook on life, and enduring philosophy have provided guidelines for persons of all races and all ages to follow;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly, on behalf of all North Dakotans, extends to a former North Dakota resident, Satchel Paige, sincere congratulations for capping a lifetime of baseball achievement with election to the Baseball Hall of Fame, and sends along to him its wishes that each of the next years may be his best in baseball; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Baseball Hall of Fame, Baseball Commissioner Bowie Kuhn, the Atlanta Braves, and to Satchel Paige.

Filed February 26, 1971

HOUSE CONCURRENT RESOLUTION NO. 3035  
(Wilkie, W. Erickson)

## URGING BEVERAGE MANUFACTURERS TO USE RETURNABLE CONTAINERS

A concurrent resolution urging beer and soft drink manufacturers, bottlers, and distributors to use returnable containers and to commend the "Keep North Dakota Clean" organization for its work.

WHEREAS, beer and soft drink bottles and cans tossed aside by thoughtless individuals are a constant source of litter in North Dakota's roadways, fields, parks, and other similar areas; and

WHEREAS, the State and its political subdivisions are forced to spend a great deal of public funds to clean up these bottles and cans; and

WHEREAS, it is logical to assume that if these bottles and cans were returnable, they would not be tossed aside or would be picked up quickly by others; and

WHEREAS, the "Keep North Dakota Clean" organization has worked tirelessly and effectively to cut down this offensive litter, to preserve North Dakota's scenic beauty, and to maintain in the State an environment, both urban and rural, that is neat, clean, and devoid of debris and ugliness;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly strongly urges the manufacturers, bottlers, and distributors of beer and soft drinks in North Dakota to use returnable rather than nonreturnable containers for their beverages; and

BE IT FURTHER RESOLVED, that the Forty-second Legislative Assembly commends the "Keep North Dakota Clean" organization for its work in keeping the State clean and beautiful and in stressing to the State's citizens the importance of improving the attractiveness of our cities, towns, and countryside; of preserving our natural beauty; and of maintaining a neat and orderly appearance; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the presidents of the North Dakota Bottlers Association, the North Dakota Beverage Dealers Association, the North Dakota Beer Wholesalers Association, and the North Dakota Wholesaler Liquor Dealers Association; to the state representative of the United States Brewers Association; and to the president of "Keep North Dakota Clean".

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3036  
(Henry, Henning)

STUDY OF SALE OR EXCHANGE  
OF STATE-OWNED LAND

A concurrent resolution directing the Legislative Council, with the cooperation of pertinent state agencies and departments, to study North Dakota laws regarding the sale or exchange of state-owned lands under the authority of either the State or its various departments and agencies.

WHEREAS, at present some state agencies and departments can sell or exchange land and others cannot, and similarly there are situations where legislative approval is needed and others where it is not; and

WHEREAS, it may take three or four years for one state agency or department to get title to land from another state agency or department for exchange purposes with the Federal Government; and

WHEREAS, this confusion and time-consuming delay often results in the price of the land being sought going up, thus either adding to the State's expense, or losing the exchange opportunity; and

WHEREAS, uniform and simplified procedures in this area would be of great benefit to the State of North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council be directed to study, with the cooperation of the State Forester, the State Park Service, the Board of University and School Lands, and State Land Department, the Board of Higher Education, the State Game and Fish Department, and other pertinent state agencies and departments, the laws and regulations governing the sale or exchange of state-owned lands by state agencies and departments, and to review legislation in this field from other States, and generally review the practices involved in the lease and sale of state-owned land; and

BE IT FURTHER RESOLVED, that the Legislative Council make its report and recommendations thereon to the Forty-third Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3038  
(Gengler, Olienyk, Knudson, Austin)

COMMENDING ASSUMPTION ABBEY

A concurrent resolution to commend the Assumption Abbey for its many years of educational service to North Dakota.

WHEREAS, the Benedictine community at the Assumption Abbey has operated schools at Richardton since 1900; and

WHEREAS, the loyal and dedicated efforts of the Benedictines in operating both their high school and their college have resulted in a unique and long-lasting contribution to education in North Dakota; and

WHEREAS, the schools at the Abbey have enhanced the environment of the community and the surrounding area, and have provided an educational opportunity for hundreds of North Dakotans who might otherwise have not been able to attend either high school or college; and

WHEREAS, Assumption High School closed its doors for the last time in May 1968; and

WHEREAS, Assumption College will close on its last graduation day, May 9;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly commends the Benedictine community at Assumption Abbey for its many years of excellent service in meeting the educational needs of so many of North Dakota's youth; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Abbot of Assumption Abbey and to the President of Assumption College.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3040  
(Opedahl, Hilleboe)

STUDY OF STATUTORY BOARDS  
AND COMMISSIONS

A concurrent resolution directing the Legislative Council to study the membership, duties, responsibilities, and appointments of all statutory boards and commissions, excepting those occupational and professional licensing boards and commissions.

WHEREAS, there exists a proliferation of statutory boards and commissions with varying composition and authority; and

WHEREAS, this profusion of boards and commissions sometimes has overlapping powers and duties which promote wastefulness and cause perplexity as to which board or commission is the proper one to deal with; and

WHEREAS, many of the members of these boards and commissions are appointed or receive membership through inconsistent means and this tends to make the boards and commissions unresponsive to the wishes of the majority of the people of North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council is hereby directed to conduct a study of the statutory boards and commissions, excepting those occupational and professional licensing boards and commissions, to determine whether the boards and commissions have overlapping powers and duties; if consolidation of any boards and commissions is feasible; and whether the majority of the membership of the boards and commissions should be appointed to make the membership responsive to all the people of North Dakota; and

BE IT FURTHER RESOLVED, that the Legislative Council shall be authorized to call upon any board, commission, department, or agency of the State for information and assistance as may be necessary to complete the study.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3042  
(W. Erickson, Grant, Kingsbury)

SUPPORT FOR REA TWO PERCENT  
LOAN PROGRAM

A concurrent resolution urging Congress and the Nixon Administration to support the Rural Electrification Administration two percent loan program.

WHEREAS, the citizens of North Dakota served by rural electric cooperatives are greatly dependent upon a guaranteed and reliable source of low cost electric power; and

WHEREAS, the rural electrification loan program has for thirty-five years served as a key to the orderly and continual development of North Dakota's farms, farming communities, and agricultural economy; and

WHEREAS, members of North Dakota's Congressional Delegation have repeatedly expressed and demonstrated their support of this loan program and of increased loan fund appropriations;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly urges Congress and the Nixon Administration to support and continue the Rural Electrification Administration's two percent loan program with the necessary appropriations and funding in order that it can continue to meet the critical needs of rural citizens; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to Secretary of Agriculture Clifford Hardin, Rural Electrification Administration Administrator David Hammil, and the North Dakota Congressional Delegation.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3044  
(Livingston, Walsh)

SUPPORTING WEATHER MODIFICATION  
RESEARCH

A concurrent resolution expressing support to the United States Department of the Interior for its research efforts in weather modification in the Upper Midwest area.

WHEREAS, annual rainfall is a limiting factor in the economic welfare of the semiarid Upper Midwest States, including parts of North Dakota; and

WHEREAS, hailstorms have devastating effects on agriculture throughout our State;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Department of the Interior be encouraged and supported in its research efforts to modify weather in order to increase and control rainfall and to inhibit damaging hailstorms; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Secretary of the United States Department of the Interior and to each member of the North Dakota Congressional Delegation.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3046  
(Committee on Appropriations)

URGING CONGRESS TO REVIEW  
AFDC STATUTES

A concurrent resolution urging the Congress of the United States to review the federal statutes relating to Aid to Families with Dependent Children.

WHEREAS, the State of North Dakota has demonstrated its concern for the health, well-being, and dignity of its citizens by consistently maintaining a public assistance standard above the national average; and

WHEREAS, the State of North Dakota has consistently provided a service program offering alternatives to public assistance resulting in a proportion of welfare recipients to its total population well below the national average; and

WHEREAS, federal statutes implemented by federal regulations and reinforced by federal court decisions have made the administration of public assistance costly, inequitable, and self-defeating; and

WHEREAS, earning exemptions provided for in federal AFDC statutes requires the State to maintain technical eligibility in excess of a standard based on need resulting in ever increasing AFDC assistance rolls; and

WHEREAS, stepfather liability for the support of stepchildren has been largely nullified by federal statute reinforced by the 1968 U. S. Supreme Court decision King vs. Smith and the 1970 Supreme Court decision Lewis vs. Martin; and

WHEREAS, the dependency caused by divorce and desertion has been compounded by unrealistic earning exemptions and elimination of stepfather liability for support; and

WHEREAS, the limitation of States' funding of AFDC imposes a severe budgetary hardship on those AFDC families unable to avail themselves of the extra-budgetary income of federally imposed earning exemptions or federal exemptions of stepfather liability for support, thereby creating a gross inequity among AFDC recipients; and

WHEREAS, President Nixon, as well as other national leaders, has pointed to the need for welfare reform on a national scale;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Congress of the United States is urged and requested to review and amend its statutes relating to AFDC which provide for alleged unrealistic earning exemptions and the exemption of stepfather liability for support, giving heed to the experience of the States trying to administer this program which threatens to become a national disaster; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the North Dakota Congressional Delegation.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3047  
(Mertens)URGING CONGRESS TO CONTINUE  
SCHOOL MILK PROGRAM

A concurrent resolution urging the President of the United States and the Congress of the United States to continue the school milk program.

WHEREAS, milk is regarded as nature's most perfect food, not only for its nutritional value but because milk has ingredients that make the body utilize the rest of the food supply better; and

WHEREAS, Americans, regardless of their income, are not as nutritional wise in their diets as they should be; and

WHEREAS, it is important to both body and mind to have a healthy diet and available energy; and

WHEREAS, the school milk program has had an outstanding record of providing the school children of North Dakota and the nation with quick energy so that they are alert both in mind and body during school hours;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the President of the United States and the Congress of the United States are urged to continue the school milk program; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the President of the United States and to each member of the North Dakota congressional delegation.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3050  
(Atkinson, Hilleboe)

REVISION OF CRIMINAL LAWS

A concurrent resolution directing the Legislative Council to carry out a revision of the substantive criminal laws of North Dakota.

WHEREAS, the criminal justice provisions and statutes of the State of North Dakota, and of the other States of the Union, are not adequately serving the needs of society in the areas of protection, the rehabilitation of convicted persons, or the prevention of criminal activity; and

WHEREAS, the North Dakota Judicial Council is in the process of revising the criminal procedures of this State, and, upon completion of the study, will offer for promulgation by the North Dakota Supreme Court a comprehensive set of rules of criminal procedure; and

WHEREAS, North Dakota's present substantive criminal statutes are the product of piecemeal legislation over a substantial period of time; and

WHEREAS, disparities and inequities in sentences and sentencing procedures are among the chief causes of the growing disenchantment with both the national and state criminal justice systems; and

WHEREAS, the system of criminal justice must be viewed as a comprehensive whole embracing every phase from crime prevention through correction and rehabilitation; and

WHEREAS, a revision of the substantive criminal laws of this State, with emphasis on classification of penalties, elimination of criminal provisions having little or no social utility, and consideration of substituting civil for criminal penalties when feasible, would, in conjunction with the pending revision of the rules of criminal procedure, be a large step toward development of a comprehensive criminal justice system for North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council is hereby directed to

review and revise the substantive criminal statutes of the State of North Dakota, or so much thereof as may reasonably be revised during the 1971-1972 legislative interim, with special emphasis on study and revision of the penalty structure established by present law, including the classification of penalties and the elimination of duplicate penalties. The Legislative Council shall also identify and prepare legislation to remove unused and archaic statutes, reconcile ambiguities and conflicting laws, eliminate surplus language, and take such other steps as may be necessary to prepare a substantively and formally complete codification, or so much thereof as may be accomplished during the 1971-1972 legislative interim; and

BE IT FURTHER RESOLVED, that the Legislative Council may, by itself or in conjunction with the Combined Law Enforcement Council, make application for and receive grants from an appropriate federal agency or agencies, and may expend any funds received for the purposes outlined in this resolution. The Legislative Council shall report its recommendations, accompanied by suitable legislation to accomplish the objectives of this study, to the Forty-third Legislative Assembly.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3051  
(Hoffner, Streibel)

COMMENDING STATE EMPLOYEES  
FOR ASSISTANCE TO LEGISLATURE

A concurrent resolution commending state employees for their cooperation and assistance to the Legislative Assembly.

WHEREAS, the staffs of the Legislative Council and of the departments of the executive and judicial branches of State Government have rendered their full cooperation and assistance to the Legislative Assembly; and

WHEREAS, many persons in State Government have worked long extra hours in order to provide service beyond the normal call of duty; and

WHEREAS, the extra time and effort expended by state employees in order to facilitate the successful functioning of the Legislative Assembly is performed at a considerable sacrifice to the employees and their families;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly hereby commends and extends its thanks to the many employees of State Government, the staffs of the legislative council, and the departments of the executive and judicial branches of State Government who have rendered their cooperation and assistance to this session of the Legislature.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3052  
(Atkinson, Rundle)

## STUDY OF JUDGES' RETIREMENT FUND

A concurrent resolution directing the Legislative Council to study the Judges' Retirement Fund, and the statutes providing the system of retirement benefits for supreme and district court judges.

WHEREAS, the Legislative Assembly enacted the basic law covering retirement programs for supreme and district court judges in 1949, and since that time has created a different system for state and local employees; and

WHEREAS, it is in the mutual interest of both the public and public employees that maximum benefits be obtained from both employer and employee contributions to retirement programs; and

WHEREAS, there has been discussion among members of the judicial branch concerning the adequacy of the present supreme and district court judges' retirement system; and

WHEREAS, House Bill No. 1540 has been introduced during this Legislative Assembly which would terminate the judges' retirement system and provide coverage for judges under the public employees' retirement system; and

WHEREAS, a thorough study should be made of the desirability, feasibility, actuarial soundness, and legality of proceeding to make substantial changes in the system of providing retirement for supreme and district court judges;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council is hereby directed to carry out a study of the adequacy of the present statutes, funding, and benefits provided by the present retirement system for supreme and district court judges, and to determine the desirability and feasibility of altering that system, of merging it with another retirement program, or of making such other recommendations as the results of the study may indicate are necessary. The Judicial Council of the State of North Dakota is hereby requested to render such aid, information, and assistance to the Legislative Council in the carrying out of this study as may be reasonable and necessary. The Legislative Council shall report its findings and recommendations, along with legislative measures necessary to implement them, to the Forty-third Legislative Assembly.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3053  
(Atkinson)

STUDY OF UNIFORM PROBATE CODE

A concurrent resolution directing the Legislative Council to study the feasibility and desirability of adopting the Uniform Probate Code for North Dakota.

WHEREAS, the National Conference of Commissioners on Uniform State Laws promulgated, and the American Bar Association approved, the Uniform Probate Code in August 1969; and

WHEREAS, the Uniform Probate Code project had its origin in an American Bar Association study commenced in 1939; and

WHEREAS, public discussion of and information regarding the shortcomings of the probate statutes of many States was enlarged by the recent publication of the book "How to Avoid Probate" by Norman F. Dacey; and

WHEREAS, much of North Dakota's law on probate procedure is derived from the territorial Probate Code of 1877, which has been amended sporadically and has been only partially codified since that time; and

WHEREAS, the general goals of laws dealing with probate procedures should be the speedy distribution of the decedent's estate, with due protection of the interests of the State, heirs, prospective heirs, and creditors, and unnecessary impediments to such speedy distribution should be removed;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council is hereby directed to carry out a study to determine the feasibility and desirability of adopting the Uniform Probate Code in this State, or to determine whether modifications to such Code would make it more readily workable. The Legislative Council shall also determine, in the event that the adoption of the Code is recommended, what other statutes of the State must be amended or repealed, in order to cause the remaining statutes to conform to the Probate Code. The State Bar Association and members of the judicial branch of government are urged to render such assistance to the Legislative Council as it may reasonably request to carry out this study. The Legislative Council shall report its findings and recommendations, along with any necessary legislation, to the Forty-third Legislative Assembly.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3055  
(Grant, Laughlin)RETENTION OF DEPARTMENT OF AGRICULTURE  
AS SEPARATE AGENCY

A concurrent resolution urging the President of the United States and the Secretary of Agriculture to retain the Department of Agriculture as a separate agency, investigate ways of improving the economic plight of the North Dakota farmer, and preserve the private enterprise system of our society.

WHEREAS, farmers in the State of North Dakota and in the nation are entitled to an economic standard in keeping with the rest of our national economy; and

WHEREAS, the economic condition of agriculture in North Dakota is at a dangerously low level; and

WHEREAS, the State of North Dakota, because of low farm income, is losing over 1000 farmers and ranchers each year; and

WHEREAS, the continual loss of farmers and ranchers has resulted in the loss of one small business for every sixth farmer who goes out of business; and

WHEREAS, the economic well-being of North Dakota's non-farm businesses, as well as tax receipts to state and local units of governments and the preservation of the private enterprise system of our society is largely dependent on agricultural income; and

WHEREAS, the Agricultural Act of 1970 and earlier federal laws grant to the Secretary of the United States Department of Agriculture a wide range of discretionary authority through which he can influence farm prices and income; and

WHEREAS, Secretary of Agriculture Hardin has indicated a drop in the loan support rate for 1971 grains raised in North Dakota which will amount to millions of dollars of lost revenue to the North Dakota economy; and

WHEREAS, agriculture is a major industry in the United States of America without which our great State of North Dakota, our great nation, and the world could not long survive; and

WHEREAS, we feel the role of agriculture in our nation's

economy has already been relegated to a dangerously low level of importance; and

WHEREAS, agriculture provides the greatest single unit of purchasing power in our country; and

WHEREAS, the Department of Agriculture has served the nation well in support of the produce of the soil; and

WHEREAS, the President of the United States has proposed that the Department of Agriculture be absorbed into other governmental agencies;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the President of the United States and the Secretary of Agriculture be urgently requested to maintain the Department of Agriculture as a separate agency of the United States government. The Secretary of Agriculture is urgently requested to maintain loan levels at the 1969 level, and investigate ways to immediately improve the economic plight of the small farmers which will preserve the only remaining real private enterprise sector of our American society; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the President of the United States, to the Secretary of Agriculture of the United States Department of Agriculture, to the Committee on Agriculture of the United States House of Representatives, to the Committee on Agriculture of the United States Senate, and to each member of the North Dakota Congressional Delegation.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3058  
(Walsh)

## URGING SNOWMOBILERS TO USE HELMETS

A concurrent resolution urging North Dakotans who ride or operate snowmobiles to use helmets, and to urge state organizations and agencies to encourage the use of helmets.

WHEREAS, snowmobiling has enjoyed an unprecedented increase in popularity among North Dakotans of all ages, and among both urban and rural residents, over the past few years; and

WHEREAS, this increase in popularity has brought a corresponding increase in the number of snowmobile accidents; and

WHEREAS, snowmobile drivers and riders are particularly susceptible to head injuries since they ride atop the vehicles and are not protected by any type of enclosure; and

WHEREAS, the danger of head injuries to snowmobile drivers and riders would be considerably lessened, and in some cases eliminated, by the wearing of a helmet while on a snowmobile; and

WHEREAS, the State Outdoor Recreation Agency and the State Health Department are two state agencies concerned with snowmobilers and with the health and safety of North Dakotans; and

WHEREAS, the recently created North Dakota Snowmobile Users Association is a statewide organization of snowmobilers;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly strongly urges all North Dakotans who ride on or operate snowmobiles to use helmets to lessen or prevent the danger of head injuries; and

BE IT FURTHER RESOLVED, that the Forty-second Legislative Assembly urges the North Dakota Snowmobile Users Association, the State Outdoor Recreation Agency, the State Health Department, and other state agencies and departments to consider and implement measures which will encourage the use of helmets by snowmobile riders and operators; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the president of the North Dakota Snowmobile Users Association, the director of the State Outdoor Recreation Agency, and to the State Health Officer.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3063  
(Boyum)

## STUDY OF ROAD CONSTRUCTION FINANCING

A concurrent resolution directing the Legislative Council to continue the study directed by House Concurrent Resolution No. 17 adopted by the Forty-first Legislative Assembly, relating to the financing of road and street construction.

WHEREAS, the report of the North Dakota Legislative Council to the Forty-second Legislative Assembly found that before any study of the highway tax distribution fund could be completed, it would be necessary to study the functions of the various road systems to determine the needs; and

WHEREAS, the North Dakota State Highway Department will, during the ensuing biennium, be completing such a study pursuant to a requirement by the Congress of the United States, in cooperation with the Secretary of Transportation and in cooperation with the counties and cities of North Dakota; and

WHEREAS, the results of such a functional study may justify action by the Legislative Assembly in making changes in statutes relating to the assignment of responsibility and jurisdiction over highways and streets upon a functional basis and to more equitably distribute highway taxes upon the basis of need; and

WHEREAS, it has been difficult to arrive at a highway tax distribution formula that has not resulted in equities and sometimes unjustifiable distributions of funds in such manner and in such amounts that no benefits can be accomplished therefrom;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council, with the cooperation of the State Highway Department and the counties and cities of this State, is hereby directed to continue the study directed by House Concurrent Resolution No. 17 from the Forty-first Legislative Assembly, as supplemented by this resolution; and

BE IT FURTHER RESOLVED, that the Legislative Council make its report and recommendations, together with any legislation necessary to implement such recommendations, to the Forty-third Legislative Assembly.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3064  
(Stone)PROVIDING CONSUMER EDUCATION  
CURRICULUM

A concurrent resolution urging the Department of Public Instruction to integrate elements of consumer education into appropriate courses of study in North Dakota's elementary and secondary schools.

WHEREAS, there is a growing awareness in the Nation as well as in North Dakota of the importance of consumer education in preparing young people for wise and responsible citizenship; and

WHEREAS, students should be made to feel that they are living now as truly as are adults, that their schools are helping them live now more rewardingly, and that with each dollar they spend they are learning not only to build a better future for themselves and for others, but also to understand and appreciate social values and the democratic processes; and

WHEREAS, one of life's most important goals is the proper managing of personal economic affairs and the maximizing of satisfaction from the level of one's income; and

WHEREAS, because a person is a consumer all his life, it is extremely important that schools provide education that will enable students to be informed and conscientious buyers of needed goods and services, or in other words, to be given adequate instruction in the handling of real life problems;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly urges the North Dakota Department of Public Instruction to develop and implement curriculums and programs on consumer education to be integrated into appropriate courses in North Dakota's secondary and elementary schools; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Superintendent of Public Instruction, the members of the Board of Public School Education, the presidents of the North Dakota Education Association, the North Dakota Association of School Administrators, and the North Dakota Congress of Parents and Teachers, and to the deans or chairmen of the Education Departments at the State's colleges and universities.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3066  
(Lundene)

SPEEDING FEDERAL AID FOR  
LOW COST HOUSING PROJECTS

A concurrent resolution requesting the President of the United States and the Secretary of Housing and Urban Development to simplify and speed procedures for federal funds.

WHEREAS, there is a definite need in many small North Dakota communities for low and moderate income housing; and

WHEREAS, there is an urgent need for housing for the elderly; and

WHEREAS, the requests for federal assistance in many projects is becoming increasingly complex; and

WHEREAS, many small North Dakota communities do not have people with the technical training to fill out requests for federal funds; and

WHEREAS, many small North Dakota communities have waited for more than one year for the status of their projects to be announced by the federal officials;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the President of the United States be respectfully requested to coordinate efforts with the Secretary of Housing and Urban Development to simplify and speed procedures for obtaining federal financial aid on low cost housing; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the President of the United States, the Secretary of Housing and Urban Development, and to the North Dakota Congressional Delegation.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3069  
(Walsh)

## CONGRATULATING DR. NORMAN BORLAUG

A concurrent resolution congratulating Dr. Norman E. Borlaug, the 1970 winner of the Nobel Peace Prize.

WHEREAS, in 1970 Dr. Norman E. Borlaug became the fifteenth American to win or share the prestigious Nobel Peace Prize; and

WHEREAS, the prize was awarded for his leading role in what has been called the Green Revolution, that is, in experiments with improved wheat seeds, new types of higher yielding rice, and more efficient uses of fertilizer and irrigation to provide larger food crops in many of the less-developed countries; and

WHEREAS, Dr. Borlaug has for twenty-five years pioneered in breeding new varieties of disease-resistant wheat having short straw and highly improved yields; and

WHEREAS, Dr. Borlaug now is Director of the famed Rockefeller Institute in Mexico City, where scientists from seventeen nations are seeking ways to help the world's hungry countries stave off famine and make their harvest more bountiful; and

WHEREAS, Dr. Borlaug has a strong farm background, having been born and raised on an Iowa farm and having received much of his training and some of his advanced degrees at the University of Minnesota where he gained fame not only as an exceptional scholar but as an outstanding athlete as well; and

WHEREAS, North Dakota, as one of the Nation's leading agricultural States, and as a foremost producer of wheat, has a particular interest in Dr. Borlaug's work;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly extends to Dr. Norman E. Borlaug its most sincere congratulations for his singular achievement in being awarded the 1970 Nobel Peace Prize, and wishes Dr. Borlaug continued success in his important work; and

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to Dr. Norman E. Borlaug.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3073  
(Raymond, Olienyk, Gackle)

EXPRESSING CONCERN FOR  
PRISONERS OF WAR

A concurrent resolution expressing concern for prisoners of war and men missing in action in Southeast Asia, and urging the Congress and the Governor to proclaim the week of March 21-27 as a special week of concern and March 21 as a special day of prayer for the prisoners and men missing in action.

WHEREAS, the Government of North Vietnam, along with 119 other nations, signed the Geneva Convention in 1957 and promised, in effect, to adhere to the covenants contained therein; and

WHEREAS, the Government of North Vietnam has since ignored the covenants of the Geneva Convention and has particularly disregarded those provisions related to the humane treatment of prisoners of war; and

WHEREAS, the Government of North Vietnam has not allowed neutral inspections of its prisoner of war camps, has refused to release the names of those being held captive, has refused to release the sick and wounded, and has refused to permit the free exchange of mail between prisoners and their families; and

WHEREAS, at least two natives of the State of North Dakota have been officially listed as prisoners of war, at least five natives of the State of North Dakota have been officially listed as missing in action, and at least eight natives of the State of North Dakota have not been accounted for in the war in Southeast Asia and may be prisoners of the North Vietnamese; and

WHEREAS, a resolution has been introduced into the United States Congress to designate the week of March 21-27 as "National Week of Concern" for prisoners of war and men missing in action;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Congress is hereby urged to declare March 21 as a special day of prayer and to pass the resolution now before it declaring the week of March 21-27 as "National Week of Concern" for prisoners of war and men missing in action; and

BE IT FURTHER RESOLVED, that the Governor of the State of North Dakota is hereby urged to proclaim March 21 as a special day of prayer and the week of March 21-27 as "North Dakota Week of Concern" for prisoners of war and men missing in action; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to each member of the North Dakota Congressional Delegation and to the Governor of the State of North Dakota, and that copies of this resolution be made available for public distribution.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3076  
(Weber)

MAINTENANCE OF PRESENT  
LEVELS OF ASSESSMENT

A concurrent resolution encouraging the State Board of Equalization to maintain the present levels of assessments for a two year period with only minor variations on locally assessed property in North Dakota.

WHEREAS, the annual, total tax burden imposed by the state of North Dakota and its political subdivisions on individuals and businesses is constantly increasing and now exceeds \$250,000,000.00 per year;

WHEREAS, the largest single source of tax revenue imposed by the state and its political subdivisions is the ad valorem tax on locally assessed real property, amounting in 1970 to over \$90,000,000.00 or an average annual per capita real estate tax of approximately \$147.00, over 90% of which is currently imposed and expended by the political subdivisions for local governmental purposes;

WHEREAS, inflationary pressures have driven the market value of real property in North Dakota upward at a very rapid rate and the ratio of assessments to true and full value of property has decreased during this severe inflation;

WHEREAS, a 1970 North Dakota sales ratio study shows a state average sales assessment ratio of 21.1%, and the State Board of Equalization has indicated they intend to move all locally assessed property to an equalized assessment level of 25% in 1971;

WHEREAS, experience has shown us that local governments do not appropriately reduce their mill levies when the State Board increases assessment levels and therefore the taxpayer would suffer an increased property tax bill as a result of the equalization at 25% level of assessment.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the State Board of Equalization be urged to maintain the present levels of assessments for a two year period with only minor variations.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3077  
(Tweten, Miedema, Opedah1)

## FARM OPERATIONS AT STATE INSTITUTIONS

A concurrent resolution regarding the discontinuance of certain farming operations at the charitable and penal institutions, providing for greater cooperation in the farming operations between the various institutions, and calling for improved financial reporting.

WHEREAS, the report by the Governor's Agricultural Advisory Council on farming activities at charitable and penal institutions provides information indicating the need for changes in the farming operations at the State Penitentiary, State Farm, State Industrial School, State Hospital, and the Grafton State School in order to realize a more economical and efficient program; and

WHEREAS, the report points to certain aspects of the farming operations which, on the basis of information provided, should be discontinued; and

WHEREAS, it has been found that greater coordination and improved management would improve existing operations; and

WHEREAS, a subcommittee consisting of members of the House and Senate Committees on Appropriations of the Forty-second Legislative Assembly has reviewed information available from current and prior studies of the various farming operations, and finds many of the recommendations meriting consideration for possible implementation;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That except for the Soldiers' Home, hog and poultry operations be discontinued at all of the State's charitable and penal institutions; and

BE IT FURTHER RESOLVED, that the management and operation of the farming activities at the State Industrial School be under the control of the Director of Institutions through the officials at the State Penitentiary; and

BE IT FURTHER RESOLVED, that all farming activities, with the exception of vegetable gardening, be phased out and

discontinued at the Grafton State School inasmuch as the therapeutic value of the farming operation for the training and rehabilitation of residents at the school is of questionable value and that management officials of the institution have gone on record stating that in their opinion, therapeutic value of the farming operation is of rather minimal value; and

BE IT FURTHER RESOLVED, that the State Department of Health and the Jamestown State Hospital are hereby directed to cooperate with the Director of Institutions in fully utilizing the available farming resources at the Jamestown State Hospital in the establishment of the most efficient nonduplicating farming operations as may be possible at those penal and charitable institutions which are engaged in farming activities; and

BE IT FURTHER RESOLVED, that all penal and charitable institutions be involved in the receipt and consumption of any farm production which may be in surplus at any of the producing institutions; and

BE IT FURTHER RESOLVED, that the Director of Institutions proceed with the implementation of major recommendations contained within the report of the Governor's Agricultural Advisory Council insofar as staff and funding provisions will allow; that the institutions maintaining farming operations provide information about such operations based upon a Cost Accounting System to the State Auditor for inclusion in his annual report of the institutions. Such financial information shall set forth the value of the farm production and the actual cost of the farming operations.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3080  
(Boyum, Linderman)

SUPPORT FOR CONSTRUCTION OF  
GARRISON DIVERSION UNIT

A concurrent resolution supporting construction of the Garrison Diversion Unit.

WHEREAS, the construction and development of the Garrison Diversion Unit of the Missouri River Basin Project will provide an assured supply of good water throughout central and eastern North Dakota for irrigational, municipal and industrial, recreational, and fish and wildlife use, and will bring a new era of economic growth to North Dakota and many benefits to the region and Nation; and

WHEREAS, the urgent need for the early development of the Garrison Diversion Unit to provide for the many project purposes is accompanied by a strong desire among the prospective water users and project beneficiaries for this development; and

WHEREAS, in order that construction of the project can proceed at a rate that will permit the delivery of water, beginning in 1975 as presently programmed, it is necessary that construction funds be made available at an increasing rate in the future;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly expresses its appreciation for the progress that has been made in the construction and development of the Garrison Diversion Unit and does respectfully request and urge the President of the United States and his Administration to give full support to the Garrison Diversion Unit to the end that construction of the project can be accomplished in accordance with the existing program wherein water deliveries are to be made in 1975, and also urges Congress to appropriate adequate funds to continue and accelerate the construction of this outstanding multipurpose water resource project to accomplish this program; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to President Richard M. Nixon, the Secretary of the United States Department of the Interior, the Chairman of the Interior Committees of the United States Senate and House of Representatives, the Commissioner of the Bureau of Reclamation, and to the North Dakota Congressional Delegation.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3081  
(Rundle, K. Johnson)

TRIBUTE TO NORTH DAKOTA MEN  
WHO HAVE DIED IN VIETNAM

A concurrent resolution honoring North Dakotans who have died in Vietnam.

WHEREAS, since the adjournment of the Forty-first Legislative Assembly, many of North Dakota's finest young men have been called upon to serve in the Armed Forces of the United States; and

WHEREAS, it is the intention of the Forty-second Legislative Assembly, as a representative of all North Dakota citizens, to pay special tribute to those brave, courageous, and loyal men who have, in the performance of their duty, made the supreme sacrifice which men of their stature have been called throughout our country's history to make for the right to be free;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly hereby pays solemn tribute to:

Pfc. Gilbert R. Bargmann, Hannover  
Sgt. Carl S. Berger, Jr., Mandan  
Spec. 4 Marvin C. Briss, Binford  
Sgt. Robert A. Brothen, Minot  
Pfc. Richard A. Buringrud, Argusville  
Spec. 4 Larry R. Collins, Fargo  
Pfc. David J. Corcoran, Grand Forks  
Spec. 4 Gerard F. Coulthart, Hamilton  
SSgt. Leon D. Cox, Jamestown  
Pfc. Joseph W. Crary, Fargo  
Spec. 5 Gerald A. Decker, Sentinel Butte  
Cpl. David D. Elsbernd, Crosby  
Sgt. Norman A. Emineth, Baldwin  
Spec. 4 Steve L. Escallier, Portal  
Spec. 4 Lawrence R. Esser, Minot  
LCPL Valarian L. Finley, Mandaree  
BT 3 Joseph D. Fischer, Zeeland  
Pfc. Wilbert C. Fleck, Breien  
Sgt. Roger E. Foreman, New Town  
Pfc. Robert M. Fullmer, Grand Forks

Pfc. Gene T. Gietzen, Glen Ullin  
BM 3 Patrick G. Glennon, Fessenden  
Spec. 4 Randy L. Hansen, Williston  
Spec. 4 Danny L. Hanson, Stirum  
Spec. 4 Lowell G. Hardmeyer, Mott  
Spec. 5 Larry B. Jacobson, Norma  
Spec. 4 Lyle M. Johannes, Kulm  
Sgt. David F. Johnson, West Fargo  
1 Lt. John M. Joyce, Minot  
Capt. John E. Kelly, Jr., Bismarck  
SSgt. James C. Kopseng, Harvey  
Spec. 4 Robert L. Kraft, Linton  
Sgt. William D. Kristjanson, Inkster  
Sgt. Gregory K. Krueger, Garrison  
Cpl. David J. Kuhn, Richardton  
Spec. 4 Merlin J. Laber, Sykeston  
Cpl. David A. Larson, Belcourt  
Sfc. John C. Lundin, Sentinel Butte  
Fn. Glenn E. Maier, Bismarck  
LCPL Mark D. Mangin, Verona  
Cpl. Dennis J. Manson, Belcourt  
BMSA Vern R. Mattingley, Williston  
Sgt. Ronald P. McNeill, Mott  
Spec. 4 Wesley E. Mueller, Jamestown  
Spec. 4 Eric D. Nadeau, Grand Forks  
Pfc. James A. Osterloth, Beach  
Sgt. Stanley J. Ottmar, Burt  
Pfc. Larry S. Poling, Fargo  
LCPL John M. Renner, Mandan  
Spec. 5 Jon P. Robbins, Dickinson  
Sgt. Robert E. Schmitz, Martin  
Sgt. Dennis R. Schossow, Sheldon  
Spec. 4 Donald G. Schrenk, Baldwin  
Pfc. Brent W. Sveen, Fargo  
WO 1 Roy V. Thomas, Bismarck  
Spec. 4 Blythe N. VanDeVenter, Grand Forks  
LCPL Richard A. Volk, Minot  
Spec. 5 Donald G. Vollmer, Bismarck  
CPT David A. Waldera, Fargo  
Spec. 4 Robert L. Weiher, Minot  
Sgt. Bruce L. Wold, Minot  
Spec. 4 Dennis S. Wosick, Grand Forks

for their sacrifice in helping to keep the United States and other freedom-loving countries from becoming subject to those forces which would take away the God-given right to be free men; and

BE IT FURTHER RESOLVED, that all North Dakota citizens extend their sorrow and deepest sympathy to the parents and relatives of these brave men, and express to them their fervent belief that these men did not die in vain; and

BE IT FURTHER RESOLVED, that the Secretary of State send enrolled copies of this resolution to the parents and wives of these men to whom the people of North Dakota owe so much.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3083  
(Patrick, Giffey, Hickie, E. Miller)

## FEDERAL CONSTRUCTION OF MISSOURI BANK STABILIZATION WORK

A concurrent resolution urging Congress to direct the United States Army Corps of Engineers to construct and maintain at Federal expense additional bank stabilization works on the Missouri River in North Dakota.

WHEREAS, as a part of the Missouri River Basin Development Project, dams and large reservoirs have been constructed by the Federal Government which occupy all the reaches of the Missouri River extending from Gavins Point Dam in South Dakota to Williston, North Dakota, with the lone exception of a seventy-mile stretch between the Oahe and Garrison Reservoirs in North Dakota; and

WHEREAS, the remaining channel between the Oahe Reservoir and Garrison Dam no longer performs its function as a natural river but is now acting as a regulated channel for the conveyance of water needed to meet the requirements of flood control, irrigation, navigation, power generation, municipal and industrial water supplies, pollution control, recreation, and wildlife purposes; and

WHEREAS, the stored water in the Garrison Reservoir is released in such manner as to accommodate the downstream beneficiaries as evidenced by the following facts:

1. The water is virtually silt-free when it enters the channel and has tremendous ability to pick up its former bedload in the form of silt;
2. The releases are fluctuated to accommodate the hydroelectric generation demand with variations from four thousand to thirty-two thousand cubic feet per second, thereby causing surging conditions which aggravate any existing erosion problem and cause an annual loss of approximately six hundred forty acres of valuable agricultural bottom lands; and

WHEREAS, a portion of this threatened land is now being irrigated or has an irrigation potential which is of great economic value to the adjacent localities and to the State of North Dakota; and

WHEREAS, Federal lands, public parks, and historic sites of national prominence are a part of the area affected; and

WHEREAS, industries that desire to locate adjacent to the river are being forced to seek more distant sites because of the uncertainty of maintaining their plants at a permanent location; and

WHEREAS, some bank stabilization works already constructed by the Federal Government are effectively protecting the areas in which they are located and attest to the need for similar works at other locations;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly of the State of North Dakota recommends and respectfully urges the Congress to direct and authorize the United States Army Corps of Engineers to construct and maintain additional structures needed to stabilize the banks of the aforesaid segment of the Missouri River on an emergency basis; and

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted by the Secretary of State to the members of the North Dakota congressional delegation; Chief of Engineers, Department of the Army, Washington, D. C.; Division Engineer, Missouri River Division, Corps of Engineers, Omaha, Nebraska; District Engineer, Corps of Engineers, Omaha, Nebraska; and Area Engineer, Corps of Engineers, Riverdale, North Dakota.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3086  
(Committee on Delayed Bills)

COMMENDING MINOT AND GRAND FORKS  
AIRBASE PERSONNEL

A concurrent resolution expressing confidence that the officers and men of the 91st and 321st Strategic Missile Wings at Minot and Grand Forks Air Force Bases will exhibit superior performance in participating in "Olympic Arena 71".

WHEREAS, the Strategic Air Command motto states that peace is their profession, whereby it logically follows that their goals are no different than those of all citizens; and

WHEREAS, our homes, our schools, our churches, and our very way of life depend on the Strategic Air Command's presence and their ability to perform their mission; and

WHEREAS, the Strategic Air Command of the United States Air Force will soon conduct the 1971 Missile Combat Competition at Vandenberg Air Force Base, California, such competition to be known as "Olympic Arena 71"; and

WHEREAS, the 91st Strategic Missile Wing at Minot Air Force Base and the 321st Strategic Missile Wing at Grand Forks Air Force Base, in combination, possess 300 Minutemen missiles, of the Nation's total arsenal of 1,000; and

WHEREAS, "Olympic Arena 71", in which both the 91st and 321st Strategic Missile Wings will be participating, is being undertaken for the purpose of identifying the most highly professional and most capable missile operations crews, maintenance teams, and units;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly hereby expresses confidence that the officers and men of the 91st and 321st Strategic Missile Wings will exhibit superior performance during "Olympic Arena 71", recognizes the contribution to the maintenance of nuclear deterrence which their units represent, and expresses the pride of the State of North Dakota in providing the foundation for their efforts; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to General Bruce K. Holloway, Commander-in-Chief, Strategic Air Command, Offutt Air Force Base, Nebraska; Lt. General Paul K. Carlton, Commander, 15th Air Force Base, March Air Force Base, California; Colonel Grover C. Graves, Commander, 91st Strategic Missile Wing, Minot Air Force Base; and Colonel Paul Krause, Commander, 321st Strategic Missile Wing, Grand Forks Air Force Base.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3087  
(Committee on Delayed Bills)

COMMENDING COUNTIES WITH  
COMBINED SUPERINTENDENTS OF SCHOOLS

A concurrent resolution commending Bottineau and Rolette Counties and Oliver and Mercer Counties for combining their offices of County Superintendent of Schools, and urging other counties to follow suit.

WHEREAS, Bottineau and Rolette Counties have a combined office of County Superintendent of Schools under the direction of Mrs. Charlotte Lange, and Oliver and Mercer Counties have a similar combined office under Mrs. Alice Husfloen; and

WHEREAS, the progressive steps taken by these four counties to combine these offices have led to more efficient government and better educational services for county residents, which in turn has shown the farsighted wisdom of the counties in making the decision to combine these offices; and

WHEREAS, section 150 of the North Dakota Constitution and section 15-22-25 of the North Dakota Century Code provide the authority, both constitutional and statutory, for counties to combine these offices; and

WHEREAS, if more counties would combine these offices it would ease some of the educational and financial strain on the counties and result in better coordinated and implemented educational programs for larger areas;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly commends Bottineau and Rolette Counties and Oliver and Mercer Counties for combining their offices of County Superintendent of Schools, and strongly urges other counties in North Dakota to give serious consideration to the many advantages to be gained, both financially and in better services, in combining this office with other counties; and

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the President of the North Dakota County Commissioners Association, to the County Superintendents of Schools for Bottineau, Rolette, Oliver, and Mercer Counties, and to the members of the County Commissions of those counties.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3088  
(Committee on Delayed Bills)

DEVELOPMENT OF RUBELLA  
IMMUNIZATION PROGRAMS

A concurrent resolution urging the State Department of Health to initiate and conduct a program of testing and immunizing for rubella.

WHEREAS, the incidence of rubella in pregnant women may result in the birth of mentally retarded or malformed babies; and

WHEREAS, thirty percent of the babies born to women who have contracted rubella during the early stages of their pregnancies are born with some degree of mental retardation, malformation, or other condition such as blindness, deafness, or heart defects; and

WHEREAS, the direct cost to the State in providing services to persons with these conditions is very high; and

WHEREAS, the anguish caused to parents and the suffering borne by these children cannot be measured in dollars; and

WHEREAS, testing for rubella can be conducted in conjunction with the blood test for a marriage license to determine whether a woman is subject to incurring the disease, and steps can be taken to prevent such women from contracting the disease; and

WHEREAS, a combined program of testing and immunizing for rubella could bring this disease under control;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the State Department of Health is hereby urged to initiate and conduct a program of testing and immunizing for rubella and to take such other steps as are deemed necessary to control this disease.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3089  
(Delayed Bills Committee)

## CONGRATULATING MINOT STATE COLLEGE ATHLETIC TEAMS

A concurrent resolution congratulating the Minot State College basketball and football teams on their fine seasons, and wishing the basketball team good luck in the district playoffs.

WHEREAS, the Minot State College football team won the North Dakota College Athletic Conference championship last fall and represented this area in the National Association of Inter-collegiate Athletics national playoffs; and

WHEREAS, Minot State's basketball Beavers tied for the NDCAC basketball title with Valley City State College and then defeated Valley City in the NAIA District 12 semifinals; and

WHEREAS, the Beavers, if they win the District 12 championship game against a South Dakota opponent Tuesday, March 2, will advance to the NAIA national tourney in Kansas City, Missouri; and

WHEREAS, all the citizens of North Dakota share the pride and sense of accomplishment for the achievements of Minot State's athletic teams this academic year, and recognize the hard work and dedication to purpose that these accomplishments represent;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly extends its sincere congratulations to all of the athletes, coaches, and other officials at Minot State College who made these fine athletic achievements possible, and that this Assembly extends its best wishes to the Minot State College basketball team for good luck in the NAIA District 12 championship game; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of Minot State College, to the Athletic Director at Minot State College, and to the head coaches of the Minot State College football and basketball teams.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3090  
(Committee on Delayed Bills)

STUDY OF TEACHER  
CERTIFICATION PROCEDURES

A concurrent resolution directing a Legislative Council study of teacher certification procedures.

WHEREAS, the orderly growth and conduct of the education profession in North Dakota is a matter of great concern to all North Dakotans; and

WHEREAS, the quality of life in North Dakota can be directly traced to the quality of education available to its citizens, and the quality of education is linked immutably to the caliber of an educational system's key personnel, its teachers; and

WHEREAS, teacher certification is an extremely important factor in maintaining and fostering a highly professional and qualified corps of teachers in North Dakota; and

WHEREAS, there exist several methods and means by which teacher certification can be carried out, either through existing procedures used by the Department of Public Instruction to certify teachers, or by transferring teacher certification duties to some other board or agency, such as the Teachers' Professional Practices Commission, or even perhaps by creating a new agency, department, or board composed of teachers, administrators, and laymen, to handle certification;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly directs the Legislative Council, with the aid and assistance of the State Superintendent of Public Instruction, the Board of Higher Education, the Teachers' Professional Practices Commission, the North Dakota Education Association, and any other appropriate agencies, departments, or groups, to study teacher certification procedures in North Dakota to determine if they should be left as they are, if and how they can be strengthened or improved, if they should be transferred to another existing agency, department, or board, or if some type of special board or agency should be organized to certify teachers; and

BE IT FURTHER RESOLVED, that the Legislative Council make its report and recommendations thereon to the Forty-third Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3091  
(Committee on Delayed Bills)

STUDY OF FEDERAL REVENUE SHARING

A concurrent resolution providing for a study by the Legislative Council of the impact of federal revenue sharing proposals upon programs of the State and its political subdivisions.

WHEREAS, the National Administration, with bipartisan support and the assistance of numerous associations representing the States and local governments of the United States, has presented a revenue sharing program to the Congress which would consolidate into six major categories many of the numerous grant-in-aid programs of the Federal Government, increase the level of federal support of such programs, especially in rural areas, and largely give to the State and its political subdivisions authority to determine their own priorities in programs within each field to meet the individualized needs of the respective States; and

WHEREAS, in addition to such federal grant consolidation, the proposal would provide in excess of \$5 billion of general revenue sharing, of which North Dakota's share would be \$20.5 million per year, or \$41 million per biennium, approximately half of which would be distributed to local general governmental units; and

WHEREAS, unless the State develops a distribution plan for the revenues allocated to the political subdivisions of the State which is approved by the Legislative Assembly and the major political subdivisions, state and local government will lose ten percent of the available general revenue sharing moneys, or a total of about \$4.1 million per biennium; and

WHEREAS, other members of the National Congress have introduced legislation providing for alternative methods of revenue sharing or specific increases in the federal support of welfare and other programs; and

WHEREAS, it is essential that the Legislative Assembly and the State of North Dakota study and review the various revenue sharing proposals as they are developed by the Congress, and study and review their impact upon existing state and local programs, as well as alternative intrastate distribution programs for general revenue sharing, in order that, through proper legislative action, the State and its political subdivisions may

receive their proper share of federal allocations and ensure that the State and its local governments are provided with full and adequate information to develop program priorities to best meet the most urgent needs of the State and its citizens, both efficiently and economically;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council is hereby authorized and directed to appoint a special committee or committees upon revenue sharing for the purposes stated in this resolution, and to make its report and recommendations to the Legislative Assembly at its next session, together with suitable legislation to carry out such recommendations; and

BE IT FURTHER RESOLVED, that each department, agency, institution, and political subdivision of the State shall provide such aid, information, and assistance as the Council may from time to time request.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3092  
(Committee on Delayed Bills)

LEGISLATIVE INTENT TO COMPLY  
WITH OMNIBUS CRIME CONTROL ACT

A concurrent resolution declaring the intent of the Legislative Assembly to comply with the requirements of the Omnibus Crime Control and Safe Streets Act.

WHEREAS, there is a need for improved and expanded law enforcement and crime prevention services to control and reduce crime in the State of North Dakota; and

WHEREAS, the Omnibus Crime Control and Safe Streets Act of 1968, as amended, provides that state and local governments may qualify for federal funds by providing matching funds; and

WHEREAS, in order to improve, expand, and strengthen law enforcement, improve criminal justice, and develop new methods for the prevention and reduction of crime in the State of North Dakota, the Forty-second Legislative Assembly has adopted a number of measures calling for an additional effort on the part of state and local governments in this regard; and

WHEREAS, federal law precludes the use of federal funds to replace state and local funds which would have been available in the absence of the federal funds;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly hereby declares that it is its intent that the increased obligation provided in House Bills Nos. 1003, 1026, 1155, 1229, 1238, 1254, and 1348, and in subdivisions 1 and 2 of section 3 of Senate Bill No. 2004, Senate Bill No. 2005, subdivision 4 of section 3 of Senate Bill No. 2006, Senate Bills Nos. 2013, 2014, 2182, 2199, 2220, 2314, and 2463, among others, shall be used as matching funds for purposes of compliance with the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3093  
(Committee on Delayed Bills)

COMPLETION OF LEGISLATIVE JOURNALS

A concurrent resolution providing for the completion of the legislative journals of the house and senate.

WHEREAS, after termination of the Forty-second Legislative Assembly a complete record with index of the senate and house journals must be prepared;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That Roy Gilbreath, Chief Clerk of the House, and Leo Leidholm, Secretary of the Senate, are hereby authorized and employed to compare and index the journals of the Forty-second Legislative Assembly, and the said Roy Gilbreath and Leo Leidholm are hereby directed to arrange for and procure sufficient assistance to insure that the said work shall be completed within twenty days after the adjournment of the session; and

BE IT FURTHER RESOLVED, that for the expenses of the said Roy Gilbreath and Leo Leidholm, as above set forth, there shall be allowed the sum of \$1,320.00 each, which shall include compensation for any assistance deemed necessary by them, all to be paid as other legislative expense, and paid when the respective claims are verified by the affidavits of the said Roy Gilbreath and Leo Leidholm showing completion of such work.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3094  
(Committee on Delayed Bills)

COMMENDING DALE DALZIEL  
CURLING RINK

A concurrent resolution commending the Dale Dalziel Rink of Edmore and the Art Tallackson, Jr., Rink of Grafton for winning the United States Men's Curling Championships in 1971 and 1970, respectively.

WHEREAS, curling is an internationally famous competitive winter sport; and

WHEREAS, the Dale Dalziel Rink of Edmore, North Dakota, has won the 1971 United States Men's Curling Championship and will be competing in the Silver Broom World Championship in France starting March 16; and

WHEREAS, the Art Tallackson, Jr., Rink from Grafton, North Dakota, won the United States Championship in 1970 and placed third in the World Championship; and

WHEREAS, in addition to being the second straight year North Dakota has defeated the best teams in the Nation in the annual playdowns, this marks the fourth national championship for a North Dakota entry; and

WHEREAS, the people of North Dakota take great pride in these teams which have brought national and international attention to our State;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-second Legislative Assembly takes great pleasure in commending the Dale Dalziel Rink and the members of that team: Dale Dalziel, Rodney Melland, Clark Sampson, and Dennis Melland; and the Art Tallackson, Jr., Rink and the members of that team: Art Tallackson, Jr., Glenn Gilleshammer, Ray Holt, and Trueman Thompson for the honors they have achieved in curling championships; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to each member of these curling teams.

Filed March 31, 1971

HOUSE CONCURRENT RESOLUTION NO. 3095  
(Committee on Delayed Bills)STUDY OF STATE AND LOCAL  
TAX SYSTEM

A concurrent resolution directing the Legislative Council, with the aid and cooperation of the State Tax Department, to make a comprehensive study of the North Dakota tax structure, with emphasis upon property tax assessment procedures, the twenty-one mill levy, the business privilege tax, and the sales tax.

WHEREAS, there is a continuing need for tax revenue to support state and local government in North Dakota, particularly to fund the rising costs of education; and

WHEREAS, the taxpayers of this State are demanding a more equitable distribution of the tax burden; and

WHEREAS, the repeal of the personal property tax has focused attention upon the need for improved assessment procedures for real property, especially the usage of the sales assessment ratio study; and

WHEREAS, the business privilege tax, one of the primary sources of personal property tax replacement revenue, may contain inequities; and

WHEREAS, there is a need to review the entire tax structure of this State;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council is directed, with the aid and cooperation of the State Tax Department, to make a comprehensive study of the North Dakota tax structure, with emphasis upon the following items:

1. Property tax assessment procedures, including an analysis of the sales assessment ratio study and a review of the basis and methods used in applying the sales assessment ratio study in the past;
2. The twenty-one mill county equalization fund levy, including a consideration of alternative methods of funding education in this State;

3. The business privilege tax, including an analysis of the first year's experience with this tax and a consideration of methods to broaden the base of this tax;
4. The sales tax, including a consideration of broadening the base of such tax to provide additional revenue for education; and

BE IT FURTHER RESOLVED, that the Legislative Council make its report and recommendations to the Forty-third Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 31, 1971

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# HOUSE MEMORIAL RESOLUTIONS

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HOUSE MEMORIAL RESOLUTION NO. A  
(Committee on House Memorial Resolutions)

## MEMORIAL FOR DECEASED HOUSE MEMBERS

A memorial resolution for deceased members of the House of Representatives of the State of North Dakota.

WHEREAS, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

CARL J. AUSTAD, who served in the Twenty-seventh Legislative Assembly, from the forty-ninth district, died October 25, 1970.

OTTO BAUER, who served in the Fortieth Legislative Assembly, from the eighth district, died December 5, 1970.

RALPH BEEDE, who served in the Twenty-sixth to the Twenty-eighth and the Thirty-second to the Thirty-sixth Legislative Assemblies, from the forty-seventh district, died December 4, 1969.

DONALD K. DIKE, who served in the Twenty-sixth Legislative Assembly, from the fourth district, died May 16, 1966.

JOE GUMERINGER, who served in the Thirty-first, Thirty-third, and Thirty-fourth Legislative Assemblies, from the forty-second district, died September 13, 1970.

JOHN H. HAUGEN, who served in the Thirty-first Legislative Assembly, from the sixteenth district, died February 23, 1970.

CHRIS HILLEBOE, who served in the Thirty-fifth and Thirty-sixth Legislative Assemblies, from the ninth district, died July 12, 1969.

ALBERT HOMELVIG, who served in the Thirtieth to the Thirty-fourth Legislative Assemblies, from the thirty-ninth district, died March 26, 1970.

MILO KNUDSEN, who served in the Thirty-fourth to the Thirty-ninth Legislative Assemblies, from the twenty-fourth district, died February 12, 1970.

RICHARD R. LOFTHUS, who served in the Twenty-second and Twenty-third Legislative Assemblies, from the seventeenth district, died December 10, 1970.

KENNETH C. LOWE, who served in the Thirty-fifth to the Thirty-eighth Legislative Assemblies, from the sixth district, died February 15, 1971.

CARL A. MILLER, who served in the Nineteenth to the Twenty-first Legislative Assemblies, from the thirty-sixth district, died August 30, 1969.

L. C. MUELLER, who served in the Thirty-fourth to the Forty-first Legislative Assemblies, from the twenty-fifth district, died August 17, 1970.

HARRY G. RENFROW, who served in the Thirty-fourth to the Thirty-seventh Legislative Assemblies, from the eighteenth district, died April 6, 1970.

HENRY ROEN, who served in the Thirtieth Legislative Assembly, from the thirty-ninth district, died September 28, 1970.

ARTHUR J. RULON, who served in the Nineteenth to the Twenty-second Legislative Assemblies, from the twenty-third district, died March 28, 1970.

JOHN C. SANDNESS, who served in the Twenty-fifth Legislative Assembly, from the twenty-fourth district, died December 31, 1968.

RAY SCHNELL, who served in the Twenty-sixth, Twenty-eighth, Twenty-ninth, and Thirty-eighth Legislative Assemblies, from the thirty-first district, died April 5, 1970.

HAROLD G. SKAAR, who served in the Thirty-fifth to the Fortieth Legislative Assemblies, from the forty-fourth district, died August 5, 1970.

MARTIN SMEDSHAMMER, who served in the Thirty-sixth Legislative Assembly, from the twenty-fourth district, died October 25, 1969.

LYNN W. SPERRY, who served in the Twentieth Legislative Assembly, from the twenty-seventh district, died November 9, 1969.

TARGIE TRYDAHL, who served in the Twenty-fifth to the Twenty-seventh and the Thirty-second to the Thirty-fifth Legislative Assemblies, from the seventh district, died July 16, 1970.

HOWARD C. WILLIAMS, who served in the Twenty-fourth to the Twenty-eighth Legislative Assemblies, from the thirty-seventh district, died October 14, 1969.

RICHARD E. WOLF, who served in the Twenty-sixth to the Twenty-ninth and the Thirty-third Legislative Assemblies, from the thirtieth district, died October 9, 1970.

WHEREAS, today, we as members of the House of Representatives of the Forty-second Legislative Assembly of the State of North Dakota pause to mourn the passing of our former colleagues, and to honor their memories; and

WHEREAS, these legislators rendered outstanding service to the people of the State by their contribution to their fellowmen and their communities;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE FORTY-SECOND LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

That we express our keen sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of these, our former colleagues; and

BE IT FURTHER RESOLVED, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the journal of the House of Representatives and that duly enrolled copies of this resolution be presented by the Secretary of State to the surviving families of these deceased Representatives.

Filed March 31, 1971

# SENATE RESOLUTIONS

SENATE RESOLUTION NO. 1  
(Wenstrom, Strinden, Larson, Freed, Nasset)

## SENATORIAL ELECTION CONTEST

A resolution relating to the election contest in the Nineteenth Legislative District.

WHEREAS, Duane Mutch of Larimore in Grand Forks County, Nineteenth Legislative District, has filed with the Secretary of State a contest challenging and contesting the election of Gerald Kuster of Reynolds, in the Nineteenth Legislative District; and

WHEREAS, such Notice of Contest has been served upon Gerald Kuster who has answered the allegations contained in the Notice of Contest; and

WHEREAS, such Notice of Contest has been brought to the attention of the Senate and a committee having been appointed to check the contested election; and

WHEREAS, the charges contained in said Notice of Contest should be investigated by the Senate;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA:

That such committee shall have all power and authority necessary to investigate the charges contained in such Notice of Contest, which shall specifically include the following powers and authority:

1. Authority to subpoena witnesses;
2. Subpoena public and private records;
3. To administer oaths or affirmations to all witnesses;
4. To apply to the Senate for the punishment of any witnesses for contempt or for any disobedience of a subpoena, refusal to be sworn or to make an affirmation, or fail to answer as a witness;
5. To reduce the testimony to writing as the committee deems it advisable and to employ the necessary personnel to accomplish this;

6. To conduct hearings at such places, dates, or hours as the committee may deem necessary;
7. To employ such personnel or other assistants as the committee may deem necessary; and
8. To institute the necessary proceedings to make available to the committee election records, ballots, and other related material.

BE IT FURTHER RESOLVED, that the expenses of such investigation as may be incurred by the committee to carry on this investigation be paid from legislative funds, including subpoena fees and mileage and that the fees of the witnesses and mileage be at the rates provided for witnesses appearing in district court.

Filed February 17, 1971

SENATE RESOLUTION NO. 3  
(Wilhite, Christensen)

COMMENDING DEAN THOMAS J. CLIFFORD

A resolution commending Dean Thomas J. Clifford upon his being named the new President of the University of North Dakota.

WHEREAS, Dean Thomas J. Clifford has for many years devoted his very special talents and energies to furthering the cause of higher education in North Dakota; and

WHEREAS, he has served with distinction and exceptional merit in the dual capacities of Vice President of Finance and Dean of the College of Business and Public Administration for the University of North Dakota; and

WHEREAS, he has been widely recognized both in North Dakota and in professional circles for his civic and educational accomplishments; and

WHEREAS, members of the North Dakota State Senate through association with him over the years have come to highly respect him as an administrator and value him as a friend; and

WHEREAS, after careful deliberation and after screening the top candidates available for the position from across the country, the North Dakota State Board of Higher Education has chosen Dean Thomas J. Clifford to be the next President of the University of North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA:

That it extend to President-Designate Dean Thomas J. Clifford its most heartfelt congratulations and sincere best wishes in the job ahead, and that it express to him its confidence that he will continue and further his excellent record of accomplishment and achievement in his new post; and

BE IT FURTHER RESOLVED, that the Secretary of the Senate forward a copy of this resolution to Dean Thomas J. Clifford.

Filed February 17, 1971

SENATE RESOLUTION NO. 4  
(Longmire)

## COMMENDING DR. GEORGE A. ABBOTT

A resolution commending Dr. George A. Abbott for his service to the State of North Dakota and for his record of civic accomplishments through the Kiwanis Club.

WHEREAS, Dr. George A. Abbott, Professor Emeritus of Chemistry at the University of North Dakota, has spent a lifetime in service to North Dakota and its citizens through his work at the University; and

WHEREAS, he served variously as a teacher and department chairman at the University of North Dakota from 1910 to his retirement in 1952, and in recognition of this the University named its chemistry building Abbott Hall in his honor; and

WHEREAS, his contributions and accomplishments, both of a civic nature and professionally, have been myriad and deeply appreciated; and

WHEREAS, at the age of 96, he is the oldest Kiwanian in North Dakota and is one of two surviving charter members of the Grand Forks Kiwanis Club; and

WHEREAS, his lifetime of service to Kiwanis has earned him the richly deserved title of "Mr. Kiwanis" both in North Dakota and throughout the international domain of Kiwanis; and

WHEREAS, the Grand Forks Kiwanis Club is sponsoring a special "Dr. George Abbott Night" on January 25, 1971;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA:

That it join with Dr. Abbott's host of friends and admirers in extending to him sincere congratulations and best wishes for his many years of unselfish giving of himself for the benefit of others; and

BE IT FURTHER RESOLVED, that the Secretary of the Senate forward an enrolled copy of this resolution to Dr. George A. Abbott.

Filed February 17, 1971

SENATE RESOLUTION NO. 5  
(Thane, Swedlund, Jones)

OFFICIAL SENATE PHOTOGRAPHER

A resolution to appoint an official photographer for the Senate of the Forty-second Legislative Assembly of the State of North Dakota.

WHEREAS, for historical purposes it has been the custom of all North Dakota Legislative Assemblies to have composite group pictures made of all members of such assemblies; and

WHEREAS, L. W. Nagele Campbell's Studio, of Bismarck, North Dakota, offers to make a composite group picture of the members of the 1971 North Dakota Senate, size thirty inches by forty inches, said picture to be framed and ready to hang; and fifty-five, fourteen inches by eleven inches, copies of said picture for each member and desk force of the Senate; and two, five inches by seven inches, print of each senator and the lieutenant governor for the state historical society, at a cost of eight hundred forty-five dollars;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA:

That L.W. Naegle Campbell's Studio, of Bismarck, North Dakota, be and is hereby appointed official photographer for the North Dakota Senate of the Forty-second Legislative Assembly.

BE IT FURTHER RESOLVED, that L.W. Naegle Campbell's Studio, of Bismarck, North Dakota, be, and is hereby awarded the sole privilege of photographing members of the Senate of the Forty-second Legislative Assembly, at a cost price of eight hundred forty-five dollars to be taken out of legislative expenses.

BE IT FURTHER RESOLVED, that delivery of the photographs shall be within ninety days after the adjournment of the legislative session.

Filed February 17, 1971

SENATE RESOLUTION NO. 6  
(Rait, Roen)

THANKING LEGISLATORS RESPONSIBLE  
FOR SAUSAGE PARTY

A resolution thanking Senator Hernet and Representatives Raile and Welder and friends for staging their biennial Sausage Party for their colleagues and friends.

WHEREAS, it is important for the smooth functioning of any large heterogeneous body such as a state legislature that there exists a certain feeling of camaraderie quite apart from strict legislative protocol to facilitate business being done in an orderly and efficient manner; and

WHEREAS, there is a need in every legislative session for opportunities for informal gatherings of legislators, as distinguished from more formal meetings and sessions, to promote good will among the members and to allow the members to get to know one another better; and

WHEREAS, Senator Hernet and Representatives Raile and Welder, the legislative delegation from the 30th District, and their friends have again provided such an opportunity by sponsoring the biennial Legislative Sausage Party, a function of some fifteen years standing;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA:

That it extends to Senator Hernet and Representatives Raile and Welder and their friends sincere thanks and appreciation for their action in hosting the traditional Legislative Sausage Party.

Filed March 31, 1971

SENATE RESOLUTION NO. 7  
(Ringsak)  
(Committee on Delayed Bills)

COMMENDING SENATOR BUTLER

A resolution commending Senator Butler and wishing him a speedy recovery.

WHEREAS, Senator Francis J. Butler has served the people of the 21st legislative district in the North Dakota State Senate since 1967; and

WHEREAS, his hard and diligent work during the sessions and on interim committees has earned him the respect and admiration of his colleagues and has been of great benefit to the State of North Dakota; and

WHEREAS, an unfortunate illness has prevented Senator Butler from attending many of the Senate sessions during this Forty-second Legislative Assembly, thus depriving his colleagues of his experience, expertise, and sage counsel;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA:

That it commends Senator Butler for his outstanding service to North Dakota and its citizens and wishes him a good and speedy recovery; and

BE IT FURTHER RESOLVED, that an enrolled copy of this resolution be presented to Senator Butler by his fellow Senators from the 21st Legislative District.

Filed March 31, 1971

# SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION NO. 4002  
(Coughlin, Holand, Kautzmann, Lips, Litten, Strinden, Van Horn)  
(From Legislative Council Study)

## ADMINISTRATION OF PUBLIC WELFARE PROGRAMS

A concurrent resolution directing the Public Welfare Board to implement administrative recommendations of the welfare study to improve the administration of public welfare in North Dakota.

WHEREAS, the Legislative Council has completed a study, with the assistance of Touche Ross & Co., a nationally recognized consulting firm, and as a result of such study has made specific recommendations which if implemented will improve the public welfare program in North Dakota; and

WHEREAS, the North Dakota Legislative Assembly through Senate Bill No. 97 of the Forty-first Legislative Assembly has expressed its directive that all findings and recommendations resulting from the study be presented to the legislature in such form as may be necessary to implement such recommendation;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Public Welfare Board implement in the area of the state public welfare organization the following recommendations:

1. Current state welfare organization staff functions be grouped under four different directors, and all of the field or line operations be under a Director of Field Operations;
2. All state level welfare activities concerning economic assistance be under the position of Director of Economic Assistance;
3. All financial, statistical, auditing, disbursing, and office services activities be under one position, the Director of Planning and Finance;
4. All social service functions now performed at the state level be under one position, the Director of Social Services;

5. The present personnel and staff development functions continue to be the responsibility of a Director of Personnel and Staff Development; and

BE IT FURTHER RESOLVED, that in the administration of the Title XIX Medical Assistance Program the following recommendations be implemented:

1. Establish a program management team consisting of a physician, two analysts, a part-time dental consultant, and a part-time pharmaceutical consultant, and direct such team to review recipient medical services received for improper utilization, to make appropriate field investigations, to work with provider advisory groups, and to develop policies and procedures to improve effectiveness and quality of medical care for welfare recipients;
2. Consider the development of identification cards in lieu of medical authorizations after the recommended program management team is in operation to greatly reduce clerical effort in the local welfare office;
3. Comply with federal regulations concerning hospital cost reimbursement;
4. Consider private agency to assist in performing hospital audits;
5. In regard to nursing home reimbursement, the board is directed to call for improved reporting from nursing homes on nursing home costs and to develop an improved formula for the payments to nursing homes for the care and treatment of welfare recipients;
6. Audit nursing home cost statements to verify the accuracy and fairness of the information presented, including patient statistics, costs of donated services, and allocation of costs between custodial and nursing care; and

BE IT FURTHER RESOLVED, that the following recommendations regarding a social service management reporting program be implemented:

1. Include in management reporting social service program information concerning specific activity, attainment of goals, actual costs, and amounts over and under budget;
2. Improve the management and budgeting reporting function by developing and implementing a specific system for social services information; and

BE IT FURTHER RESOLVED, that the Public Welfare Board take action regarding the following recommendations relating to improving the personnel management system in the department:

1. Exercise more control over personnel practices at the local level to correct compensation inequities;
2. Study the Merit System with a view toward making salary levels more competitive with the private sector labor market;
3. Increase staff development activities at the regional or area level and establish a training steering committee for planning purposes;
4. Develop a management-by-objectives system to improve performance evaluation efforts and to increase individual motivation to accomplish specific goals; and

BE IT FURTHER RESOLVED, that the following improvements be made in the Public Welfare Board's accounting and budgetary practices and procedures:

1. Adopt an accrual basis of accounting to the extent practical and appropriate;
2. Handle child welfare disbursements in the same manner as administrative disbursements;
3. Document basic accounting procedures and prepare a procedural manual. Establish a formal general ledger as part of a more structured approach to the accounting function; and

BE IT FURTHER RESOLVED, that the State Public Welfare Board, for the purpose of eliminating duplication and confusion as to function and responsibility, review and define the function and duties of the Area Social Service Centers, and that the functions and duties be those of:

1. Providing social services only in counties where the specific specialized service is not adequately available through regular employees of the County Welfare Board, such service to be specifically described for each county of the State according to the needs of each county;
2. Providing field assistance to the Public Welfare Board in carrying on its responsibility of supervising the administration of the state public welfare programs in all counties of the State;

3. Serving as a base for coordinated operations for other related programs of the State that are administered by or under other state departments or agencies; and

BE IT FURTHER RESOLVED, that on a quarterly basis during the biennium ending June 30, 1973, the Public Welfare Board submit reports in writing to the Legislative Council outlining action taken pursuant to this resolution and other recommendations contained within the Touche Ross Report; and

BE IT FURTHER RESOLVED, that the Legislative Council make a report to the Forty-third Legislative Assembly along with such legislation as it may deem necessary on the basis of its review of such quarterly reports and other additional studies as it may deem necessary to ensure implementation of the Touche Ross & Co. recommendations contained in this resolution; and

BE IT FURTHER RESOLVED, that the Public Welfare Board implement the recommendations and directives contained within this resolution to the extent that funds are available from moneys appropriated to the Public Welfare Board for the biennium beginning July 1, 1971, and ending June 30, 1973.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4007  
(Christensen, Litten)

(From Legislative Audit and Fiscal Review Committee Study)

AUDITOR TO ESTABLISH  
PERFORMANCE POSTAUDIT PROGRAM

A concurrent resolution directing the State Auditor's office to establish a performance postaudit program, and declaring legislative intent regarding the expenditure of funds appropriated to the State Auditor's office for the biennium ending June 30, 1973.

WHEREAS, the Legislative Audit and Fiscal Review Committee, in its search for methods to ensure compliance with legislative intent by state administrative officials, and in its desire to increase the economies and efficiencies of state government to the greatest extent possible, has concluded that the development of a performance postaudit program will be a significant step in this direction; and

WHEREAS, a performance postaudit program is defined as an independent examination conducted for the purpose of evaluating and reporting the manner in which administrators of the agencies and departments of the state have discharged their responsibility to faithfully, effectively, and efficiently administer the programs of the State; and

WHEREAS, as used in the foregoing paragraph, the term "faithfully" shall be deemed to mean whether or not programs have been administered in accordance with promises made to the Legislative Assembly and in accordance with legislative will; "effectively" shall be deemed to mean whether or not planned program objectives have been achieved; and "efficiently" shall be deemed to mean whether or not program accomplishment has been achieved by using the least-cost combination of resources with a minimum of waste; and

WHEREAS, since the legislative branch of government bears the burden of authorizing public programs and activities and appropriating the public revenues necessary to execute such programs and activities, and is thus most directly concerned in seeing that public funds are properly expended, it is the opinion of the Legislative Assembly that, in the best interest of effective and economical state government, moneys appropriated for the audit function be used in the evaluation of performance in terms of legislative intent and sound governmental fiscal practices and procedures; and

WHEREAS, it is believed that the State cannot receive a return at the highest level possible for dollars expended on the audit function if an evaluation and a report on performance is omitted; and

WHEREAS, such audits are a logical step and supplement to financial audits conducted in accordance with generally accepted auditing standards and procedures;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the State Auditor is hereby directed to conduct performance postaudits and it is the intent of the Legislative Assembly that moneys appropriated to the State Auditor's office for the biennium beginning July 1, 1971, and ending June 30, 1973, shall be expended to the extent necessary to develop a sound financial and performance postaudit program.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4008  
(Christensen, Litten)

PUBLIC EMPLOYEES HOLDING  
ADDITIONAL EMPLOYMENT

A concurrent resolution relating to personnel policies for all state agencies, departments, and institutions including those under the control of the Board of Higher Education in regard to additional employment by public employees.

WHEREAS, the Legislative Audit and Fiscal Review Committee has found that no sufficiently uniform policy exists in the various departments, institutions, and agencies of the State to assist administrators and employees in situations where employees desire approval to enter into additional employment; and

WHEREAS, additional employment refers to those instances where an employee enters into a part-time employment, consulting, or professional service relationship with either another agency, unit of government, or private enterprise. Excluded from the definition of additional employment would be those instances where work might be incurred, but is of an unanticipated, unscheduled, or temporary nature; and

WHEREAS, many types of additional employment provide services otherwise not available to the citizens and communities of the State; and

WHEREAS, some types of additional employment should be discouraged if such work is incompatible or in conflict with the principle underlying a good personnel system of "equal pay for substantially equal work";

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the standard personnel policies established by executive order for administrative agencies, and such personnel policies as may be established by the Board of Higher Education for the colleges and universities, shall include provisions setting forth guidelines regarding additional employment. Such guidelines shall include consideration of the following:

1. Requiring a statement in writing informing employees of existing policy regarding additional employment, with such statement of policy outlining procedures to be followed by an employee in the event he desires to accept additional work which would appear to be in compliance with the departmental policy.
2. Requesting written information from the employee naming his other employer, the type of work involved, an estimate of the hours of service required by such other employer, and whether compensation is to be received.
3. Assurance from the employee that supplies, materials, clerical staff, and other resources of the department for which he works will not be used in his proposed additional employment.
4. Assurance from the employee that his added employment would not be in conflict with a high degree of performance in his current position and that he will continue to have sufficient time for personal and family obligations, study, rest, and relaxation in order to ensure such performance.
5. Assurance from the employee that the information and other resources gained and available from his present job will not be improperly used in carrying out his additional employment.
6. A determination by the employer that the proposed additional employment does not include services that should and can be provided by the department directly.
7. A statement from the employee indicating that he is aware of the standards and policies of his professional organization (if his profession has an organization), and that the proposed additional work is well within the limits of such professional policies and standards.
8. An administrative periodic review of each employee's approved area of additional employment, with information gained from such review being available and on file at such office in the respective department as its administrator or director may designate.

Filed February 18, 1971

SENATE CONCURRENT RESOLUTION NO. 4009  
(Sorlie)

URGING CONGRESS TO CHANGE  
DAYLIGHT SAVING TIME PERIOD

A concurrent resolution urging Congress to amend the Uniform Time Act of 1966 to provide that daylight saving time would commence on Memorial Day and end on Labor Day.

WHEREAS, pursuant to the Uniform Time Act of 1966, daylight saving time commences on the last Sunday in April and ends on the last Sunday in October of each year; and

WHEREAS, the transition from standard time to daylight saving time and then back to standard time at such dates, because of the fewer number of daylight hours at these seasons, causes inconveniences and disrupts normal routines; and

WHEREAS, making the time changes on national holidays would be more convenient and would cause less confusion as to the day of such changes;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Congress of the United States be urged to pass the necessary amendment to the Uniform Time Act of 1966 to provide that daylight saving time would commence on Memorial Day and would end on Labor Day; and

BE IT FURTHER RESOLVED, that the Secretary of State be directed to forward a copy of this resolution to the Secretary of the United States Department of Transportation and to each member of the North Dakota Congressional delegation.

Filed February 18, 1971

SENATE CONCURRENT RESOLUTION NO. 4010  
(Morgan)USING GRAIN ALCOHOL AS  
MOTOR VEHICLE FUEL

A concurrent resolution urging the United States Department of Agriculture, the United States Department of Commerce, and the United States Department of Transportation to assist and encourage further experimentation to determine the feasibility of using grain alcohol in motor vehicle fuels.

WHEREAS, many scientists now believe that tetraethyl lead from automobile exhausts in the atmosphere may be a major factor in the contamination of the environment; and

WHEREAS, lead interferes with the human metabolism and can cause serious illness or even death; and

WHEREAS, approximately one-third of all lead entering the bodies of Americans is from atmospheric contamination caused by automobile exhausts; and

WHEREAS, recent research indicates that by replacing lead in gasoline with a ten percent blend of grain alcohol it would be possible to effect a twenty percent reduction in the consumption of lead in the United States; and

WHEREAS, until recently it was believed that alcohol derived from grain and agricultural products was not competitive with alcohol derived from other sources; and

WHEREAS, an efficient method of fermenting grain and other agricultural products and thus producing an efficient source of grain alcohol is under investigation; and

WHEREAS, the protein residue from the fermentation process may be useful as an additive to animal feeds; and

WHEREAS, it is in the national interest to stimulate the development of a prosperous rural America and agricultural industry through the development of new uses for agricultural products; and

WHEREAS, substitution of grain alcohol for tetraethyl lead in gasoline would be beneficial to the health of the American people and lessen environmental pollution;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the United States Department of Agriculture, the United States Department of Commerce, and the United States Department of Transportation are hereby urged to assist and encourage further experimentation to determine the feasibility of using grain alcohol in motor vehicle fuels; and

BE IT FURTHER RESOLVED, that the Congress of the United States is hereby urged to give due consideration to any requests the executive departments may make for funds to support an experimental program to determine the feasibility of using grain alcohol in motor vehicle fuels; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Transportation, and to each member of the North Dakota congressional delegation.

Filed February 25, 1971

SENATE CONCURRENT RESOLUTION NO. 4011  
(Wilhite)

STATE CONTROL OF  
BURNING COAL VEIN AREA

A concurrent resolution urging Congress and the United States Forest Service to relinquish control of the lands surrounding the burning coal vein area in western North Dakota and directing the North Dakota Park Service to seek control of this area.

WHEREAS, western North Dakota contains some of the most scenic and unspoiled outdoor areas in the United States, including the famed Badlands and Theodore Roosevelt National Memorial Park; and

WHEREAS, some of the most beautiful portions of this rugged and natural scenic wonderland surround the unique burning coal vein area, with its rare columnar junipers and ponderosa pines; and

WHEREAS, the Federal Government owns about one and one-tenth million acres of the land in this area, much of it, including the burning coal vein area, designated national grasslands and controlled by the United States Forest Service; and

WHEREAS, there are millions of tons of coal underlying western North Dakota, but only one percent of North Dakota's land area containing timber; and

WHEREAS, there are now applications pending before the United States Forest Service to lease at least twelve thousand acres of the land surrounding the burning coal vein area for coal mining purposes; and

WHEREAS, the environmental disturbances of mining operations in this area would destroy the natural scenic attributes; and

WHEREAS, there are thousands of acres of privately owned land in this same general vicinity, much of which has been or can be leased for mining purposes to provide sufficient coal supplies for the foreseeable future and which would not disturb one of the outdoor wonders of the United States; and

WHEREAS, several of the applications for coal mining leases in this scenic area come from out-of-State mines that are not concerned with the environment and ecology of North Dakota; and

WHEREAS, the North Dakota Park Service is well suited to manage this area and has expressed a willingness to do so;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly of the State of North Dakota urges Congress and the United States Forest Service to consider the proper legislation or initiate the necessary procedures to give control of the area surrounding the burning coal vein in western North Dakota to the State of North Dakota and directs the North Dakota Park Service to take all the steps necessary on its part to effectuate this change of control from the Federal Government to the State of North Dakota; and

BE IT FURTHER RESOLVED, that the North Dakota Secretary of State send copies of this resolution to the President of the United States, the North Dakota Congressional Delegation, the Secretary of the Interior, the Secretary of Agriculture, and the Chief of the United States Forest Service.

Filed February 25, 1971

SENATE CONCURRENT RESOLUTION NO. 4013  
(Lips)

FEDERAL CONSTITUTIONAL CONVENTION  
ON REVENUE SHARING

A concurrent resolution requesting Congress to call a convention to amend the Constitution of the United States to provide for revenue sharing.

WHEREAS, a resolution of our Nation's myriad and diverse problems is contingent upon a viable partnership between the Federal Government and strengthened State Governments; and

WHEREAS, the Federal Government, by its extensive reliance on the graduated income tax as a revenue source, has virtually preempted the use of this source from State and local Governments, thereby creating a disabling fiscal imbalance between the Federal Government and the State and local Governments; and

WHEREAS, increasing demands upon State and local Governments for essential public services have compelled the States to rely heavily on highly regressive and inelastic consumer taxes and property taxes; and

WHEREAS, federal revenues based predominantly on income taxes increase significantly faster than economic growth, while state and local revenues based heavily on sales and property taxes do not keep pace with economic growth; and

WHEREAS, the fiscal crisis at state and local levels has become the overriding problem of intergovernmental relations and of continuing a viable federal system; and

WHEREAS, the evident solution to this problem is a meaningful sharing of federal income tax resources; and

WHEREAS, the United States Congress, despite the immediate and imperative need therefor, has failed to enact acceptable revenue sharing legislation; and

WHEREAS, in the event of such congressional inaction, article V of the Constitution of the United States grants to the States the right to initiate constitutional change by applications from the legislatures of two-thirds of the several

States to the Congress, calling for a constitutional convention; and

WHEREAS, the Congress of the United States is required by the Constitution to call such a convention upon the receipt of applications from the legislatures of two-thirds of the several States:

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly does hereby make application pursuant to article V of the United States Constitution to the Congress of the United States to call a convention for the sole and exclusive purpose of proposing to the several States a constitutional amendment which shall provide that a portion of the taxes on income levied by Congress pursuant to the sixteenth amendment of the United States Constitution shall be made available each year to State Governments and political subdivisions thereof, by means of direct allocation, tax credits, or both, without limiting directly or indirectly the use of such moneys for any purpose not inconsistent with any other provision of the Constitution of the United States; and

BE IT FURTHER RESOLVED, that this application shall constitute a continuing application for such convention pursuant to article V until the legislatures of two-thirds of the States shall have made like applications and such convention shall have been called by the Congress of the United States, unless previously rescinded by the North Dakota Legislative Assembly; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the President of the Senate and the Speaker of the House of Representatives of the United States, to the North Dakota Congressional Delegation, and to the legislatures of each of the several States.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4015  
(Doherty, Just, Jacobson)

URGING CONGRESS TO PROVIDE  
FEDERAL REVENUE SHARING

A concurrent resolution urging Congress to enact legislation to provide for revenue sharing.

WHEREAS, a resolution of our Nation's myriad and diverse problems is contingent upon a viable partnership between the Federal Government and strengthened State Governments; and

WHEREAS, the Federal Government, by its extensive reliance on the graduated income tax as a revenue source, has virtually preempted the use of this source from State and local Governments, thereby creating a disabling fiscal imbalance between the Federal Government and the State and local Governments; and

WHEREAS, increasing demands upon State and local Governments for essential public services have compelled the States to rely heavily on highly regressive and inelastic consumer taxes and property taxes; and

WHEREAS, federal revenues based predominantly on income taxes increase significantly faster than economic growth, while state and local revenues based heavily on sales and property taxes do not keep pace with economic growth; and

WHEREAS, the fiscal crisis at state and local levels has become the overriding problem of intergovernmental relations and of continuing a viable federal system; and

WHEREAS, the evident solution to this problem is a meaningful sharing of federal income tax resources; and

WHEREAS, the United States Congress, despite the immediate and imperative need therefor, has failed to enact acceptable revenue sharing legislation;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly does hereby urge the Congress of the United States to act with all deliberate speed to enact legislation whereby States will be permitted to share in the revenue collected by the Federal Government; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the President of the Senate and the Speaker of the House of Representatives of the United States, and to the North Dakota Congressional Delegation.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4019  
(Van Horn, G. Larson)

DEVELOPMENT OF  
MISSOURI RIVER WATERWAY

A concurrent resolution urging the appropriate federal agencies to undertake a feasibility study relative to the development and improvement of the Missouri River for the purpose of utilizing that waterway for barge traffic and other navigational purposes.

WHEREAS, at the present time vast portions of the Missouri River are being utilized by numerous downstream states for the transportation of manufactured goods and other produce and products via barges and other forms of water transportation, and by virtue of the existence of such form of transportation, the citizens of these states have enjoyed the direct economic benefits thereof; and

WHEREAS, the development of a similar waterway on the upper reaches of the Missouri River within North Dakota and adjacent states, accompanied by its inherent benefits of low cost transportation, would improve the market position of North Dakota agricultural produce, mineral products, and manufactured goods, which ultimately would enhance the economic development of the state; and

WHEREAS, significant changes have recently occurred within the transportation industry of the state and nation that amplify the need for additional forms of freight transportation so as to stimulate competition that would eventually have a beneficial effect upon high transportation costs now borne by agriculture and industry within the state; and

WHEREAS, channel improvements in the Missouri River which would be incidental to the river's development for barge and other types of waterborne traffic, would complement the bank stabilization of the river and thereby preserve the ecology of the river bottoms and ensure the retention of the natural amenities thereof as part of the heritage of the state and for the citizens of the state and nation;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Secretary of the Interior and the Chief of Army Engineers are urged and requested to initiate such action as may

be necessary for a feasibility study of the development of the Missouri River as a waterway suitable for barge traffic to points within and through North Dakota and the potential benefits stemming therefrom; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the United States Secretary of the Interior, the Chief of Army Engineers, and each member of the North Dakota Congressional Delegation.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4020  
(Morgan, Thane)

URGING MINNESOTA TO AUTHORIZE  
INTERSTATE BRIDGE CONSTRUCTION

A concurrent resolution urging the Minnesota Legislature to pass the necessary enabling legislation to allow the construction, in cooperation with this State, of a north bypass bridge over the Red River in the vicinity of Breckenridge, Minnesota, and Wahpeton, North Dakota.

WHEREAS, a bridge across the Red River has been proposed by the North Dakota State Highway Department which would bypass the cities of Breckenridge and Wahpeton to the north and span the river in the vicinity of Minnesota Highway No. 210 and the Otter Tail Power Company plant; and

WHEREAS, construction of such a bridge would facilitate the eventual connection of Interstate Highway No. 94 and Interstate Highway No. 29, and such connection would greatly benefit the economies of midwestern Minnesota and southeastern North Dakota; and

WHEREAS, the Richland County Commissioners have passed a resolution urging the joint construction of such a bridge; and

WHEREAS, the Board of Directors of the Southern Red River Valley Sugar Beet Corporation, consisting of members from both States, has also unanimously passed a motion favoring construction of such a bridge;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Minnesota Legislature is hereby urged to pass the necessary enabling legislation to allow the Minnesota State Highway Department to join in the construction of a bypass bridge to the north of the cities of Breckenridge, Minnesota, and Wahpeton, North Dakota, in the vicinity of Minnesota Highway No. 210; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Governor of the State of Minnesota, the presiding officer of the Minnesota Senate, the presiding officer of the Minnesota House of Representatives, and the Chief Executive Officer of the Minnesota State Highway Department.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4023  
(G. Larson)

STUDY OF HEALTH AND WELFARE  
AGENCY CONSOLIDATION

A concurrent resolution directing a study by the Legislative Council to determine the feasibility of consolidating the various state health and welfare agencies.

WHEREAS, the State Department of Health, the Public Welfare Board, and other functionally related agencies have duties and responsibilities which evidence a common interest in a certain segment of the population and the general welfare of the State; and

WHEREAS, the operation of these agencies is subject to potential duplication of effort, and thereby to waste of human and economic resources; and

WHEREAS, the consolidation of these agencies may allow economical interchange of personnel and creation of comprehensive social service centers and mental health and retardation clinics which could encompass all the needs of recipients of public assistance; and

WHEREAS, the consolidation of these agencies could promote more efficient operation and could facilitate receipt of available federal funds; and

WHEREAS, it is to the benefit of all the citizens of this State to assure the maintenance of certain standards of health and welfare in the most efficient and economical manner;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council is authorized and directed to make a study for the purpose of determining the desirability and feasibility of consolidating the State Department of Health, the Public Welfare Board, and any other functionally related agency; and

BE IT FURTHER RESOLVED, that the Legislative Council make its report and recommendations thereon to the Forty-third Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4024  
(Holand, Christensen)

LEGISLATIVE LIAISON WITH  
CONGRESS AND FEDERAL EXECUTIVE

A concurrent resolution directing the Legislative Council to arrange for one or more meetings of members of the Legislative Assembly, and representatives of appropriate state departments with members of the United States Congress from this State and representatives of appropriate federal executive departments.

WHEREAS, federal legislation and executive department policies and programs substantially affecting state programs and areas of state responsibility increase and change each year; and

WHEREAS, effective communication between the Legislative Assembly, representatives of state departments, and members of the Congressional Delegation from this State is hindered by heavy demands on the time of these respective officers and a lack of established methods of communication; and

WHEREAS, a briefing upon areas of common interest by appropriate officials of the executive branch of the Federal Government upon federal programs and policies and a personal exchange of views on pending federal legislation and policies affecting areas of traditional state responsibility appear to be the most effective means of transmitting the position of the Legislative Assembly and the executive branch of State Government on such legislation and policies to the members of the North Dakota Congressional Delegation; and

WHEREAS, similar meetings between legislators and executive branch officials with members of their State's Congressional Delegation have proved highly successful in other States;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council is hereby directed to arrange a meeting or meetings between representatives of the Legislative Assembly, appropriate state departments, representative of the North Dakota Congressional Delegation, and representatives of appropriate federal departments at a time and location convenient to the delegations for the purpose of discussing and exchanging views on federal legislation, policies, programs, and areas of mutual concern that bear on the present and future well-being and development of North Dakota.

Filed February 18, 1971

SENATE CONCURRENT RESOLUTION NO. 4025  
(Committee on Employment)

## LEGISLATIVE EMPLOYEES' COMPENSATION

A concurrent resolution providing and designating Senate and House employees and fixing their salaries.

BE IT RESOLVED BY THE SENATE OF THE FORTY-SECOND LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

SECTION 1.) That for and during the Forty-second Legislative Assembly the following named persons are employed and appointed as employees of the Senate and House and shall be paid the per diem opposite their respective names in accordance with the starting dates of their employment as shown below, except as provided in sections 2, 3, and 4 of this resolution:

### SENATE

Leo Leidholm, secretary - January 4, 1971 . . . . .	\$36.30
Dagny Olson, desk reporter - January 5, 1971. . . . .	36.30
Albert E. Bradley, sergeant-at-arms - January 4, 1971 . .	20.90
Arthur Herk, assistant secretary - January 5, 1971. . . .	27.50
J. Vernon Ashiem, bill clerk - January 5, 1971. . . . .	24.20
Cora Essington, chief stenographer and payroll clerk - January 5, 1971 . . . . .	26.40
Lois J. Scherr, chief committee clerk - January 5, 1971 .	24.20
Gladys Derrick, appropriations committee clerk - January 4, 1971 . . . . .	23.10
Marjorie Trangsrud, committee clerk - January 5, 1971 . .	22.00
Edna Sand, committee clerk - January 5, 1971. . . . .	22.00
Donna Heisler, committee clerk - January 5, 1971. . . . .	22.00
Caroline Sette, committee clerk - January 5, 1971 . . . .	22.00
Marlene Backman, committee clerk - January 5, 1971. . . .	22.00
Roland Reich, calendar clerk - January 5, 1971. . . . .	24.20
John DeWald, enrolling and engrossing clerk - January 5, 1971 . . . . .	20.90
Dormilee Diede, secretary to the president - January 4, 1971 . . . . .	23.10
Gladys Van Vleet, secretary to majority floor leader - January 5, 1971 . . . . .	23.10
Patricia Mitzel, secretary to minority floor leader - January 5, 1971. . . . .	23.10
Richard H. Jagd, deputy sergeant-at-arms - January 5, 1971 . . . . .	17.60
Nick Frank, assistant sergeant-at-arms - January 5, 1971.	16.50

Ralph Scott, assistant sergeant-at-arms - January 5, 1971. \$16.50  
 Emil Albrecht, assistant sergeant-at-arms -  
 January 5, 1971 . . . . . 16.50  
 Arthur Solberg, assistant sergeant-at-arms -  
 January 5, 1971 . . . . . 16.50  
 Evelyn Sholts, bill room clerk - January 5, 1971 . . . . . 16.50  
 Patricia Ann Nelson, bill room clerk - January 5, 1971 . . . . . 16.50  
 Janine Haug, stenographer - January 5, 1971 . . . . . 22.00  
 Lorraine Moos, stenographer - January 5, 1971 . . . . . 22.00  
 JoAnn Owens, stenographer - January 5, 1971 . . . . . 22.00  
 Mary Alice Landgren, stenographer - January 5, 1971 . . . . . 22.00  
 Joanne Hetland, typist - January 5, 1971 . . . . . 19.80  
 Gertrude Berge, typist - January 5, 1971 . . . . . 19.80  
 MacDonald Omafray, assistant enrolling and engrossing  
 clerk - January 5, 1971 . . . . . 20.90  
 Clara Clendenen, page - January 5, 1971 . . . . . 16.50  
 Linda Kay Parkin, page - January 5, 1971 . . . . . 16.50  
 Janice K. Tischmak, page - January 5, 1971 . . . . . 16.50  
 Wayne Stenehjem, Daline Meidinger, Patricia Ann McMahon,  
 Alan Charles Walker, pages each to receive equal portions  
 of - January 5, 1971 . . . . . 16.50  
 Marguerite Stenehjem, chief telephone attendant -  
 January 5, 1971 . . . . . 16.50  
 Wanda Froelich, bill book clerk - January 5, 1971 . . . . . 16.50  
 Jerry Nagel, bill book clerk - January 5, 1971 . . . . . 16.50  
 Violetta LaGrave, bill book clerk - January 5, 1971 . . . . . 16.50  
 John A. Gilje, bill book clerk - January 5, 1971 . . . . . 16.50  
 Phyllis Connolly, information desk attendant -  
 January 5, 1971 . . . . . 16.50  
 Hazel Ludemann, journal room clerk - January 5, 1971 . . . . . 16.50  
 John Spitzer, journal room clerk - January 5, 1971 . . . . . 16.50  
 Harold Kiesz, journal room clerk-typist - January 5, 1971 . . . . . 16.50  
 Pius Reis, parking lot attendant - January 5, 1971 . . . . . 19.80  
 Larry Borlaug, journal proofreader - January 5, 1971 . . . . . 20.90  
 Elma Schauer, journal proofreader - January 5, 1971 . . . . . 20.90

## HOUSE

Roy Gilbreath, chief clerk - January 4, 1971. . . . . 36.30  
 Barbra King, desk reporter - January 4, 1971 . . . . . 36.30  
 Cecil Crandell, sergeant-at-arms - January 4, 1971 . . . . . 20.90  
 E. A. Tough, assistant chief clerk - January 5, 1971 . . . . . 27.50  
 Delano Wawers, bill clerk - January 4, 1971 . . . . . 24.20  
 Florence Nemer, chief stenographer and payroll clerk -  
 January 5, 1971 . . . . . 26.40  
 Lela Knudsen, chief committee clerk - January 5, 1971. . . . . 24.20  
 James Bond, calendar clerk - January 4, 1971 . . . . . 24.20  
 Vonnie Wold, enrolling and engrossing clerk -  
 January 5, 1971 . . . . . 20.90  
 Clara Wendt, chief page - January 5, 1971. . . . . 19.80  
 Dorothy Litchfield, secretary to speaker - January 5, 1971 23.10  
 Mavis Patchen, secretary to majority floor leader -  
 January 5, 1971 . . . . . 23.10  
 Elsie Zimmerman, secretary to minority floor leader -  
 January 5, 1971. . . . . 23.10

Olger Sandven, deputy sergeant-at-arms - January 5, 1971	.\$17.60
Harry Iszler, assistant sergeant-at-arms - January 5, 1971	16.50
J. J. Cummins, assistant sergeant-at-arms - January 5, 1971	16.50
Art Buchwitz, assistant sergeant-at-arms - January 5, 1971	16.50
Henry Benson, assistant sergeant-at-arms - January 5, 1971	16.50
Enola Eck, bill room clerk - January 6, 1971	16.50
Pearl Andre, bill room clerk - January 5, 1971	16.50
ElaNor Weber, stenographer - January 5, 1971	22.00
Eva Braaten, stenographer - January 11, 1971	22.00
Andrea Perry, stenographer - January 5, 1971	22.00
Judy Hoffman, stenographer - January 5, 1971	22.00
Amelia Lorenz, stenographer - January 11, 1971	22.00
Janice M. Holle, stenographer - February 1, 1971	22.00
Maude Grambs, typist - January 5, 1971	19.80
Marjorie Cleveland, typist - January 4, 1971	19.80
Gail Mary Hornstein, typist - January 12, 1971	19.80
Laurel Renner, appropriations committee clerk - January 5, 1971	23.10
Louise Ebert, committee clerk - January 5, 1971	22.00
LuGale Backlin, committee clerk - January 5, 1971	22.00
Helen Soma, committee clerk - January 5, 1971	22.00
Alice Zako, committee clerk - January 5, 1971	22.00
Bernice Herner, assistant enrolling and engrossing clerk - January 5, 1971	20.90
Deborah Ann Dietz, page - January 5, 1971	16.50
Janet Gilbert, page - January 5, 1971	16.50
Karen Thompson, page - January 4, 1971	16.50
Janet Lange, page - January 5, 1971	16.50
Valorie Christianson, page - January 5, 1971	16.50
Colleen Key, page - January 5, 1971	16.50
David Engel, page - January 5, 1971	16.50
Iola Langord, telephone attendant - January 5, 1971	16.50
Ester Davis, bill book clerk - January 5, 1971	16.50
Percy Ottmar, bill book clerk - January 4, 1971	16.50
Helen Pennell, bill book clerk - January 5, 1971	16.50
Alvira Froelich, bill book clerk - January 22, 1971	16.50
Nick Chernos, bill book clerk - January 7, 1971	16.50
Eunice Anderson, information desk attendant - January 11, 1971	16.50
Alvin Manning, journal room clerk - January 5, 1971	16.50
Mike Burgad, journal room clerk - January 6, 1971	16.50
Olaf Grundstad, journal room clerk - January 6, 1971	16.50
Fred Hetterle, parking lot attendant - January 5, 1971	19.80
Fred Krause, chief in charge of journal room and bill room clerks - January 4, 1971	17.60
Gertrude Learn, journal proofreader - January 5, 1971	20.90
Ruth Boyer, journal proofreader - January 5, 1971	20.90
Jennie Bommersbach, telephone attendant - January 5, 1971	16.50

SECTION 2.) That the following employees shall be paid additional compensation for services performed for the Legislative Organizational Session, for the days of employment set forth following their names and at the rate of pay indicated for such position in section 1 of this resolution:

## SENATE

Albert E. Bradley, sergeant-at-arms -  
December 8, 9, 10 and 11, 1970.  
Dormilee Diede, secretary to the president -  
December 7, 8, 9, 10, and 11, 1970.

## HOUSE

Delano Wawers, bill clerk - December 10, 1970.  
Clara Wendt, chief page - December 9, 10, and 11, 1970.

SECTION 3.) That for and during the Forty-second Legislative Assembly, Donald DeMers, F. Gene Gruber, Gregory Simonson, Charles W. Stroup, Larry D. Thompson, and Steven L. Wood are employed at a rate of \$600.00 per month or a portion thereof based upon the portion of any month they are employed, in the position of Legislative Intern; and Harlan Fuglesten and Michael J. Maus are employed at a rate of \$500.00 per month or a portion thereof based upon the portion of any month they are employed, in the position of Bill Status Reporters; and are hereby assigned for supervision purposes to the Legislative Council.

SECTION 4.) That for and during the Forty-second Legislative Assembly the following persons are employed for the performance of janitorial, engineering, and electrical repair service at rates of pay set opposite their names, such employment being effective January 5, 1971:

Fred Bosch, Jr. . . . .	\$15.40
John J. Dorrheim, janitor . . . . .	15.40
Alf E. Johnson, janitor . . . . .	15.40
Edwin Keller, engineer. . . . .	15.40
Matt Roehrich, janitor. . . . .	15.40
John Sprynczynatyk, janitor . . . . .	15.40
Jacob Ell, janitor. . . . .	15.40
Leland Page, janitor. . . . .	15.40

SECTION 5.) In the event any employee shall resign, be discharged, or for other reasons terminate his employment, the compensation provided for in this resolution shall cease, effective the last day of such employment.

Filed February 25, 1971

SENATE CONCURRENT RESOLUTION NO. 4026  
(Litten)

CONDOLENCES TO MRS. KAY BURGUM

A concurrent resolution extending sympathy and condolences to Mrs. Kay Burgum upon the death of her husband, Joseph.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst Joseph B. Burgum of Arthur, North Dakota; and

WHEREAS, Mr. Burgum for many years played a vital role in the keystone of North Dakota's economy, agriculture, as a grain dealer; and

WHEREAS, his concern for his profession and his community was mirrored in his many civic activities and service in state and national organizations;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly expresses its deepest sorrow and extends its sincere sympathies to Mrs. Kay Burgum and to all members of the Burgum family; and

BE IT FURTHER RESOLVED, that a copy of this resolution be personally delivered to Mrs. Burgum and that members of the Forty-second Legislative Assembly attend the funeral of Mr. Burgum in recognition of the Assembly's concern and respect.

Filed February 18, 1971

SENATE CONCURRENT RESOLUTION NO. 4027  
(Melland, Goldberg, Nething, Doherty)

STUDY OF STATE PRINTING

A senate concurrent resolution directing the Legislative Council to make a study of all printing laws, requirements, and practices of the State of North Dakota and its political subdivisions.

WHEREAS, one of the largest categories of administrative expenses of the State of North Dakota and its political subdivisions is that of printing numerous publications, forms, documents, and other material for governmental and citizen use; and

WHEREAS, many of the laws governing or requiring many and diverse types of publications were established during the early period of statehood, and may not recognize modern means of communication and information distribution or sound business management practices; and

WHEREAS, many laws may require certain publications that are no longer necessary or of value to the citizens or their government, or which could be printed in a different fashion by the many new and modern printing methods and facilities existing in many printing shops in the State of North Dakota; and

WHEREAS, there has never been a complete review of all printing laws and requirements of the State of North Dakota and its political subdivisions for the purpose of developing a logical and planned system of printing and information distribution;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council is hereby authorized and directed to conduct a study of all printing laws, requirements, and practices of the State of North Dakota and its political subdivisions and to make its report to the Forty-third Legislative Assembly together with its recommendations for meeting the needs of State and local Government and its citizens for printing, notices, and information distribution; and

BE IT FURTHER RESOLVED, that each agency, department, and institution of the State and all political subdivisions provide such aid, information, and assistance to the Legislative Council as it may request.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4028  
(Freed, Ringsak, Thane, Page)

STUDY OF AUTO SAFETY RESPONSIBILITY

A concurrent resolution directing the Legislative Council to study the total field of safety responsibility and revocation of driver's licenses.

WHEREAS, legislation discussed or introduced in the Forty-second Legislative Assembly alone indicates a need for legislation and changes in the areas of revocation of licenses, proof of financial responsibility, and accident reports, and

WHEREAS, legislation in this complex field must be carefully studied and analyzed if it is to meet the needs for which it is intended;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council, with the cooperation of the State Insurance Department and the State Highway Department, is hereby directed to study the total field of safety responsibility and revocation of driver's licenses to determine what changes and additions should be made to North Dakota law; and

BE IT FURTHER RESOLVED, that the Legislative Council makes its report and recommendations from this study to the Forty-third Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4029  
(Thane, Ringsak)

## STUDY OF "NO-FAULT" INSURANCE

A concurrent resolution directing the Legislative Council to conduct a study of public liability and "no-fault" automobile insurance.

WHEREAS, in the words of President Johnson, "Accident compensation is often unfair: some victims get too much, some get too little, some get nothing at all. Lawsuits have clogged our courts. The average claim takes two and one-half years just to get to trial. This is a national problem. It will become even more of a problem as we license more drivers, produce more automobiles, and build more roads. With more than one million drivers and ninety-six million motor vehicles in the United States, the insurance system is severely strained today;" and

WHEREAS, automobiles are a fact of life. Four out of every five families in America own a car. It is the most prevalent form of transportation. In North Dakota, in all but a few counties, it is the only form of transportation; and

WHEREAS, automobile accidents last year killed fifty-six thousand people, injured four and six-tenths million others, and cost an estimated sixteen and five-tenths billion dollars. In North Dakota, there were one hundred eighty-two deaths, five thousand seven hundred ninety-three injuries, twenty-two thousand two hundred sixty-one accidents, all at a total cost of fifty-six million two hundred seventy-seven thousand dollars; and

WHEREAS, in North Dakota, the cost per driver per accident for 1969 was one hundred twenty-six dollars and fifty-four cents; for 1968 it was one hundred eight dollars and six cents. In the ten years from 1960 to 1969, there has been an increase of fifty-eight percent in the cost of accidents per driver. Should these costs continue at their present rate, the necessity of driving an automobile may turn into a luxury item afforded only by those with a sufficient means of income;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council is hereby directed to conduct a study of the field of automobile insurance, which study shall include, but not be limited to the feasibility of no-fault

insurance, and to report its findings and recommendations to the Forty-third Legislative Assembly together with any legislation necessary to carry out such recommendations; and

BE IT FURTHER RESOLVED, that the Legislative Council shall be authorized to call upon any board, commission, department, or agency of the State for information and assistance that the Legislative Council may deem necessary.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4032  
(Lips, Melland)

INDIAN PRINCESS TO SERVE  
AS CAPITOL GUIDE

A concurrent resolution recommending that the governor and director of institutions, in cooperation with the North Dakota Indian Affairs Commission, select by a contest or other means an outstanding Indian princess to be dressed in costume and employed as a capitol guide or hostess.

WHEREAS, North Dakota is steeped in Indian culture and heritage; and

WHEREAS, the Indian people have contributed and will continue to contribute to the economic and cultural growth of this state; and

WHEREAS, this colorful culture and heritage should be shared with the many thousands of visitors who tour our capitol each year;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly urge the governor and the director of institutions to employ by a contest or such other means as they deem advisable, an outstanding Indian princess garbed in Indian dress to serve as capitol guide or hostess throughout the tourist season.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4033  
(Redlin, Lips)

STUDY OF MUNICIPAL BOARDS  
OF BUDGET REVIEW

A concurrent resolution recommending that the North Dakota legislative council give consideration to remedying the conflicts which arise between boards of budget review and the county auditors and governing bodies in the application of section 21-03-15 and chapter 40-41 of the North Dakota Century Code.

WHEREAS, sections 40-41-04 and 40-41-05 of the North Dakota Century Code provide the boards of budget review the power to review, approve or disapprove preliminary budget items of the various governing bodies, and

WHEREAS, section 21-03-15 of the North Dakota Century Code provides for levy of a direct, annual, irrevocable tax by governing bodies upon issuing bonds under such chapter, and

WHEREAS, incidents continue to arise where preliminary budgets are submitted to, and approved by, boards of budget review, and then thereafter for various reasons the county auditors nevertheless spread a larger levy pursuant to requests for an increased budget by the governing bodies, and

WHEREAS, because of the apparent lack of enforcement power in the board of budget review law or a void in both said statutory provisions to recognize a need for flexibility therein in order to resolve emergency situations,

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That it is recommended that full consideration be given by the North Dakota legislative council to study the problem and either recommend to the Forty-third Legislative Assembly repeal of chapter 40-41 of the North Dakota Century Code relating to boards of budget review or to prepare statutory amendments thereto or new law in lieu thereof which will make its provisions compatible to section 21-03-15 of the North Dakota Century Code and enable such boards to carry out and enforce their proper functions or to make such other and further recommendations as it may deem proper pursuant to its findings.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4034  
(Forkner)

## REGULATING USE OF DEALERS' LICENSE PLATES

A concurrent resolution urging the Automobile Dealers Association of North Dakota and the State Motor Vehicle Department to tighten rules and regulations regarding the use of dealers' license plates.

WHEREAS, all motor vehicle dealers in North Dakota obtain special motor vehicle dealers' license plates from the State Motor Vehicle Department; and

WHEREAS, these special plates are used on many types of vehicles, and often exchanged between vehicles; and

WHEREAS, with any special privilege there is always the danger of abuse of that special privilege; and

WHEREAS, the State Motor Vehicle Department has specific statutes regulating the use of dealers' plates; and

WHEREAS, the majority of motor vehicle dealers in North Dakota belong to the Automobile Dealers Association of North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly recognizes the dangers of possible abuse concerning the use of special dealers' license plates and therefore urges the Automobile Dealers Association of North Dakota to more fully inform its membership as to the use of such license plates and more stringently police its members' use of dealers' license plates, and direct the State Motor Vehicle Department to tighten its enforcement of statutes, rules, and regulations covering dealers' license plates; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the State Motor Vehicle Registrar and to the president of the Automobile Dealers Association of North Dakota.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4035  
(G. Larson)

STUDY OF GAME AND FISH LAWS

A concurrent resolution directing the Legislative Council to study and revise the statutes relating to the game and fish laws of North Dakota.

WHEREAS, the animals, birds, and fish which comprise the wildlife of North Dakota belong to all the residents of North Dakota; and

WHEREAS, because of the high degree of public interest, Title 20 of the North Dakota Century Code relating to the conservation and regulation of that wildlife has been amended frequently; and

WHEREAS, the present game and fish laws, because of conflicts, ambiguities, surplus language, improper arrangement and sequence, and a continuance of unused and archaic provisions, result in uncertainty and confusion to the sportsmen of North Dakota and, at times, to those who must administer such laws;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council is hereby authorized and directed to conduct a study of the game and fish laws of the State of North Dakota for the purpose of identifying and removing unused and archaic sections and laws, the reconciliation of conflicts and ambiguities, the elimination of surplus language, and to arrange the subject matter in the laws in a proper and logical sequence, and that the Council report its recommendations to the Forty-third Legislative Assembly, together with suitable legislation to accomplish the objectives of this study; and

BE IT FURTHER RESOLVED, that all departments, agencies, and institutions shall provide the necessary aid, information, and assistance as the Legislative Council may request.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4036  
(Stroup, Roen, Rait, Swedlund)

## CONGRESSIONAL FUNDING OF STRIP MINE RECLAMATION PROGRAMS

A concurrent resolution requesting the Congress of the United States to appropriate funds for the reclamation and the restoration of lands disturbed by lignite strip mining.

WHEREAS, North Dakota is a leading State in the production of food and fiber to supply the ever-growing requirements of a world population in need of food; and

WHEREAS, the energy requirements of our growing society exert a burgeoning demand for organic fuels as exemplified by the giant thermal electric generating industry now in its infancy in North Dakota, such industry requiring enormous quantities of lignite coal to fuel its thermal electric generating facilities; and

WHEREAS, the mining industry in the State of North Dakota has made significant contributions to the economy of the State through production of lignite as a highly competitive fuel for such purposes, and will continue to contribute an ever-increasing share to the wealth of the State of North Dakota; and

WHEREAS, surface mined lands have accumulated in the western portion of the State of North Dakota for the past fifty years, and still remain in a largely unproductive state, thus contributing nothing to the wealth of the State of North Dakota and society; and

WHEREAS, the Forty-second Legislative Assembly recognizes that past mining practices have deprived from future generations productive lands which are their rightful heritage; and

WHEREAS, provisions for the reclamation and the restoration of surface mined areas have been largely unregulated so that in many abandoned mining areas lands are now largely unproductive and in need of restoration, and studies have shown that such disturbed lands may be reclaimed for agricultural purposes, game management, recreational, and other uses;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly hereby petitions the Congress of the United States of America to appropriate funds for the reclamation and the restoration of lands in the State of North Dakota and in other States disturbed by surface mining activities, and to designate an agency to coordinate and supervise the reclamation of such lands; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the North Dakota Congressional Delegation.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4037  
(Committee on Appropriations)

LEGISLATIVE INTENT IN REGARD  
TO STATE SALARIES

A concurrent resolution relating to the intent of the Legislative Assembly in the allocation of monies appropriated for salaries of employees of the State.

WHEREAS, it is the desire of the Legislative Assembly to express its intent in regard to the expenditure of funds appropriated by the Legislative Assembly for the payment of salaries and salary increases to the employees of the various executive departments, agencies, and institutions of the State;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That in accordance with subsection 3 of section 54-44.1-12, the Legislative Assembly does hereby express its intent in regard to the expenditure of funds appropriated by the Legislative Assembly for the payment of salaries to the employees of the various executive departments, agencies, and institutions of the State.

SECTION 1.) The legislature is especially concerned about salaries of employees in the lower salary brackets and recommends that salary increases of a greater percentage be granted in areas where the increased cost of living is most significant to the economic welfare of the employee and his family.

SECTION 2.) Prior to July 1, 1971, each department, agency, and institution, except for the judicial and legislative branches of government, shall file with the Executive Office of the Budget a payroll plan which may be amended from time to time during the next biennium in accordance with the intent of this resolution. Only upon approval of this plan by the Executive Office of the Budget may any department, institution, or agency increase any salary, and such plan shall be approved only as it conforms to the legislative intent of this resolution.

SECTION 3.) All salary increments shall be made only in accordance with such plan or amended plan, and the Executive Office of the Budget shall periodically audit all payrolls to determine compliance with the payroll plans as approved by the Executive Office of the Budget. The Executive Office of the Budget shall discontinue payment of any amounts not in accordance

with the intent of this resolution and shall report all exceptions to the approved payroll plans in detail to the appropriate legislative committee at its next regular meeting.

SECTION 4.) Funds appropriated by the Forty-second Legislative Assembly for salaries and wages, but not expended because of this resolution, shall remain in the various departmental budgets and on June 30, 1973, shall revert back to the general fund or such other funds from which appropriations were made.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4042  
(Stroup, Ringsak, Page)

## STUDY ON USE OF BURIED TRANSMISSION FACILITIES

A concurrent resolution directing the Legislative Council to study the problems of buried transmission lines and how best to protect them from damage.

WHEREAS, there is an increasing use in North Dakota of buried transmission facilities such as pipes, wires, cables, or other facilities for the transmission of gas, oil, electricity, communications, or other products or services; and

WHEREAS, the persons, firms, or corporations owning or controlling these transmission facilities go to great expense to put them underground for a variety of reasons, in order to provide better service to North Dakota citizens and to present a more aesthetically pleasing landscape; and

WHEREAS, there is an ever present danger these lines will be damaged by digging, excavating, blasting, or similar activities conducted over or near the buried facilities, which damage can result in considerable expense to those who own the buried facilities and a great deal of inconvenience to the North Dakotans served by the facilities; and

WHEREAS, there is a definite need for a system of recording which will provide notice of the exact location of these facilities and for statutes which spell out precisely who shall be liable when the facilities are damaged;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly directs the Legislative Council to conduct a study, with the aid and cooperation of investor owned and rural telephone, electric, and oil and gas companies in the State, the Public Service Commission, and County Registers of Deeds, of the problems regarding buried transmission facilities, and specifically the problems involved in giving exact notice of location, protecting them, and fixing liability for damage; and

BE IT FURTHER RESOLVED, that the Legislative Council make its recommendations and report thereon to the Forty-third Legislative Assembly, together with any legislation required to carry out the recommendations.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4043  
(Longmire)

DEPUTIZING CAMPUS POLICEMEN

A concurrent resolution urging counties and cities which have college campuses within their jurisdictions to deputize campus policemen.

WHEREAS, most of our colleges and universities have hired special personnel for the security of persons and property on such campuses; and

WHEREAS, state law provides that such special policemen shall have concurrent jurisdiction with other law enforcement officers in the enforcement of the regulations and the laws on the colleges and universities; and

WHEREAS, the special policemen on our campuses are often called upon to arrest students and nonstudents alike; and

WHEREAS, there is not always time to call upon other law enforcement officers; and

WHEREAS, it would be in the best interests of all concerned if the special policemen on our campuses were granted the full authority of other police officers;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly urges the county sheriffs in those counties having institutions of higher education located therein and the governing bodies of those cities having institutions of higher education located within their boundaries to deputize all campus policemen who otherwise meet the requirements of such deputation; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the county sheriffs in those counties of North Dakota having institutions of higher education located therein and to the governing bodies of those cities having such institutions within their boundaries.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4044  
(Forkner)

MARKING OF "T" INTERSECTIONS

A concurrent resolution urging counties and townships to properly mark all "T" intersections.

WHEREAS, people are North Dakota's greatest resource; and

WHEREAS, there are many "T" intersections on county and township roads which are improperly marked or have no warning signs of the approaching intersections; and

WHEREAS, many people are injured or killed each year because of motor vehicle accidents caused by these improperly marked or nonexistent "T" or other suitable intersection or dead end signs;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That all counties and townships be made cognizant of this resolution, and that all county and township "T" intersections be properly marked with the proper signs as set forth in the North Dakota Manual on Uniform Control Devices; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the County Commissioners Association and to the Chairman of the Board of County Commissioners of each county of this State.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4047  
(Christensen, Erdman, Rait)

## AGRICULTURAL FREIGHT RATES

A concurrent resolution urging reasonable freight rates for the transportation of North Dakota's agricultural products.

WHEREAS, North Dakota has an annual transportation bill of over two hundred million dollars; and

WHEREAS, North Dakota is primarily an agricultural State with the major burden of transportation expenses falling on the agricultural producers; and

WHEREAS, North Dakota needs and must have a viable, efficient, reasonably priced transportation system to serve the people of the State of North Dakota; and

WHEREAS, railroad freight rates on wheat, barley, and farm products are exorbitant, unreasonably high, and prejudicial not only to North Dakota's best interest, but to the very interest of the common carriers who impose them; and

WHEREAS, North Dakota citizens pay out many millions of dollars in excess freight charges each year which could best be kept in the State to help strengthen existing industries and enhance the lives of its citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the North Dakota Public Service Commission make every effort possible to obtain reasonable and fair cost pricing of freight rates as they affect North Dakota agriculture and agricultural products; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Subcommittee on Surface Transportation of the Committee on Commerce; the United States Senate; the Interstate Commerce Commission; the North Dakota Congressional Delegation; the Governor of the State of North Dakota; and the North Dakota Public Service Commission; and

BE IT FURTHER RESOLVED, that the Legislative Assembly urgently requests the Interstate Commerce Commission to take such remedial action as is needed to correct the railroad grain freight rate structure which affects North Dakota.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4049  
(Longmire)

## NORTH DAKOTA EDITORS DAY

A concurrent resolution designating February 19, 1971, as North Dakota Editors Day at the Forty-second Legislative Assembly and welcoming Mr. Herbert G. Klein, a distinguished journalist and director of the Office of Communications for the Executive Branch, to North Dakota.

WHEREAS, the members of North Dakota's esteemed Fourth Estate, the editors and reporters of the State's daily, semiweekly, and weekly newspapers, are dedicated to informing the citizens of the State and thus serve a vital function in the democratic processes; and

WHEREAS, the North Dakota professional chapter of Sigma Delta Chi is sponsoring its biennial Editors Day at the Legislature February 19, 1971; and

WHEREAS, the Editors Day luncheon, to which members of the Forty-second Legislative Assembly have been invited by members of the Press from their respective districts, will feature as speaker Mr. Herbert G. Klein, formerly a distinguished journalist and editor in San Diego and now director of the Office of Communications for the Executive Branch in the Nixon Administration;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly commends North Dakota's editors and reporters for their continuing service to all the citizens of the State, and declares that February 19, 1971, is hereby designated Editors Day at the 1971 Legislature; and

BE IT FURTHER RESOLVED, that the Forty-second Legislative Assembly extends a hearty and sincere North Dakota welcome to Mr. Herbert G. Klein, and hopes that his stay in the State is pleasant and enjoyable; and

BE IT FURTHER RESOLVED, that each Senator and Representative make every effort to attend the luncheon February 19, 1971, at the invitation of Sigma Delta Chi; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the national and North Dakota presidents of Sigma Delta Chi, the president of the North Dakota Press Association, and to Mr. Herbert G. Klein, Director, Office of Communications for the Executive Branch.

Filed February 25, 1971

SENATE CONCURRENT RESOLUTION NO. 4050  
(Nasset, Melland, Unruh, Christensen, Holand)

COMMENDING NORTH DAKOTA  
AIR NATIONAL GUARD

A concurrent resolution commending the North Dakota Air National Guard for its victories in the 1970 Aerospace Defense Command's worldwide weapons competition.

WHEREAS, the Aerospace Defense Command annually holds a worldwide competition to determine proficiency in the ability of the United States and Canada to defend themselves from air attack; and

WHEREAS, this competition, nicknamed William Tell, annually pits the top teams from the Canadian Armed Forces, the regular United States Air Force, and the Air National Guard against each other in various categories of flying, weapons firing, and weapons loading; and

WHEREAS, the North Dakota Air National Guard's 119th Fighter Group, despite having been assigned its current aircraft for less than a year and having encountered numerous administrative and training difficulties, came from behind and on their final foray tallied a percent four-aircraft mission to win the competition in the F-101 aircraft category; and

WHEREAS, maintenance crews from the 119th Fighter Group also took top honors in the F-101 competition; and

WHEREAS, the 119th Fighter Group turned in the highest score tallied by an individual aircrew in any of the three categories of aircraft competition at the 1970 William Tell; and

WHEREAS, a three-man team from the 119th Fighter Group also won the semiannual 24th Air Division Interceptor Weapons Loading Competition;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly extends to the North Dakota Air National Guard sincere congratulations and commendations for the honors it has won not only for itself but for the State of North Dakota and all of its citizens, honors which bring forth deep-felt feelings of pride in all North Dakotans on the high state of readiness and the quality of training exhibited by the North Dakota Air National Guard; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Chief of the National Guard Bureau, Washington, D.C.; the Director of the Air National Guard, Washington, D.C.; the Adjutant General of the North Dakota National Guard; and the Commanding Officer, North Dakota Air National Guard.

Filed February 25, 1971

SENATE CONCURRENT RESOLUTION NO. 4052  
(Christensen)

## WATERSHED DEVELOPMENT PROGRAMS

A concurrent resolution urging the United States Department of Agriculture, Soil and Water Conservation Districts, and other appropriate agencies and departments to review the adequacy of current watershed programs and plans to meet the urgent needs of the present and the future.

WHEREAS, under the authority of the Watershed Protection and Flood Prevention Act (P.L. 566) and the Flood Control Act of 1944, dams have been built which have been of great value in protecting vital natural resources, preventing flood damage to farms and cities, improving local economic conditions, allowing up-stream conservation programs, and generally contributing to the well-being of the Nation; and

WHEREAS, water development and land treatment in upstream watersheds are essential to the comprehensive development of any river basin; and

WHEREAS, additional water storage can be included in these dams for recreational, fish and wildlife, municipal, industrial, and agricultural purposes if local sponsors finance part, or in some cases all, of the costs allocated to these and other purposes; and

WHEREAS, because of the inability of local sponsors to finance these added costs, too few watershed dams are built to take full advantage of the site for water storage for other beneficial purposes; and

WHEREAS, in view of the ever expanding need for more water for all purposes, it appears wise to utilize every site to the fullest multiple-purpose use rather than preempting sites for flood prevention purposes only; and

WHEREAS, America's, and North Dakota's, mounting water problems are the basis for rapidly increasing government efforts at every level, from the United States Department of Agriculture and the Department of the Interior to local Soil and Water Conservation Districts, to provide for additional supplies, prevent and control floods, improve water quality, establish better recreational facilities, and fully develop our land and water resources; and

WHEREAS, progress has been too slow under P. L. 566 and the Water Control Act of 1944, despite the popularity of these programs, and the Federal Government is hard-pressed to meet demands from the States and local political subdivisions for assistance, with the result that the application rate for individual watershed projects is running far ahead of the annual rate of project authorizations; and

WHEREAS, because of this backlog it is estimated another seventy-five years will be required to plan and install all potentially feasible watershed projects in the country; and

WHEREAS, many States, recognizing the problems involved, have supported these programs through state appropriations which are welcome and necessary but which do not diminish the federal responsibility to push ahead with these vital watershed programs;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly urgently requests the United States Departments of Agriculture and the Interior, the Soil Conservation Service, and other appropriate agencies and departments to carefully analyze the adequacy of existing watershed development programs in meeting current and prospective water needs, and the means of ensuring that upstream land and water development are given full attention in river basin efforts; and

BE IT FURTHER RESOLVED, that the Forty-second Legislative Assembly strongly urges Congress to substantially increase the funding of P. L. 566 and consider legislation liberalizing the use of P. L. 566 funds for enlarging dams and procuring land rights to store water for various beneficial purposes; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Secretaries of the United States Departments of Agriculture and the Interior, to the Director of the Soil Conservation Service, to the Chairmen of the United States House and Senate Agriculture Committees, to the Governor of North Dakota, and to North Dakota's Congressional Delegation.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4053  
(Pyle, Sanstead)

## CONTROLLING DEVELOPMENT OF FLOOD PLAINS

A concurrent resolution requesting local levels of State Government to assume responsibility in controlling the development of flood plains.

WHEREAS, the ever increasing growth of North Dakota municipalities has resulted in encroachments on the flood plains of our rivers, lakes, and streams; and

WHEREAS, such encroachments have resulted in the loss of millions of dollars of property during times of floods; and

WHEREAS, not only do the people who are directly affected by such floods suffer financial loss, but the entire State shares in it by virtue of the tax dollars expended to alleviate such disasters; and

WHEREAS, such losses will continue and increase until zoning regulations designed to effectively control the development of flood plains are adopted and enforced; and

WHEREAS, the lack of effective flood plain zoning may jeopardize the property owner's ability to secure federal flood insurance; and

WHEREAS, existing state laws allow counties, organized townships, and municipal corporations to adopt and enforce regulations which will effectively control the development of flood plains; and

WHEREAS, in the event our local levels of government neglect to assume their rightful roles of responsibility in controlling the development of flood plains, it is highly probable such responsibility will be given to a state agency by legislative action;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That all boards of county commissioners, organized boards of township supervisors, and municipal corporations having an actual or potential flood situation involving a developed area

within a flood plain of a river, lake, or stream are urged to adopt, pursuant to state law, regulations designed to effectively control the development of all flood plains within their areas of jurisdiction; and

BE IT FURTHER RESOLVED, that the Secretary of State is hereby directed to forward copies of this resolution to all North Dakota boards of county commissioners, organized boards of township supervisors, and municipal corporations.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4054  
(Page, Ringsak)

## UNIVERSITY VACATION SCHEDULES

A concurrent resolution requesting the State Board of Higher Education to revert to the former vacation schedules for the University of North Dakota and Ellendale Branch-UND.

WHEREAS, North Dakota is a farm state, and agriculture is the backbone of its economy; and

WHEREAS, many farmers and farm-related businesses and activities have come to rely on college students as employees during the busy farming season, particularly in the case of small family farms and businesses; and

WHEREAS, the income from these summer farm jobs is vital to most of the students if they are to continue their educations; and

WHEREAS, the summer months, particularly the late summer, are traditionally the busiest for farmers and farm-related businesses; and

WHEREAS, the University of North Dakota and Ellendale Branch-UND have recently changed vacation schedules to give students a longer winter vacation of nearly a month, when there is little to do in the way of employment, and a shorter summer vacation which requires them to return to school in mid to late August, one of the busiest farming periods; and

WHEREAS, this causes a hardship to those farmers and businessmen depending on the students for help, and causes a substantial loss of income to the students;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly urges and requests the State Board of Higher Education to return vacation schedules of the University of North Dakota and Ellendale Branch-UND, to those previously followed so that the students do not have as long a winter vacation and go back to school later in the fall; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the State Commissioner of Higher Education, to each member of the State Board of Higher Education, and to the President of each of the State's colleges and universities.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4055  
(Rait, Christensen, Stroup, G. Larson)

MAGNETO-HYDRO-DYNAMICS  
ELECTRICAL POWER GENERATION

A concurrent resolution urging the United States Congress to appropriate adequate funds to speed the development of the science of magneto-hydro-dynamics (MHD) electrical power generation.

WHEREAS, one of our Nation's most urgent needs is to conserve and use wisely its natural resources, including coal and lignite reserves, while at the same time protecting the quality, health, and beauty of the environment; and

WHEREAS, the new and promising science of generating electric power by the process of magneto-hydro-dynamics (MHD) offers a significant potential to meet this need by the fact that this process is relatively pollution free and is far more efficient in converting heat energy to electric energy as opposed to conventional fossil-fueled electric generation methods; and

WHEREAS, in this Nation very little research has been done in this exciting new science which may sharply reduce air and water pollution levels, make much more efficient use of lignite and coal resources, and reduce generating costs; and

WHEREAS, several other nations in the world have made significant progress in this development and have erected sizeable pilot plants using the MHD principle; and

WHEREAS, the members of the Legislative Assembly of North Dakota are concerned that when the enormous lignite reserves of North Dakota are utilized, all facilities utilizing such lignite make optimum use of technology to minimize adverse effects on the environment and that such facilities achieve maximum efficiency in the production of energy;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly strongly urges the United States Congress to appropriate the necessary funds to be utilized by the appropriate agencies of the Federal Government to begin immediate research and development on magneto-hydro-dynamics looking towards early construction of a sizeable pilot plant; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the North Dakota Congressional Delegation, the President, the Secretary of the Interior, the Director of the Office of Science and Technology, and to the Director of the United States Executive Office of Management and Budget.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4056  
(Lips)

MULTIPHASIC SCREENING FOR  
EARLY DISEASE DETECTION

A concurrent resolution directing a study by the State Health Council to determine the feasibility of implementing multiphasic screening for detection of early disease.

WHEREAS, the cost of health care has been rapidly increasing; and

WHEREAS, under present health care conditions and provisions, the cost is expected to continue upward; and

WHEREAS, the early detection of disease will result in a decrease in the amount of health care required to be provided, as well as the cost of such health care; and

WHEREAS, the early detection of disease will promote an increase in the well-being of our citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Comprehensive Health Planning Advisory Council of the State Health Council is hereby directed to perform a study for the purpose of determining the feasibility and desirability for the State Department of Health to plan, develop, and implement a statewide multiphasic screening program for the early detection of disease and disability; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded by the Secretary of State to the State Health Council.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4057  
(Anderson, Swedlund)

EXPANDING GREEN THUMB PROGRAM

A concurrent resolution requesting the Congress of the United States to provide additional funds for expanding the Green Thumb Program

WHEREAS, the Green Thumb Program has been an outstanding success in North Dakota and in the United States where such projects exist and has provided employment opportunities to the older citizens in the North Dakota Counties of Ward, Renville, and McHenry; and

WHEREAS, the Green Thumb Program has provided or improved numerous roadside parks and city and rural parks, and has added immeasurably to highway beautification; and

WHEREAS, the Green Thumb Program has provided new incentives and employment opportunities to numerous older citizens who have found new meaning in life by participating in constructive labor benefiting their local communities and this and future generations;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Congress of the United States is hereby commended for the outstanding success of the Green Thumb Program, and is respectfully requested to give consideration to providing additional funds for the expansion of the Green Thumb Program to serve all areas of North Dakota; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the North Dakota Congressional Delegation.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION No. 4064  
(Melland)

## PROGRAM BUDGETING ON PILOT BASIS

A concurrent resolution requesting the Office of the Executive Budget to present program budget recommendations on a pilot basis to the Forty-third Legislative Assembly.

WHEREAS, the Legislative Audit and Fiscal Review Committee during the interim found that the development of a program budget is necessary for the establishment of a complete performance audit program; and

WHEREAS, performance auditing is becoming more accepted; and

WHEREAS, the program budget will provide the Legislative Assembly, elected officials, and agency administrators with the information needed to effectively plan and allocate resources and to accomplish the job of managing the complex business of State Government;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Office of the Executive Budget, for experimental purposes, select and design a new system of budgeting and apply this system in presenting the 1973-1975 budget requests of certain state agencies, departments, and institutions to the Forty-third Legislative Assembly. The new method of budgeting shall be based upon programs. The programs shall be defined for funding purposes in terms of goals and objectives to be achieved during the ensuing budget period. It is the intent of this resolution that as a supplement to the Executive Budget recommendations, in traditional form, a companion budget on a program basis be submitted for legislative review, for the agencies, departments, and institutions participating in this pilot project; and

BE IT FURTHER RESOLVED, that the following agencies, departments, and institutions be directed to cooperate with the Office of the Executive Budget in this program budgeting pilot project: the Public Welfare Board, the State Health Department, the State Hospital, the Grafton State School, the Industrial School, the Department of Vocational Education, and the Department of Business and Industrial Development; and

BE IT FURTHER RESOLVED, that the Office of the Executive Budget report from time to time to the Legislative Council Committee on Budget its findings and progress in the development of a program budgeting system for State Government in North Dakota.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4065  
(Rait, Erdman)

BOARD OF TAX APPEALS

A concurrent resolution directing the Legislative Council to study the need for a board of tax appeals that will provide taxpayers with a speedy, efficient and inexpensive procedure for the review of their grievances with the administration of the tax laws.

WHEREAS, the annual, total tax burden imposed by the state of North Dakota and its political subdivisions on individuals and businesses is constantly increasing and now exceeds \$250,000,000.00 per year;

WHEREAS, the largest, single source of tax revenue imposed by the state and its political subdivisions is the ad valorem tax on locally assessed real property, amounting in 1970 to more than \$90,000,000.00 or an average annual per capita real estate tax of approximately \$147.00, over 99% of which is currently imposed and expended by the political subdivisions for local governmental purposes;

WHEREAS, it is asserted by many taxpayers that there are serious inequities in the administration of some of the taxes imposed by the state and its political subdivisions, particularly in the administration of the assessments and taxes on real property;

WHEREAS, the duties now performed by the State Board of Equalization in assuring uniformity and equity in tax administration could be more effectively performed by a professional full-time board of tax appeals;

WHEREAS, it is difficult, expensive and time consuming for a taxpayer to challenge the fairness of various taxes imposed on him or his property by the state and its political subdivisions, particularly where the claimed inequity is attributed to the manner in which the particular tax law is administered rather than to the validity of the tax law itself;

WHEREAS, it is essential for the effective and efficient administration of any tax law, especially one which is a major source of tax revenue, that the taxpayers have confidence in the fairness of its administration;

WHEREAS, the confidence of the taxpayers in the fairness

of the tax system and the administration of it is reduced as the procedure for reviewing their grievances becomes more difficult and expensive; and

WHEREAS, it is becoming more and more imperative that the taxpayers be provided with a method that is faster, less expensive and more fair than that now available to them for obtaining a review and correction of inequities that they believe exist in the administration of the tax on real property as well as in other taxes.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

\* That the Legislative Council is hereby directed to study and evaluate the need for a board of tax appeals to perform part or all of the functions of the State Board of Equalization and consisting of one or more persons professionally qualified and equipped to review complaints of real estate taxpayers and other taxpayers, with authority to grant relief to a taxpayer if he has been unjustly taxed, whether or not the taxpayer is represented by legal counsel.

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report to the Forty-third Legislative Assembly, together with such legislation as may be necessary to carry out its recommendations.

\*NOTE: Pursuant to sections 46-03-10 and 46-03-11 regarding correction of clerical errors, the word "persons" has been inserted following the phrase "of one or more" as it is obviously necessary to convey the meaning intended by the Legislative Assembly.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4066  
(G. Larson, Christensen)

## STUDY OF WATER MANAGEMENT DISTRICTS

A concurrent resolution directing the Legislative Council to conduct an interim study relative to the establishment and the boundaries of a water management district, and the powers and duties of a district's board of commissioners.

WHEREAS, a water management district is the only governmental entity on the local level that has the authority to participate in every type of water and related land resources project; and

WHEREAS, not all areas within North Dakota have a water management district, thereby denying such areas the benefits which, in many instances, only a water management district may provide; and

WHEREAS, present law allows the establishment of a water management district of any geographic size or shape and this has resulted in districts which range in size from a single township to an entire county; and

WHEREAS, water related problems and projects usually involve an entire watershed and ignore the artificial political boundaries of the water management district;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council is hereby authorized and directed to conduct an interim study relative to the feasibility of dividing the entire State into watersheds or other geographic areas and establishing, by statute, local legal entities similar to the existing water management districts within each watershed or geographic area. The study may also include a review of chapter 61-16 of the North Dakota Century Code for the purpose of updating and making more efficient the powers and duties of a water management district's board of commissioners; and

BE IT FURTHER RESOLVED, that the Legislative Council shall conduct such study with the cooperation of the State Water Commission, the State Game and Fish Department, and any other

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state or federal agency concerned with or having an interest in or impact upon the State's water and related land resources and those state agencies shall provide such information and assistance as the Legislative Council may request; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report and recommendations, together with any legislation required to carry out such recommendations, to the Forty-third Legislative Assembly.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4071  
(Van Horn)

CONVEYANCE OF FEDERAL LAND  
IN MOUNTRAIL COUNTY

A concurrent resolution urging Congress to support a bill introduced in the United States Senate by Senator Milton R. Young to convey certain federal land in Mountrail County to the Mountrail County Park Commission.

WHEREAS, Senator Milton R. Young has introduced in the United States Senate, during the first session of the Ninety-second Congress, Senate Bill No. 73, which authorizes the Secretary of the Army to convey certain lands in Mountrail County, North Dakota, to the Mountrail County Park Commission; and

WHEREAS, this bill has been referred to the Senate Committee on Armed Services; and

WHEREAS, this land includes the site of the old Van Hook Village and lies along the shore of Lake Sakakawea; and

WHEREAS, the land would be used solely for public park and residential purposes, and the title to the land would immediately revert to the United States if the land were used for other than these stated purposes; and

WHEREAS, this transfer of land has the enthusiastic support of Mountrail County and of the residents of the immediate area; and

WHEREAS, this park and residential area would add a great deal to the scenic attractiveness of the general area, and would allow more North Dakotans to enjoy some of the benefits of the natural beauty and outdoor wonderment of the Lake Sakakawea shoreline area;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly strongly urges Congress to pass Senate Bill No. 73 introduced by Senator Milton R. Young to convey federal land in Mountrail County, North Dakota, to the Mountrail County Park Commission; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Secretary of the Army, to the Chairmen of the United States Senate and House of Representatives Armed Services Committees, and to the North Dakota Congressional Delegation.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4072  
(Wilhite, Butler, Freed, Kautzmann, Melland)

## CONTINUING PASSENGER SERVICE ON NORTHERN PACIFIC ROUTE

A concurrent resolution urging the Congress and the Secretary of Transportation to take action to ensure continued rail passenger service along the former Northern Pacific Railroad route and Great Northern route.

WHEREAS, the Rail Passenger Service Act of 1970 requires the Secretary of Transportation to designate a basic system of intercity rail passenger service; and

WHEREAS, the Secretary of Transportation has now announced those points between which intercity passenger trains shall be operated; and

WHEREAS, the final report on the basic national rail passenger system indicates that many points of North Dakota will not have even the minimal rail service under the new system which they have under the present system; and

WHEREAS, the Secretary of Transportation has failed to specify which routes should receive passenger train service through the State of North Dakota; and

WHEREAS, the communities along the former Northern Pacific route depend upon rail passenger service, particularly in the winter months when air and highway service is not dependable;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Congress of the United States and the United States Secretary of Transportation are hereby urged to take the necessary action to ensure continued rail passenger service on the Burlington Northern Railroad serving those communities along the former Great Northern and Northern Pacific routes through the State of North Dakota in order that such communities might have rail passenger service no less than once every other day in each direction; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the United States Secretary of Transportation and to each member of the North Dakota Congressional Delegation.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4074  
(Holand, Jones)

STUDY OF LEVELS OF EDUCATIONAL  
SUPPORT

A concurrent resolution for a study by the Legislative Council of levels of support, duplication in course and degree offerings, cooperation, fiscal practices, uniform accounting practices, uniform academic terms, and space utilization in the field of higher education.

WHEREAS, the Legislative Assembly of the State of North Dakota recognizes that there is a need for the most efficient utilization of faculty and facilities of the institutions of higher education in order to offer the best possible education to the students of this State in the most economical manner possible; and

WHEREAS, increasing student enrollments and the increasing cost of providing adequate educational opportunities create financial difficulties which will weaken the quality of education offered unless the limited funds that are available are expended in areas of greatest need and in as efficient a manner as possible, giving the highest return in higher education for each dollar expended; and

WHEREAS, there is present a need to minimize wasteful duplication in course and degree offerings in the graduate study area among the several state institutions of higher education; and for cooperation among such institutions in the area of course offerings; and

WHEREAS, there exists a need for updating the laws governing the fiscal practices and procedures of the Board of Higher Education and the state institutions of higher education in order to provide uniformity, delete unused and archaic laws, and to simplify and improve fiscal procedures; and

WHEREAS, uniformity among the several state institutions of higher education in the areas of accounting practices and length of academic terms would be both feasible and desirable; and

WHEREAS, there is a continuing need for an examination of the utilization of space at the several state institutions of higher education;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council, with the assistance of the Board of Higher Education and the several state institutions of higher education, is hereby directed to conduct studies into the following specific areas relating to higher education:

1. Level of support that can reasonably be expected to be provided for higher education and how this support can best be allocated to maximize educational quality and opportunity.
2. Wasteful duplication in course and degree offerings in graduate study areas among the several state institutions of higher education.
3. Methods of cooperation among the several state institutions of higher education in the area of course offerings.
4. Laws governing the fiscal practices and procedures of the Board of Higher Education and the state institutions of higher education for the purpose of unifying and streamlining such practices and procedures.
5. Uniform accounting practices and a uniform length of academic terms for all of the several state institutions of higher education.
6. Review of the space utilization analysis prepared by the Board of Higher Education, after the same has been updated by the Board.

In the conduct of such studies, the Legislative Council shall have the full cooperation and assistance of such state agencies, institutions, and departments as may be deemed necessary; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report and recommendations thereon to the Forty-third Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4075  
(G. Larson, Christensen)

## OPERATIONS OF BUREAU OF SPORT FISHERIES AND WILDLIFE

A concurrent resolution urging the Department of the Interior to ensure that the Bureau of Sport Fisheries and Wildlife operate according to its agreements and contracts.

WHEREAS, North Dakota must develop its water resources to improve the quality of life in the State; and

WHEREAS, many such development projects are being planned in a coordinated manner; and

WHEREAS, the United States Bureau of Sport Fisheries and Wildlife, of the United States Fish and Wildlife Service, Department of the Interior, has been a partner in such planning, and has commented on the plans and signed agreements relative to these projects; and

WHEREAS, it is obvious that the Bureau of Sport Fisheries and Wildlife has, in contradiction to its agreements, used every method at its disposal to prevent construction of water resources projects; and

WHEREAS, such actions make coordinated planning extremely difficult and construction impossible, all to the detriment of the people of North Dakota and the United States;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Secretary of the Department of the Interior is hereby requested to take all steps necessary to ensure that the United States Bureau of Sport Fisheries and Wildlife operates according to the agreements signed by its directors and agents; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Secretary of the Department of the Interior; the Director of the Fish and Wildlife Service, the Director of the United States Bureau of Sport Fisheries and Wildlife Service, the Regional Director of the United States Bureau of Sport Fisheries and Wildlife, and the North Dakota Congressional Delegation.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4080  
(Longmire, Unruh)

MEMORIAL FOR SENATOR LOWE

A concurrent memorial resolution in memory of the late Senator Kenneth C. Lowe and extending sympathy and condolences to his wife and family.

WHEREAS, our divine Creator, in His grand design of life and death, has called from our midst during the Forty-second Legislative Assembly Senator Kenneth C. Lowe, a man much admired in his community and one held in the highest esteem and regard by his legislative colleagues; and

WHEREAS, Senator Lowe's service to North Dakota and its citizens has been well chronicled in the Legislative Journals, beginning with his election to the House of Representatives in 1956 and continuing through his election to the Senate in 1967 to the current session; and

WHEREAS, Senator Lowe's long and distinguished record of service to his community includes service as an alderman and as President of the Grand Forks City Council, and membership on the State Electrical Board; and

WHEREAS, he also worked actively with the Shriners, the Elks, and served as a district officer for the United Lutheran Church;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly expresses its most sincere sympathies and sorrow to Senator Lowe's wife, the former Senator Rosamond O'Brien Lowe, and to his family, on his passing, and conveys to them the deep sense of loss it too feels upon losing one of its ablest and most well-liked members; and

BE IT FURTHER RESOLVED, that an original copy of this resolution be presented personally by members of the Forty-second Legislative Assembly to Mrs. Lowe as a token of the respect and sympathy felt by this Assembly.

Filed February 25, 1971

SENATE CONCURRENT RESOLUTION NO. 4082  
(Longmire, Christensen, Forkner, Holand,  
Kautzmann, Sanstead, Sorlie, Wenstrom)

THANKING NORTH DAKOTA  
CONGRESSIONAL DELEGATION

A concurrent resolution thanking the North Dakota Congressional Delegation for its courtesies to the North Dakota group during its conferences in Washington and thanking the President for the time spent with the North Dakotans.

WHEREAS, a delegation of 27 North Dakota legislators and state officials made a two-day visit to Washington, D.C., February 22-23, 1971, to confer with federal officials and the President on programs affecting North Dakota; and

WHEREAS, Senators Milton Young and Quentin Burdick, and Representatives Mark Andrews and Arthur Link, in spite of many pressing duties, conferred extensively with the North Dakota group and were very helpful and courteous; and

WHEREAS, Senator Young arranged meetings with officials of the Department of Health, Education, and Welfare; the Law Enforcement Assistance Administration; and the President; and

WHEREAS, the North Dakotans were particularly honored to have the opportunity to meet and discuss matters with President Nixon; and

WHEREAS, the knowledge and information gained by the conferences will be of inestimable value to the legislators and officials in making decisions, and hence will be of great value to North Dakota and its citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly extends its sincere thanks to Senators Milton Young and Quentin Burdick, and Representatives Mark Andrews and Arthur Link, for their assistance and courtesies to the North Dakota delegation while it was in Washington; and

BE IT FURTHER RESOLVED, that the Forty-second Legislative Assembly extends special thanks and appreciation to President Nixon for taking time from his busy schedule to confer with the North Dakotans; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to members of the North Dakota Congressional Delegation and to the President of the United States.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4083  
(Committee on Delayed Bills)

STUDY OF INCOME TAX LAWS

A concurrent resolution directing the Legislative Council, with the assistance and cooperation of the State Tax Department, to make a comprehensive study of the income tax laws of this State.

WHEREAS, the 1967 Legislative Assembly adopted the federal definition of taxable income as the starting point for the computation of the state income tax; and

WHEREAS, the Federal Tax Reform Act of 1969 made several changes in the exemptions and deductions permitted taxpayers in computing such taxable income; and

WHEREAS, the present North Dakota income tax is based upon the federal law as of December 31, 1968, and the tax forms used to compute the tax are needlessly long and complex; and

WHEREAS, if the State of North Dakota were to "federalize" its tax laws to include all of the changes of the Tax Reform Act of 1969, the State would suffer a serious loss of revenue;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council is directed, with the assistance and cooperation of the State Tax Department, to make a comprehensive study of the North Dakota state income tax, and such study shall include a comparison of this State's income tax structure with the tax structure of other States and shall explore alternative methods of computing income tax liability, including, but not limited to, methods of taking a certain percentage of federal income tax liability as the starting point for the computation of state income tax liability; and

BE IT FURTHER RESOLVED, that the Legislative Council make its report and recommendations to the Forty-third Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4084  
(Committee on Delayed Bills)

URGING CONGRESS TO FUND  
AFDC PROGRAM

A concurrent resolution urging the Congress of the United States to assume full responsibility for funding and administering the Aid to Families with Dependent Children program on federal Indian reservations.

WHEREAS, the Federal Government, which represents all of the States and not the individual State Governments, is responsible for placing the American Indian on reservations; and

WHEREAS, the responsibility for the injustice to, and the suffering of, the American Indian is a responsibility which should be shared equally by all States as represented by the Federal Government; and

WHEREAS, the status of the federal Indian reservations and the Indians living thereon is defined by treaties between the Federal Government and the Indian nations; and

WHEREAS, the State of North Dakota does not have civil or criminal jurisdiction on the Indian reservations, nor are Indian lands subject to state taxation; and

WHEREAS, economic opportunity on the federal Indian reservations in North Dakota is extremely limited resulting in a high degree of economic dependency accompanied by severe social problems; and

WHEREAS, because of the socio-economic conditions on the North Dakota Indian reservations, there are over 2,000 dependent Indian children who represent 28 percent of the total number of children receiving Aid to Families with Dependent Children in North Dakota, even though Indians account for only 2.6 percent of the total state population;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Congress of the United States is hereby urged and requested to review and amend its statutes relating to Aid to Families with Dependent Children to provide that the Federal Government assume 100 percent funding of welfare programs for Indians residing on federal reservations, and that such programs

be administered by the Federal Government in cooperation with tribal governments; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the North Dakota Congressional Delegation, the Secretary of the United States Department of Health, Education, and Welfare, and to the Secretary of the United States Department of the Interior.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4085  
(Committee on Delayed Bills)

STUDY OF DEPENDENTS'  
SUPPORT PAYMENTS

A concurrent resolution urging the North Dakota Judicial Council to take under consideration the problem of inadequate support payments for children left dependent through divorce and legal separation, and to recommend corrective procedures..

WHEREAS, divorce or legal separation are the principal causes which result in inadequate support for dependent children in North Dakota and account for 30 percent of all cases found eligible for Aid to Families with Dependent Children, a program which costs approximately 10 million dollars a year in North Dakota; and

WHEREAS, a great percentage of divorce cases involve couples with young children dependent upon them for support; and

WHEREAS, the percentage of contested divorce cases is relatively small, inasmuch as the respective attorneys often arrive at a stipulation whereby the parties agree to the custody of children and the amount of support payments; and

WHEREAS, divorce cases frequently come into court as default cases and the judge may accept the stipulation in accordance with the agreement between the parties; and

WHEREAS, the agreement as to the amount the father is to pay in terms of support is often inadequate, possibly premised upon the fact that the wife and mother can apply for Aid to Families with Dependent Children to support the dependent children; and

WHEREAS, court orders for support, even though they may be inadequate, are not uniformly enforced; and

WHEREAS, inadequate support payments, or the failure to enforce court orders for support, results in more children dependent on AFDC and the resulting cost to society; and

WHEREAS, there is a need for better coordination between all of the courts of this State and the officials who administer welfare programs in order to protect the public from such abuses;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the North Dakota Judicial Council is hereby urged to take the problem of inadequate support payments and the lack of enforcement of court orders for support under consideration and study and, as a result of this study, to recommend a code or guidelines for judges and attorneys, and to include suggestions as to possible areas of corrective legislation; and

BE IT FURTHER RESOLVED, that the Judicial Council is urged to transmit its findings and recommendations to the Governor of North Dakota and the Legislative Council.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4086  
(Committee on Delayed Bills)

COMMENDING SECRETARIES OF  
AGRICULTURE AND TREASURY

A concurrent resolution commending the United States Secretaries of Agriculture and the Treasury for bringing the food bargains American consumers enjoy to the public's attention.

WHEREAS, agriculture, or the production of food, is the very bedrock of North Dakota's economy, and supports much of the quality of life found in American society; and

WHEREAS, agricultural income is steadily declining, despite rising food prices, to a point where it is now near collapse; and

WHEREAS, Agriculture Secretary Clifford M. Hardin recently pointed out some of the problems facing the American farmer when he noted that farmers average only about three-fourths of the income of the rest of the working population, that Americans are now spending only about 16 percent of their take-home pay on food, the lowest percentage of income ever, but yet the farmer still does not have an adequate share in the economy; and

WHEREAS, Secretary Hardin also pointed out the food bargain American consumers receive when he indicated that the American housewife spends a smaller percentage of her budget on food than any other housewife in any major country in the world; and

WHEREAS, farmers now gross only about forty to forty-one cents from each dollar spent on food; and

WHEREAS, Treasury Secretary John B. Connally has further emphasized this set of facts by stating that food is America's best bargain even though food costs are going up, and noting that food is now relatively cheaper than ever before in the country's history;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly heartily commends Agriculture Secretary Clifford M. Hardin and Treasury

Secretary John B. Connally for their forthrightness and efforts to make known to the general public the economic plight of American agriculture and the many benefits the agricultural industry gives the American consumer by providing him with the best food at the lowest prices; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to Agriculture Secretary Clifford M. Hardin, Treasury Secretary John B. Connally, and to the North Dakota Congressional Delegation.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4087  
(Committee on Delayed Bills)

STATE LAND LEASING POLICIES

A concurrent resolution urging the State to give consideration to the scenic, recreational, and conservational value of state land in leasing policies, and to withhold this land from sale.

WHEREAS, the State of North Dakota owns, controls, or manages thousands of acres of land, some of which is of great scenic, recreational, or conservational value; and

WHEREAS, lands with these attributes are an irreplaceable part of our heritage as North Dakotans and Americans, and as such must be preserved and protected not only for our use and enjoyment, but for the use and enjoyment of future generations; and

WHEREAS, it is possible for the state agencies, departments, boards, and commissions which control and manage state lands to determine lands which have these values and to lease rather than sell these lands so as to preserve and protect them; and

WHEREAS, in leasing land of this nature, the State must recognize this land might be of lesser relative value for agriculture and grazing purposes than similar or adjoining land, and should therefore consider leasing the land on the basis of its carrying capacity rather than on the basis of the highest bid; and

WHEREAS, the State should also recognize the rights of the present lessees of land of this nature and should give them preference in again leasing the land; and

WHEREAS, in leasing this land the State should build into the leases safeguards to ensure the land's preservation and protection;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-second Legislative Assembly recognizes and strongly endorses the need to preserve certain scenic, recreational, and conservational lands in North Dakota, and

thus urges state agencies, departments, boards, and commissions which control and manage state lands to determine the lands which have these values, to withhold these lands from sale and to lease them instead; to lease them on the basis of their carrying capacity rather than on the basis of the highest bid; to give preference to the present lessees in leasing such lands; and to include in the leases clauses which will ensure their protection and preservation so they may be enjoyed by all North Dakotans and may become part of the total environmental legacy passed on to our future generations; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Governor, State Agriculture Commissioner, State Game and Fish Commissioner, State Geologist, State Environmental Engineer, Commissioner of Higher Education, State Forester, State Parks Director, State Land Commissioner, State Water Conservation Commission Engineer, and the Secretary of the State Soil Conservation Committee.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4091  
(Committee on Delayed Bills)

FINISHING OF LEGISLATIVE WORK

A concurrent resolution providing for the retaining of certain employees of the House of Representatives and Senate after the legislative session for the purpose of completing legislative work.

WHEREAS, after termination of the Forty-second Legislative Assembly it is necessary to complete and close all legislative work, and

WHEREAS, in order to so complete and close such work it is necessary to retain certain employees.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following employees from the House of Representatives of the Forty-second Legislative Assembly be retained after the close of session to complete legislative work:

Roy Gilbreath, Chief Clerk, be retained ten days;  
Barbara King, Desk Reporter, four days;  
Cecil Crandell, Sergeant-at-Arms, three days;  
E. A. Tough, Assistant Chief Clerk, four days;  
Delano Wawers, Bill Clerk, four days;  
Florence Nemer, Chief Stenographer and Payroll Clerk, three days;  
Lela Knudsen, Chief Committee Clerk, one day;  
James Bond, Calendar Clerk, three days;  
Vonnice Wold, Enrolling and Engrossing Clerk, six days;  
Bernice Herner, Assistant Enrolling and Engrossing Clerk, six days;  
Clara Wendt, Chief Page, two days;  
Dorothy Litchfield, Secretary to the Speaker, one day;  
Mavis Patchen, Secretary to the Majority Floor Leader, one day;  
Elsie Zimmerman, Secretary to the Minority Floor Leader, one day;  
Olger Sandven, Deputy Sergeant-at-Arms, three days;  
Enola Eck, Bill Room Clerk, four days;  
Laurel Renner, Appropriations Committee Clerk, one day;  
Louise Ebert, Committee Clerk, one day;  
LuGale Backlin, Committee Clerk, one day;  
Helen Soma, Committee Clerk, one day;  
Alice Zako, Committee Clerk, one day;

Fred Krause, Jr., Journal Room Chief, four days;  
Alvin Manning, Journal Room Clerk, four days;  
Gertrude Learn, Journal Proofreader, five days;  
Ruth Boyer, Journal Proofreader, five days;

That the following employees from the Senate of the Forty-second Legislative Assembly be retained after the close of session to complete legislative work:

Leo Leidholm, Secretary, be retained ten days;  
A. E. Bradley, Sergeant-at-Arms, four days;  
Arthur Herk, Assistant Secretary, six days;  
Vernon Asheim, Bill Clerk, four days;  
Emil Albrecht, Assistant Sergeant-at-Arms, three days;  
Richard H. Jagd, Deputy Sergeant-at-Arms, three days;  
Cora Essington, Chief Stenographer and Payroll Clerk, three days;  
Dormilee Diede, Secretary to the President, five days;  
Gladys VanVleet, Secretary to the Majority Floor Leader, one day;  
Patricia Mitzel, Secretary to the Minority Floor Leader, one day;  
MacDonald Omafray, Enrolling and Engrossing Clerk, six days;  
Marie Skjod, Assistant Enrolling and Engrossing Clerk, six days;  
Lois Scherr, Chief Committee Clerk, one day;  
Marlene Backman, Committee Clerk, one day;  
Donna Heisler, Committee Clerk, one day;  
Edna Sand, Committee Clerk, one day;  
Carolyn Sette, Committee Clerk, one day;  
Marjorie Trangsrud, Committee Clerk, one day;  
Gladys Derrick, Appropriations Committee Clerk, one day;  
Evelyn Scholts, Bill Room Clerk, four days;

BE IT FURTHER RESOLVED, that the above named employees be paid their regular rate of pay as specified as follows:

Roy Gilbreath, Chief Clerk, ten days at thirty-six dollars and thirty cents per day;  
Barbara King, Desk Reporter, four days at thirty-six dollars and thirty cents per day;  
Cecil Crandell, Sergeant-at-Arms, three days at twenty dollars and ninety cents per day;  
E. A. Tough, Assistant Chief Clerk, four days at twenty-seven dollars and fifty cents per day;  
Delano Wawers, Bill Clerk, four days at twenty-four dollars and twenty cents per day;  
Florence Nemer, Chief Stenographer and Payroll Clerk, three days at twenty-six dollars and forty cents per day;  
Lela Knudsen, Chief Committee Clerk, one day at twenty-four dollars and twenty cents per day;  
James Bond, Calendar Clerk, three days at twenty-four dollars and twenty cents per day;  
Vonnie Wold, Enrolling and Engrossing Clerk, six days at twenty dollars and ninety cents per day;  
Bernice Herner, Assistant Enrolling and Engrossing Clerk, six days at twenty dollars and ninety cents per day;

Clara Wendt, Chief Page, two days at nineteen dollars and eighty cents per day;  
Dorothy Litchfield, Secretary to the Speaker, one day at twenty-three dollars and ten cents per day;  
Mavis Patchen, Secretary to the Majority Floor Leader, one day at twenty-three dollars and ten cents per day;  
Elsie Zimmerman, Secretary to the Minority Floor Leader, one day at twenty-three dollars and ten cents per day;  
Olger Sandven, Deputy Sergeant-at-Arms, three days at seventeen dollars and sixty cents per day;  
Enola Eck, Bill Room Clerk, four days at sixteen dollars and fifty cents per day;  
Laurel Renner, Appropriations Committee Clerk, one day at twenty-three dollars and ten cents per day;  
Louise Ebert, Committee Clerk, one day at twenty-two dollars per day;  
LuGale Backlin, Committee Clerk, one day at twenty-two dollars per day;  
Helen Soma, Committee Clerk, one day at twenty-two dollars per day;  
Alice Zako, Committee Clerk, one day at twenty-two dollars per day;  
Fred Krause, Jr., Journal Room Chief, four days at seventeen dollars and sixty cents per day;  
Alvin Manning, Journal Room Clerk, four days at sixteen dollars and fifty cents per day;  
Gertrude Learn, Journal Proofreader, five days at twenty dollars and ninety cents per day;  
Ruth Boyer, Journal Proofreader, five days at twenty dollars and ninety cents per day;  
Leo Leidholm, Secretary, ten days at thirty-six dollars and thirty cents per day;  
A. E. Bradley, Sergeant-at-Arms, four days at twenty dollars and ninety cents per day;  
Arthur Herk, Assistant Secretary, six days at twenty-seven dollars and fifty cents per day;  
Vernon Asheim, Bill Clerk, four days at twenty-four dollars and twenty cents per day;  
Emil Albrecht, Assistant Sergeant-at-Arms, three days at sixteen dollars and fifty cents per day;  
Richard H. Jagd, Deputy Sergeant-at-Arms, three days at seventeen dollars and sixty cents per day;  
Cora Essington, Chief Stenographer and Payroll Clerk, three days at twenty-six dollars and forty cents per day;  
Dormilee Diede, Secretary to the President, five days at twenty-three dollars and ten cents per day;  
Gladys VanVleet, Secretary to the Majority Floor Leader, one day at twenty-three dollars and ten cents per day;  
Patricia Mitzel, Secretary to the Minority Floor Leader, one day at twenty-three dollars and ten cents per day;  
MacDonald Omafray, Enrolling and Engrossing Clerk, six days at twenty dollars and ninety cents per day;  
Marie Skjod, Assistant Enrolling and Engrossing Clerk, six days at twenty dollars and ninety cents per day;

Lois Scherr, Chief Committee Clerk, one day at twenty-four dollars and twenty cents per day;  
Marlene Backman, Committee Clerk, one day at twenty-two dollars per day;  
Donna Heisler, Committee Clerk, one day at twenty-two dollars per day;  
Edna Sand, Committee Clerk, one day at twenty-two dollars per day;  
Carolyn Sette, Committee Clerk, one day at twenty-two dollars per day;  
Marjorie Trangsrud, Committee Clerk, one day at twenty-two dollars per day;  
Gladys Derrick, Appropriations Committee Clerk, one day at twenty-three dollars and ten cents per day;  
Evelyn Sholts, Bill Room Clerk, four days at sixteen dollars and fifty cents per day;

and all of the above expenses are to be paid out of the per diem employees fund of the Forty-second Legislative Assembly and paid when the respective claims are verified by the affidavits of said parties named herein at the completion of said work.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4092  
(Committee on Delayed Bills)

COORDINATION OF HEALTH  
AND WELFARE SERVICES

A concurrent resolution directing a study by the Legislative Council of the duplication of services and overlapping of responsibilities between the State Department of Health and the Public Welfare Board in the areas of mental health and retardation service units and area social service centers.

WHEREAS, chapter 25-12 of the North Dakota Century Code presently permits the creation of mental health and retardation service units by cities and counties of the State; and

WHEREAS, such mental health and retardation service units, once created, are eligible to apply to the State Department of Health for state aid, to receive funds from political subdivisions, and to accept tax moneys raised by local mill levies; and

WHEREAS, the State Department of Health and the Public Welfare Board have duties and responsibilities which evidence a common interest in a certain segment of the population and in the general welfare of the State; and

WHEREAS, the coordination of the activities of the State Department of Health and the Public Welfare Board in the area of services performed by mental health and retardation service units and area social service centers would minimize duplication, reduce wasteful spending of funds both on the state and local levels, and consolidate and coordinate services;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council is hereby directed to perform a study of the overlapping of responsibilities and the duplication of effort between the State Department of Health and the Public Welfare Board as pertains to the offering of services through mental health and retardation service units and area social service centers to the people of the State; and

BE IT FURTHER RESOLVED that the Legislative Council make its report and recommendations thereon to the Forty-third Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 31, 1971

SENATE CONCURRENT RESOLUTION NO. 4093  
(Committee on Delayed Bills)ADDITIONAL COMPENSATION FOR  
CERTAIN LEGISLATIVE EMPLOYEES

A concurrent resolution providing for additional compensation for certain Senate and House employees.

BE IT RESOLVED BY THE SENATE OF THE FORTY-SECOND LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

SECTION 1.) For additional services to the Forty-second Legislative Assembly the following named employees shall be paid for the additional number of days over and above that for which they have been presently paid as set forth after their name at the rates provided in Senate Concurrent Resolution Number 4025:

## SENATE

Leo Leidholm, secretary - 3 days  
Dagny Olson, desk reporter - 3 days  
Albert E. Bradley, sergeant-at-arms - 3 days  
Arthur Herk, assistant secretary - 3 days  
J. Vernon Asheim, bill clerk - 3 days  
Cora Essington, chief stenographer and payroll clerk - 3 days  
Lois J. Scherr, chief committee clerk - 3 days  
Gladys Derrick, appropriations committee clerk - 3 days  
Marjorie Trangsrud, committee clerk - 2 days  
Edna Sand, committee clerk - 2 days  
Donna Heisler, committee clerk - 2 days  
Carolyn Sette, committee clerk - 2 days  
Marlene Backman, committee clerk - 2 days  
Roland Reich, calendar clerk - 2 days  
Marie Skjod, enrolling and engrossing clerk - 3 days  
Dormilee Diede, secretary to the president - 3 days  
Gladys Van Vleet, secretary to majority floor leader - 3 days  
Patricia Mitzel, secretary to minority floor leader - 3 days  
Richard H. Jagd, deputy sergeant-at-arms - 3 days  
Nick Frank, assistant sergeant-at-arms - 2 days  
Ralph Scott, assistant sergeant-at-arms - 2 days  
Emil Albrecht, assistant sergeant-at-arms - 3 days  
Arthur Solberg, assistant sergeant-at-arms - 2 days  
Evelyn Sholts, bill room clerk - 3 days  
Patricia Ann Nelson, bill room clerk - 2 days  
Janine Haug, stenographer - 3 days  
Lorraine Moos, stenographer - 2 days

JoAnn Owens, stenographer - 2 days  
 Mary Alice Landgren, stenographer - 3 days  
 Joanne Hetland, typist - 1 day  
 Gertrude Berge, typist - 2 days  
 MacDonald Omafray, assistant enrolling and engrossing clerk -  
 3 days  
 Clara Clendenen, page - 2 days  
 Linda Kay Parkin, page - 3 days  
 Janice Tischmak, page - 3 days  
 Daline Meidinger, page - 2 days  
 Marguerite Stenehjem, chief telephone attendant - 3 days  
 Wanda Froelich, bill book clerk - 3 days  
 Jerry Nagel, bill book clerk - 2 days  
 Violetta LaGrave, bill book clerk - 3 days  
 John A. Gilje, bill book clerk - 2 days  
 Phyllis Connolly, information desk attendant - 2 days  
 Hazel Lundemann, journal room clerk - 2 days  
 Harold Kiesz, journal room clerk-typist - 2 days  
 Pius Reis, parking lot attendant - 3 days  
 Lorna Schauer, journal proofreader - 2 days  
 Elma Schauer, journal proofreader - 2 days

## HOUSE

Roy Gilbreath, chief clerk - 2 days  
 Barbara King, desk reporter - 2 days  
 Cecil Crandell, sergeant-at-arms - 2 days  
 E. A. Tough, assistant chief clerk - 2 days  
 Delano Wawers, bill clerk - 2 days  
 Florence Nemer, chief stenographer and payroll clerk - 2 days  
 Lela Knudsen, chief committee clerk - 2 days  
 James Bond, calendar clerk - 2 days  
 Vonnie Wold, enrolling and engrossing clerk - 2 days  
 Bernice Herner, enrolling and engrossing clerk - 2 days  
 Clara Wendt, chief page - 2 days  
 Dorothy Litchfield, secretary to speaker - 2 days  
 Mavis Patchen, secretary to majority floor leader - 2 days  
 Elsie Zimmerman, secretary to minority floor leader - 2 days  
 Olger Sandven, deputy sergeant-at-arms - 2 days  
 Harry Iszler, assistant sergeant-at-arms - 2 days  
 J. J. Cummins, assistant sergeant-at-arms - 1 day  
 Art Buchwitz, assistant sergeant-at-arms - 1 day  
 Enola Eck, bill room clerk - 2 days  
 Pearl Andre, bill room clerk - 1 day  
 ElaNor Weber, stenographer - 2 days  
 Andrea Perry, stenographer - 1 day  
 Judy Hoffman, stenographer - 2 days  
 Amelia Lorenz, stenographer - 2 days  
 Janice Holle, stenographer - 1 day  
 Maude Grambs, typist - 2 days  
 Marjorie Cleveland, typist - 2 days  
 Laurel Renner, appropriations committee clerk - 2 days  
 Louise Ebert, committee clerk - 2 days  
 LuGale Backlin, committee clerk - 2 days

Helen Soma, committee clerk - 2 days  
Alice Zako, committee clerk - 2 days  
Deborah Ann Dietz, page - 2 days  
Janet Gilbert, page - 1 day  
Karen Thompson, page - 2 days  
Valorie Christianson, page - 2 days  
Kathleen Key, page - 1 day  
David Engel, page - 1 day  
Iola Langord, telephone attendant - 2 days  
Jennie Bommersbach, telephone attendant - 2 days  
Esther Davis, bill book clerk - 1 day  
Percy Ottmar, bill book clerk - 2 days  
Nick Chernos, bill book clerk - 1 day  
Alvira Froelich, bill book clerk - 2 days  
Eunice Anderson, information desk attendant - 2 days  
Fred Krause, chief in charge of journal room and bill room clerks - 2 days  
Alvin Manning, journal room clerk - 2 days  
Mike Burgad, journal room clerk - 1 day  
Oluf Grundstad, journal room clerk - 1 day  
Gertrude Learn, journal proofreader - 2 days  
Ruth Boyer, journal proofreader - 2 days  
Ferd Hetterle, parking lot attendant - 2 days

Filed March 31, 1971

# SENATE MEMORIAL RESOLUTIONS

SENATE MEMORIAL RESOLUTION NO. 1  
(G. Larson, Longmire, Wenstrom)

## MEMORIAL FOR DECEASED SENATORS

A memorial resolution for deceased members of the Senate of the State of North Dakota.

WHEREAS, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

CHARLES G. BANGERT, who served in the Twenty-third Legislative Assembly, from the fourteenth district, died June 10, 1969.

EDMOND A. HUGHES, who served in the Thirteenth and Fourteenth Legislative Assemblies, from the twenty-seventh district, died October 8, 1970.

RICHARD R. LOFTHUS, who served in the Twenty-seventh to the Thirtieth Legislative Assemblies, from the seventeenth district, died December 10, 1970.

KENNETH C. LOWE, who served in the Fortieth, Forty-first and forty-second Legislative Assemblies, from the eighteenth district, died February 15, 1971.

HARRY C. LYNN, who served in the Twenty-fourth and Twenty-fifth Legislative Assemblies, from the twenty-sixth district, died June 2, 1969.

CARL A. MILLER, who served in the Twenty-second and Twenty-third Legislative Assemblies, from the thirty-sixth district, died August 30, 1969.

AXEL OLSON, who served in the Twenty-fifth to the Thirty-fifth Legislative Assemblies, from the forty-fourth district, died October 20, 1967.

LYNN W. SPERRY, who served in the Seventeenth, Eighteenth, and Twenty-second Legislative Assemblies, from the twenty-seventh district, died November 9, 1969.

WALTER TROXEL, who served in the Twenty-sixth, Twenty-seventh, Twenty-eighth, Twenty-ninth, Thirtieth, Thirty-first, Thirty-second, and Thirty-third Legislative Assemblies, from the second district, died November 18, 1969.

RICHARD E. WOLF, who served in the Thirtieth, Thirty-first, Thirty-fourth, and Thirty-fifth Legislative Assemblies, from the thirtieth district, died October 9, 1970.

WHEREAS, today, we as members of the Senate of the Forty-second Legislative Assembly of the State of North Dakota pause to mourn the passing of our former colleagues, and to honor their memories; and

WHEREAS, these legislators rendered outstanding service to the people of the State by their contribution to their fellowmen and their communities;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE  
OF THE FORTY-SECOND LEGISLATIVE ASSEMBLY OF THE STATE  
OF NORTH DAKOTA:

That we express our keen sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of these, our former colleagues; and

BE IT FURTHER RESOLVED, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the journal of the Senate and that duly enrolled copies of this resolution be presented by the Secretary of State to the surviving families of these deceased Senators.

Filed March 31, 1971